



## EUROPEAN COMMISSION

DIRECTORATE-GENERAL  
ENVIRONMENT

Directorate C - Sustainable Resources Management, Industry & Air  
ENV.C.3 - Industrial Emissions, Air Quality & Noise

# **1<sup>ST</sup> MEETING OF THE SEVESO EXPERT GROUP RESPONSIBLE FOR THE IMPLEMENTATION OF DIRECTIVE 96/82/EC OF 9 DECEMBER 1996 ON THE CONTROL OF MAJOR-ACCIDENT HAZARDS INVOLVING DANGEROUS SUBSTANCES (SEVESO II DIRECTIVE)**

## **DRAFT SUMMARY RECORD**

**Seveso expert meeting 25<sup>th</sup> September 2012**

### **1. Introduction + Adoption of the Draft Annotated Agenda**

The meeting was chaired by Christopher Allen, deputy head of unit ENV.C.3 in DG Environment.

All Member States were represented. Representatives from Norway, Croatia, Serbia, Switzerland, OECD, UNECE, EEB and CEFIC attended the meeting as observers.

The annotated draft agenda was adopted.

DG ENV explained the role and functioning of the Seveso expert group, and the differences with the CCA (Committee of Competent Authorities). Member States have been invited to update the lists of the CCA and indicate whether the same members would be part of the Seveso expert group or else appoint new members.

As from now, the CCA will only gather to prepare and adopt implementing acts; all other general implementation issues and the preparation of delegated acts fall within the competence of the Seveso expert group.

The next meeting will be partly a CCA and partly a Seveso expert group meeting, since there is a need to adopt the new rules of procedure of the Committee, to take account of the new Comitology Regulation 182/2011. There is no reason to adopt a new Committee under the Seveso III Directive, since the Directive refers to the existing Committee.

The Seveso group is an informal expert group and there is no formal decision regarding its establishment. There are no specific rules of procedure; there is no voting, the group is set up by the Commission services, published in the Register of expert groups (<http://ec.europa.eu/transparency/regexpert/>).

Where meetings would be partly CCA meetings and partly Seveso expert group meetings, there would be one reimbursement per Member State.

## **2. Adoption of the Draft Summary Record**

The Summary Record of the 26th CCA meeting in Warsaw, Poland during which no specific comitology issues were discussed, was adopted.

## **3. Seveso III Directive**

### **3.1 Transposition and implementation**

DG ENV presented the main changes of the new legislation. Member States were invited to identify further implementation issues, so as to allow the Commission to set up an appropriate implementation roadmap/work programme.

The Commission thanked FR for its non-paper raising the need to clarify/exchange views on several issues. This non-paper had been made available to the group prior to the meeting and the issues it identified were supported by seven Member States.

Several Member States asked whether it would be possible to implement the provision on heavy fuel oil and/or bleach before the actual transposition date of 14<sup>th</sup> February 2014. The Commission replied that, insofar as certain provisions under the new Directive would be less strict than the currently applicable Seveso II provisions, it would in principle not be acceptable to apply those before the deadline for transposition. As regards heavy fuel oil, the Commission would act consistently with the intention of the EU legislator.

In addition, following issues/needs were raised:

- The possibility to share on-going work on safety performance indicators; recognizing OECD guidance in this field
- define "domino effect"
- clarify the concept of gas storage in natural strata, aquifers, salt cavities and disused mines
- timely development of a derogation methodology, so as to allow derogations to be granted before the transposition deadline of the Directive
- possibility for an earlier implementation of higher thresholds for bleach
- to what extent information to the public could prevail over protection of national security
- address the issue of self-classification
- provide further guidance on the Major Accident Prevention Policy (supported by EEB)
- provide further guidance on possible coordination of inspections under IED (Industrial Emissions) and Seveso Directives
- better implementation of and/or broadening the requirements to lower-tier establishments.

As regards self-classification, the Commission indicated that this was not a Seveso specific issue, but related to the implementation of the CLP Regulation.

The Cypriot Presidency summarized the outcomes of the seminar on land-use planning held on 24<sup>th</sup> September which may inform on possible implementation support work on land use planning provisions of Seveso III.

The Member States were invited to provide written comments before 19<sup>th</sup> October on the need for further guidance on "appropriate safety distance" and "domino effect". Subject to these comments, the Commission would propose to wait for the Handbook on accident scenarios which is being developed by MAHB (by end 2013), as a first step towards possible further guidance.

### **3.2 Commission Declaration on the exclusion of acute toxic 3 dermal substances**

The Commission briefly informed the group about the on-going study assessing the impacts of accidents involving acute toxic 3 dermal substances, which are not covered by the Seveso III Directive. The final report is expected by June 2013.

### **3.3 Methodology for assessing requests for exclusion under Article 4 of the new Directive**

The Commission explained its intention to develop a derogation methodology for implementing Article 4 of the new Directive. With this aim the Commission intends to seek the assistance from a consultant early 2013. Several Member States insisted on rapid establishment of the derogation methodology. Several Member State considered that their experts could assist the Commission in preparing the terms of reference of the work to be taken forward, notably regarding analysing safety reports and assessing risks. EEB suggested that some lessons may be taken by the exceptions conceded under Article 9(6) of Directive 96/82/EC.

The Commission replied that the criteria in Article 4 were rather tight and that derogations are to be granted on an exceptional basis. The Commission thanked the Member States for their input and invited written comments by 19<sup>th</sup> October.

## **4. Implementation Seveso II**

The Commission highlighted that there were currently no infringement cases open in the field of Seveso. There are some pilot cases pending and Member States would be informed at the next meeting of the state of play.

### **4.1.1 eMARS and (e-)SPIRS**

The Commission (notably the Major Accident Hazard Bureau, part of the Joint Research Centre, which provides scientific and technical support to DG ENV for the implementation of the Seveso Directives) updated the group on its initiatives to improve the accident reporting system, the development of an eSPIRS database; further thoughts on future improvement of eMARS and eSPIRS databases and the creation of an informal accidents database AIDA easily accessible to non EU Member States.

The Commission (MAHB) has created an email exchange Technical Working Group, the TWG 1 Focal Point Exchange Group (TWG 1 FPEG), to foster exchange of information on possible improvements on the reporting system and more generally on lessons learned from accidents. The Member States were invited to send their suggestions for possible queries aimed at improving the statistical output of the eMARS database, by 15<sup>th</sup> October.

Member States will soon receive a similar request to suggest queries for the future electronic SPIRS database (“eSPIRS”), as well as a survey on the structure and functionality of the new system. As per a request for nominations earlier this month MAHB is in the process of setting up an eSPIRS Focal Point Exchange Group (eSPIRS FPEG) to further exchange views on relevant issues, including on the formats, the typology for industrial activities and the substances fields.

The Commission (MAHB) informed the group about the status of eMARS/SPIRS reporting and statistics for 2012, on new accidents reported in eMARS and on monitoring of chemical accidents in the news media. It also presented a pilot project running (with FR, DE, NL but open to other Member States) on the use in this context of eXtensible Mark-up Language or XML which enables the interoperability between databases and software and facilitates exchange and sharing of data between competent authorities/Member States whilst using own database. The Commission (MAHB) also reported on on-going efforts to improve and support reporting of lessons learned. It presented the first issue of its Lessons Learned Bulletin – Lessons learned from accidents involving hydrogen (June 2012). The next Bulletin will come out in December 2012 and will be on Lessons learned from accidents involving contractors. Member States were invited to make suggestions as regards the accident reporting format, as well as ideas for future topics to be addressed in the Bulletin.

#### **4.1.2 Inspections – LUP – other activities**

The Commission (MAHB) provided an update on the work of the Technical Working Group on Inspections, finalisation of MJV (Mutual Joint Visit) expert reports and upcoming workshops in October 2012 in Dublin and in September 2013 in Sweden. The Commission also noted its intention to develop a road map for implementation of Seveso III, in close cooperation with the Member States, through a survey (early 2013) to Member States Focal Points, discussions in Technical Working Groups (on Inspections and on Land-Use Planning), the Seveso expert group meetings, feedback on eMARS-eSPIRS and on Mutual Joint Visits.

The Commission (MAHB) reported on recent activities on land-use planning: the work on the ARIPAR area risk assessment software tool which will include a consequence assessment module and consider a possible extension to a qualitative methodology and to emergency planning. The MAHB also referred to its Handbook on Land-Use Planning scenarios (expected end 2013), developed in consultation with the TWG on LUP (next meeting planned for second quarter of 2013). At that meeting, possible future work of the TWG will also be discussed, including how to address the recommendation in the new Directive to develop guidance on safety distance and domino effects.

The Commission (MAHB) reported on its work to facilitate inclusion of Seveso III classifications for substances listed in the C&L Inventory of ECHA (European Chemicals Agency). Currently, the ESIS database, managed by the ex-European Chemicals Bureau staff of the JRC, includes the Seveso II classifications of substances in its repository. The ESIS database will remain online until next year, although it has not been adjusted for the two latest adaptations to technical progress (ATPs). A number of challenges associated with Seveso III classifications in the C&L inventory are still being explored, such as the categorisation of mixtures. Whether the issue of minimum classifications and self-classifications can be resolved in the database is also under discussion with ECHA. Finally, the Commission (MAHB) informed on the on-going development of a completely new portal, “MINERVA”, which will replace the MAHB website by December 2013.

In reply to a question by UNECE, MAHB replied that in principle, the system should be accessible to non EU Member States, subject to discussing certain technicalities at a forthcoming meeting with UNECE.

OECD underlined the importance of the eMARS database for OECD countries which are not EU Member States.

## **4.2 Questions on implementation**

The Commission explained how work will be organised in the future regarding questions on Seveso II/III implementation. Some questions are purely legal; in which case it is for the European Commission to provide the legal interpretation, subject to control by the Court of Justice. Other questions may require more elaborate technical discussion with Member State experts before a final answer can be given. In all cases, it is absolutely necessary that Member States provide the Commission with all information in their possession when raising a question regarding implementation. When appropriate the Commission services can consider turning the question into a Q&A.

The Commission introduced the French proposal to seek more clarification for the application of the environmental criteria in Annex VI according to which Member States have to report a major accident to the European Commission in case of damage to the environment. In particular, it was highlighted that the use of subjective descriptors, e.g., "permanent", "long term", "significant" do not provide clear technical points of reference. It would be useful to compile an inventory of references/benchmarks/ranges of severity. The Commission (MAHB) and FR (BARPI, the French Major Accident Hazards Bureau) are cooperating on a benchmarking study on environmental consequences of reported accidents and will report the results of this study at the next Seveso expert group meeting, in view of discussing next steps. One Member State noted that adequate data on environmental impacts of an accident are often not readily available to make a judgement against environmental criteria. One Member State said that it did not recall ever having applied the environmental criteria as a basis for reporting an accident, but it could be an issue for a future accident. One Member State noted that, since the Commission encourages to notify as much accidents as possible, it would be less important to further specify the environmental criterion.

The Commission introduced the German Question regarding the applicability of the Seveso Directive to gas optimizing pipelines, considering the exclusion in Article 4(d) of "the transport of dangerous substances in pipelines". This is a good example of how to deal with a question which is both legal and technical. The Commission had replied to DE that, in principle, where the main objective of the pipeline would be storage, it would need to be considered to be covered under Seveso. However, further technical discussion may be needed to assess whether the main purpose can be considered storage or whether it is transport. DE distributed a paper explaining in more detail the technical aspects of gas optimising pipelines.

One Member State indicated that the system would be considered as storage, but that the exception of "intermediate storage" related to transport might apply. As a follow-up to the meeting, one other Member State informed the Commission about the fact that this kind of pipelines are mostly considered establishments, not because of storage, but because of other activities than the transport of gas. These other activities concern the measurement of the gas, mixing of the gas with other substances and changing the pressure of the gas. When these activities are combined with the transport of gas, there will be a fence around the

location. If the maximum volume of gas in the pipelines within the fence exceeds the thresholds of the Seveso-directive, then the establishment will be considered a Seveso-establishment. One Member State would also cover similar systems under its Pipeline Safety Regulations. One Member State does not have a similar system but would consider it to be more storage than transport, possibly temporary storage related to transport. One Member State noted that the exception of intermediate temporary storage could not apply since this exception refers to transport by road, rail, internal waterways, sea or air, and thus not to transport by pipelines. One should take into account the fact that the pipelines are 1,8 m below the surface, that it may be difficult for the operator to control third party interference, that the Directive applies to establishments and that in this case it may be difficult to consider the piping system as an "establishment" falling under Seveso, or it may be difficult to identify the establishment to which they pertain. The underlying reason of the pipelines seems to be transport rather than storage. The OECD noted that gas optimising pipelines or similar systems are highly complex, that they are very much linked to the natural gas distribution network which is not covered under Seveso, that the gas industry does not talk about storage in this case but about "holding" the gas temporarily prior to further transport/distribution. One Member State noted that underground gas storage falls under Seveso, and that it should thus be possible to consider such storage as pertaining to an establishment covered by Seveso.

The Commission concluded that it was necessary to further investigate the case, and take into account the various objectives of transport/storage as well as the notion of establishment.

### **4.3 Update on related activities**

The Commission summarized the background of the pipeline study and presented the final report, inviting comments from Member States, at the latest by 19<sup>th</sup> October, as regards the need to address pipeline safety through EU legal (stand-alone Directive or modified Seveso Directive) or non-legal instruments (recommendations/benchmarking).

One Member State indicated that it would send comments in writing. One Member State welcomed the conclusion that there seem to be no major gaps in national legislations addressing pipeline safety and that it would be interesting for the Commission to conclude voluntary agreements with industry to report to the Commission, in view of benchmarking.

The Commission reported on the state of play of the Commission proposal for a Regulation on the safety of offshore oil and gas prospecting, exploration and production activities.

### **4.4 Reports from Member States on major accidents and developments**

FI reported on an accident that happened on 15<sup>th</sup> March 2012 in a processing plant of a mining company, mainly caused by deficiencies in process safety management (gas sensors not working outside, overuse of hydrogen sulphide in view of ensuring a pure product, valve left open during sample collection).

## **5. International Developments**

### **5.1 OECD Working Group on Chemical Accidents**

OECD presented the results of the OECD Conference and Guidance on Corporate Governance for Process Safety (June 2012) and of the Natech Conference addressing

chemical accident risks triggered by natural hazards (May 2012). Member States were invited to widely distribute the OECD leaflet on Corporate Governance for Process Safety, which could be delivered in MS-Word format if Member States would wish to translate it. There is strong interest from the industry side, and ICCA (International Council of Chemicals Associations) will follow up the publication with its member companies and associations, which are already committed to the Responsible Care Programme. Representatives from a wide range of industries agreed to report back to the OECD within one year on their implementation efforts and experiences. The Workshop on Natech Incidents was the first one of its kind and managed to bring together persons dealing with natural accidents and those regularly dealing with chemical accidents. Since natural disasters are expected to occur more frequently than in the past, good preparation, communication, planning and "mapping" is needed. The report of the Natech Workshop will be published soon.

CEFIC noted that, in 2006, the German Chemical Industry Association (VCI) has charged the University of Aachen (RWTH) for the elaboration of a guideline to apply to chemical plants affected by earthquakes in accordance to DIN 4149: 2005, which is written in German and available online ([www.vci.de](http://www.vci.de)). The guideline was published in 2009. The guidance has been updated by the RWTH-Aachen to take account of new Eurocode 8<sup>1</sup>, and will be published on the website in Autumn 2012.

## **5.2 United Nation's Environment Programme (UNEP)**

OECD reported on behalf of UNEP on on-going initiatives of UNEP in the framework of industrial accident prevention, preparedness and response in particular the Flexible Framework Initiative and highlighted the opportunities for Member States to participate in these activities be it through providing experts to support activities, funding to finance local level activities such as needs assessments and training, or in-kind support such as translation.

## **5.3 UN/ECE Convention on the Transboundary Effects of Industrial Accidents**

UNECE provided information on the upcoming Conference of the Parties under the UNECE Convention on the Transboundary Effects of Industrial Accidents on 14-16<sup>th</sup> November 2012 in Stockholm. He highlighted three issues of particular interest that will be discussed, namely (1) the proposed Sustainable financial mechanism, (2) the ratification of the Protocol on Civil Liability signed in 2003 and (3) the proposed options for amending the Convention.

The EU position for this meeting is being finalised through the Council Working Party on International Environmental Issues.

## **6. Any Other Business – Closing**

DG ENV concluded the meeting, thanking the Presidency and inviting Member States to formulate written comments by 19th October on

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<sup>1</sup> Guideline: the earthquake load case in plant engineering: Design, dimensioning and construction of supporting structures and components in the chemical industry in accordance to DIN EN 1998-1

- o Seveso III Implementation issues to be addressed by the Commission, including the need for further guidance on "appropriate safety distance" and "domino effect"
- o Methods for establishing a solid derogation methodology
- o Accident reporting statistics
- o Results of the pipeline study

LT announced that they would as part of their Presidency programme be happy to host the Autumn 2013 expert meeting and organise a seminar on a relevant implementation issue (such as ageing equipment). The Commission welcomed this invitation and will reply in due course, after drafting a work programme for the implementation of the Seveso III Directive, which may require expert group meetings, or different types of meetings, workshops or ad hoc Member State expert meetings.

As regards future meetings outside Brussels, it was clarified that the Commission services would no longer provide interpretation.