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Working Group of the Parties

Seventh meeting

Geneva, 28 and 29 November 2019

Item 6 of the provisional agenda

Development of the Protocol

Report on the development of the Protocol on Pollutant Release and Transfer Registers

Prepared by the Bureau

Summary

The present report was prepared by the Bureau pursuant to a mandate by the Working Group of the Parties to the Protocol on Pollutant Release and Transfer Registers to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (see ECE/MP.PRTR/2018/2, paras. 27 and 28). With a view to preparing for the next session of the Meeting of the Parties, the Working Group requested the Bureau, in consideration of further development of the Protocol, to draw up a report with the support of the Compliance Committee and submit it to its next meeting for consideration and as a basis for discussions on possible revisions of the Protocol.

The Bureau considered the matter and summarized preliminary issues that could be addressed through the work on development of the Protocol and launched consultations in March 2019. Subsequently, the Compliance Committee at its seventh meeting (Geneva, 1 and 2 April 2019) considered the Bureau's deliberations and responses received through the consultations and provided comments and suggested a number of textual revisions. The Bureau considered the Committee's suggestions and addressed them in this report, as appropriate. The Bureau worked on the report at its fifteenth meeting (Geneva, 22 and 23 May 2019) and also through electronic means.



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Introduction

1. At its sixth meeting (Geneva, 9 November 2018), the Working Group of the Parties to the Protocol considered the outcome of the review of progress in implementing the Strategic Plan for 2015–2020 and the Bureau's proposals for the future development of the Protocol and related activities, based on the experiences in implementing the Protocol addressed through the following documents:

(a) Progress in implementing the strategic plan for 2015–2020 (ECE/MP.PRTR/WG.1/2018/5);

(b) Development of the Protocol on Pollutant Release and Transfer Registers (ECE/MP.PRTR/WG.1/2018/6);

(c) Results of the 2018 survey among national focal points on progress in implementing the strategic plan for 2015–2020 (PRTR/WG.1/2018/Inf.1);

(d) Systemic issues concerning the implementation of the Protocol on Pollutant Release and Transfer Registers and recommendations on how to address them (ECE/MP.PRTR/2017/6/Add.2);

(e) Synthesis report on the implementation of the Protocol on Pollutant Release and Transfer Registers (ECE/MP.PRTR/2017/10) (annex I of document comprises an overview of the progress in implementing the strategic plan for 2015–2020);

(f) Synthesis report on the implementation of the Protocol on Pollutant Release and Transfer Registers (ECE/MP.PRTR/2014/5);

(g) Maastricht Declaration: Transparency as a driving force for environmental democracy (ECE/MP.PP/2014/27/Add.1–ECE/MP.PRTR/2014/2/Add.1);

(h) Budva Declaration on Environmental Democracy for Our Sustainable Future (ECE/MP.PP/2017/16/Add.1–ECE/MP.PRTR/2017/2/Add.1);

(i) References in existing official documents that are relevant to the implementation of the strategic plan for 2015–2020 (PRTR/WG.1/2018/Inf.2);

(j) List of possible specific actions that could further the implementation of the Protocol and its strategic plan for 2015–2020 (PRTR/WG.1/2018/Inf.3);

(k) Outcomes of the three Global Round Tables on Pollutant Release and Transfer Registers (PRTRs).¹

2. With a view to preparing for the next session of the Meeting of the Parties, the Working Group requested the Bureau, in consideration of further development of the Protocol, to draw up and to submit to the Working Group at its next meeting for consideration and as a basis for discussions on possible revisions of the Protocol, a report with the support of the Compliance Committee:

(a) Reviewing the reporting requirements under the Protocol as referred to in article 6 (2) of the Protocol, including possible revisions of annexes I and II, taking into account recent developments in relevant international processes;

(b) Identifying possible gaps and examples of imprecise wording of other provisions of the Protocol, with regard to which Parties faced implementation challenges (ECE/MP.PRTR/WG.1/2018/2, paras. 27 and 28).

3. The present document was prepared pursuant to the above mandates. The Bureau considered the matter and summarized preliminary issues that could be addressed through the work on development of the Protocol.² In line with the long-standing practice under the Protocol of preparing documents in an inclusive manner, the Bureau launched consultations

¹ See www.unece.org/environmental-policy/conventions/public-participation/protocol-on-prtrs/areas-of-work/global-round-tables-on-prtrs.html.

² See www.unece.org/fileadmin/DAM/env/pp/prtr/WGP-7/Summary_issues_for-Protool_development.pdf.

in March 2019. The consultations aimed at gathering views of Parties, other interested countries and stakeholders, so as to ensure that the document was prepared through a participative process. Substantive responses were received from Canada, Switzerland, the European Environmental Bureau, Hazardous Waste Europe, the Libyan Transparency Association, the National Youth Congress of Albania, the Organization for Economic Cooperation and Development (OECD), Toxics Link and the United Nations Institute for Training and Research. The European Union and its member States submitted a letter regarding their withdrawal from consultations. The Bureau provided its response to the letter.³

4. The Compliance Committee at its seventh meeting (Geneva, 1 and 2 April 2019) considered the outcomes of the Bureau's deliberations and responses received through the consultations and suggested a number of textual revisions along with the comments on the document.⁴ The Committee also agreed that the work on the development of the Protocol, initiated by the Working Group of the Parties, constituted a necessary and timely approach to the implementation of article 6 (2) of the Protocol. The Bureau considered the Committee's suggestions and addressed them in this report, as appropriate. Furthermore, the Bureau agreed that, for any measures suggested in the future, careful consideration should be given to the balance between the potential benefits of gathering and reporting more information on pollutant releases and the related administrative burden. It also stressed the need to ensure consistency in the use of terminology and definitions at a later stage. The Bureau worked on the report at its fifteenth meeting (Geneva, 22 and 23 May 2019) and also through electronic means.

5. Section I of this report outlines a history of the development of the reporting requirements under the Protocol and provides a summary of the Compliance Committee's findings relevant to the reporting requirements. The section addresses further the following points referred to in article 6 (2) of the Protocol: (a) activities, pollutants and thresholds specified, respectively, in annexes I and II; (b) other relevant aspects, such as information on on-site transfers, storage, the specification of reporting requirements for diffuse sources and criteria for including pollutants; and (c) other relevant aspects under reporting requirements that are not related to annexes I and II, but rather to article 7 or annex III.

6. Section II describes possible gaps in and examples of imprecise wording of provisions that relate to matters other than reporting requirements, including possible criteria for identification of such gaps, and summarizes the Compliance Committee's findings relevant to these provisions.

7. Section III summarizes the possible key areas for development and sections IV and V address concluding remarks and the possible way forward related to the development of the Protocol and the suggested timeline for the associated process. In addition, there are two accompanying documents: on a possible approach to revising annexes I, II and III (see ECE/MP.PRTR/WG.1/2019/6/Add.1); and on a comparative analysis of different international reporting obligations related to annexes I, II and III (see PRTR/WG.1/2019/Inf.1).

I Reporting requirements as referred to in article 6 (2)

A. Activities, pollutants and related thresholds

8. Reporting requirements for activities, pollutants and related thresholds are addressed through articles 6 (2) (a)–(c) (scope of the register) and 7 (1)–(6) (reporting requirements) and through annexes I and II to the Protocol. They provide common standards for reporting

³ For both letters, see www.unece.org/environmental-policy/conventions/public-participation/protocol-on-prtrs/protocol-bodies/envpprtr-bureau/bureau.html (tab marked "Correspondence").

⁴ See www.unece.org/fileadmin/DAM/env/pp/prtr/Compliance_Committee/7th_CC_PRTR/Summary_Key_Issues_for_Protocol_development_by_the_Compliance_Committee.pdf.

on pollutant releases and transfers and define the specific requirements for the following two groups with reporting obligations:

(a) Operators and owners, who must report on releases from point sources and off-site transfers (article 7 (1), (2), (5) and (6)); and

(b) Authorities or other competent bodies, which must report on releases from diffuse sources (article 7 (4)).

9. In that context, annex I (activities) specifies which operators and owners need to report. The list has remained unchanged since 2003 and had been largely (including thresholds) based on annex I to the European Union Integrated Pollution Prevention and Control Directive⁵ (since replaced by the European Union Industrial Emissions Directive),⁶ with the addition of mining, municipal wastewater treatment, aquaculture and shipbuilding activities. According to the 2008 *Guidance on implementation of the Protocol on Pollutant Release and Transfer Registers to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters*,⁷ these activities were responsible for 90 per cent of industrial emissions.

10. Similarly, annex II to the Protocol has remained unchanged since 2003. It lists those pollutants that need to be reported by either operators or owners as releases from point sources and off-site transfers, or by government authorities as releases from diffuse sources. The list was compiled based on pollutants that were regulated under other international instruments, including the:⁸

(a) United Nations Framework Convention on Climate Change;

(b) Stockholm Convention on Persistent Organic Pollutants;

(c) Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade;

(d) Convention on Long-range Transboundary Air Pollution (Air Convention);

(e) Priority substances listed under the European Union Water Framework Directive⁹ and the list of substances under the Integrated Pollution Prevention and Control Directive/European Pollutant Emission Register.

11. At the time of drafting, annex II reflected the list of pollutants regulated under existing international agreements and therefore functioned as an effective minimum standard among Parties and signatories to the Protocol. Since then, a variety of changes to, for example, the

⁵ Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control, *Official Journal of the European Union*, L 257 (1996), pp. 26–40. See http://ec.europa.eu/environment/archives/air/stationary/ippe/ippe_revision.htm for more information on the historic development of Council Directive 96/61/EC.

⁶ Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control), *Official Journal of the European Union*, L 334 (2010), pp. 17–119. Directive 2010/75/EU entered into force on 6 January 2011 and is based on several pillars, which include: an integrated approach; the use of best available techniques; a certain flexibility regarding the possibility to set less strict emission limit values. Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32010L0075>; environmental inspections; and the fact that the public has a right to participate in and be informed of the consequences of the decision-making process by having access to permit applications, permits and the results of the monitoring of releases.

⁷ United Nations publication, ECE/MP.PP/7. Available at <http://www.unece.org/index.php?id=4800>.

⁸ See 2008 *Guidance on implementation of the Protocol on Pollutant Release and Transfer Registers to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters*, United Nations publication, ECE/MP.PP/7, available at <https://www.unece.org/index.php?id=4800>.

⁹ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, *Official Journal of the European Communities*, L 327 (2000), pp. 1–72.

above-listed agreements,¹⁰ have been made and new policy frameworks or instruments that have a similar objective to that of the Protocol or that may contribute to the achievement of the Protocol's objective, have evolved. Such new frameworks or instruments include: the 2030 Agenda for Sustainable Development; the Strategic Approach to International Chemicals Management;¹¹ the Convention for the Protection of the Mediterranean Sea against Pollution;¹² and the Minamata Convention on Mercury.¹³

12. Furthermore, the Protocol's Compliance Committee assessed the experience gained from the development of national pollutant release and transfer registers (PRTRs) and the implementation of the Protocol, including the current situation on implementation of the reporting requirements. The Committee found that almost all Parties had exceeded the minimum requirements specified in annexes I and II to the Protocol and had added more pollutants or activities to their national legislation on PRTRs. The Committee's report further noted that discussions had started on the merits of realizing synergies between the Protocol and other international instruments, including the Air Convention (see ECE/MP.PRTR/2017/6/Add.2, para. 34).

B. Information on on-site transfers, storage, the specification of reporting requirements for diffuse sources and criteria for including pollutants

13. Besides the revision of the activities, pollutants and related thresholds, article 6 (2) (d) further addresses the need to consider possible inclusion of other relevant aspects, such as information on on-site transfers, storage and the specification of reporting requirements for diffuse sources and the development of criteria for including pollutants under the Protocol. These aspects are listed below, together with a non-comprehensive description for further consideration:

(a) Information on on-site transfers

14. With regard to the wide promotion of a circular economy, it can be useful and beneficial for companies to provide information on the movement of pollutants or waste inside a facility (on-site transfers of pollutants and wastes), such as the on-site combustion of wastewater sludge to fuel thermal power generation. Reporting on annex II pollutants used in different processes inside the same facility could become an indicator of the application of pollution prevention measures and best available techniques that merits measurement and promotion through the registers. The merits would include improved management of on-site processes, facilitating sharing and up-scaling of good practices. Careful consideration should be given to the balance between potential benefits of reporting information on on-site transfers and increased reporting burden.

(b) Information on storage

15. Improving access for the public to information on storage sites can: (a) inform discussions regarding the related negative health effects and effects on the state of the environment; and (b) foster related fact-based decision-making. Two key aspects of information on storage in PRTRs are part of current discussions among stakeholders: (a) abandoned storage places for hazardous waste and pollutants; and (b) the current reporting on disposal and recovery operations under the Protocol. Waste storage operations are part of annex III to the Protocol and are therefore part of the Protocol's existing reporting requirements. However, ambiguity exists regarding, for example, some of the operations listed under annex III, and information on storage is not easily identified by PRTR users.

¹⁰ For example: since 2009, Parties to the Stockholm Convention on Persistent Organic Pollutants have added new substances to the original twelve substances regulated under the Convention. As of May 2017, a total of 17 new substances had been added to the Convention.

¹¹ See www.saicm.org/.

¹² See <https://web.unep.org/unepmap/>.

¹³ See www.mercuryconvention.org/.

16. In general, the information (in particular, georeferenced data) provided to the public through PRTRs makes PRTRs ideal platforms for providing information on storage locations of pollutants (such as highly hazardous pesticides), whether currently in use by an operator or owner, or abandoned storage sites. Such information would have a variety of uses in helping to protect the environment and human health.

17. In that context, it would be important for all stakeholders to clearly differentiate between (temporary) storage and (final) disposal activities, in order to increase transparency for PRTR users. Alternatively, a reporting requirement specifying exactly which of the disposal or recovery operations was executed would also help to achieve this aim and would have a number of other positive effects, including facilitating the implementation of, for example, the circular economy approach and other sustainable practices linked to improved resource management.

18. As an example, currently, an operator or owner with reporting obligations needs to check if the operation for a waste transfer corresponds to any of the operations listed under part A or B of annex III to the Protocol and subsequently report the amounts transferred, together with the code “D” for disposal or “R” for recovery operations. If a specific code for each of the listed operations were to be reported (see, for example, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, annex IV), the information on whether the waste goes into repackaging or, for example, into permanent storage, would be available to decision-makers and other stakeholders concerned with waste and resource management-related issues.

19. With a view to further harmonization between different international agreements, Parties could strive for consistency with, for example, related regulations under the Basel Convention, the twenty chapters of the European Waste Catalogue,¹⁴ the Globally Harmonized System of Classification and Labelling of Chemicals and the United Nations Recommendations on the Transport of Dangerous Goods: Model Regulations. Furthermore, the Convention on the Transboundary Effects of Industrial Accidents and the Seveso II and III Directives¹⁵ are international instruments covering abandoned sites that may often correspond to abandoned storage places. Inventories of storage places for pesticides and other pollutants have been established under a variety of agreements, programmes and initiatives. Under the Stockholm Convention, for example, countries have an obligation to establish inventories of stocks of persistent organic pollutants, including pesticides, polybrominated diphenyl ethers and other substances. Many countries have finalized such work¹⁶ and projects had been carried out creating inventories on storage of obsolete pesticides, for example.¹⁷ Such inventories could be shown on PRTR maps.

(c) Information on the specification of reporting requirements for diffuse sources

20. While it is a requirement under the Protocol for Governments to collect all relevant data from diffuse sources and integrate it in the PRTR, this remains a key challenge for many Parties. The main reason appeared to be the wording of article 7 (7), which specifies that

¹⁴ See also the European Commission notice on technical guidance on the classification of waste, *Official Journal of the European Union*, C 124 (2018), pp. 1–134; and the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the implementation of the circular economy package: options to address the interface between chemical, product and waste legislation, COM(2018) 32 final. Available at <http://ec.europa.eu/environment/waste/framework/list.htm>.

¹⁵ Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances, *Official Journal of the European Union*, L 10 (1997), pp. 13–33 and Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC, *Official Journal of the European Union*, L 197 (2012), pp. 1–37. Available at <https://rod.eionet.europa.eu/instruments/588> and <https://rod.eionet.europa.eu/instruments/661>.

¹⁶ See, for example, <http://chm.pops.int/Implementation/NIPs/Guidance/GuidancefortheinventoryofPBDEs/tabid/3171/Default.aspx>.

¹⁷ See <http://www.fao.org/agriculture/crops/obsolete-pesticides/where-stocks/europe-stocks/en/>.

reporting by a given Party on releases of pollutants from diffuse sources shall be “in accordance with its national priorities”. The Compliance Committee found that some Parties had not started the process of including releases from diffuse sources to their PRTRs. The Committee therefore recommended that Parties should consider whether more guidance on inclusion of existing data on emissions from diffuse sources for dissemination through the PRTR portal was needed and that methodological and technical exchange among the Parties and with other ECE multilateral environmental agreements could be helpful in combination with the sharing of good practices and software tools for the graphic display of data from diffuse sources (ECE/MP.PRTR/2017/6/Add.2, paras. 37 and 39). The Committee at its seventh meeting further noted that, when addressing the reporting requirements for diffuse sources, a key challenge would be to combine the Protocol’s registry approach, with its current annex I related to mainly industrial emissions, with the inventory approach (to cover 100 per cent of national emissions from all sectors, as applied, for example, under the United Nations Framework Convention on Climate Change and the Air Convention).¹⁸

21. To facilitate the implementation of article 6 (2) (d), two possible options could be considered that could help to: (a) clarify which sources of pollutant releases are part of the PRTRs; and (b) take into account harmonization with related existing instruments that deal with diffuse source emissions. The first option is to strengthen implementation of article 7 (4) by assigning reporting requirements to government authorities dealing with sectors that are key to diffuse sources of pollutant emissions (for example, Ministry for Transport to report on emissions from transport sector, Ministry for Agriculture to report on releases of pollutants from farming, or other competent authorities). While such reporting through competent authorities to different related instruments (for example, the United Nations Framework Convention on Climate Change and the Air Convention) already exists in many Parties, it is in many cases not made publicly available through the national PRTR systems.

22. The second option would be to extend annex I to the Protocol by adding a new part on activities/sectors related to other-than-industrial point sources. Emissions from companies that are relevant for such sources of pollutant releases, which are not considered as an industrial point source, could be added and could include, for example, operators and owners of companies in the transport and agricultural sectors or other products that produce significant releases to environmental media of pollutants listed under annex II to the Protocol. The relevant sectors and activities could be added to annex I, and owners of companies that sell relevant products could be requested to report on quantities of listed substances, as sold per year. For example, under the European Union Emissions Trading System,¹⁹ reporting obligations on the operator level exist for operators of aircrafts. All airlines operating in Europe are required to monitor, report and verify their emissions. This example could illustrate how reporting obligations can be assigned to companies not currently included in annex I to the Protocol.

23. PRTR reporting in that context would provide a flexible tool for decision-makers, allowing, for example, policymakers who might be opposed to putting a financial burden on a specific industry to build data and knowledge on the emission quantities based on national PRTR legislation, while deciding on any monetary implications for the sector taking into account national priorities in combination with economic, social and other environmental data. Knowledge about exact quantities of releases in such a context allows policymakers, for instance, to introduce pollutant releases-related financial incentives that can be effectively counterbalanced by, for example, a reduction of current fees and taxation in order to avoid increasing the overall burdens on companies or other private or public entities. The collection of the data required to ensure a fair distribution of any burdens related to achieving the aim of reducing pollution could be facilitated by making use of the Protocol’s focus on disseminating data – as opposed to regulating emission quantities directly – by adding all activities and sectors that Parties deem relevant to annex I to the Protocol.

24. It is noteworthy that other instruments include comprehensive reporting requirements related to their specific mandate. For example, for greenhouse gases, the United Nations

¹⁸ *Key issues highlighted by the Compliance Committee in relation to the development of the Protocol on PRTRs*. Available at <https://www.unece.org/index.php?id=50838>.

¹⁹ See https://ec.europa.eu/clima/policies/ets_en.

Framework Convention on Climate Change already extensively covers reporting on releases from diffuse sources. It is important however, that such information be made available to the public in a way that makes it easy to compare different sources and draw conclusions based on the best available information. There are benefits to harmonizing the reporting requirements under the Protocol with reporting requirements under other relevant agreements, with the aim of ensuring that there is no duplication of reporting and that data reported to other instruments can be disseminated to the public, thereby implementing the provisions under the Protocol that ensure public access to environmental information in an integrated way.

(d) Criteria for including pollutants under the Protocol

25. The inclusion of pollutants under the Protocol could be based on the outcomes of the work on defining substances under other adopted agreements, programmes and initiatives. This could include, for example, the work by the European Union²⁰ and the Rotterdam Convention, or the work related to preparation of the *Global Chemicals Outlook II*,²¹ which addresses issues where emerging evidence indicates a risk to human health and the environment, resulting in the identification of the following eleven chemicals or groups of chemicals and related issues: arsenic, bisphenol A, glyphosate, cadmium, lead, microbeads, neonicotinoids, organo-tins, polycyclic aromatic hydrocarbons, phthalates and triclosan. There are also other examples of substances under other processes.

26. The Compliance Committee noted that criteria could be defined based on the Protocol's objective; the relevance of a substance to the Protocol's objective is the criterion for a given substance's inclusion in or removal from a reporting obligation under the Protocol. The criteria could therefore be based on the relevance of the substance in question to impacts on health, environment and sustainability.

27. In that context, it is important to categorize which pollutants and resources should be reported through PRTR – for example, heavy metals, pesticides, hazardous substances, greenhouse gases and water and energy – and why. For example, greenhouse gases, and thus climate change-related data, are part of reporting under PRTRs but the Protocol's current text does not reflect that in a way that is obvious to those unfamiliar with the Protocol. This makes it difficult for interested countries and stakeholders to grasp the potential for implementing the Protocol and adapting it to national needs.

28. The Committee further made the following related observations:

(a) Regarding the heavily regulated vs. not-so-heavily regulated substances, substances may be prohibited in some but not all Parties. If a Party has prohibited substances, it can easily argue that there is no need to report on those substances;

(b) If substances are listed for phase out, PRTR can help track progress;

(c) In terms of synergy and coordination between international instruments, it would be useful to have substances listed under different Conventions and other instruments in a single database that applies the smallest threshold under any of the relevant instruments and that includes the activities listed in the relevant Conventions and other instruments.¹⁷

²⁰ For example: the European Union Registration, Evaluation, Authorization and Restriction of Chemicals regulation (see <https://echa.europa.eu/regulations/reach/understanding-reach>); the Water Framework Directive Watch List (see <https://ec.europa.eu/jrc/en/science-update/updated-surface-water-watch-list-adopted-commission>); and current work on developing the European Pollutant Release and Transfer Register.

²¹ Available at <https://www.unenvironment.org/explore-topics/chemicals-waste/what-we-do/policy-and-governance/global-chemicals-outlook> (see part II, chapter 5) and as a summary for policymakers at <https://papersmart.unon.org/resolution/uploads/k1900123.pdf#overlay-context=pre-session-unea-4>.

C. Other relevant aspects under reporting requirements

29. In the context of the achievement of the Sustainable Development Goals, it should be noted that ongoing work, for example, by the United Nations Environment Programme on monitoring and analysis related to the Goals and targets,²² has shown that current data sources are limited or non-existent for a number of relevant indicators. In particular, reporting on data on resource consumption and reuse of materials, coupled with pollutant releases to environmental media, is required for fact-based decision-making that may identify, promote and improve sustainable practices.

30. In addition to the requirements regarding the scope of the register under article 6 (2), Parties recognized the usefulness of the reporting on other issues in relation to article 7 and annex III.²³ This includes, in particular, the reporting on resource consumption (for example, of energy and water) and emissions from products as releases from diffuse sources. This information is relevant to the monitoring of progress and decision-making regarding sustainable development and circular economy matters. Some Parties have already integrated such reporting into their national PRTR reporting requirements. Moreover, information on production output is already part of some PRTR systems, and this allows data users to better analyse the effectiveness of measures to reduce pollution releases and waste production and to improve the sustainability of production processes. At the same time, when promoting a wider application of reporting on production-related data, it is important to consider such aspects as the legitimate economic interests of data owners²⁴ or the use of relative data on production output.

31. Attention should also be paid to current provisions on reporting of wastes and hazardous wastes and how these data are used in practice. Revising these provisions, including the disposal and recovery operations in annex III, with a view to improving Parties' knowledge about waste- and recycling-related issues and to harmonizing the provisions with relevant obligations under other international agreements (such as the Basel Convention and the European Waste Catalogue) would be beneficial in that it would improve waste management and increase Parties' efficiency in reporting on other international waste-related obligations.

II Other provisions of the Protocol

32. Similarly to possible revisions of the reporting requirements under the Protocol, provisions not related to reporting by owners, operators or authorities, such as quality assessment, could also be improved by reflecting relevant recent developments and by harmonizing different approaches developed by Parties. This could be achieved by making the Protocol text clearer in defining its role in the context of international commitments to implement sound management of chemicals and natural resources, avoid negative effects on human health, reduce pollution of the environment and achieve sustainable development. Furthermore, the issue of national enforcement of PRTR-related legislation and regulations could be addressed.

33. As with the reporting requirements under the Protocol, other provisions had been developed with the knowledge and considering the international instruments available before 2003. Although origins of possible gaps and imprecisions in provisions of the Protocol can be manifold, they may often be associated with the continuing economic, environmental,

²² United Nations Environment Programme, *Measuring Progress: Towards Achieving the Environmental Dimension of the SDGs* (Nairobi, 2009). Available at www.unenvironment.org/resources/report/measuring-progress-towards-achieving-environmental-dimension-sdgs.

²³ Strategic plan 2015-2020 (ECE/MP.PRTR/2014/4/Add.1, decision II/2); the Maastricht Declaration: Transparency as a driving force for environmental democracy (ECE/MP.PP/2014/27/Add.1–ECE/MP.PRTR/2014/2/Add.1); and the Budva Declaration on Environmental Democracy for Our Sustainable Future (ECE/MP.PP/2017/16/Add.1–ECE/MP.PRTR/2017/2/Add.1)

²⁴ Pursuant to article 12 of the Protocol.

industrial, social or technological development since 2003. For example, it was more difficult back then to gain access to information on environmental data than is currently the case. Software for creating modular online reporting tools that include a variety of different data sets were not as readily available as is currently the case. Many current databases, for example, environmental, health and safety information databases, did not exist (including the OECD eChemPortal,²⁵ the Toxicology Data Network²⁶ or the European Chemicals Agency chemicals database)²⁷ and information from permitting processes was not as easily provided electronically.

34. In addition to the aspects related to the implementation of article 7 provisions (Reporting requirements), the Compliance Committee identified systemic issues in more detail, including recommendations on how to address them, related to, for example:

- (a) Quality and completeness of reported information;
- (b) National vs. regional PRTRs;
- (c) Public participation and awareness;
- (d) The period between the reporting of data and making it available to the public (ECE/MP.PRTR/2017/6/Add.2).

35. Thus, the following issues should be reviewed in the light of possible revisions of the Protocol's provisions:

(a) Human health and well-being;

36. As the Protocol does not explicitly address the issue of protection of human health and well-being, it would be important, through a possible revision of the Protocol, to include this matter in: (a) the Protocol's objective, so as to ensure its coherence with the 2030 Agenda and other relevant multilateral agreements, such as the Aarhus and Stockholm Conventions;²⁸ and (b) other provisions of the Protocol (for example, as part of linking PRTRs with health-related databases, while taking into account the existing limitations of PRTR data).

(b) Quality and completeness of reported information;

37. The issue of the quality of PRTR data should be addressed substantially in the revision of the Protocol. In this respect, it is worth considering expanding the scope of application of article 10 (quality assessment) of the Protocol. This could include a non-exhaustive list of criteria for completeness, consistency and credibility of PRTR data, the stages at which data quality needs to be checked and the requirement concerning consistent improvement of the methodologies, for example, through the application of methods for calculation, such as the *EMEP/EEA air pollutant emission inventory guidebook: 2016. Technical guidance to prepare national emission inventories*²⁹, and European and international standards, such as those of the International Organization for Standards.³⁰ Countries have long-standing experience in this field and analysis of such experience, together with existing guidance on

²⁵ See www.echemportal.org/.

²⁶ See <https://toxnet.nlm.nih.gov/>.

²⁷ See <https://echa.europa.eu/information-on-chemicals>.

²⁸ See, for example, Sustainable Development Goal 3 (Ensure healthy lives and promote well-being for all at all ages), and the objective of the Aarhus Convention: "In order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention."; and the objective of the Stockholm Convention: "Mindful of the precautionary approach as set forth in Principle 15 of the Rio Declaration on Environment and Development, the objective of this Convention is to protect human health and the environment from persistent organic pollutants."

²⁹ European Environment Agency (Copenhagen, 2016).

³⁰ See <https://www.eionet.europa.eu/etcs/etc-atni/products/etc-atni-reports/etc-atni-report-5-2019-e-prtr-data-review-methodology-update-2019>; <https://www.cen.eu/Pages/default.aspx>; and www.iso.org/home.html.

the topic,³¹ may provide a solid basis for including in the future Protocol provisions that promote higher standards of quality assurance than those currently in place. Moreover, quality standards under other relevant Conventions, including the Air Convention, can be taken into account in that context.

(c) National vs. regional pollutant release and transfer registers;

38. Given the Committee's current considerations on the issue of regional PRTRs (see ECE/MP.PRTR/C.1/2019/2 and ECE/MP.PRTR/C.1/2017/4), it might seem reasonable to revise the respective provisions of the Protocol, thus excluding legal ambiguity in the Protocol in terms of when it considers it valid to "replace" national PRTRs with a regional one, and, where such replacement is possible, what features the regional PRTR should contain in order to ensure its national utility.³²

III. Possible areas for development

39. Considering the above-mentioned historical and recent developments related to the Protocol and given that Parties had declared their intention to use PRTRs more widely than is currently the case,³³ the Bureau outlined the following key areas for the possible development of the Protocol based on use of PRTRs (see annex to the present document):

- (a) Reporting related to sustainable development and circular economy;
- (b) Reporting to other multilateral environmental agreements;
- (c) Implementing the "polluter pays" principle;
- (d) Promoting "actions to reduce pollution" and sharing pollution prevention methods;
- (e) Using PRTR infrastructure to provide a modular platform for disseminating data of different data sets;
- (f) Integration with data and information from other sectors;
- (g) Improving waste- and wastewater-management reporting.

40. These areas were also selected on the basis of the outcomes of the Global Round Tables, consultations with Parties and stakeholders and deliberations by the Bureau and the Compliance Committee. The following aspects were taken into consideration when selecting these areas: (a) their relevance with regard to tackling current environmental and other related challenges; and (b) their potential to increase the Protocol's usefulness for Parties, other interested States and stakeholders. The suggested areas can be taken into consideration for the future work on any development of the Protocol and possible guidance material. They can be updated in due course on the basis of new developments, as required.

³¹ *Guidance on implementation of the Protocol on Pollutant Release and Transfer Registers to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters*, United Nations publication, ECE/MP.PP/7, p. 69.

³² See *Key issues highlighted by the Compliance Committee in relation to the development of the Protocol on PRTRs*; and the document on Systemic issues concerning the implementation of the Protocol on Pollutant Release and Transfer Registers and recommendations on how to address them (ECE/MP.PRTR/2017/6/Add.2, para. 32).

³³ See also article 6 of the Protocol (Scope of the register); and the Maastricht Declaration: Transparency as a driving force for environmental democracy (ECE/MP.PP/2014/27/Add.1–ECE/MP.PRTR/2014/2/Add.1); the Budva Declaration on Environmental Democracy for Our Sustainable Future (ECE/MP.PP/2017/16/Add.1–ECE/MP.PRTR/2017/2/Add.1); Your Right to Build a Sustainable Future: the Aarhus Convention, its Protocol on PRTRs and the Sustainable Development Goals (ECE/MP.PP/2017/18–ECE/MP.PRTR/2017/4; and the strategic plan for 2015–2020 for the Protocol on Pollutant Release and Transfer Registers (ECE/MP.PRTR/2014/4/Add.1, decision II/2).

41. The Bureau considered that the above-mentioned areas should be promoted through a step-by-step approach. In this regard, the Bureau identified as an immediate priority the need to harmonize the list of activities and pollutants with other multilateral environmental agreements and relevant systems. It further took into account the Compliance Committee's request to consider the following two issues in the work on the possible development of the Protocol: (a) the new technological and other relevant advancements within the lengthy time frame foreseen for completing the work on the development of the Protocol; and (b) ensuring high standards, but at the same time, sufficient flexibility, so that the Protocol's provisions could be implemented by countries with different national circumstances (ECE/MP.PRTR/C.1/2019/2, para. 10).

IV. Concluding remarks

42. Reporting requirements under the Protocol include reporting related to a variety of issues that are also identified and treated under other international agreements. Keeping up with developments under such instruments and harmonization with them is, therefore, a key aspect of any development of the Protocol's reporting requirements, in particular with regard to: (a) providing public access to information on pollutants released into and transferred in and through human settlements; (b) the use of PRTRs by Governments in tracking trends, demonstrating progress in pollution reduction, monitoring compliance with certain international agreements, setting priorities and evaluating progress achieved through environmental policies and programmes; and (c) the value of PRTRs as a cost-effective tool for encouraging improvements in environmental performance, in line with the Protocol's preamble.

43. The variety of issues covered by the Protocol and its cross-cutting nature make it different from other treaties and often difficult to fit into a specific policy area. PRTRs include data related to a diverse range of topics such as climate change, pollutant releases to air, water and land, pollution from industrial and diffuse sources. These topics have been included in the Protocol as they are relevant to environmental decision-making and the prevention and reduction of pollution of the environment. Currently, PRTRs have limitations that are not obvious to or transparent for those users of PRTRs who may be unfamiliar with all or some of the different releases and transfers that PRTRs cover. For instance, there is a mismatch between the list of activities (annex I), the list of pollutants (annex II) and the list of disposal and recovery operations (annex III), as, for example, major sources of pollutant releases are not covered by activities in annex I.

44. Parties also struggle to implement reporting on releases from diffuse sources. These are particularly relevant to covering releases of "pollutants" that are released not only through activities covered by annex I, such as pesticides or greenhouse gases, but also through other activities not listed in annex I. This makes it difficult for interested countries and stakeholders to grasp the potential for implementing the Protocol and adapting it to national needs. Annex I could include source categories reflecting the above-mentioned issue.

45. Furthermore, the outcomes of the three Global Round Tables on PRTRs demonstrated that Parties and other States use their PRTR systems in different and flexible ways. This development has contributed to the current situation where a diverse set of uses for PRTR systems exists and where some PRTRs seem to be particularly cost-efficient and successful tools for chemical management and support decision-making for a variety of stakeholders. In that context, the Bureau found that:

(a) Parties put substantial effort into implementing the minimum requirements set out in the Protocol. At the same time, Parties that, in addition to implementing the minimum requirements, supplement their PRTR systems with their specific needs, increase the usefulness of their PRTRs with limited to no extra financial and human resources required. In cases where the PRTR system takes over certain government obligations, for example, through implementing PRTR via a modular approach, resource requirements seem to be considerably less than without such a system in place;

(b) Given the range of technical capacity in countries throughout the globe and among current Parties to the Protocol, in order to address the problem of comparability of

data between different systems and for different uses, the Protocol should not develop in a direction where it would set common measurement, calculation and estimation standards. Instead, the Protocol could make use of its PRTR core capacity by making accessible the information on the method used for determining the releases and transfers;

(c) Given the continuing changes to the economic, social and environmental relevance of pollutants and the concurrent changes in scientific comprehension of how pollutants affect human health and well-being and the environment, the Protocol should be inspired by what is done in other relevant scientific, economic, social and environmental forums, so as to ensure its continuing usefulness regarding current and future issues related to pollutant and resources management.

46. In line with the above findings and the relevant decisions and declarations³⁴ made by the Meeting of the Parties, key steps for possible development of the Protocol according to the Bureau are therefore to:

(a) Match the list of activities (annex I), the list of pollutants (annex II) and the list of disposal and recovery operations (annex III) in the Protocol;

(b) Further harmonize the lists of activities, pollutants and disposal and recovery operations contained in annexes I, II and III, respectively, of the Protocol with those activities, pollutants and disposal and recovery operations referred to in other relevant multilateral environmental agreements and instruments that are related to the scope of the Protocol;

(c) Further integrate reporting on issues relevant to sustainable development, the circular economy approach and releases from diffuse sources;

(d) Continue to identify other potential issues for improvement of the Protocol through an open-ended and participative process.

V. Possible way forward

Considerations

47. With regard to the future process, pursuant to article 20 of the Protocol, any Party may propose amendments to the Protocol, including to its annexes. The Bureau considers that steps could be taken to develop the Protocol gradually and suggests that the Working Group of the Parties discuss the following options:

Priority I – revise annexes I–III

48. Priority could be given to updating the lists of activities (annex I) and pollutants (annex II) and their related thresholds, as well as the list of disposal and recovery operations (annex III).³⁵

49. This work could aim to: (a) match the list of activities (annex I), the list of pollutants (annex II) and the list of disposal and recovery operations (annex III) in the Protocol; (b) specify reporting requirements for diffuse sources, to the extent possible, by better synchronizing the annexes with each other (where, for example, activities with significant

³⁴ See the Maastricht Declaration: Transparency as a driving force for environmental democracy (ECE/MP.PP/2014/27/Add.1–ECE/MP.PRTR/2014/2/Add.1); the Budva Declaration on Environmental Democracy for Our Sustainable Future (ECE/MP.PP/2017/16/Add.1–ECE/MP.PRTR/2017/2/Add.1); Your Right to Build a Sustainable Future: the Aarhus Convention, its Protocol on PRTRs and the Sustainable Development Goals (ECE/MP.PP/2017/18–ECE/MP.PRTR/2017/4; and the strategic plan for 2015–2020 for the Protocol on Pollutant Release and Transfer Registers (ECE/MP.PRTR/2014/4/Add.1, decision II/2).

³⁵ Considering that amendments to annexes may require less time for Parties to prepare and agree on and that amendments to annexes follow a different procedure than other amendments to the Protocol (see article 20 (Amendments) of the Protocol).

releases of greenhouse gases or pesticides from diffuse sources are currently not included); and (c) harmonize the lists of activities, pollutants and disposal and recovery operations in annexes I, II and III, respectively, of the Protocol, with those activities, pollutants and disposal and recovery operations referred to in other relevant multilateral environmental agreements and instruments that are related to the scope of the Protocol.

50. This work could cover: (a) updating annex II to include the consumption of resources and relative production volumes; and (b) revising annexes I and III to improve reporting on activities related to recovery operations. These revisions would support integration of reporting on issues relevant to sustainable development, the circular economy approach and releases from diffuse sources.

51. When revising annexes, care should be taken to ensure that any such revisions: (a) are compatible with other provisions of the Protocol; (b) take into account the need to balance administrative burden with the value added.

52. At the same time, work should continue to gather the views of Parties and stakeholders regarding possible revisions of other provisions of the Protocol. The Bureau outlined a possible approach to revising annexes I, II and III in an accompanying document (see ECE/MP.PRTR/WG.1/2019/6.Add.1).

Priority II - revise other provisions of the Protocol

53. It will be important to proceed with revisions of other provisions of the Protocol in line with the above-mentioned key areas for possible development also outlined in the annex to the present document. Parties and stakeholders may identify other issues that they deem useful to include in a proposal for revising the Protocol.

54. On a voluntary basis and in a step-wise approach, Parties may decide to unilaterally apply the above-mentioned supplementary aspects to their own PRTRs.

Possible work arrangements and indicative timeline

55. The following possible work arrangements and an indicative timeline were prepared to inform Parties about necessary procedural steps, taking into consideration the fact that: (a) Governments and stakeholders should be provided with an appropriate time frame for consultations within their respective constituency, organizations and networks; (b) the report by the Bureau on the development of the Protocol and a proposal for a possible approach to revising the Protocol's annexes should be ready for consideration by the Working Group of the Parties at its seventh meeting (Geneva, 28 and 29 November 2019); (c) subject to the interest of a Party(ies) in proposing amendments and to consideration by the Working Group, any proposal of a Party(ies) for amending the Protocol's annexes should be ready for consideration and approval by the Working Group at its eighth meeting in 2020 prior to the fourth session of the Meeting of the Parties (this proved to be an effective approach during the preparation of other documents for the Meeting of the Parties. The approach was appreciated by both Governments and stakeholders, including non-governmental organizations, which had the possibility to provide inputs and agree on documents well in advance of their formal approval or adoption); and (d) the Meeting of the Parties at its fourth session (scheduled for 2021) may agree on the future work on any revisions to other provisions of the Protocol.

56. Thus, the possible work arrangements and indicative timeline would include the following:

(a) The current report of the Bureau will be submitted to the seventh meeting of the Working Group for its consideration and made available to national focal points and stakeholders for comments prior to and at the meeting;

(b) Subject to the interest of a Party(ies) in proposing amendments and the considerations by the Working Group, any proposal for amending annexes could be prepared by the interested Party(ies) with the support of the Bureau and the Compliance Committee, as needed, taking into consideration comments provided at and after the seventh meeting of

the Working Group, and distributed to national focal points and stakeholders for comments in early 2020;

(c) Any subsequent proposal for amending annexes could be prepared by the interested Party(ies) with the support of the Bureau and the Compliance Committee, as needed, taking into consideration the comments received, and submitted to the Working Group for consideration and, as appropriate, approval, at its eighth meeting in 2020, with a view to its submission to the fourth session of the Meeting of the Parties for consideration.

57. The Meeting of the Parties at its fourth session may wish to adopt any proposal by a Party(ies) for amended annexes and agree on the future work on the revision of other provisions of the Protocol in the next intersessional period. This process may be supported by establishing a drafting group under the authority of the Working Group of the Parties to prepare a proposal for revision of other provisions of the Protocol.

Annex

Key areas for development based on use of Pollutant Release and Transfer Registers

The table below provides an overview of the suggested key areas for development of the Protocol, based on the use of PRTRs, and their relevance to different articles of the Protocol. It also outlines the required actions and potential gains. Each action will eventually require some efforts in order to ensure its implementation. Considering that levels of development of PRTRs in different countries vary significantly, such actions will depend on the circumstances of each country (for example: economic circumstances; technical potential; federal/national frameworks; available expertise).

<i>Key areas for development based on use of PRTR</i>	<i>Action required</i>	<i>Gain</i>	<i>Relevant article</i>
A. Sustainable development- and circular economy-related reporting.	Integrated reporting on resource consumption and improved reporting on disposal and recovery operations (annex III) under article 7 (reporting requirements) and, for example, article 5 (design and structure). The establishment of an easy linkage/traceability between products and their production facility. For such a link to be effective, it would be necessary to promote the Protocol's ratification in countries with a significant part in global trade in products and waste.	Reviewing and analysing policy implementation and prioritizing actions.	Preamble, articles 5–7 and annexes I–III.
B. Reporting to other multilateral environmental agreements.	Implementation of a modular build for PRTR systems to allow for the accommodation of different minimum requirements to different data sets. Inclusion of all relevant activities and substances.	Increasing quality and cost-effectiveness in the implementation of different multilateral environmental agreements, including on climate change.	Article 7 and annexes I–III.
C. Implementing the “polluter pays” principle.	National cooperation between different authorities, in particular finance-related authorities. Additional efforts regarding data accuracy.	Possible synergies for countries that choose to implement the “polluter pays” principle on the basis of PRTR reporting and widened usefulness of PRTRs outside the environmental sector.	Preamble.
D. Promoting “actions to reduce pollution” and sharing pollution prevention methods.	Adding information on production output to the reporting requirements, to allow for better analysis of the effectiveness of measures to reduce pollution releases and waste production and improve sustainability of production processes, and asking to share pollution prevention methods as part of the reporting.	Facilitating the analysis and up-scaling of applied good practices in pollution prevention.	Articles 4–7.
E. Using PRTR infrastructure to provide a modular platform for	Analysing existing national systems and developing a road map for a joint modular platform to streamline	Streamlining reporting and dataflows inside Governments as well as	Article 7.

<i>Key areas for development based on use of PRTR</i>	<i>Action required</i>	<i>Gain</i>	<i>Relevant article</i>
storage of different data sets, including from measuring campaigns and projects that do not include long-term maintenance of the data collected.	reporting and dataflows. There is also a need to call for joint efforts to promote the establishment of PRTRs in countries and regions that currently do not have such systems.	for other reporting and non-reporting users.	
F. Integration with data and information from other sectors, such as health, economy and infrastructure.	There are a variety of possibilities for integration of data and information. In particular, ways to link different web pages versus combining databases in a single platform need to be considered.	Improving the quality of decision-making of data users through a broadened knowledge base.	Article 3.
G. Improving data on waste management.	Revising current provisions on reporting of wastes and hazardous wastes, including the disposal and recovery operations in annex III, with a view to improving Parties' knowledge about waste- and recycling-related issues and to harmonizing those provisions with relevant obligations under other international agreements (namely, the Basel Convention).	Improving waste management and improving quality and cost-efficiency in reporting on other international waste-related obligations.	Article 7 and annex III.

Abbreviations: PRTR, pollutant release and transfer register.