



THE REGIONAL ENVIRONMENTAL CENTER
for Central and Eastern Europe

**Comments And Proposals On Identified Issues Related to the Preparation of a PRTR
Instrument under the Aarhus Convention**

10 April 2001

In connection with the decision taken at the first meeting of the Aarhus Convention Working Group on Pollutant Release and Transfer Registers (PRTR), the Regional Environmental Center for Central and Eastern Europe (REC) hereby submits to the Aarhus Convention Secretariat preliminary comments and proposals concerning certain identified issues, as follows:

(a) Substances (criteria, thresholds etc.)

1. The PRTR instrument should be based at least on OECD mandatory core elements, such as multimedia approach, facility and substance specific reporting, etc.
2. Substances should be covered both through lists and through the possibility to include additional substances where certain criteria are met -- for example, if a particular use of a substance may cause substantial harm to environment or health. Criteria must be objective and scientifically based. The establishment of criteria as a first step must be a guiding principle for further work on the substances.
3. We favor a "two-list" approach, whereby certain priority substances are contained on a mandatory core list, and other substances are contained on a recommendatory list. As PRTRs are implemented on the national level, the instrument should give flexibility to countries to include additional substances in their national PRTR systems, according to the country priorities. If the use of certain substances is banned or restricted under national law or international agreements applicable in a particular country, those are good candidates to be on the national list.
4. At a minimum the mandatory core list should include substances for which there are reporting requirements under existing multilateral environmental agreements, such as LRTAP and its protocols, Montreal Protocol, FCCC, etc. Examples may include ozone depleters, precursors of acid rain, photochemical oxidants, greenhouse gases, including CO₂, POPs, cyanidic species. We support the work of the Czech Republic and Ecoforum to identify existing substance lists, taking into account international and national lists. It is possible to approach the listing based on starting with already existing national obligations, and add to those lists based on what pollutants are released and transferred, which pose a potential risk, etc. and create a combination of national lists plus an internationally agreed list.
5. In general, pollutants included on PRTRs should be identified individually and as specifically as possible, not grouped together in broad categories on the basis of chemical class, uses or a common adverse effect. Attention must also be given, however, to inclusion of significant pollutants which are not specifically identifiable as chemicals, for example nutrients causing eutrophication.
6. "Pollutants" may include specific individual chemicals, or compounds and mixtures. A clear definition to distinguish among chemicals, materials, products and mixtures of chemical species is needed. To ensure



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consistent and comparable data which can be evaluated at local, regional, national, international level, CAS number (where applicable) should be used for identification.

7. The instrument should provide guidance to Parties on what to include in national lists. Besides the mandatory core pollutants mentioned previously, other pollutants that meet certain criteria should be included. Countries should determine what chemicals might be released or transferred which pose unacceptable risks, taking into account available exposure data. Substances which must be reported under national regulations will likely have a potential for significant environmental harm or exposure to humans. Countries should also give attention to substances of high volume in production on their territory. Objective criteria for determining risk and hazardousness may include toxicity, explosiveness, corrosiveness, flammability, etc.). Toxicity must be determined taking into account persistence, bioaccumulation, and other relevant factors. Systemic effects must also be taken into account, including carcinogenicity, mutagenicity, reproductive effects, developmental effects and neurotoxicity, endocrine-disrupting, etc. and chronic, sub-chronic and acute effects. Finally, pathways of exposure could play role in deciding whether or not to list a specific item (ingestion, inhalation, dermal effects). The likelihood of exposure of humans, animals and/ or environmentally sensitive media, for example through presence in drinking water, should be a factor in priority-setting, so that reporting and consequent efforts to reduce releases are focused on chemicals that realistically pose a risk considered to be unacceptable (route and level of exposure should be taken into account).

8. The step-by-step approach should ultimately result in coverage of all pollutants released and transferred in the country. This would include expansion of lists and also reduction of thresholds. There could then be a mechanism included which would cover and bring in the system each new pollutant (e.g.: through registration or permit).

9. The determination of national lists is a decision-making process that must involve public participation in accordance with Aarhus Convention principles, including participation of all affected and interested parties. Selection should be discussed and agreed in an open, transparent and participatory way.

10. National lists and core mandatory lists under the instrument must be kept under regular periodic review, to add or remove pollutants. This review process must also be transparent and based on objective criteria which would include participation of all affected and interested parties.

11. Annexes should be used for lists, in order to expedite the process for amendment.

(b) Activities/facilities

1. There should be an agreed list of activities for point sources annexed to the instrument based on which individual facilities will be required to report on released and transferred pollutants. In addition there should be a provision for other activities with significant environmental or health impacts to be required to report (catch-all provision). The list of activities would also enable governments to identify pollutants not yet on the core list.

2. The possible list of activities should be based on activities generating releases and /or transfers to various media and should help governments to identify sources of releases and transfers.

3. The Annex I of Aarhus Convention might be a good starting point but it should be taken into account that the list has not been prepared with a view of a PRTR, but with a view of requirements for activities subject to EIA and IPPC Directives. Therefore, the activities as well as the thresholds set in the Annex I should be checked whether they truly reflect all potentially dangerous activities generating potential sources for releases



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and transfers. Some elements need to be added, others removed or amended. The IPPC Directive also was designed based with the aim of capturing pollutants from major industrial facilities, rather than based on potentially dangerous or hazardous activities.

4. The Annex I of the Aarhus Convention activities should also be checked against Table 2B of the OECD Guidance Manual (page 39). These two lists demonstrate certain differences in approach and the Table 2B of the Guidance Manual includes several different activities which are not on the Aarhus Annex I list or are defined in a different way.
5. The identification of reporting facilities should be based on the nature and scale of activities generating releases and transfers of pollutants rather than on the fact of whether they are publicly or privately owned.
6. Industrial classification schemes such as the Standard International Codes (SIC), the International Standard Industrial Code (ISIC) or the EU NOSE-P Classification system can be useful in designating operations required to report.
7. The thresholds should be based on amounts of certain pollutants/substances released or transferred rather than number of employees or size of the facility. Small and Medium Size Enterprises (SMEs) could represent significant source of pollution.
8. We would like to remind delegates that identification of the types of activities would cover only point sources. The need therefore remains to identify the best methods of covering diffuse sources and other releases and transfers not captured through reporting, at a later stage during the working group discussions.
9. Facility level data should include geographical coordinates, relating to the area where the plant is located, incorporated into the GIS system.
10. The term "Facility" needs to be defined as suggested in the current draft of the instrument.
11. For the set of data for identification of facilities, we can recommend to base the discussion on the page 61-62 of the OECD Guidance Manual.
12. The list needs to be kept under regular review by Parties.

(c) Transfers (on-site, off-site)

1. A PRTR instrument by definition must include transfers. In principle, both off-site and on-site transfers should be covered. On-site transfers are important to cover due to the potential risk of accidents and exposure to workers and the community.
2. While double-counting obviously should be avoided, there are tools and mechanisms that can be used to take into account this problem. The need to avoid double counting is therefore not a justification for keeping on-site transfers out of the instrument.
3. Certain requirements such as reporting the maximum stored on site during a specific reporting period might offer solutions to covering the most important elements of risk.



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(d) Validation of data.

1. Quality of information included in PRTR databases is important. Authorities should actively enforce requirements imposed on facilities to report data fully and accurately.
2. One hundred percent accuracy of information is not achievable, however. Moreover, time is of the utmost importance for the public. Therefore, the key issue for the public is that the release of information onto a PRTR database is not unnecessarily delayed in the cause of "verification" of the information.
3. Ensuring the quality of information can best be achieved through providing clear guidelines for reporting and methodologies for measuring, calculating and estimating releases and transfers, so that reporters can understand and fulfill their obligations, and so that authorities can quickly and efficiently handle the information given to them.
4. A system of spot-checking, periodic audits and strict enforcement can help to raise standards for reporting and can also validate the actions of authorities in collecting and disseminating data.
5. It must be clear that authorities are not responsible for false or inaccurate reporting by facilities. The responsibility for the accuracy of the data would in any event rest with the facility or other body submitting the report. The information reported is public information, and the authority is only the custodian of it. Authorities must balance their duty to check information and take care of obvious mistakes, with the duty to make information publicly available as quickly as practicable. Scrutiny by the public and by competing facilities will result in critical review of the data and will help with the validation.