

Economic Commission for Europe

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 Environmental Matters

Compliance Committee

Fifth meeting

Geneva, 22 and 23 May 2017

Item 7 of the provisional agenda

Adoption of the outcomes of the meeting

KEY OUTCOMES OF THE MEETING

as adopted by the Committee at its fifth meeting¹

1. Adoption of the agenda.

The Committee adopted its agenda as set out in the document ECE/MP.PRTR/C.1/2017/1 and agreed to discuss its future work in the context of consideration of the draft synthesis report and draft overview of the implementation of the Strategic Plan.

2. Synthesis report on the implementation of the Protocol on Pollutant Release and Transfer Registers.

The Committee proceeded with the drafting of the synthesis report and agreed to conclude the preparation of its next version through electronic means, focusing particularly on conclusions and its completeness in terms of the submitted national implementation reports (NIRs). Any comments on the revised draft will be sent to the secretariat by the Committee's members before 1 June 2017.

In the context of the preparation of the synthesis report, the Committee discussed whether EU Member States that are Parties to the Protocol are required under the Protocol to introduce their own national PRTRs to supplement what is done at an EU level. This question goes to the effect of the declaration of competence of the EU, which was made under article 26, paragraph 4 of the Protocol. The Committee identified a number of issues that would require further analyses and agreed to continue this discussion at its next meeting. In order to prepare a background material for the discussion, the Committee's members agreed to send their written inputs to the secretariat before 15 July 2017.

3. Implementation of the strategic plan for 2015-2020.

The Committee proceeded with the drafting of an overview on the progress in implementation of the strategic plan 2015-2020, agreed to include it as an addendum to the 2017 synthesis report and to conclude the preparation of its next version through electronic means. Any comments on the revised draft will be sent to the secretariat by the Committee's members before 1 June 2017.

¹ This document was not formally edited.

4. Guidance for reporting on implementation of the Protocol.

The Committee considered that the 2017 reporting exercise provided a good basis to identify an initial feedback related to the use by Parties of the draft guidance on reporting on implementation of the Protocol (ECE/MP.PRTR/WG.1/2016/6). The Committee welcomed that several Parties already used the draft guidance for the preparation of reports in the current reporting cycle. It expressed its hope that more Parties will use the document in the next reporting cycle upon its endorsement by the Meeting of the Parties. It underlined the importance of providing efficient and meaningful reporting on the implementation of the Protocol and renewed its commitment to continue supporting Parties in their related efforts.

5. Submissions, referrals and communications.

The Committee took note of the report by the secretariat that there were no submissions, referrals and communications since the Committee's fourth meeting.

6. Future work

In the course of considering the synthesis report and the overview on progress in implementation of the strategic plan, the Committee discussed the necessity for the evaluation of the effectiveness and the success of the Protocol, and the desirability of the development of more indicators for the purposes of measuring progress towards the Protocol's goals. A paper setting out the Committee's suggestions for more work on evaluation and indicators is annexed to this report. The Committee agreed to bring this matter to the attention of the Meeting of the Parties at its third session.

The Committee agreed to hold its next sixth meeting parallel to the third session of the Meeting of the Parties, on 14 and 15 September 2017, in Budva, with an open session on the morning of 15 September 2017. The Committee requested the secretariat to invite Parties and stakeholders to provide the Committee, prior to the meeting, with issues that they would like to discuss at the open session.

7. Other business.

No items were discussed.

8. Adoption of the outcomes of the meeting.

The Committee adopted the major outcomes presented by the Chair at the meeting (as contained in this document) and requested the secretariat, in consultation with the Chair, to finalize the report and incorporate these adopted outcomes and decisions.

EVALUATION OF THE SUCCESS OF THE PROTOCOL AND THE DEVELOPMENT OF INDICATORS

Note prepared by the Compliance Committee

Introduction

This paper suggests to the Parties to the Protocol that they mandate the Committee to start work in a new area: the development of further indicators and systematic evaluation of the effectiveness and success of the Protocol.

The Committee developed this idea when working on its overview of the implementation of the strategic plan 2015-2020, in particular when considering where the Committee and Parties need to see more progress. During the course of this work the Committee noted that there was an absence of concrete indicators of success, and also that there was no work in train to evaluate the success of the Protocol itself.

Evaluation

The Committee considered that there are several reasons to evaluate the effectiveness and success of the Protocol. It would be useful to have evidence that the Protocol is working well because that would make it easier to recruit new Parties, and to justify giving further resources to Protocol work. Also, evaluation of the current performance of the Protocol would indicate where further work could bring the most added value, and that could drive future strategic planning.

What is more, there is a trend under international environmental law to evaluate the success of environmental treaties. An evaluation exercise could put the Protocol at the heart of that and explain the contribution of the Protocol to the implementation of 2030 Agenda for Sustainable Development and the achievement of its Sustainable Development Goals (SDGs).

How could the success of the Protocol be measured?

To start from first principles, it is possible to identify two key purposes of the PRTR Protocol.

First, the Protocol is intended to have the effect that environmental information is made available in a coherent, structured, standardised and specific way.²

² The Protocol has its roots in article 5, paragraph 9 of the Aarhus Convention, which says –
9. Each Party shall take steps to establish progressively, taking into account international processes where appropriate, a coherent, nationwide system of pollution inventories or registers on a structured, computerized and publicly accessible database compiled through standardized reporting. Such a system may include inputs, releases and transfers of a specified range of substances and products, including water, energy and resource use, from a specified range of activities to environmental media and to on-site and off- site treatment and disposal sites.

Second, PRTRs are intended to provide a mechanism to pursue long term goals, particularly corporate accountability, the reduction of pollution and the promotion of sustainable development.³

But it is difficult authoritatively to measure how successful the Protocol has been in achieving those goals and to assess the Protocol's outcomes. Clearly Parties' implementation of and compliance with the Protocol is a *sine qua non* of success. It would be a nonsense to claim success for the Protocol if there was consistent and widespread non-compliance. But that can only take the Parties so far. More is needed to provide an agreed methodology to measure the success of what the Protocol achieves, and in the process the Committee would strive to achieve synergies with respect to related work on the SDGs.

Perhaps there is an opportunity here for further productive work. The Parties to the Protocol may be in a good position to put indicators in place. Because of the nature of the Protocol, it attracts officials who have a talent for measuring and providing information in a verifiable form for the use of the public. Maybe that talent could be put to use in evaluating the success of the Protocol.

Measuring the success of MEAs: existing work

There is support in the international community for more international work on measuring the effectiveness of MEAs. So, for example, one of the recommendations⁴ stemming from the mid-term review of the fourth Programme for the Development and Periodic Review of Environmental Law (the Montevideo Programme), was that there should be the development of, "frameworks to help evaluate the effectiveness and success of environmental treaties..."

There has also been work under particular MEAs. For example, paragraph 1 of article 16 of the Stockholm Convention on Persistent Organic Pollutants requires periodic evaluation of the effectiveness of the Convention, and the eighth Conference of the Parties has just considered an evaluation⁵ under that provision.

³ See the fourth recital to the Protocol-

Recognizing that pollutant release and transfer registers provide an important mechanism to increase corporate accountability, reduce pollution and promote sustainable development, as stated in the Lucca Declaration adopted at the first meeting of the Parties to the Aarhus Convention.

⁴ See recommendation (c) which relates to -

Developing frameworks to help evaluate the effectiveness and success of environmental treaties and encourage the widest possible participation in multilateral environmental agreements with a view to increasing their effectiveness;

See the report of the meeting of senior government officials expert in environmental law on the midterm review of the fourth Programme for the Development and Periodic Review of Environmental Law: UNEP/Env.Law/MTV4/MR/1/5, 31 October 2015.

⁵ See the Effectiveness evaluation of the Stockholm Convention on Persistent Organic Pollutants pursuant to Article 16: UNEP/POPS/COP.8/22/Add.1 of 10 November 2016.

What is more, there is and there is a periodic assessment and review of the effectiveness of the Cartagena Protocol on Biosafety, under article 35 of the Protocol⁶. The third exercise was finalized in December 2016 by the eight meeting of the Parties to the Cartagena Protocol.⁷

In a slightly different context, UNEP's Global Environmental Goals (GEGs)⁸ are internationally agreed environmental goals and objectives drawn from existing international treaties and soft law. UNEP sets out methodology to measure progress towards those goals⁹ and tracks progress¹⁰.

There was also related work under the Aarhus Convention: an *Evaluation of the current functioning and implementation of the Convention*¹¹. But the proposed exercise on evaluation of the Protocol would be different in two respects. First, an evaluation of the Protocol itself is proposed: the evaluation would not focus principally on functioning or implementation. The Aarhus exercise went to processes, institutional arrangements and legal obligations. The proposed Protocol exercise would go to outcomes. Secondly, it should be easier to deal with outcomes and metrics under the Protocol than under the Convention. The Convention focuses on intangibles, the Protocol is more specific.

Building on work on the strategic plan

The Strategic Plan already provides indicators; yet the Compliance Committee has found it challenging to get a comprehensive picture of the success of the implementation of the Strategic Plan by using these indicators. For the time being it is difficult to draw firm conclusions from that, but one or more of the following conclusions might be drawn: there should be -

- different indicators; or
- more indicators; or
- more concrete and specific indicators.

Perhaps it goes without saying that indicators will not be effective unless Parties have adequate information at a national level. Otherwise indicators may only be superficial.

It is also important to note that the indicators in the strategic Plan are designed to test progress in implementation of the Plan rather than the success of the Protocol itself.

⁶ See Assessment and Review of the Effectiveness of the Cartagena Protocol on Biosafety and the Mid-Term Evaluation of the Strategic Plan for the Cartagena Protocol: UNEP/CBD/COP-MOP/8/12/Add.1 of 7 September 2016

⁷ See Decision BSVIII/15.

⁸ See the Compilation of Internationally Agreed Environmental Goals and Objectives at <http://geg.informea.org/wp-content/uploads/2013/04/GEG-Booklet-Jan-2013.pdf>

⁹ See Measuring Progress Environmental Goals & Gaps at <http://geg.informea.org/wp-content/uploads/2013/04/Measuring-Progress.pdf>

¹⁰ See <http://geodata.grid.unep.ch/gegslive/>.

¹¹ ECE/MP.PP/WG.1/2013/8, 10 December 2013

Criteria for successful MEAs

Whilst it may be too early to set out how the success of the PRTR Protocol might be evaluated, it is possible to consider what would make any environmental treaty successful. For example there would probably be some agreement about the following propositions.

- A treaty must have a real impact – preferably a concrete and measurable impact - on the issue in question.
- The success of the treaty should be measured in the context of the breadth and depth of the challenge it faces.
- It would be helpful to be able to demonstrate causality between the impact made by the treaty and the treaty regime itself, although this may prove challenging.

Other components of success could include the breadth of participation, the availability of assistance for Parties who find it challenging to comply, and the degree of sharing of information and mutual support.

Conclusion

The Parties may wish to mandate the Compliance Committee to make a proposal to evaluate the effectiveness and success of the Protocol, where appropriate building on the methodology already used at the international level, working up concrete metrics. A process would be followed which would be similar to the process for the preparation of the documents on Systemic issues and Guidance on reporting. The work would be carried out through a participatory process with comments provided by any interested stakeholder. The Bureau and the Working Group of the Parties would oversee the preparation of the document.
