

UN Document	UK Comments
<p><i>Having regard to</i> principle 10 of the Rio Declaration on Environment and Development, which states <i>inter alia</i> that each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and that States shall facilitate and encourage public awareness and participation by making information widely available,</p>	
<p><i>Having regard to</i> the principles and commitments agreed to at the United Nations Conference on Environment and Development of 3-14 June 1992, in particular the provisions in chapter 19 of Agenda 21, in which governments with the cooperation of industry were called upon <i>inter alia</i> to improve and develop databases and information systems on toxic chemicals, such as emission inventory programmes, and programmes to promote the public's and workers' right to know, the broadest possible awareness of chemical risks being a prerequisite for chemical safety,</p>	
<p><i>Having regard also to</i> the Programme for the Further Implementation of Agenda 21, adopted by the General Assembly at its nineteenth special session (23-28 June 1997), in which it reaffirmed all the principles contained in the Rio Declaration on Environment and Development and called for enhanced national capacities and capabilities for information collection, processing and dissemination, to facilitate public access to information on global environmental issues through appropriate means, including high-tech information and communication infrastructure related to the global environment, in the light of country-specific conditions, using, where available, such tools as geographic information systems and video transmission technology, including global mapping,</p>	

<p><i>Taking into account</i> the work of the Intergovernmental Forum on Chemical Safety and the Inter-Organization Programme for the Sound Management of Chemicals,</p>	
<p><i>Taking into account also</i> the principles and information contained in the <i>Pollutant Release and Transfer Registers (PRTRs), A Tool for Environmental Policy and Sustainable Development, Guidance Manual for Governments</i>, published by the Organisation for Economic Co-operation and Development (OECD), and taking note of OECD Council recommendation C(96)41 on implementing pollutant release and transfer registers, which calls upon member countries to take steps to establish as appropriate, implement and make publicly available national pollutant release and transfer registers and promote comparability among such national registers and the sharing of data from these registers between neighbouring countries,</p>	
<p><i>Having regard to</i> decision 2000/479/EC of 17 July 2000 of the Commission of the European Communities on the implementation of a European pollutant emission register,</p>	
<p><i>Having regard also to</i> resolutions 97-04 and 00-07 of the Council of the North American Commission for Environmental Cooperation on promoting comparability of pollutant release and transfer registers and on such registers generally,</p>	
<p><i>Wishing</i> to provide a mechanism contributing to the realization 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, by assuring the development of publicly accessible environmental information systems,</p>	
<p><i>Wishing also</i> to ensure that the development of such systems takes into account principles Contributing to sustainable development such as the precautionary principle, the polluter-pays principle and the principle of internalizing environmental costs,</p>	
<p><i>Recognizing</i> the link between adequate</p>	

environmental information systems and the exercise of the rights contained in the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters,	
<i>Recognizing also</i> the importance of preventing and reducing pollution from industrial and other sources in protecting the environment and the health of present and future generations,	
<i>Recognizing further</i> that reducing, and as far as possible eliminating, potentially harmful releases and transfers of pollutants is a foundation for achieving environmentally sound and sustainable development,	The UK proposes a further recital as follows-  “Recognising the necessity to take into account the extent of risks and the potential benefit and costs of action or lack of action,”
<i>Noting</i> that the public availability of information through the mechanism of pollutant release and transfer registers has contributed to a substantial and quantifiable reduction of pollution in those countries where it has been implemented,	
<i>Convinced</i> of the value of pollutant release and transfer registers as a cost-effective tool for encouraging improvements in environmental performance, for providing the public with access to information on pollutants released into and transferred in and through their communities, and for use by Governments in tracking trends, demonstrating progress in pollution reduction, monitoring compliance with certain international agreements and setting priorities and evaluating progress achieved through environmental policies and programmes,	
<i>Believing</i> that pollutant release and transfer registers can bring tangible benefits to industry through improved management of chemicals,	
<i>Noting</i> the opportunities for using data from pollutant release and transfer registers, when combined with health, environmental, demographic, economic or other types of relevant information, for the purpose of gaining a better understanding of potential problems, identifying ‘hot spots’, taking preventive and mitigatory measures, and setting environmental	We think the word ‘mitigatory’ should be replaced with ‘mitigating’.

management priorities,	
<i>Recognizing</i> the need to develop internationally compatible national pollutant release and transfer register systems to increase the comparability of data,	
<i>Noting</i> that many ECE member States, the European Community and the Parties to the North American Free Trade Agreement are acting to collect data concerning pollutant releases and transfers from various sources and to make these data publicly accessible, and recognizing especially in this area the long and valuable experience in certain countries,	
<p><u>Article 1</u>  <b>OBJECTIVE</b>  In order to prevent and reduce pollution of the environment and to protect 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 right of public access to information concerning the release and transfer of pollutants to the environment and within and between facilities, and to information concerning water, energy and resource use, through the establishment of a coherent, integrated, nationwide pollutant release and transfer register in accordance with the provisions of this instrument.</p>	<p>Suggest reordering of the paragraph as follows-</p> <p>“Each Party shall guarantee the right of public access to information concerning the release and transfer of pollutants to the environment and within and between facilities, and to information concerning water, energy and resource use, through the establishment of a coherent, integrated, nationwide pollutant release and transfer register in accordance with the provisions of this instrument. The establishment of a pollutant release and transfer register will prevent and reduce pollution of the environment and 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.”</p>
<p><u>Article 2</u>  <b>DEFINITIONS</b>  1. “Party” means, unless the text indicates otherwise, a Contracting Party to this instrument;</p>	
<p>2. “Convention” means the 1998 Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters;</p>	
<p>3. “Public”, “public concerned”, “public authority” and “environmental information” shall have the meanings given to the respective terms in article 2 of the Convention;</p>	
<p>4. “Facility” means an industrial or agricultural complex with one or more installations on the same site, or on</p>	

<p>contiguous or adjoining sites, that are operated by the same natural or legal person and where one or more activities which may result in a release or transfer of any pollutant are carried out;</p>	
<p>5. “Competent authority” means the national authority or authorities designated by a Party as responsible for managing a national pollutant release and transfer register system;</p>	
<p>6. “Pollutant” means a substance that is potentially harmful to the environment on account of its physical, chemical or biological properties;</p>	
<p>7. “Release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, underground injecting, escaping, evaporating, leaching, dumping or disposing into the environment (including the abandonment or discarding of barrels, containers and other closed receptacles or resulting from the off-site use of products), whether deliberate or accidental, routine or non-routine;</p>	
<p>8. “Transfer” means:  (a) Off-site movement of potential pollutants for use, reuse, storage, treatment, energy recovery, recycling or disposal;  (b) Off-site movement of potential pollutants in or as products; and  (c) On-site movement of potential pollutants for treatment, energy recovery, recycling or disposal;</p>	<p>The UK suggests that for Article 2(8), the following should be substituted-</p> <p>“Transfer” means:</p> <p>(a) Off-site movement of wastes and by-products for use, reuse, storage, treatment, energy recovery, recycling or disposal;  (b) On-site movement of wastes and by-products for use, reuse, storage, treatment, energy recovery, recycling or disposal;</p> <p>We require further clarification of the concepts behind this before providing final comments on the text.</p>
<p>9. “Diffuse sources” means the many smaller or scattered sources from which pollutants may be released to land, air and water, whose combined impact on those media may be significant;</p>	
<p>10. The terms “national” and “nationwide” shall, with respect to the obligations on regional economic integration organizations arising under this instrument, be construed as applying to the region in</p>	

question unless otherwise indicated.	
<p><u>Article 3</u>  <b>GENERAL PROVISIONS</b>  1. Each Party shall take the necessary legislative, regulatory and other measures, as well as proper enforcement measures, to establish and maintain a publicly accessible, transparent and consistent framework to implement the provisions of this instrument, including measures to achieve compatibility between the provisions of this instrument and the Convention.</p>	
<p>2. Each Party shall promote public awareness of the pollutant release and transfer register (PRTR) referred to in article 4 and shall ensure that assistance and guidance are provided to the public in accessing the register and in understanding and using the information contained therein.</p> <p>Each Party shall also ensure that workers at facilities required to report to the pollutant release and transfer register receive training and access to information from the facility managers concerning their monitoring, record-keeping and reporting obligations, as well as easy access to the release and transfer data collected at that facility.</p> <p>Each Party shall develop capacity-building programmes, publish guidance documents and ensure that the necessary personnel are designated to achieve the ends referred to in this paragraph.</p>	<p>Editorial: This paragraph contains three issues, and we propose the second and third issues should be deleted for the reasons specified.</p> <p>We agree with the principle set out in the first part, but question the supposition that there should only be one register. The ‘Register’ should be able to be made from several subsidiary registers, according to local need, for example, air, water, waste. Large, single databases or data warehouses are difficult to construct and many end in failure. Given the more readily available technology of linking electronic databases, the option should be kept open to deliver the requirements of this instrument with several separate registers. We suggest that after “register” the words “or registers” should be inserted.</p> <p>We suggest deletion of this paragraph as there is potential overlap with health and safety legislation, which does not seem appropriate for this instrument.</p> <p>We suggest deletion of this paragraph as it creates an additional, unnecessary requirement in respect of large process industries.</p>
<p>3. The provisions of this instrument shall not affect the right of a Party to maintain or introduce a more extensive or more publicly accessible pollutant release and transfer register than required by this</p>	<p>Again, we suggest that “or registers” should be added after “register”.</p>

instrument.	
<p>4. Each Party shall ensure that persons reporting violations of national laws to public authorities shall not be penalised, persecuted or harassed in any way for their actions.</p>	<p>Agree, but the type of national laws should be clarified.</p> <p>We propose the wording in the Convention, Article 3, para.8:  ‘Each Party shall ensure that persons exercising their rights in conformity with the provisions of this (instrument/ protocol) shall not be penalised, persecuted, or harassed in any way for their involvement. This provision shall not affect the powers of national courts to award reasonable costs in judicial proceedings.’</p>
<p>5. In the determination of the application of this instrument to particular facilities, activities or substances, each Party shall apply a precautionary approach. Lack of full scientific certainty shall not be used as a reason for excluding particular facilities, activities or substances from the scope of this instrument.</p>	<p>Any reference should be to the “precautionary principle” rather than to the “precautionary approach”. Whilst we are committed to the application of the principle, we consider this paragraph should be deleted because it would undermine the legal certainty of the instrument by creating doubt about its scope.</p>
<p>6. In the implementation of this instrument, each Party shall promote the principle of internalizing environmental costs, including with respect to the costs of monitoring, record-keeping, reporting and affording public access to facility monitoring information, as well as the costs of establishing and maintaining a national pollutant release and transfer register that is publicly accessible.</p>	<p>We propose :</p> <p>“...to the costs of monitoring, calculating and estimating, record-keeping.....”</p>
<p><u>Article 4</u>  <b>OBLIGATION TO ESTABLISH A PUBLICLY ACCESSIBLE POLLUTANT RELEASE AND TRANSFER REGISTER</b>  1. Each Party shall establish a coherent, publicly accessible and user-friendly national register of:</p> <ul style="list-style-type: none"> <li>(a) Releases and transfers of pollutants specified in article 7 from facilities of the types specified in article 6;</li> <li>(b) Use of water, energy and resources specified in article 7 by facilities of the types specified in article 6; and</li> <li>(c) Releases of pollutants specified in article 7 from types of diffuse sources listed in annex III, in accordance with the provisions of this instrument.</li> </ul>	

<p>2. The register referred to in paragraph 1 shall be mounted on a structured, computerized database and maintained by the competent authority through periodic reporting from facilities and from the authorities or bodies designated to collect information concerning pollutants from diffuse sources in accordance with article 6, paragraph 2.</p>	<p>We refer to previous comments on one database.</p> <p>We propose:  ‘The register referred to above shall be made available electronically as one database or several linked databases, according to local needs. The register shall be maintained by the competent authority through periodic reporting from authorities or bodies designated to collect information concerning pollutants from diffuse sources in accordance with article 6, paragraph 2.’</p>
<p>3. Each Party shall take the necessary legislative measures to ensure that the data required to maintain the register referred to in paragraph 1 are collected in accordance with article 9 and submitted to the competent authority in accordance with article 8.</p>	
<p>4. Each Party shall ensure that the data are reported, compiled and presented on the register on an annual basis, by calendar year. The Parties shall ensure that the reported information is placed on the register as soon as possible after it is reported by each facility or other reporting body.</p> <p>Except with respect to Parties that are regional economic integration organizations, the data for a particular calendar year shall be reported to the competent authority at the latest by 1 April of the year following the reporting year and incorporated on the register by 1 June of that year.</p> <p>Each Party that is a regional economic integration organization shall ensure that the data for a particular calendar year are reported to its competent authority by 1 June of the following year and placed on the register by 1 August of that year.</p>	<p>Editorial comment: this should be three subparagraphs.</p> <p>(i) Agree, with the exception of certain information which does not change on an annual time scale, e.g. radiation from diffuse sources and background levels. We propose that after “calendar year” there should be inserted “except where the information does not change annually”.</p> <p>(ii) We are concerned that the time scales are too tight. From our experience, data should be submitted by 1 April, but not presented until 30 September. So we propose the substitution of “30 September” for “1 June”.</p> <p>(iii) See above. We propose the substitution of “30 September “ for “1 June” and “1 November” for “1 August”.</p>
<p>5. Each Party shall ensure that the data held on the register referred to in paragraph 1 are presented in both aggregated and non-aggregated forms, so that releases and transfers can be identified according to facility, company, pollutant (including individual chemicals), precise geographical location and destination of the release or</p>	<p>We do not agree with the inclusion of products in this way (see previous comments).</p> <p>The words ‘precise geographical location’ might cause difficulties. Some facilities are large, and while they can be accurately identified, location of releases (say to accuracy of 400 metres can be difficult, e.g. landfills, large chemical facilities. We therefore</p>

<p>transfer, such as air, land, water or product. As a minimum, the register shall progressively include the elements listed in annex I, in accordance with the timetable set out in article 5. The register shall be designed taking into account future expansion of reporting requirements as set out hereunder, as well as the possibility of including additional facilities subject to reporting, additional pollutants and future changes in thresholds for pollutants.</p>	<p>suggest the insertion of the words “where possible” after “precise geographical location”.</p> <p>We disagree with the use of the term ‘destination’, and wish this to be replaced with ‘pathway’.</p>
<p>6. Each Party shall ensure public accessibility of the data held on the register and public participation in related decision-making processes, as specified in articles 10 and 11.</p>	
<p>7. National PRTR systems shall include data handling and management capabilities that allow for verification of reporting.</p>	<p>We propose a separate discussion of ‘verification’, and inclusion in definitions. Provided agreement can be reached on this term, then we agree with the concept.</p>
<p>8. To reduce duplicative reporting, PRTR systems may be integrated to the degree practicable with existing information sources such as reporting mechanisms under licences or operating permits, provided these are mandatory. Reporting requirements and emission reduction goals under other multilateral environmental agreements shall be taken into account in the implementation of this instrument, including when deciding on additional pollutants and facilities.</p>	<p>Editorial: replace ‘duplicative’ with ‘duplicate’.</p>
<p><u>Article 5</u>  <b>PROGRESSIVE ESTABLISHMENT OF REGISTERS</b>  1. Each Party shall ensure that, from 1 June following the first full calendar year after this instrument enters into force for that Party, the national pollutant release and transfer register contains information for the previous year concerning releases and off-site transfers of pollutants from facilities in accordance with articles 6 and 7, except with regard to releases from, and transfers through or as, products.</p>	<p>Whilst supporting Article 5 in principle, we suggest that it should be amended to reflect the following points-</p> <ul style="list-style-type: none"> <li>• There should be three, rather than the proposed two, steps for implementation</li> <li>• The provision should not relate to products, data on on-site transfers, electromagnetic radiation or GMOs.</li> <li>• ‘Noise’ should be excluded, as it would not be possible to produce annual average statistics on noise.</li> </ul> <p>Our proposal for a re-draft is as follows-</p> <p>“PROGRESSIVE IMPLEMENTATION OF REGISTERS</p> <p>1. Each Party shall ensure that, from 1 June</p>

	<p>following the first full calendar year after this instrument enters into force for that Party, the national pollutant release and transfer register contains information for the previous year concerning releases and off-site transfers of pollutants from facilities in accordance with articles 6 and 7, except with regard to releases from, and transfers through or as, products.</p> <p>2. Each Party shall ensure that, from 1 June following the third full calendar year after this instrument enters into force for that Party, the national pollutant release and transfer register contains, in addition to the elements listed in paragraph 1:</p> <p style="padding-left: 40px;">(a) Facility-specific information on water, energy and resource use as specified in articles 6 and 7;</p> <p style="padding-left: 40px;">(b) Pollutant release and water, energy and resource use reduction targets in accordance with article 8, paragraph 3; and</p> <p style="padding-left: 40px;">(c) Releases and transfers of radioactive substances and radiation.</p> <p>3. Each Party shall ensure that, from 1 June following the fifth full calendar year after this instrument enters into force for that Party, the national pollutant release and transfer register contains, in addition to the elements listed in paragraphs 1 and 2, data with respect to pollutants from diffuse sources in accordance with articles 6 and 7, and data on releases and transfers of pollutants in or as products in accordance with articles 6 and 7.</p>
<p>2. Each Party shall ensure that, from 1 June following the third full calendar year after this instrument enters into force for that Party, the national pollutant release and transfer register contains, in addition to the elements listed in paragraph 1:</p>	
<p style="padding-left: 40px;">(d) Facility-specific information on water, energy and resource use as specified in articles 6 and 7;</p> <p style="padding-left: 40px;">(e) Pollutant release and water, energy and resource use reduction targets in accordance with article 8, paragraph 3;</p> <p style="padding-left: 40px;">(f) Data with respect to pollutants from diffuse sources in accordance with</p>	

<p>articles 6 and 7;</p> <p>(g) Data on releases and transfers of pollutants in or as products in accordance with articles 6 and 7; and Data on on-site transfers of potential pollutants.</p>	
<p>3. Each Party shall progressively extend the national pollutant release and transfer register to include information on:</p> <p>(a) Releases and transfers of radioactive substances and radiation (including electromagnetic radiation);</p> <p>(b) Noise; and Genetically modified organisms and products containing or derived from genetically modified organisms.</p>	
<p><u>Article 6</u>  <b>OBLIGATION TO REPORT</b>  1. Each Party shall require the owners or operators of all individual facilities within its jurisdiction that</p> <p>(a) Undertake one or more of the activities listed in annex II;</p> <p>(b) Release or transfer any pollutant in quantities exceeding threshold limits in accordance with article 7; or</p> <p>(c) Use water, energy or resources in quantities exceeding the threshold limits specified in annex IV, part 3, to submit to the competent authority the information specified in article 8.</p>	<p>We reserve our position on this Article until discussions are complete on the Annexes. As a matter of procedure, we suggest this provision should be discussed after the Annexes.</p> <p>This article provides for the requirements of Article 6 of Aarhus to be exceeded by extending the list of substances thresholds, and activities.</p> <p>As it is drafted, annexes II and III would have to differentiate the facilities with point sources from diffuse sources (such as roads, airports).</p>
<p>2. Each Party shall designate one or more public authorities or bodies to report on the releases of pollutants specified in article 7 from the categories of diffuse sources listed in annex III.</p>	
<p><u>Article 7</u>  <b>RANGE OF POLLUTANTS AND RESOURCES SUBJECT TO REPORTING</b>  1. The Parties shall require the owners or operators of the facilities subject to reporting under article 6 to report on each pollutant included in annex IV, part 1, that</p>	<p>We reserve our position on this Article until discussions are complete on the Annexes. Again, we propose that this provision should be discussed after the Annexes.</p>

<p>is released or transferred in quantities exceeding the thresholds contained therein.</p>	
<p>2. Incrementally, and as soon as possible, the Parties shall require the owners or operators of the facilities subject to reporting under article 6 to report on each pollutant included in annex IV, part 2, that is released or transferred in quantities exceeding the thresholds contained therein.</p>	
<p>3. The Parties shall require the owners or operators of the facilities subject to reporting under article 6 to report on water, energy and resource use where these are used in quantities exceeding the thresholds contained in annex IV, part 3.</p>	
<p>4. Each Party shall require its public authorities or other bodies designated in accordance with article 6, paragraph 2, to report on releases from diffuse sources of each pollutant that appears in annex IV, part 1, where the aggregated releases of that pollutant from the category of diffuse source in question constitute a significant proportion of the total national releases of that pollutant.</p>	<p>We propose discussion and agreement of what is meant by ‘significant’. This would be a major undertaking, currently only carried out in respect of a limited range of pollutants to air in the UK.</p>
<p>5. Each Party shall regularly review its national pollutant and resource lists and update these lists in accordance with nationally established criteria and criteria established under this instrument.</p>	
<p><u>Article 8</u> SCOPE OF REPORTING 1. Each Party shall require the owners or operators of the facilities required to report under article 6 to complete and submit to the competent authority, by 1 April each year, according to the format contained in annex V, part 1, and having regard to the phased requirements set out in article 5, the following information with respect to the preceding calendar year on a facility-specific basis:</p>	<p>We consider that references to owners or operators of facilities should be removed. It is over prescriptive.</p>
<p>(a) The amount of each pollutant required to be reported pursuant to article 7 released directly to the environment in the relevant period, both in aggregate and for total releases to each environmental medium, separating the data, as a minimum, for releases to air, water, land and through underground injection;</p>	

<p>(b) The amount of each pollutant required to be reported pursuant to article 7 that the owner or operator of the facility expects will be released by any product containing the substance through off-site use and disposal over the course of its life cycle, where a life-cycle analysis has been carried out for that product;</p> <p>(c) The amount of each potential pollutant required to be reported pursuant to article 7 transferred in the relevant period, distinguishing between on-site and off-site transfer and according to whether the potential pollutants are for use, reuse, storage, treatment, energy recovery, recycling, disposal or in or as products;</p> <p>(d) The amount of each potential pollutant required to be reported pursuant to article 7 present on-site in the relevant period that is not otherwise accounted for under the transfers reported in subparagraph (c) above;</p> <p>(e) The amount of water, energy and resources required to be reported pursuant to article 7 used in the relevant period;</p> <p>(f) A comparison of the amounts in subparagraphs (a) through (e) with figures from the previous reporting period;</p> <p>(g) The methodology used to derive the above information, whether based on measurement, calculation or estimation.</p>	<p>(b) Disagree with the inclusion of products (see above). This paragraph should be deleted.</p> <p>(c) Disagree with the inclusion of products (see above). Disagree with the inclusion of pollutants in by-products and wastes (see comments above). This paragraph should be deleted.</p> <p>(d) Disagree. This is registering material retained on site. A PRTR is for releases and transfers. This paragraph should be deleted.</p> <p>(g) Before “methodology” insert “type of”. We agree if this means only indicating the type_of methodology, not recording details. The details remain the responsibility of the producer of the data.</p>
<p>2. The reports referred to in paragraph 1 shall distinguish between releases and transfers resulting from routine and deliberate activities and those resulting from accidents or extraordinary events.</p>	
<p>3. In accordance with the phased requirements set out in article 5, the reports referred to in paragraph 1 shall include reduction targets for releases and transfers of pollutants, and for water, energy and resource use, required to be reported under articles 6 and 7. These reduction targets may be non-binding.</p>	<p>We agree with the concept of including targets. However, we reserve our position pending further discussion on targets. Some industries have already made all the achievable environmental gains in certain areas. We would propose a system of benchmarking for various industry sectors and processes. Whatever the solution, it must be based on an estimation of the risk or impact, costs and benefits.</p>
<p>4. Each Party shall require its public authorities and other bodies designated under article 6, paragraph 2, to complete</p>	<p>Agree the principle, but not the dates. See comments on dates, above.</p>

<p>and submit to the competent authority, by 1 April each year, according to the format contained in annex V, part 2, and having regard to the phased requirements set out in article 5, the following information with respect to the preceding calendar year:</p>	
<p>(a) The aggregate yearly releases of each pollutant listed in annex IV, part 1, from the diffuse sources listed in annex III to air, water and land, separated out by pollutant, where those releases constitute a significant proportion of the total national releases of the pollutant in question;</p> <p>(b) A comparison of the amounts reported in each year with figures from the previous reporting period; and The methodology used to derive the above information.</p>	<p>(a) See comments on ‘significant’ above.</p> <p>(b) Agree with comparison. We propose the type of methodology may be referred to, and published elsewhere.</p>
<p>5. Each Party shall ensure that the necessary monitoring and reporting regime exists, on a mandatory basis, in order to guarantee the supply of the data on radioactive substances and radiation, noise and genetically modified organisms and products containing or derived from genetically modified organisms needed to fulfil the requirements of article 5, paragraph 3. Pending a requirement to include this information in the national pollutant release and transfer register, each Party shall provide links in the register to other databases containing such information if these exist.</p>	<p>We disagree with the inclusion of products. See comments on products, and structure of register and links.</p> <p>All references to “products” in this paragraph should be deleted.</p>
<p><u>Article 9</u> <b>MONITORING AND RECORD KEEPING</b></p> <p>1. Each Party shall require the owners or operators of the facilities subject to the reporting requirements of article 6 to undertake, with appropriate frequency, self-monitoring of the releases and transfers of the pollutants subject to reporting in accordance with article 7 and to keep detailed records, including of the overall amounts of releases and transfers for each pollutant. Such information shall also include the methodology of arriving at the total amounts, whether by measurement, calculation or estimation.</p>	<p>Editorial: This paragraph needs dividing.</p> <p>We disagree. Monitoring is not always the most cost-effective or accurate way of quantifying releases.</p> <p>We do agree with operators keeping records, but the period should be specified. We propose 7 years.</p>

<p>Each Party shall require the owners or operators of the facilities to maintain full supporting documentation of its periodic PRTR reports. The information gathered according to this paragraph shall be publicly accessible in accordance with article 10.</p>	<p>We propose keeping for 7 years.</p>
<p>2. With respect to releases of pollutants from diffuse sources, the reporting bodies may use a combination of monitoring data, existing statistical data and emission factors to make estimates of releases based on activity areas, converted by statistical means into most probable indications of total releases from diffuse sources, which should be aggregated at the most local level practicable.</p>	
<p>3. The Parties shall require that monitoring as well as measurement, calculation and estimation, are carried out in accordance with internationally approved methodologies, when available, in order to determine the data to be reported.</p>	<p>We disagree. This does not allow for local situations and is a barrier to development. We propose that internationally approved methodologies shall be used, unless local alternatives have been developed. All methodologies shall be open to the public.</p>
<p><u>Article 10</u>  <b>PUBLIC ACCESS TO INFORMATION</b>  1. Without prejudice to the additional requirements contained in the remaining paragraphs of this article, the relevant provisions of the Convention shall provide a minimum legal framework governing public access to and the availability of environmental information under this instrument.</p>	
<p>2. The register shall be designed for maximum ease of public access through the Internet, other computer means and on paper. The design shall allow the information on the register to be continuously and immediately available through electronic means.</p>	<p>We disagree. This should relate to Aarhus Convention, Article 4, where information may be requested in another form. We agree with the internet format, but provision on paper should only be according to Aarhus.  We foresee vast amounts of paper records produced and never used.</p> <p>We propose that the following should be substituted-</p> <p>“2. Each Party shall ensure that the register shall be designed for maximum ease of public access through the Internet and other computer means. The design shall allow the information on the register to be continuously and immediately available through electronic means.”</p>
<p>3. Subject to paragraph 6 below,</p>	<p>Paper versions should only be available on request.</p>

<p>information held in the national pollutant release and transfer register shall be fully accessible to the public in electronic format, and for inspection in paper format, free of charge. In addition, copies of the information in paper format shall be available to the public concerned free of charge.</p>	<p>See above.</p> <p>The words “and for inspection in paper form” should be deleted.</p>
<p>4. The Parties shall require the competent authority to compile and publish data in the pollutant release and transfer register in paper form no later than six months after the reporting deadline for the applicable period. Each Party shall also produce a report interpreting the data reported to the national pollutant release and transfer register within one year after the reporting deadline for the applicable period.</p>	<p>Disagree. See comments on dates above.</p>
<p>5. Each Party shall develop electronic information points providing public access to PRTR databases. Such information points may be installed in public libraries, offices of local authorities and other appropriate places, taking into account the need to facilitate public access outside normal office hours.</p>	
<p>6. Where the confidentiality of commercial or industrial information is protected by law in order to protect a legitimate economic interest, the Parties may provide for consideration by the competent authority to consider claims of confidentiality by the owners or operators of facilities with respect to specific information concerning on-site transfers or on specific chemical inputs to the production process. Confidentiality may not be claimed with respect to information on releases or off-site transfers. Claims of confidentiality shall be considered in a restrictive way, taking into account the public interest served by disclosure. Where a claim of confidentiality is upheld, the information shall be withheld from the public and included in the register in a form that does not permit public access. In such cases, the chemical names of particular pollutants shall be replaced in the public part of the register with category identifiers, together with information about</p>	<p>We reserve our position on this paragraph. The UK would need to be convinced why this section exceeds the Aarhus Convention.</p> <p>The section needs clarifying, particularly the last points: (where information is withheld) <i>the chemical names shall be replaced with category identifiers.</i></p> <p>We would prefer-</p> <p>“Parties may provide for competent authorities to omit from the register information that would adversely affect the confidentiality of commercial and industrial information, where such confidentiality is protected by law in order to protect a legitimate economic interest. Within this framework, information on emissions which is relevant for the protection of the environment should be disclosed. Parties may also provide for competent authorities to omit from the register information that would adversely affect intellectual property rights.”</p>

<p>the adverse health and environmental hazards associated with the pollutant. Where any information is withheld from the public part of the register, the register shall indicate what type of information has been withheld.</p>	
<p>7. Each Party shall ensure that the environmental information gathered in accordance with article 9 is made accessible to the public on the terms applicable under the Convention to environmental information held by public authorities, irrespective of whether the information is actually held by a public authority or remains only in the possession of the facility or other reporting body which is not a public authority. Where the information in question is not in the possession of a public authority, it shall be made accessible to the public by the facility or other reporting body on terms equivalent to those that would apply if the information were being made publicly accessible by a public authority. Where the information gathered according to article 9 is made accessible to the public directly by the facility or other reporting body rather than by a public authority, the Parties may provide that the facility or other reporting body may exempt from disclosure specific information which it deems to be confidential.</p>	
<p><u>Article 11</u>  <b>PUBLIC PARTICIPATION IN THE DEVELOPMENT OF NATIONAL POLLUTANT RELEASE AND TRANSFER REGISTERS</b>  1. Without prejudice to the additional requirements contained in the remaining paragraphs of this article, the relevant provisions of the Convention shall provide a minimum legal framework governing public participation with respect to measures taken to implement the provisions of this instrument.</p>	
<p>2. Each Party shall notify the public concerned, in an effective manner and early in the decision-making process, of its intention to establish or modify a national pollutant release and transfer register. The</p>	

<p>notification shall include information on the envisaged procedure, including the opportunities for and the modalities of public participation, and on the availability of further relevant information and the means to obtain it.</p>	
<p>3. In addition to any information required to be publicly available under the Convention or under article 10, each Party shall ensure that, in the process of establishing or modifying the national PRTR, the public has timely access, free of charge, to information on the proposed scope, nature, structure, functioning and content of the register and to any changes proposed to these elements, from the time at which this information becomes available, without prejudice to the right of Parties to refuse to disclose certain information under the Convention.</p>	
<p>4. The public shall be entitled to submit any comments, information, analyses or opinions that it considers relevant to the decision-making process, and the body or bodies responsible for establishing or modifying the register, while respecting the minimum legal framework provided by this instrument, shall take due account of the public input to the process.</p>	
<p>5. Each Party shall ensure that, when the decision to establish or modify the register has been taken, the public is promptly informed of the decision, of the reasons and considerations on which it is based and of the way in which the public input has been taken into account.</p>	
<p><u>Article 12</u>  <b>ENFORCEMENT AND ACCESS TO JUSTICE</b>  1. Each Party shall ensure that its relevant public authorities have sufficient powers and opportunities to initiate administrative, civil or criminal proceedings in order to enforce the obligations of facilities to report full and accurate information and to make such information available to the public. Intentional false reporting shall be considered a criminal offence.</p>	<p>We do not see the need to go further than Article 9 of Aarhus with respect to this Article. Consequently the entire Article should be deleted.</p>
<p>2. Each Party shall guarantee the right of any person to petition the competent</p>	

<p>authority for a review of the claims of confidentiality under article 10, paragraph 6. When reviewing such claims, the relevant authority shall take into account the public interest in disclosing information. Final decisions under this paragraph shall be subject to review by a court of law or other independent and impartial body established by law.</p>	
<p>3. Where information has been exempted from disclosure by a facility or other body which is not a public authority in accordance with article 10, paragraph 7, the public shall be entitled to make such a decision subject to review by a court of law or other independent and impartial body established by law.</p>	<p>See above.</p>
<p>4. Each Party shall guarantee the right of any person to petition the competent authority for a review of whether the governmental or facility-related obligations set out in this instrument for the development and maintenance of a pollutant release and transfer register, including the obligations concerning access to information and public participation arising under articles 10 and 11, have been met. Final decisions under this paragraph shall be subject to review by a court of law or other independent and impartial body established by law.</p>	<p>See above.</p>
<p><u>Article 13</u>  <b>REGIONAL REGISTER</b>  1. A register shall be established for the ECE region containing the totality of the data existing on the national registers of the Parties. The regional register will be maintained by [name of responsible body] and will meet all relevant criteria applicable to national registers.</p>	
<p>2. By 1 June of each year following the first full calendar year after entry into force of this instrument, each Party shall submit the data from its national register to [name of responsible body] for inclusion in the regional register.</p>	<p>See comments on dates.</p>
<p>3. The Parties shall cooperate with [name of responsible body] to facilitate the harmonization of data collection and presentation methods.</p>	

<p><u>Article 14</u> INTERNATIONAL COOPERATION 1. The Parties shall cooperate and, as appropriate, assist each other:</p> <p>(a) In international actions in support of the objectives of this instrument;</p> <p>(b) On request, in implementing national systems in pursuance of this instrument.</p>	
<p>2. The Parties shall share periodically the results of the implementation of PRTR systems among themselves and with non-Parties, with particular emphasis upon the sharing of data from border areas among neighbouring States.</p>	
<p><u>Article 15</u> REVIEW PROCESS <i>(The instrument could have its own meetings of the Parties or alternatively rely on the meetings of the Parties to the Convention to serve as the forum within which the Parties to this instrument would review and oversee the implementation of the instrument (the latter being the model used for some of the protocols to the Convention on Long-range Transboundary Air Pollution). In either case, the elements listed in the following paragraphs could be relevant.)</i></p>	<p>We propose a meeting to review the results of each step of implementation, prior to the implementation of the next step.</p>
<p>The Parties shall keep under continuous review the implementation and development of this instrument on the basis of regular reporting by the Parties, and, with this purpose in mind, shall:</p> <p>(a) Review the policies for and the legal and methodological approaches to the development of PRTR systems, promote their convergence, and strengthen transboundary and international cooperation in accordance with article 14;</p>	
<p>(b) Evaluate progress in implementing this instrument on the basis of information provided by the Parties in accordance with guidelines established by the Meeting of the Parties, such guidelines taking into account the need to avoid duplication of effort in reporting requirements;</p>	

(c) Be kept informed on progress made in the implementation of the instrument;	
(d) Establish the modalities for the participation of other competent international governmental and non-governmental bodies in meetings and other activities pertinent to the achievement of the purposes of this instrument;	
(e) Establish a programme of work, including projects to be carried out jointly under this instrument and the Convention, and set up any bodies needed to implement this programme of work;	
(f) Establish such subsidiary bodies as they deem necessary;	
(g) Consider and adopt guidelines and recommendations which promote the implementation of the provisions of this instrument;	
(h) Exchange information on the experience gained in concluding and implementing bilateral and multilateral agreements or other arrangements having relevance to the purposes of this instrument and to which one or more of the Parties are a party;	
(i) Seek, where appropriate, the services of relevant ECE bodies and other competent international bodies and specific committees in aspects pertinent to the achievement of the purposes of this instrument;	
(j) Consider and adopt proposals for amendments to this instrument in accordance with the provisions of article [..];	
<p>Keep the annexes to the instrument under continuous review, notably:</p> <p>(i) Annex II, in particular in order to determine whether to amend the annex to include any additional activities that involve significant releases or transfers of one or more pollutants included in annex IV, or that use significant amounts of water, energy or resources; and</p> <p>(ii) Annex IV, in particular in order to determine whether to amend the annex to include any additional pollutants the</p>	

<p>release or transfer of which entails a risk to human health or the environment, taking into account the reporting requirements and emissions reduction targets existing under relevant international agreements applicable within the ECE region, to include additional resources in the light of emerging resource depletion data, or to amend the thresholds provided in the annex;</p>	
<p>(l) At their first meeting,</p> <p>(i) Review the experience with reporting on releases from diffuse sources, with a view to adopting more precise criteria and thresholds so as to further harmonize reporting in this area;</p> <p>(ii) Review the experience with the application of article 5, paragraph 3, and consider what further steps might be taken to harmonize monitoring and reporting obligations and methodologies in the areas of radiation and radioactive substances, noise and genetically modified organisms;</p> <p>(iii) Consider the adoption of measures to improve the harmonization of methodologies for determining releases and transfers, such as the establishment of guidelines, taking into account guidance established in other international processes; and</p> <p>(iv) Consider establishing financial arrangements and technical assistance mechanisms to facilitate the implementation of the instrument.</p>	
<p><i>FINAL PROVISIONS, with possible articles on:</i></p> <p><i>Right to vote</i></p> <p><i>Secretariat</i></p> <p><i>Annexes</i></p> <p><i>Amendments</i></p> <p><i>Compliance</i></p> <p><i>Settlement of disputes</i></p> <p><i>Signature</i></p> <p><i>Depositary</i></p> <p><i>Ratification, acceptance, approval and accession</i></p> <ul style="list-style-type: none"> <li>- <i>Entry into force</i></li> <li>- <i>Withdrawal</i></li> <li>- <i>Authentic texts</i></li> </ul>	

