



**Economic and Social
Council**

Distr.
GENERAL

CEP/WG.5/AC.2/2001/2
21 March 2001

ORIGINAL: ENGLISH

**ECONOMIC COMMISSION FOR EUROPE
COMMITTEE ON ENVIRONMENTAL POLICY**

Meeting of the Signatories to the
Convention on Access to Information,
Public Participation in Decision-making and
Access to Justice in Environmental Matters

Working Group on Pollutant Release and Transfer Registers
(First meeting, Geneva, 28 February - 2 March 2001)

**REPORT ON THE FIRST MEETING OF THE WORKING GROUP
ON POLLUTANT RELEASE AND TRANSFER REGISTERS**

1. At their second meeting, the Signatories to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters proposed the establishment of an open-ended intergovernmental working group charged with the preparation of a legally binding instrument on pollutant release and transfer registers (PRTRs) with a view to having a draft ready for the Fifth "Environment for Europe" Ministerial Conference (Kiev, 2003). At its seventh session, the Committee on Environmental Policy adopted the report of the Meeting of the Signatories and decided to establish the Working Group on PRTRs.
2. The first meeting of the Working Group was held in Geneva from 28 February to 2 March 2001.
3. The meeting was attended by delegations from the Governments of Albania, Armenia, Austria, Belgium, Bulgaria, Czech Republic, Denmark, Finland, Georgia, Germany, Hungary, Italy, Kazakhstan, Kyrgyzstan, Netherlands, Norway, Poland, Republic of Moldova, Slovakia, Slovenia, Sweden, Switzerland, Ukraine, United Kingdom, United States of America, Uzbekistan and Yugoslavia. The Commission of the European Communities was also represented.

GE.01-

4. The United Nations Environment Programme (UNEP) and the United Nations Institute for Training and Research (UNITAR) were represented, as were the following organizations: American Bar Association Central and East European Law Initiative (ABA/CEELD); European Chemical Industry Council (CEFIC); European ECO Forum; Interactive Health Ecology Access Links (IHEAL Network); International Council on Metals and the Environment (ICME); International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF); and Regional Environmental Center for Central and Eastern Europe (REC).

5. The meeting was opened by Mr. Kaj Bärlund, Director of the UN/ECE Environment and Human Settlements Division. Mr. Karel Blaha (Czech Republic) was elected as Chair, and Mr. Geert van Grootveld (Netherlands) was elected as Vice-Chair.

6. The provisional agenda for the meeting (CEP/WG.5/AC.2/2001/1) was adopted.

General discussion on preparation of PRTR instrument

7. The Working Group thanked the secretariat for its preparation of background documentation for the meeting, in particular the working document CEP/WG.5/AC.2/2001/3. The working document was considered to be comprehensive and to provide a good basis for starting to prepare the draft instrument.

8. In a general round of discussion on the proposed instrument, there was general support for a step-by-step approach to the establishment of PRTRs. Some delegations from EU countries felt that the European Pollutant Emission Register (EPER) established by the European Commission was a good starting point for a first step, whereas others from both inside and outside the EU felt that EPER was not a true PRTR system in the internationally accepted sense and was therefore insufficient even as a first step. There was general agreement that the instrument should be compatible with the EPER requirements and other international reporting requirements, provided that this was understood in a way which did not prevent the Aarhus instrument being more far-reaching from the beginning.

9. The question of consistency between the reporting obligations under the new instrument and the existing reporting obligations under other UN/ECE conventions and under EPER was raised and the secretariat was asked to investigate this, bearing in mind that the objectives of reporting might be different in different contexts. To avoid duplication of work, the secretariat was invited to take note of the results of a similar exercise that had been undertaken by the European Environment Agency.

10. Some concerns were raised about the cost implications of various options. During the discussions, three proposals for a way forward emerged: the secretariat could carry out a cost-benefit analysis; the secretariat could hire a consultant to do this analysis, provided that the funding was available; or the countries having experience with PRTR could provide information about costs and benefits, which could be circulated to the Working Group. It was decided to return to the discussion at a later stage.

11. The representative of IUF stated that the Standing Committee of the Intergovernmental Forum on Chemical Safety hoped for good coordination and cooperation between the processes, and brought to the attention of the Meeting the IFCS priority and action plan on PRTRs. The Working Group affirmed the importance of paying close attention to relevant international processes and the IFCS-3 report summary and relevant documentation from UNITAR and the Organisation for Economic Co-operation and Development (OECD) was made available to participants.

12. The secretariat informed the Meeting of the content of an informal note which it had received the previous week from the European Commission providing comments on the secretariat's working document, and which it had been asked by the European Commission to present to the Meeting at an early stage (the European Commission being absent for the early part of the meeting). The delegation of Sweden, on behalf of the EU member States represented at the meeting, informed the Meeting that the note expressed the views of the European Commission only and was not the common position of the EU member States.

13. The European ECO Forum circulated and presented an informal paper giving broad support to the secretariat's initial working document, which provided a framework for a comprehensive PRTR system by referring to releases and transfers, a multi-media approach and other elements such as diffuse sources, energy consumption and product information. ECO Forum also noted that the European Pollutant Emission Register was not a PRTR, since it lacked some essential elements, and was narrowly focused around the EU Integrated Pollution Prevention and Control (IPPC) Directive 96/61/EC.

14. The European Commission, joining the discussion at a later stage in the meeting, responded to earlier comments by stating that it recognized that EPER was not a fully developed PRTR system. It pointed out that EPER was not static, that reviews were foreseen in 2004 and 2006 and that developments under the Aarhus Convention would be taken into account in further developing the system. The European Commission was in favour of moving to an annual reporting requirement, as stated in the instrument itself, and of extending EPER to cover waste. In making a comparison between EPER and the PRTR system to be developed under the Aarhus Convention, delegations should imagine what the EPER system could develop into by 2007. The European Commission was in favour of compatibility between the Aarhus PRTR instrument and EPER in the sense that the former should as a minimum incorporate the requirements of the latter, but the Aarhus instrument should have the flexibility to go further.

Possible core elements for a PRTR

15. It was noted that while the working document had deliberately attempted to put all the issues on the table, some of those issues were more essential features of a PRTR system than others. It was therefore agreed to put aside for discussion at future meetings of the Working Group issues that were of lower priority, more controversial or more peripheral to a PRTR system, and to concentrate during the first meeting on what were considered to be some of the core elements of a PRTR, namely:

- (a) Environmental media to be covered;
- (b) Types of releases and transfers to be covered;
- (c) Reporting frequency and timing;
- (d) Scope of reporting bodies;
- (e) Scope of substances to be reported on;
- (f) Reduction targets;
- (g) Public accessibility and dissemination of data.

16. It was also agreed to discuss during the first meeting how to incorporate a step-by-step approach in the instrument, what the legal form of the instrument should be, whether the structure of the working document was suitable and how the future work of the Working Group should be organized.

Environmental media

17. There was general agreement that the instrument should cover all environmental media, i.e. that air, water, land and underground injection should be covered.

Types of releases and transfers

18. The Working Group agreed that both releases and transfers should be covered, though an appropriate definition of transfers must be found. The distinction between off-site and on-site transfers was considered important. Many delegations had concerns about including on-site transfers in the first step of establishing a PRTR, whereas some others considered data on on-site transfers to be very important. With respect to the definitions of 'release' and 'transfer' in the working document, it was noted that disposal was covered in both. The inclusion of releases through and transfers in or as products was considered to be an issue which would require further discussion at a future meeting.

19. It was suggested that this might be a topic where it could be advantageous to establish a technical group.

Frequency and timing of reporting

20. There was general agreement that reporting should be on an annual basis. Some delegations expressed concerns that, during the start-up phase, it could be difficult to achieve annual reporting, and that the first reporting cycle or cycles might need to be longer. Others made the point that the instrument would not enter into force for many years, by which time prospective parties would have had ample time to prepare for annual reporting.

21. Regarding the time limits for the submission of reports and the inclusion of the data in the register, there were diverse views on how long would be needed for these two stages. Countries already having PRTR systems up and running informed the Meeting of their existing time limits for having the data on the register, which ranged from 5 months to 15 months following

completion of the reporting year. It was noted that once a report was submitted to the competent authority of a Party to the Convention, the data would in any case be subject to the information provisions of the Convention. One suggestion was for the instrument to specify a fixed time limit for the placing of the data on the register but to leave it to the discretion of each Party to set a time limit for facilities or other reporting bodies to submit their reports.

22. It was generally recognized that the feasibility of placing reported data on a register within a short time frame depended on the extent to which validation of the data was to be carried out. Some delegations placed much emphasis on the importance of well-validated data to safeguard the credibility of the PRTR system. Others considered that extensive validation was not required and could result in significant delays in making the data available to the public, and that the public and competing facilities would in any case review the data critically. The Meeting concluded that a practical solution would lie somewhere between no validation and detailed and exhaustive validation procedures; and that whatever validation measures were put in place by parties, the responsibility for the accuracy of the data would in any event rest with the facility or other body submitting the report.

23. It was noted that there was a linkage between the achievability of annual reporting and reporting within specified time limits during the first step, and the number of reporting elements to be included in that step.

Reporting bodies

24. With respect to point sources, it was agreed that there should be an annex to the instrument containing the list of activities with respect to which reports would be required to be submitted, and that annex I to the Convention would be a good starting point for developing such a list. Some elements in annex I might not be needed or wanted on the list, and other elements might need to be added. In general, it was felt that the categories used on the list should be compatible with those used in other relevant international instruments. It was proposed that the instrument should include a “catch-all” provision with the same effect as article 6, paragraph 1(b), of the Convention.

25. It was agreed that in the longer term, small and medium-sized enterprises (SMEs) may need to be covered if a substantial part of releases and transfers came from SMEs. Reporting from SMEs could be covered as releases from diffuse sources. It was also mentioned that lower thresholds could cover SMEs.

26. It was decided that a technical working group should deal with the issue of which activities should be included in the list and that the work should be based on annex I to the Convention.

Scope of substances to be reported on

27. Concerning the scope of substances to be reported on, it was agreed that for the sake of

transparency and for scientific reasons, criteria should be developed for including substances in the list. It was also felt that the some sort of transparent mechanism for the inclusion and deletion of substances after the adoption of the instrument should be developed. A number of delegations felt that it could be useful to look at other international and regional instruments concerning chemical substances, such as the Montreal Protocol, the Basel Convention, the Convention on Long-range Transboundary Air Pollution and its protocols, the European Union's Framework Directive on Water and the Stockholm Convention on Persistent Organic Pollutants (POPs), whereas others felt that that would lead to a conservative list, which would not take new developments into account.

28. Some delegates felt that the list of substances annexed to the EPER decision could serve as a reference list, and that in any case thresholds should be an integral part of any list.

29. The mentioning of the Convention on POPs raised the issue of whether pesticides should be included in the list or not. Some felt that the manufacture of pesticide substances was just one type of chemical production and that such substances should be considered for inclusion in a list of substances. Others felt that including substances such as pesticides in conjunction with a reporting requirement on off-site transfers of pollutants in or as products would lead to the establishment of a product register. The question of the use of pesticides could be revisited at a later stage, either under the heading of diffuse sources or under the heading of products.

30. The implications of having an extensive list of substances to report on was touched upon and it was mentioned that an extensive list would not necessarily lead to a proportional increase in the reporting burden for facilities, as each facility would most likely only have to report on a limited number of substances in any case. However, a representative of industry pointed out that industry would still have the burden of establishing that its releases and transfers of these substances fell below the thresholds in such cases. It was noted that the list should in any case be a minimum list.

31. It was decided that a technical group should develop criteria and a draft list of substances to be reported on.

Public dissemination of data

32. Public access to and dissemination of the information contained in the PRTR were generally agreed to be essential features of a PRTR system. Some delegations felt that the relevant provisions of the Aarhus Convention were adequate in this respect, whereas others felt that additional requirements should apply in the case of PRTR information. These could include requirements to provide PRTR data to the public free of charge, to designate contact persons within the competent authority responsible for liaising with the public, to put the data on the register in a timely manner and to provide appropriate facilities such as libraries or public authority offices facilitating public access. It was recommended that the use and interpretation of PRTR data by the health community should also be encouraged in the instrument.

33. It was noted that any additional requirements in the instrument should be compatible with the relevant provisions of the Convention, e.g. with respect to charges.

34. The Working Group noted with appreciation the recent OECD study 'Presentation and Dissemination of PRTR Data: Practices and Experiences' as a useful contribution in this area.

35. Several delegations stressed the central importance of electronic information technology and in particular the Internet for disseminating PRTR information, though it was pointed out that not all members of the public had access to the Internet and that PRTR data should also be available in paper form.

36. There was general agreement that provision should be made for certain reportable data to be withheld from the public on grounds of commercial confidentiality. Several delegations preferred to rely on the Convention's provisions on confidentiality. Exempting information on off-site transfers from confidentiality provisions, as envisaged in the working document, was seen as potentially problematic if off-site transfers were to be defined to cover transfers in or as products. This idea would need to be revisited in the light of future discussions on products. The technical question of how to record in the register the fact that information had been withheld from it would also need to be discussed.

Reduction targets

37. On the basis of article 8, paragraph 3, of the working document, a discussion took place on whether the instrument should include a requirement for facilities to set reduction targets and to report on them.

38. Some delegations felt that there should be an obligation for each facility to set reduction targets, even if it would have to be a 0% reduction. Other delegations felt that the purpose of the PRTR instrument should not be to regulate releases, transfers and the other parameters directly; that it was therefore not appropriate to require the setting of reduction targets; and that other mechanisms such as the International Standardization Organization (ISO) 14000 series and the Eco-Management and Audit Scheme (EMAS) were better suited for this purpose.

39. A slight majority of delegations considered that the instrument should include a requirement to report on reduction targets which were required to be established under some other instrument, for instance through the terms of the permit for the facility or under other legislation, but that the Aarhus instrument should not itself require the setting of reduction targets. Other delegations preferred to see the setting of reduction targets, and reporting thereon, as an integral part of a PRTR system. It was suggested that it was both advisable and feasible to require reporting on these targets and that experience had shown that the PRTR instrument could be used as a tool in this respect.

40. It was generally felt that the definition and the content of reduction targets needed to be clarified (e.g. whether there should be a linkage with productivity), as did the procedure for setting these targets.

Step-by-step approach

41. The secretariat outlined how the step-by-step approach recommended at the second meeting of the Signatories had been incorporated in the working document, taking account in particular of the task force report in prioritizing issues. Four steps were envisaged in the document:

(a) Step 1 would require certain reporting obligations to be in place for the first calendar year following entry into force for a Party and would include:

- Releases from various sources to various media, excluding releases through products;
- Off-site transfers (excluding through or as products);

(b) Step 2 would come into effect two years later than step 1 and would include:

- Water, energy and resource use;
- Reduction targets;
- Diffuse sources;
- Products;
- On-site transfers;

(c) Step 3 would require Parties to progressively extend the register, but without any specific time limit, to cover:

- Radioactive substances and radiation;
- Noise;
- Genetically modified organisms;

(d) Step 4 would require the Parties, at their first meeting, to address the issues of diffuse sources, methodologies for determining releases and transfers and the three issues referred to in step 3.

It was pointed out that the structure offered considerable flexibility, both in relation to how the steps were defined and in relation to what items should be included in each step.

42. Several delegations preferred to address only the issues on step 1 of the working document, at least for the time being, whereas others preferred to also address some of the issues in step 2, such as reduction targets and on-site transfers. The issues identified in the later steps could be kept on the agenda for future discussion but should not distract attention from satisfactorily completing the work on establishing a core PRTR instrument in time for the Kiev Conference. Others were keen to see the full scope of issues kept open for discussion, and were concerned that they could be lost if they were postponed. There was general agreement that the

Working Group should initially concentrate its efforts on the issues in step 1 of the working document, with the possible addition of some step-2 issues.

Form of instrument

43. The secretariat introduced the two main options for a legally binding instrument that had been identified, namely an annex to the Aarhus Convention or a protocol to the Convention.

44. A majority of delegations spoke in favour of a protocol. One delegation expressed its preference for an annex to the Convention and two delegations reserved their positions on this issue.

45. Consequently, the secretariat was requested to prepare a draft text for the remaining provisions of the instrument, based on the protocol model but without prejudice to the final decision on the form of the instrument, so that a complete text could be discussed at the next meeting.

Structure of the working document

46. Most delegations considered the structure of the working document to be clear, logical and a reasonable starting point. Some delegations felt that the structure could be improved and the text made more user-friendly with fewer cross references, and a number of suggestions were made. It was noted that some revisions might be needed in the light of the discussion on the step-by-step approach.

47. A number of delegations questioned whether the articles concerning access to information, public participation and access to justice (articles 10 to 12 in the working document) were really needed, given that these issues were already addressed in the Convention. Other delegations felt that the articles in question added value and detail relevant to the specific case of PRTRs, and that, furthermore, if it were decided that the instrument should be a protocol open to non-Parties to the Convention, the Convention's provisions could not be taken for granted.

48. A number of delegations questioned the value of establishing a regional register on top of the national registers, as envisaged in article 13 of the working document.

49. One delegation felt that the instrument should put obligations only on Parties (to collect, manage and disseminate data), not on facilities as proposed in the working document. Other delegations considered facility-specific reporting to be at the heart of the instrument.

Future process

50. It was agreed to set up a technical group to be chaired by the Vice-Chair, Geert van Grootveld (Netherlands). Four issues were identified for the technical group:

(i) substances (criteria, thresholds etc.); (ii) activities/facilities; (iii) transfers (on-site, off-site); (iv) validation of data. The first three issues would be discussed by the technical group at its first meeting. However, the fourth issue was considered to be of less immediate importance and would not be discussed at the first meeting of the technical group.

51. It was agreed that the technical group would meet on 2-4 July 2001 and the Working Group would then meet on 5-6 July 2001. Both meetings would take place in Geneva, with interpretation into the official ECE languages provided.

52. For the intersessional period, delegations were invited to submit written comments and proposals on the four issues identified for the technical group to the secretariat by means of electronic mail before **10 April 2001**. On the basis of these comments and proposals, the secretariat would endeavour to draw up a proposal which would be circulated in the official ECE languages in advance of the meeting and which could provide the basis for discussions at the meeting of the technical group. It was also agreed that all written comments received by the secretariat, whether before or after the deadline, would be circulated in the language in which they were submitted to the participants at this meeting, to the focal points of the Aarhus Convention and to technical experts designated by them.

53. Delegations were invited to submit written comments on the elements for a draft instrument (CEP/WG.5/AC.2/2001/3) and on the remaining provisions, referred to in paragraph 54 below to the secretariat by means of electronic mail before **the end of May 2001**. The secretariat would circulate all comments to the national focal points and to the participants of the first meeting in advance of the second meeting.

54. The secretariat was also requested to circulate the text for the remaining provisions of the instrument in the official ECE languages in advance of the next meeting.

Closing of the meeting

55. The secretariat was requested to finalize the report in consultation with the Chairperson.

56. The Chairperson thanked the participants for their efforts and the secretariat for its preparations, and closed the meeting.