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Meeting 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 Environment Matters

Third session

Budva, Montenegro, 15 September 2017

Report of the Meeting of the Parties on its third session

Addendum

Guidance for reporting on implementation of the Protocol on Pollutant Release and Transfer Registers

Summary

The present document contains guidance for reporting on the status of 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. It was prepared by the Compliance Committee under the Protocol with the assistance of the secretariat, in close cooperation with the Bureau and with the involvement of other Parties and stakeholders, pursuant to the request of the Meeting of the Parties to the Protocol at its second session (Maastricht, the Netherlands, 3–4 July 2014) (see ECE/MP.PRTR/2014/4, para. 36, and ECE/MP.PRTR/2014/4/Add.1, decision II/3, annex, sect. G).

The Meeting of the Parties endorsed the document at its third session.

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I. Introduction

1. This guidance document seeks to assist Parties in fulfilling their reporting obligations under the Protocol on Pollutant Release and Transfer Registers (Protocol on PRTRs) to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention).
2. Article 17, paragraph 2, of the Protocol on PRTRs requires the Meeting of the Parties to keep under continuous review the implementation and development of the Protocol on the basis of regular reporting by the Parties. At its first and second sessions (Geneva, 20-22 April 2010, and Maastricht, the Netherlands, 3-4 July 2014, respectively), the Meeting of the Parties elaborated on this requirement and agreed upon procedures for reporting as well as the reporting format (see ECE/MP.PRTR/2010/2/Add.1, decision I/5 and ECE/MP.PRTR/2014/4/Add.1, decision II/1).¹
3. This document is based on the contributions provided by members of the Compliance Committee under the Protocol and comments made by Parties in the light of the experience of preparing the national implementation reports² in the 2014 reporting cycle under the Protocol. It also draws upon the practical experience of multiple reporting cycles held under the Aarhus Convention.
4. Chapter II describes practical information about the key features of reporting under the Protocol on PRTRs, including for the future reporting cycles. Chapters III and IV address general and specific challenges in the preparation of the reports, as identified by the Compliance Committee, as well as Parties and stakeholders after the first reporting cycle. Recommendations on how to achieve completeness in reporting, together with selected examples of good practices in reporting, are given. The Committee has chosen to refer to a non-exhaustive number of examples to showcase good practices or, where appropriate, explained in more detail what can be considered good practice in reporting.

II. Key features of the reporting regime

5. The key features of the reporting regime and requirements for the preparation of reports are set out in decision I/5, and take into consideration the experience in the reporting under the Aarhus Convention.
6. In accordance with the decision I/5, reports from the Parties should include:
 - (a) The necessary legislative, regulatory or other measures that they have taken to implement the provisions of the Protocol;
 - (b) A description of practical implementation at the national or, in the case of regional economic integration organizations, the regional level, using the format set out in the annex to decision I/5.
7. Pursuant to good practice implemented under the Aarhus Convention, the Compliance Committee recommends that reports submitted in the previous reporting cycle be used as a basis for the preparation of the new reports. Past reports used as a basis for the new report should be revised and updated by using the “track changes” mode in Word or any equivalent means effectively to indicate the changes in the text.
8. Final reports should be submitted to the secretariat in two versions:

¹ Available from <http://www.unece.org/env/pp/mopp1.html#/> and http://www.unece.org/prtrmopp2_docs.html#/.

² All national implementation reports are available from http://www.unece.org/env/pp/prtr_reports_implementation_2014.html.

- (a) With revisions highlighted in the text;
- (b) As a consolidated clean text.

The consolidated, clean text version is the same text used for the online reporting tool³ of the Protocol, and should serve as a basis for the subsequent reporting cycle.

9. Reports submitted by Parties should be prepared through a transparent and consultative process, involving the public in a timely manner and taking into account any specific circumstances pertaining to regional economic integration organizations.

10. It is important to provide information promptly in order to leave enough time for processing the information and for the preparation of a synthesis report — summarizing the progress made and identifying significant trends, challenges and solutions — in time for the next session of the Meeting of the Parties.

11. Signatories and other States not party to the Protocol may, pending their ratification or accession, also submit reports on measures taken to apply the Protocol.

12. International, regional and non-governmental organizations engaged in programmes or activities providing support to Parties and/or other States in the implementation of the Protocol may submit reports on their programmes or activities and lessons learned, as well as on implementation of the Protocol itself.

III. General issues

13. The synthesis report on the 2014 reporting cycle (ECE/MP.PRTR/2014/5)⁴ showed that answers by different Parties often varied in form and content from one another. These differences are not seen as a negative aspect of the reporting on the Protocol's implementation. On the contrary, these variations can help to identify issues that require clarification in order to achieve more comprehensive reporting, as well as to share good practices.

14. Some implementation reports, however, were also missing particular elements in parts of their responses and were therefore incomplete. With regard to completeness of content, it is recalled that implementation reports are not freely drafted documents, but follow the reporting format defined in decision I/5. As such, each report is a collection of responses to the questions in the reporting format questionnaire. Each response must provide all the information required by each question.

15. As the reporting format requires related information on specific provisions of the Protocol in different contexts, there may be some duplication. The degree of duplication will depend mainly on the specific structure of the relevant legislative and regulatory systems.

16. Furthermore, in the 2014 reporting round, it was found that the following terms, employed in the current reporting format, require clarification:

(a) “Public authorities”. There could be a misunderstanding concerning the expression “public authorities”. It is suggested that the terms “competent authority” and “public” should be used. Article 2, paragraph 5, states: “‘Competent authority’ means the national authority or authorities, or any other competent body or bodies, designated by a Party to manage a national pollutant release and transfer register system”;

³ See <http://www2.unece.org/prtr-nir/>.

⁴ Available from http://www.unece.org/prtrmopp2_docs.html#.

(b) “Reporting year”. Article 8, paragraph 1, of the Protocol provides as follows: “The reporting year is the calendar year to which that information [i.e., the information required to be incorporated in a Party’s register] relates.” Under the Protocol the term refers to the date the data is taken, not to when data is submitted. For example, reference to the “reporting year 2015” relates to data on pollutants released into the environment in 2015. It may be that this data is reported to the register in a different year, e.g., in 2016;

(c) “Owner/operator”. There is no common agreement among Parties on how to distinguish between the terms owner and operator. For clarification, and if available, a definition of these terms should be given at the beginning of the report.

Recommendations

17. Answers should be concise, complete and focused on the question; the limits on the length of answers should be respected. Referring to the content of each question from the reporting format questionnaire, responses should:

- (a) Name legislative, regulatory and other measures;
- (b) Describe the involvement of the public and other stakeholders;
- (c) List provisions of the Protocol that still need implementation;
- (d) Briefly set out any challenges and specific solutions or good practices.

18. It is not necessary to duplicate information while completing the form, but if Parties consider it necessary to repeat information they should simply cross-refer to the part where this information has already been mentioned. While each aspect with regard to a question should be addressed in the response directly, lengthy details can be provided in an annex to the response itself (and not to the report as a whole). Care should be taken to ensure that any weblinks provided are up to date. Links to web pages — where the interested reader can find background information, understand the particularities of each pollutant release and transfer register (PRTR), or see examples for good practices — should be added.

Selected good practices for reporting

19. Linked to the reporting process, the Compliance Committee identified the following selected good practices:

(a) Prepare the national implementation report in more than one official language of the Economic Commission for Europe (ECE) (i.e., English, French and Russian), as well as in the official national language(s);

(b) Make an effort to identify potential stakeholders and users, and to consult them about the Protocol. This can include governmental and non-governmental organizations, industrial associations, research institutes, environmental journalists and journals, etc.;

(c) Involve a variety of known and newly identified stakeholders in the preparation of the report, including relevant institutions and other government agencies. Such an approach can facilitate an internal analysis of existing information and help progress in implementation, as well as assist the discussion of future improvements with outsiders;

- (d) Explain why answers are omitted, if this is the case.

IV. Selected issues related to specific articles

20. This section outlines several issues that proved to be challenging for reporting. The section also contains some recommendations and good practices.

A. General provisions, core elements and design and structure of a pollutant release and transfer register system — articles 3, 4 and 5

21. The question in the reporting format concerning articles 3, 4 and 5 is both general and specific. Sub-questions (a) to (d) help to report on the implementation of article 3 (general provisions), while sub-questions (e) to (g) help to report on the implementation of article 5 (design and structure). Meanwhile, legislative, regulatory and other measures targeted in the question also cover article 4 (core elements of a PRTR).

22. Whereas it is important to fully answer each of the sub-questions, only responding to the sub-questions leads to the omission of reporting on the implementation of article 4 as a whole. That article specifically refers to implementation of national PRTR systems as opposed to the implementation of legislative, regulatory and other measures under regional registers, such as the European Pollutant Release and Transfer Register (E-PRTR).

23. Answers provided by many Parties do not provide a clear picture of whether public participation in the development of the PRTR is ensured by a procedural mechanism established by the legislation, and what the specific legal provisions are, if any.

24. Issues regarding the specific legislative provisions with respect to public participation in the development and modification of a PRTR need to be addressed through the answers to the question on articles 3, 4 and 5, while the question on article 13 refers to issues of practical implementation.

25. Only some Parties mentioned among the core elements the issue of reporting on diffuse sources. Answers to the question should also describe the legislative, regulatory and other measures provided to accommodate reporting on diffuse sources (art. 4, para. (b), and art. 5, para. 2).

Recommendations

26. Parties should check carefully the completeness of their response with regard to the first part of the question: “List legislative, regulatory and other measures that implement the general provisions in articles 3 (general provisions), 4 (core elements of a PRTR) and 5 (design and structure).”

27. Parties should make use of the requirements provided through articles 4 and 5, paragraph 1, of the Protocol as checklists for the completeness of their responses to the questionnaire.

28. Parties in their reporting should distinguish national PRTR systems from other data collection systems, such as regional PRTRs (e.g., E-PRTR). Referring in the report to the list under article 4 of the questionnaire will give a detailed picture of the implementation of the core elements of national PRTRs.

29. Parties should provide a clear explanation of public participation in the development of their PRTR. For example, is the participation enshrined in legislation or is it an administrative practice? Parties should also indicate whether there are any special mechanisms for public participation.

Selected good practices for reporting

30. Good practices for reporting regarding general provisions, core elements, and design and structure of a PRTR-system include:

(a) Addressing the points listed under articles 4 and 5 in the response to the questionnaire, stating which of them are implemented and which are not. If they are not implemented or only partially implemented, describe the circumstances and planned actions;

(b) A comprehensive answer to sub-question (e) will include a complete listing of search terms and modes (e.g., see the national implementation report submitted by France).

Protection of whistle-blowers — sub-question (c)

31. Article 3, paragraph 3, of the Protocol is of fundamental importance to the PRTR regime. It may be implemented in a number of ways, but where there is an absence of specific implementing legislation, a lack of practical cases related to the protection of whistle-blowers can lead to vague and incomplete responses, which make an assessment of the degree of implementation difficult.

Recommendations

32. Parties should comment precisely on how national legislation may protect those who report violations or report that no measures have been taken with respect to this issue.

33. Parties should provide any related legislative or regulatory provision or other alternative measures.

34. Parties should report on any relevant cases.

Selected good practices for reporting

35. Good practices for reporting regarding the protection of whistle-blowers include:

(a) Providing a precise description of other measures of an administrative nature or reasons for not taking any measures (e.g., see the national implementation report submitted by Germany);

(b) Reporting briefly on any practical cases;

(c) Making references to relevant legislation;

(d) Providing weblinks to legislation and/or any official journals acting as a compendium of legislation, and to other significant official documents, whenever possible.

B. Reporting requirements — article 7

Capacity threshold and employee threshold — sub-question (a)

36. In reporting on article 7, Parties have to provide information about the system they have chosen for their own national PRTR to identify the reporting facilities. They could choose between the capacity threshold (art. 7, para. 1 (a), and annex I, column 1) or the employee threshold (art. 7, para. 1 (b), and annex I, column 2). The European Union has chosen the capacity threshold system (art. 5 and annex I of the E-PRTR Regulation),⁵ so probably most of the European Union member States also use this capacity threshold in their own national registers.

Recommendation

37. Parties should say whether they make use of both threshold systems in their national register.

⁵ Regulation (EC) No 166/2006 of the European Parliament and of the Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register and amending Council Directives 91/689/EEC and 96/61/EC, 2006 O.J. (L 33), pp. 1–17.

Selected good practice for reporting

38. In reporting on the capacity threshold and employee threshold it is good practice to provide a brief answer containing the relevant information, including reference to the threshold system (e.g., see the national implementation report submitted by the Netherlands).

Reporting required through facility owners and/or operators — sub-question (b)

39. When they established their national registers, Parties had to choose if the owner or the operator is obliged to report the facility data, releases and transfers. The E-PRTR of the European Union obliges the operator to report the data.

Recommendation

40. Parties should clearly indicate who has to report: the owner, the operator, or both. Where appropriate, they should describe the specific provisions of national law that determine who is responsible for reporting.

Selected good practices for reporting

41. Some good practices in responding to questions on the reporting required by facility owners and/or operators are to:

- (a) Provide a brief answer containing all the relevant information (e.g., see the national implementation report submitted by the Netherlands);
- (b) Provide specific information concerning the owner and/or operator reporting where this may be of interest (e.g., see the national implementation report submitted by Germany).

List of activities — sub-question (c)

42. Article 3, paragraph 2, of the Protocol provides for more extensive PRTRs than required by the Protocol; it follows that Parties might cover more activities or lower capacity thresholds in their national registers than article 7, paragraph 1, and annex I of the Protocol strictly require. If Parties have added activities or lowered activity thresholds (capacity thresholds or, if applicable, employee thresholds) they should provide this information in their response to sub-question (c).

Recommendation

43. Each Party should check the activities and thresholds of its national register against those set out in annex I.

Selected good practices for reporting

44. Good practices for reporting on the list of activities include:

- (a) For countries concerned, provide clear reference to the E-PRTR Regulation, including a list of changes compared to the Protocol's provisions, where applicable (e.g., see the national implementation report submitted by Germany);
- (b) Provide a list of activities relevant for reporting to the national PRTR that includes additional activities not mentioned by the Protocol, where applicable (e.g., see the national implementation report submitted by Israel);
- (c) As the European Union added a reporting obligation for quarries above 25 hectares to activity 3 (b) — opencast mining — of the E-PRTR, Protocol Parties that are also European Union members should check if they also implemented this reporting obligation in their national registers.

List of pollutants — sub-question (d)

45. According to article 3, paragraph 2, of the Protocol, Parties may also have additional pollutants or lower pollutant thresholds in their national registers. If Parties added pollutants or lowered pollutant thresholds (release thresholds or, if applicable, manufacture, process or use thresholds) they have to give this information in response to sub-question (d). It may be necessary to give a lot of information; if so, that information will be easier to assimilate if presented with a clear structure and/or in a tabular format.

Recommendations

46. Each Party should check the pollutants and thresholds of its national register against those set in annex II to the Protocol.

47. Several Parties do not apply any pollutant thresholds, so all releases of the pollutants have to be reported to the competent authorities. While this practice is welcome because it provides more complete information, in reporting, Parties should clarify whether this is only valid for reporting to the competent authorities or if all data below the thresholds set in the Protocol are also publicly available through the national register.

Selected good practices for reporting

48. Among good practices for reporting on the list of pollutants, Parties should:

(a) Provide a well-structured response, and break down the information systematically in a self-contained response that is clear and easy to follow for any reader (e.g., see the national implementation report submitted by Germany);

(b) Explain how they go beyond the provisions under the Protocol, as well as under the E-PRTR Regulation, if applicable (e.g., see the national implementation report submitted by Sweden);

(c) As the European Union extended the list of pollutants in the E-PRTR and lowered or added additional thresholds, Parties that are also member States of the European Union should check if they implemented these additional reporting obligations also in their own national registers or if they report on these obligations only to the E-PRTR. They should also check if they have more pollutants or lower thresholds that supplement the extended E-PRTR requirements.

Thresholds for pollutants — sub-question (e)

49. Article 7, paragraph 3, provides an exception from the approach chosen under article 7, paragraph 1 (a) or (b) — allowing for Parties to report on the release threshold or manufacture, process or use threshold for a particular pollutant. Parties could choose this exception in order to extend reporting. The provision was originally included in the Protocol to allow for those Parties that already used the manufacture, process or use threshold for reporting in certain areas, such as for greenhouse gases like carbon dioxide.

Recommendation

50. Parties should check if they made use of this exception in their national registers for a particular pollutant and, if so, should explain the reasons for doing so.

Selected good practice for reporting

51. In reporting on the thresholds for pollutants, as a good practice, Parties should provide a brief description of their approach, and use the above recommendation to ensure they provide all the relevant information (e.g., see the national implementation reports submitted by Germany, the Netherlands or Sweden).

Competent authorities for data on diffuse sources — sub-question (f)

52. According to the Protocol, emissions from diffuse sources also have to be included in the national registers. Diffuse sources means the many smaller or scattered sources from which pollutants may be released to land, air or water, whose combined impact on those media may be significant and for which it is impractical to collect reports from each individual source (art. 2, para. 9). The Parties must also define clearly which authorities are responsible for the data of emissions from diffuse sources.

Recommendations

53. If no competent authority has been designated for this issue, the preparation of the report should be used to resolve this deficit. If more than one authority have competency in this field, all of them should be named.

54. Furthermore, it needs to be noted that emissions from diffuse sources are not diffuse emissions from the reporting facilities. Diffuse emissions are covered by the definition of releases (art. 2, para. 7).

Selected good practice for reporting

55. A good practice for reporting regarding the competent authorities for data on diffuse sources is to describe briefly the national approach and to follow the above recommendations to provide the relevant information (e.g., see the national implementation reports submitted by Austria, Germany or Sweden).

Scope of information required under the national PRTR system — sub-question (g)

56. The scope of information provided under the Parties' PRTR systems should be comprehensive. A comparison between the Protocol's provisions and the scope of the national PRTR system must be clear and easy to follow for any reader.

Recommendations

57. Registers of Parties to the Protocol should be in compliance with the full scope of information required under the Protocol. If this is not the case, Parties need to clearly point out where their national registers diverge and explain why this information is not included. Parties should also provide information on how they plan to address such possible issues. This can include, e.g., a timeline for planned activities.

58. Where the scope of a Party's PRTR system exceeds the Protocol's requirements, a brief comment on the national approach should be provided. This will help others to understand, e.g., new developments or good practices in general.

59. The E-PRTR applies the waste-amount approach (art. 7, para. 5 (d) (ii)). Parties that are European Union members should mention whether they have implemented the waste-amount approach not only for reporting to the E-PRTR but also in their national registers and whether they additionally included pollutant amounts.

Selected good practice for reporting

60. When reporting on the scope of information required under the national PRTR system, a good practice is to provide the information being supplied in addition to the central issues of facility reporting (art. 7, paras. 5 and 6) in a separate list, for example:

- (a) Number of employees or production volume;
- (b) Energy and water consumption;
- (c) Lower thresholds for waste amounts;

- (d) Inclusion of waste codes;
- (e) Regional codes;
- (f) River basin district;
- (g) NACE⁶ codes.

Diffuse sources — sub-question (h)

61. According to the Protocol (art. 7, paras. 4 and 7) emissions from diffuse sources have to be included into the national registers provided that:

- (a) The Party determines that data (e.g., from other reporting obligations or from research projects) are being collected by the relevant authorities;
- (b) They can practicably be included.

Where no data are available, the Party has to take measures to initiate the collection of emissions from one or more diffuse sources in accordance with its national priorities.

Recommendation

62. Parties should provide answers to the following questions:

- (a) Are the emissions from diffuse sources on an extra web page(s) or directly included in the register?;
- (b) Which diffuse sources are covered? Concerning which media and from which sectors (e.g., household, traffic, agriculture)?;
- (c) What are the reference years for the sources covered?;
- (d) Which pollutants are covered for which diffuse sources?;
- (e) What spatial disaggregation is used?;
- (f) If no emissions from diffuse sources are yet included, what measures have been taken to initiate their inclusion, and what is the timeline for their inclusion and development?

Selected good practice for reporting

63. In reporting on diffuse sources, as a good practice Parties should briefly describe their approach and use the sub-questions in the recommendations above as a guide to ensure they provide the relevant details.

Methodologies used for diffuse sources — sub-question (i)

64. It is possible that each diffuse source and each pollutant requires a specific methodology. Data on emissions from diffuse sources are, for example, already prepared in relation to other reporting obligations or are collected for research projects where the methodology would be adequately described. For several diffuse sources the methodology is part of the respective reporting obligation (e.g., see the Cooperative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP) database)⁷ and is described in detail in the relevant rules governing that reporting. In reporting under the Protocol, Parties should mention where such methodologies are used.

⁶ NACE is the “statistical classification of economic activities in the European Community” (“nomenclature statistique des activités économiques dans la Communauté européenne”).

⁷ See <http://www.ceip.at/emission-data-webdab/>.

Recommendation

65. For each diffuse source and pollutant a short explanation in easy-to-follow language and/or reference to available documentation will be helpful for those who are just starting to report on emissions from diffuse sources. Concerning new methodologies, e.g., from research projects, additional short explanatory text, including references to documents, will help others in their efforts.

Selected good practice for reporting

66. As a good practice in reporting on the methodologies used for reporting on diffuse sources, Parties should briefly describe their approach and use the above recommendations to guide them in providing the relevant information.

C. Reporting cycle — article 8**Reporting deadlines — sub-question (b)**

67. In responding to question 8 in the 2014 reporting round, a number of Parties answered briefly without describing relevant legal requirements, while other Parties described the legal basis for their reporting deadline. The Committee considered that national reporting deadlines must be stipulated in a legally binding document.

Recommendation

68. Parties should name the legislative and regulatory measures that prescribe deadlines by which the owners or operators of facilities were required to report to the competent authority.

Selected good practice for reporting

69. A good practice for reporting on reporting deadlines is to cite the relevant legislative measures (e.g., see the national implementation reports submitted by Denmark, Germany, Ireland, Lithuania, the Netherlands, Portugal, Romania, Spain or the former Yugoslav Republic of Macedonia), and to include details, such as where these deadlines are published, the scope at different levels (national/local) and the reporting calendar.

Deadline for the public accessibility of data — sub-question (c)

70. In order to provide the public with up-to-date information on pollutant releases and transfers, the Protocol sets a maximum deadline of 15 months after the end of the reporting year for making the reported data publicly available in the registers.

Recommendations

71. Parties should clearly indicate what the deadline is for public accessibility of the data, as set in the national legislation.

72. When a Party does not meet the required deadline it should explain why, and report measures taken or planned to meet the deadline in future.

Selected good practices for reporting

73. Good practices for reporting regarding the deadline for the public accessibility of data include:

(a) Listing the relevant legislative measures and providing a link to the websites where these can be accessed;

(b) Giving examples of concrete deadlines (e.g., see the national implementation report submitted by Germany).

Meeting of deadlines by owners or operators— sub-question (d)

74. Information about practical issues related to the way owners or operators reported was provided by Parties in a way that was not conducive to sharing experience in this field.

Recommendation

75. Parties should provide information on whether the reporting deadlines were met by owners or operators and published on time. If there were delays in reporting, Parties should list the reasons, if known.

Selected good practices for reporting

76. Good practices for reporting on the meeting of deadlines by operators or owners include:

(a) Supplying related statistics (e.g., see the national implementation report submitted by Israel);

(b) Providing information on whether facts related to the reporting, such as the timeliness and completeness of reporting by the owners or operators, are made public, e.g., on the PRTR website;

(c) Listing the reasons, if known, when deadlines are not met (e.g., see the national implementation reports submitted by Croatia or Poland).

Electronic reporting — sub-question (e)

77. Electronic reporting can be a major benefit for, e.g., owners or operators when meeting their reporting obligations. If Parties provided more information on their strategies in this field it would allow for a better exchange on approaches and active measures of implementation.

Recommendations

78. Parties should indicate whether they envisage reporting entirely through electronic submissions, and should say when they intend to achieve this target.

79. Parties should make a clear distinction between different types of electronic reporting, such as between online reporting through a web page or electronic submission of reported data through, e.g., e-mail.

Selected good practices for reporting

80. In responses to questions on electronic reporting, good practices include:

(a) Reporting on relevant specific requirements, such as whether online submissions are compulsory (although this is not the case under the Protocol) (e.g., see the national implementation report submitted by the Netherlands);

(b) Indicating which types of or procedures for reporting or submission are possible, and either describing these procedures and/or providing links to the relevant legislation or regulation. Statistical information should be provided for each procedure, if possible.

D. Data collection and record-keeping — article 9

81. While meeting the Protocol's provisions is one aspect of reporting, much can be gained by sharing brief and well-structured information about the processes behind national PRTR systems. A comprehensive response to the question on article 9 regarding data collection and record-keeping practices can help to identify good practices more easily.

Recommendations

82. Parties should provide a short description of the legally required methodologies related to data gathering, including the process of data gathering and record-keeping. As part of the preparation of the report, it should be examined whether the best available method was used for the collection of data, and whether it was used effectively.

83. Parties should specify how many years reported data must be kept by the operator.

84. Parties should provide detailed information on any legal sanctions applied in the event operators or owners have failed to provide PRTR data.

85. Parties should provide information about the distribution of the analytical methods used, e.g., the percentage of data that were indicated as being measured (M), calculated (C) or estimated (E) in their PRTR.

Selected good practice for reporting

86. A good practice for reporting on data collection and record-keeping is for Parties to briefly describe their approach and to use the above recommendations as an aid to ensure they provide the relevant details.

E. Quality assessment — article 10

87. It is a major challenge to provide data of an adequate quality. Parties could make better use of the implementation reports as a platform to share knowledge and raise issues of concern with regard to data quality when reporting on implementation of article 10.

Recommendations

88. In reporting on the assessment by the competent authorities of the completeness, consistency and credibility of data, and the steps of the data validation process, Parties should list any legislative, regulatory or alternative measures (such as validation procedures or guidance) ensuring the quality assessment of the data provided by the operators or owners.

89. With regard to ways to improve the quality of data reported, Parties should describe successfully applied methodologies and procedures that have been adopted by the competent authorities.

90. Parties should describe briefly the role of different competent authorities (at the local, regional and national levels) and their responsibilities with regard to quality assessment, if applicable.

91. Parties should take into account feedback from the public about the quality of data.

Selected good practices for reporting

92. Good practices for reporting related to quality assessment include:

(a) Listing the procedures and standards that are used or recommended and describing these procedures briefly or providing links to the relevant legislation or regulation;

(b) Listing existing user manuals and sectoral legislation in which standards, methodologies or procedures are described and providing links to where these can be accessed online, where available (e.g., see the national implementation report submitted by the Netherlands).

F. Public access to information — article 11

93. Parties mostly provided comprehensive information with regard to the implementation of the Protocol's provisions on public access to information (art. 11). To monitor how stakeholders make use of this access to information can further help to improve the usefulness of PRTRs to the public.

Recommendations

94. Parties should refer specifically to the implementation of article 11, paragraph 5, i.e., indicating how they facilitate electronic access to the register in publicly accessible locations in cases where the information is not otherwise easily accessible by direct electronic means.

95. Parties should report on the collection of statistical data on the use of PRTR web pages.

Selected good practices for reporting

96. Among good practices for reporting regarding public access to information, Parties should:

(a) Provide information, including statistics (e.g., see the national implementation report submitted by Spain or Switzerland), about the different ways the public can access the information: i.e., by means of the Internet, e-mail, telephone, fax and/or administrative procedures;

(b) Refer to administrative procedures that ensure provision of data upon request within the meaning of article 11, paragraph 5 (e.g., see the national implementation reports submitted by Croatia, the Czech Republic, Estonia, Lithuania or Spain).

G. Confidentiality — article 12

97. Before any other consideration in reporting on confidentiality and national registers, it is underscored that, according to article 12 of the Protocol, the grounds for claiming confidentiality should be interpreted in a restrictive way. This implies that any claim of confidentiality is to be treated as a sensitive issue requiring careful consideration.

98. Several Parties did not report in a clear and concise way on their legislation related to confidentiality. While the wording of the question on article 12 does not explicitly ask for reporting on legislation, the request to "give an indication of the types of information that may be withheld" will in most cases require reporting on legislation, as this issue has to be regulated in a generally binding legal document.

99. The wording of the question indicates that the main focus of the reporting should be on practical experience, including the description of the types or groups of cases of requests for confidentiality. However, some Parties only reported on legislation and not on practical experience at all.

Recommendations

100. Parties should bear in mind that, according to the Protocol, claims of confidentiality regarding the PRTR “shall be interpreted in a restrictive way, taking into account the public interest served by disclosure and whether the information relates to releases into the environment” (art. 12, para. 1).

101. Parties should concentrate also on practical application related to the treatment of claims of confidentiality and possible systemic issues. Reporting on legislation and reporting on practical arrangements, such as the design of reporting forms and related procedures, is an important part of the information to be provided, but it is not sufficient.

102. The question puts a special focus on “the requirements set out in paragraph 2” of article 12. Parties should thus report in more detail on the arrangements made regarding this particular consideration for disclosure.

103. If information was withheld, Parties should report specifically on the subject matter of article 12, paragraph 3, concerning details about withheld information and how they implemented this provision.

Selected good practices for reporting

104. The best practice will be no claims for confidentiality. In addition, a best practice in reporting on confidentiality would be for Parties to provide information on the practical arrangements and to ensure that information on legislation concerning the issue of confidentiality is provided (e.g., see the national implementation reports submitted by Cyprus or Germany).

H. Public participation in the development of national pollutant release and transfer registers — article 13

105. While the question on article 13 is straightforward and not prone to misunderstanding, its implications cover a wide range of possible actions. Answers in the 2014 reporting round did not always reflect the full status of implementation by Parties. The following recommendations aim to provide a more complete listing of related sub-questions, which should help to reach completeness in the information reported with regard to implementation of article 13.

Recommendations

106. Parties should indicate if their legislation provides the public with appropriate opportunities for free public access to the information on the proposed measures concerning the development of the national PRTR. Related law(s), regulation(s) and/or examples of good practice in this regard should be clearly identified.

107. Parties should provide details on possible limitations to public access to the information concerning measures related to the development of the PRTR. Parties should clarify, inter alia:

- (a) Are there any fees to be paid by public for access to information?;
- (b) What are the time frames for notifying the public about the availability of the relevant information and for the public to access the relevant information?;
- (c) What is the legal effect of failing to duly provide the public with free access to the information on the proposed measures concerning the development of the national PRTR?

108. Parties should indicate if legislation provides the public with appropriate opportunities for the submission of any comments, information, analyses or opinions that are relevant to the decision-making process related to PRTR. They should name particular law(s), regulation(s) and/or examples of existing good practice in this regard. They should also clarify, inter alia:

- (a) At what stage of decision-making is public involvement made possible?;
- (b) In case a number of consecutive decisions are required, does national legislation provide the public with the opportunity to provide input in relation to: (i) one of these decisions (which one?), (ii) some of them (which ones?), or (ii) all of them?;
- (c) How much time is usually allocated for public participation? Is there an appropriate minimum period prescribed by law? What are the time frames for the public to submit any comments, information, analyses or opinions?;
- (d) What role does direct electronic access through public telecommunications networks play in the decision-making procedure?;
- (e) Do multilateral discussion techniques (e.g., public hearings, clarification meetings) play any role in the environmental decision-making procedures?;
- (f) Can comments that were submitted by the public be viewed by other members of the public throughout the commenting procedure?

109. Parties should indicate whether the legislation includes particular requirements for the relevant authority to take due account of public input (public comments, information, analyses or opinions that are relevant for the decision-making process related to the PRTR). Parties should name the particular law(s), regulation(s) and/or provide examples of existing good practice in this regard. Parties should clarify, inter alia:

- (a) Are there practical techniques for taking due account of public input in cases where many comments or a large amount of information has been received? Are there legal regulations to this end?;
- (b) What is the legal effect of failing to take due account of such public input?

110. Parties should indicate whether legislation exists that includes any particular requirements to ensure that, when a decision to establish or significantly change the register has been taken, information on the decision and the considerations on which it is based are made publicly available in a timely manner. Parties should name the particular law(s), regulation(s) and/or provide examples of existing good practice in this regard, if any. They should clarify, inter alia:

- (a) What are the forms and time frames provided by legislation and/or established in the practice for ensuring availability to the public of information on these decisions and the considerations on which they are based?;
- (b) What is the legal effect of failing to duly notify the public about decisions to establish or significantly change the register?

111. Parties should indicate if any specific laws or regulations were developed for the implementation of article 13 of the Protocol.

112. Parties should identify if any relevant draft laws and/or draft regulations are under development at the date of submission of their report.

113. Parties should indicate if any practical measures were undertaken for the implementation of article 13 of the Protocol.

114. Parties should list any special measures taken to encourage public participation and to raise public awareness in development of the PRTR.

Selected good practice for reporting

115. As a good practice for reporting regarding public participation in the development of national PRTRs, Parties should describe briefly their approach and use the sub-questions in the above recommendations to ensure that they provide all the relevant details.

I. Access to justice — article 14

116. Article 14, paragraph 1, of the Protocol defines the scope of review procedures that must be made available to those who consider that their request for information contained in the register has been ignored, wrongfully refused, whether in part or in full, inadequately answered, or otherwise not dealt with in accordance with the provisions of article 11, paragraph 2. According to the wording of the article 14, available review procedures may involve either a court of law or another independent and impartial body established by law (such as tribunals, commissions, commissioner's offices, administrative bodies, etc.).

117. For the first reporting period most of the Parties reported on the accessibility of both courts and other non-judicial bodies, or either courts or non-judicial bodies. Only a few Parties provided no information on available remedies. To achieve completeness in the description of review procedures, it is highly recommended that all Parties provide information on the entire systems available to review cases on access to PRTR data (access to environmental information), including non-judicial or judicial procedures or both, and the stages involved in each procedure. Parties are encouraged to search, identify and explicitly state the existence or non-existence of any relevant cases brought in this regard.

Recommendations

118. Parties should report on the availability and possible stages of non-judicial as well as judicial review procedures.

119. Parties should clarify whether non-judicial review procedures need to be exhausted before judicial review can be initiated, as well as the level of judicial review at which an appeal can be initiated (e.g., first instance court, second instance, etc.).

120. Parties should report on any specific cases concerning the use of review procedures.

Selected good practices for reporting

121. Good practices for reporting regarding access to justice include:

(a) Providing a comprehensive explanation of the review procedures and using the above recommendations to ensure complete reporting (also see, e.g., the national implementation reports submitted by Finland, France or the United Kingdom of Great Britain and Northern Ireland);

(b) Explicitly stating the absence of cases under paragraph 123 of the above recommendations (e.g., see the national implementation reports submitted by the Czech Republic, France, Ireland, Slovakia or Switzerland).

J. Capacity-building — article 15

122. The question on article 15, capacity-building, is formulated very clearly and most Parties properly understood it and responded accordingly. However, some Parties jointly reported for sub-questions (a) and (b). In general, Parties interpreted the question differently, which led to a wide range of content reported in the national implementation reports of the 2014 reporting cycle. The variety of capacity-building measures established by the Parties is very broad, both in type and in scope. Some Parties did not answer this

question at all, which might indicate that they did not provide any capacity-building measures. Other Parties only reported about a contact point for questions, which could be understood to mean that no active public awareness measures were in place. In general, it appears that some Parties focus on capacity-building for officials and operators, i.e., those who have to build up the system and keep it running, while others focus on creating public awareness among the (potential) users.

Recommendation

123. No difficulties were faced with regard to this question. However, Parties that did not put in place any capacity-building measures should explain the reasons why and report on their future plans.

Selected good practice for reporting

124. A good example for raising awareness on a PRTR among the general public, which can serve as good practice for reporting in this regard, is provided by Spain. In its national implementation report, Spain specifically mentions that (a) PRTR-España can also be followed via social networks (Twitter, Facebook), which is a good way to make a PRTR more widely known; (b) any new action, modification, new view, the publishing of annual data, new search options, etc., is disseminated through several diffusion channels, both institutional and others, to industry organizations, non-governmental organizations, institutional or private technological centres, academia, city councils, municipalities, regional governments (autonomous communities), working groups at both the national and international level, users and stakeholders; and (c) specific diffusion and awareness-raising actions are also done via national and international conferences.

K. International cooperation — article 16

125. A lesson learned from the 2014 reporting cycle is that incomplete reporting on article 16 can be reduced to a minimum if sub-questions (a) to (e) are answered individually. Good examples of this were given by a number of Parties (e.g., see national implementation reports submitted by Austria, the Czech Republic, Germany, Slovakia or the United Kingdom).

126. Bilateral activities in the 2014 reports were mentioned by only one of the Parties involved, while the other Party mentioned no bilateral activity.

Recommendations

127. If Parties consider they have nothing to report under activities related to article 16, they should elaborate to some extent on the possible reasons for that and solutions.

128. In preparing the report, Parties should contact the focal points of other Parties with which they had common activities to raise awareness of past and ongoing cooperation, where appropriate. In general, national focal points should always inform their respective counterparts about planned and ongoing projects related to PRTRs in their respective area of responsibility.

Selected good practices for reporting

129. Some good practices for reporting regarding international cooperation include:

(a) With a view to the worldwide interest on this issue, Parties should provide information on activities carried out in promoting the Protocol both within and beyond the ECE region, (e.g., see the national implementation report submitted by Spain);

(b) For reporting on implementation of most of the activities related to article 16, Parties should use the following as a checklist, and should include relevant information where the response to the question is positive:

- (i) Is the Party a member of international groups or committees related to PRTRs?;
 - (ii) What bilateral or multilateral capacity-building activities or projects have been funded on PRTRs?;
 - (iii) For which bilateral or multilateral projects and capacity-building activities has technical support been provided?;
 - (iv) What other initiatives and international projects have there been in which the Party has participated in awareness or promotional activities in this regard?
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