

Meeting of the Council at Ministerial Level, 7-8 June 2023**DRAFT DECISION-RECOMMENDATION OF THE COUNCIL
CONCERNING CHEMICAL ACCIDENT PREVENTION, PREPAREDNESS
AND RESPONSE****JT03520037**

THE COUNCIL,

HAVING REGARD to Article 5 a) and 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

HAVING REGARD to the Decision of the Council on the Exchange of Information concerning Accidents Capable of Causing Transfrontier Damage [[OECD/LEGAL/0240](#)], the Decision-Recommendation of the Council concerning Provision of Information to the Public and Public Participation in Decision-Making Processes related to the Prevention of, and Response to, Accidents Involving Hazardous Substances [[OECD/LEGAL/0239](#)] and the Recommendation of the Council concerning Chemical Accident Prevention, Preparedness and Response [[OECD/LEGAL/0319](#)], which this Decision-Recommendation replaces;

HAVING REGARD to the standard developed by the OECD in the area of accidental pollution and the governance of critical risks;

HAVING REGARD to the work, including standards, developed by international organisations and fora on the transport of dangerous goods, in particular the United Nations Model Regulations on the Transport of Dangerous Goods;

CONSIDERING the concerted work done since the conclusions adopted by the Third High-Level Meeting of the Chemicals Group on 18 March 1987 regarding the prevention of, and response to, unintended releases of hazardous substances to the environment; and the Concluding Statement of the OECD Conference on Accidents Involving Hazardous Substances of 10 February 1988 in which Ministers and other high-level officials called on the OECD to elaborate a Code of Good Practice relating to accident prevention and response and guiding principles for investments and aid programmes with respect to hazardous installations in developing countries [Environment Monograph No. 24, page 12];

CONSIDERING the continued occurrence of significant chemical accidents with loss of life, injuries and damage to property and the environment and the further efforts required for their prevention, preparedness and response;

CONSIDERING the co-operation and efforts at an international level including those between intergovernmental organisations to share experience and further the effort toward prevention, preparedness and response throughout the world, in particular the co-operation work through the Inter-Organization Programme for the Sound Management of Chemicals (IOMC);

CONSIDERING the importance of a standardised system of classification and labelling of hazardous substances and the role of the United Nations Globally Harmonised System of Classification and Labelling of Chemicals (GHS);

CONSIDERING that the prevention of chemical accidents requires the implementation of good practices with regard to the construction and operation of hazardous installations, the adoption of safety management systems to ensure a process of continual improvement, and inspection by public authorities to provide oversight and enforcement where necessary;

CONSIDERING that evidence from past major chemical accidents has shown that a lack of effective land-use planning may have a considerable impact on the local community, and that continued effort to regulate and control the siting of hazardous installations at appropriate distances from vulnerable buildings and locations can contribute to minimise this impact;

RECOGNISING that Members and non-Members having adhered to this Decision-Recommendation (hereafter the “Adherents”) have different legal and institutional frameworks through which they will implement this Decision-Recommendation and in particular determine to which installations, hazardous substances and quantities it applies with regard to chemical accident prevention, preparedness and response;

CONSIDERING as well that, in accordance with those different legal and institutional frameworks, the responsibility for the prevention, preparedness and response to chemical accidents may be shared at different levels of government and public institutions and that accordingly this Decision-Recommendation is relevant at all such levels and institutions;

CONSIDERING that the Guiding Principles for Chemical Accident Prevention, Preparedness and Response (hereafter the “Guiding Principles”) provides guidance for industry, public authorities, the public and other stakeholders, and may be modified as appropriate by the Chemicals and Biotechnology Committee;

On the proposal of the Chemicals and Biotechnology Committee:

I. AGREES that, for the purpose of the present Decision-Recommendation, the following definitions are used:

- **Chemical accident** refers to any unintentional event, such as a release, fire or explosion at a hazardous installation, involving hazardous substances, that has the potential to cause harm to human health, the environment or property. This also covers chemical accidents triggered by the effects of natural hazards.
- **Hazard** refers to an inherent property of a substance, agent, source of energy or situation having the potential of causing undesirable consequences.
- **Hazardous installation** refers to a fixed installation at which hazardous substances are produced, processed, handled, stored, used or disposed of in such a form and quantity that there might be a risk of occurrence of a chemical accident. This also covers pipelines and transport interfaces such as marshalling yards and port areas, with the exclusion of military installations and the hazard arising from ionising radiation at nuclear installations.
- **Hazardous substance** refers to an element, compound, or mixture which, by virtue of its chemical, physical or toxicological properties, has the potential to cause harm to human health, environment or property.
- **Operator** refers to the legal or natural person who under applicable law is in charge of the installation and is responsible for its proper operation. The concept of operator is defined in the law applicable in the country of the installation, in which attention may be given to criteria such as ownership of certain hazardous substances or possession of a license or permit.
- **Programmes** refers to any legislation, policy, regulation and implementation mechanisms for the prevention of, preparedness for, and response to chemical accidents.
- **Transboundary damage** refers to any serious damage to human health, the environment or property, suffered by an affected jurisdiction in the event of a chemical accident originating in a different jurisdiction.

**Programmes for the prevention of, preparedness for
and response to chemical accidents**

II. DECIDES that Adherents establish, maintain or strengthen programmes for the prevention of, preparedness for, and response to chemical accidents, taking into account the Guiding Principles and other relevant OECD guidance. To this effect:

1. Adherents shall:
 - a) Develop overall safety objectives related to the prevention of, preparedness for, and response to chemical accidents;
 - b) Develop and implement control frameworks covering all aspects of chemical accident prevention, emergency preparedness and mitigation of accidents, emergency response, and follow-up to accidents such as investigation, clean-up and recovery, recognising appropriate roles of all stakeholders including industry, labour and the public;
 - c) Establish arrangements for monitoring safety of hazardous installations and for enforcing any requirements related to the control framework;
 - d) Arrange for the development and implementation of compatible off-site and on-site emergency preparedness plans for hazardous installations;
 - e) Establish arrangements for land-use planning in order to mitigate possible off-site effects of a chemical accident, recognising also the need to take into account the possibility of chemical accidents that are capable of causing transboundary damage. This shall cover:
 - siting of new hazardous installations,
 - modification of existing hazardous installations; and
 - inappropriate developments near existing hazardous installations.
 - f) Ensure that chemical accidents with significant consequences or with potential for learning lessons are investigated with regard to their causes, recommendations made, and measures adopted to prevent their recurrence.
 - g) Report these accidents, together with lessons learnt, to the relevant bodies as defined in the programme.
2. Adherents should:
 - a) Develop control frameworks which:
 - have a defined scope so that the activities to be regulated and that the hazardous substances and hazardous properties of those substances may be clearly identified (in line with GHS), and consider the need for qualifying quantities;
 - require the operator of an activity covered by the scope to notify the public authorities with regard to the activity and the hazardous substances involved and to provide sufficient information so that the public authorities may establish appropriate monitoring activities;
 - identify systematically the hazards posed by the activities and hazardous substances, assess and document the risks, and require that the operator of the

activity adopt appropriate measures to manage those risks at an acceptable level;

- take into account the potential impacts of malicious acts in the hazard identification and risk assessment process, considering that malicious acts can lead to chemical accidents;
 - determine whether a chemical accident may be capable of causing transboundary damage;
 - require the operator to provide the public authorities (including of relevant transboundary jurisdictions) with sufficient, appropriate information to carry out land-use planning activities.
- b) Make appropriate use of safety performance indicators to assess the performance related to the prevention of, preparedness for, and response to chemical accidents;
 - c) Encourage and/or facilitate processes in which all stakeholders, including industry, public authorities, and the public can take action and help ensure effective communication and co-operation;
 - d) Share information and experience on accident case histories at the regional, national, and international levels, including by reporting past accidents to the Major Accident Reporting System of the European Commission (eMARS) scheme, with a view of encouraging the development of lessons learnt and the prevention of future accidents;
 - e) Support and promote related research, including co-operative international activities.

Access to and provision of information to the public

III. DECIDES that Adherents shall:

1. Ensure, through the legal and procedural means they deem appropriate, that the potentially affected public:
 - a) Is provided with specific information on the appropriate behaviour and safety measures they should adopt in the event of a chemical accident;
 - b) Is provided with general information on the nature, extent and potential off-site effects on human health or the environment, including property, of possible chemical accidents at a planned or existing hazardous installation; and
 - c) Has access to such other available information needed to understand the nature of the possible effects of an accident (such as information on hazardous substances capable of causing serious off-site damage) and to be able to contribute effectively to decisions concerning hazardous installations and the development of community emergency preparedness plans.
2. Take measures, through the legal and procedural means they deem appropriate, so that, where a potential chemical accident at a hazardous installation may cause transboundary damage, appropriate information is made available to the public authorities of the potentially affected jurisdiction, so that the potentially affected public is informed, as far as possible, to the same degree as in the jurisdiction in which the hazardous installation is located.

IV. RECOMMENDS that Adherents take measures to facilitate, as appropriate, opportunities for the public, in all potentially affected jurisdictions, to comment prior to decisions being made by public authorities concerning siting prior to construction and start-

up of hazardous installations and the development of community emergency preparedness plans.

Chemicals accidents capable of causing transboundary damage

V. DECIDES that, for considering where chemical accidents are capable of causing transboundary damage, Adherents shall:

1. Use appropriate criteria for the identification of hazardous installations in accordance with applicable international agreements; or
2. Define, in the absence of applicable agreements, appropriate criteria for the identification of hazardous installations as far as possible in agreement with the potentially affected jurisdiction, and taking account of relevant international standards.

VI. DECIDES that Adherents shall exchange information relating to chemical accidents capable of causing transboundary damage on a reciprocal basis, subject to the limitations of their domestic law concerning the protection of confidential information, including both proprietary data and information protected for reasons of national security. To that effect:

1. Adherents shall:
 - a) Provide relevant information to the public authorities of the potentially affected transboundary jurisdiction, in case where a hazardous installation located or planned on their territory and a chemical accident is capable of causing transboundary damage;
 - b) Establish mechanisms to consult and exchange of opinions on new hazardous installation;
 - c) Transmit an emergency warning to exposed jurisdiction by the mechanisms and procedures previously agreed, in the event of an accident or imminent threat of an accident capable of causing transboundary damage;
 - d) Communicate appropriate information relating to the accident or imminent threat of an accident to the authorities responsible for receiving emergency warnings in the exposed jurisdiction, in the absence of an agreed system for transmitting information relating to an accident.
2. Adherents should:
 - a) Conclude arrangements or agreements aimed at specifying procedures for exchanging information relating to chemical accidents capable of causing transboundary damage;
 - b) Establish mechanisms by which consultation and an exchange of opinions on the planned hazardous installations may take place, where a new hazardous installation is planned.

Co-operation and technical assistance

VII. RECOMMENDS that Adherents co-operate within Adherents and non-Adherents and, with regard to developing countries, support the transfer of technology and provide bilateral technical assistance, in line with the relevant parts of the Guiding Principles and other relevant guidance. To that effect, Adherents should work with industry to ensure a responsible transfer of substances and technology, in particular to:

1. Promote the safe management of the produced substances throughout their life cycle, including handling and use by downstream users;
2. Determine whether their customers can safely handle the substances (including, as appropriate, processing, use and disposal of the substances) before completing the sale of hazardous substances;
3. Ensure that in transferring technology, the technology will be applied in a way which will result in a level of safety equivalent to that achieved in the technology supplier's own installations using that technology, and that it can be operated to an acceptable level of safety, recognising that certain safety technology may not be appropriate in all locations;
4. Ensure that where transfer of substances and technology involves investment, that relevant corporate policies and guidelines for accident prevention, preparedness and response are applied; and ensure that when an enterprise acquiring an existing installation concludes, following an assessment, that the installation does not meet the standards of the enterprise or internationally accepted safety levels, the installation should be brought up to such safety levels within a reasonable period of time. Where retrofitting cannot be accomplished to meet these levels, the investing enterprise should, in a timely manner, inform the public authorities, employees, and employee representatives of the situation and their intended plans.

VIII. ENCOURAGES other international organisations to disseminate and support the implementation of this Decision-Recommendation as well as to use and promote the Guiding Principles.

IX. INVITES the Secretary-General to disseminate this Decision-Recommendation, the Guiding Principles and other relevant OECD guidance.

X. INVITES Adherents to disseminate this Decision-Recommendation and promote the use and dissemination of the Guiding Principles, Guidance on change of ownership in hazardous installations, Corporate governance for process safety: Guidance for senior leaders in high hazard industries, and other OECD guidance in the area of chemical accident prevention, preparedness and response to non-Adherents and other relevant stakeholders.

XI. INVITES non-Adherents to take account of and adhere to this Decision-Recommendation, subject to a review by the Chemicals and Biotechnology Committee through its Working Party on Chemical Accidents.

XII. INSTRUCTS the Chemicals and Biotechnology Committee, through its Working Party on Chemical Accidents, to:

- a) Serve as forum to exchange information on chemical accident prevention, preparedness and response including to share experience on the implementation of this Decision-Recommendation;
- b) Continue developing, updating and supporting the use of the Guiding Principles and other OECD guidance related to chemical accident prevention, preparedness and response; and
- c) Report to Council on the implementation, dissemination and continued relevance of this Decision-Recommendation no later than five years following its adoption and at least every ten years thereafter.