



Brussels, 23.10.2014
COM(2014) 651 final

Recommendation for a

COUNCIL DECISION

**on authorising the opening of negotiations on the amendment of the Convention on the
Transboundary Effects of Industrial Accidents**

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The European Union and most of its Member States are Parties to the UNECE Convention on the Transboundary Effects of Industrial Accidents (hereinafter referred to as "Convention"). The Convention applies to the prevention of, preparedness for and response to industrial accidents at sites where hazardous activities take place capable of causing transboundary effects.

The Seveso II Directive is the legal instrument to fulfil the obligations of the European Union arising out of the Convention. Annex I to the Convention and Annex I to the Seveso II Directive contain categories of and individual hazardous substances for the purpose of defining hazardous activities. In June 2015 the Seveso II Directive will be replaced by the Seveso III Directive, which amongst others, modifies Annex I.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

At its 7th meeting in 2012, the Conference of the Parties (CoP) to the UNECE Convention on the Transboundary Effects of Industrial Accidents mandated the Working Group on the Development of the Convention (WGD) to evaluate a list of possible amendments in areas suggested by the CoP. The WGD has concluded after its fourth meeting in April 2014 that four areas would benefit from an amendment:

(1) Revised and additional definitions (art.1): The WGD recommended amending certain definitions to ensure alignment with other ECE Conventions (Aarhus Convention and Convention on Impact Assessment in a Transboundary Context (Espoo Convention)), adjustment of the definitions to internationally accepted developments, improved clarity and legal certainty and to enhance the internal consistency within the Convention.

(2) Strengthened public participation (art. 9): The WGD recommended amending Article 9 to achieve consistency with other ECE conventions.

(3) Frequency of meetings (art. 18): The Convention envisages an annual conference of the Parties. However, practice is to meet only every two years. The WGD proposed to amend Article 18 to align it with current practice.

(4) Application of amendments to new Parties (art. 29): The WGD recommended inserting a new paragraph in Article 29 implying that States acceding to the Convention once an amendment has entered into force would also automatically accede to the amendment. This would improve clarity and ensure legal certainty for new Parties.

None of these areas to be opened for possible amendment would lead to modifications of the Convention causing environmental or socio-economic impacts in the EU. Some of the amendments would rather have a positive impact as they would result in higher standards in non-EU Parties to the Convention, hereby enhancing the level playing field between EU and non-EU establishments, and reducing risks of accidents with potential transboundary effects in the EU.

For all other technical areas suggested by the COP it was found that providing guidance would be sufficient and that no amendment would be required.

A separate issue under consideration concerns the potential accession to the Convention by Member States of the United Nations which are not Member States of UNECE. This should

take account of the related discussion taking place separately, scheduled for the 71st Session of the UN General Assembly in September 2016.

3. LEGAL ELEMENTS OF THE PROPOSAL

None of the potential areas for amendments are likely to have any impact on existing legislation in the European Union, since they are either already covered by the more stringent EU acquis or refer to the internal organisation of the Convention.

4. BUDGETARY IMPLICATION

Out of the potential areas for amendments only the issue of accession by non-UNECE countries is likely to have budgetary implications. Likely candidates for accession would constitute beneficiary countries thus putting pressure on the budget of the Convention. However, the Financial Mechanism under the Convention is based on voluntary contributions. Therefore, the parties are free in defining their level of contribution. At the same time a globally open Convention could explore additional funding sources such as the Global Environment Facility. Although overall budgetary implications are likely to be very limited, they are likely to be a decisive factor during the negotiations.

In view of the above, it is appropriate to authorise the opening of negotiations on the amendment of the Convention on the Transboundary Effects of Industrial Accidents.

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(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) The Union is a Party to the Convention on the Transboundary Effects of Industrial Accidents (hereinafter referred to as "the Convention").
- (2) At their 7th Conference of the Parties in 2012 the Parties requested the Working Group on Development to evaluate the need for amendments in certain areas.
- (3) At its 4th meeting in April 2014 the Working Group on Development concluded that most issues could be solved by providing guidance but also identified four areas in which an amendment would improve the Convention. These concern definitions, public participation, frequency of meetings and the application of amendments to new parties.
- (4) The Working Group on Development concluded that further information and discussion was required for evaluating the issue of potential accession to the Convention by Member States of the United Nations which are not Member States of UNECE.
- (5) The negotiations are not expected to have an impact on existing legislation in the European Union in view of the more stringent provisions in Directive 2012/18/EC in the areas under consideration.
- (6) The Union should participate in the negotiations on a potential amendment on the Convention,

HAS ADOPTED THIS DECISION:

Article 1

The Commission is hereby authorised to negotiate, on behalf of the Union as regards matters falling within the Union's competence, potential amendments to the Convention on the Transboundary Effects of Industrial Accidents.

Article 2

The negotiating directives are set out in the Annex.

Done at Brussels,

*For the Council
The President*