



# Economic and Social Council

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## 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

## Report of the Compliance Committee on its fifth meeting

### Introduction

1. The fifth meeting of the Compliance Committee under 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 (Aarhus Convention) took place in Geneva, Switzerland, on 22 and 23 May 2017. Seven of the nine Committee members were present at the meeting: Mr. Merab Barbakadze (Georgia); Mr. Nicolas Encausse (France); Mr. Akos Fehervary (Hungary); Ms. Nataša Kacic-Bartulovic (Croatia); Mr. Alistair McGlone (United Kingdom of Great Britain and Northern Ireland) (Chair); Mr. Gor Movsisyan (Armenia) (Vice-Chair); and Mr. Dmytro Skrylnikov (Ukraine). Ms. Barbara Rathmer (Germany) and Mr. Fritz Kroiss (Austria) did not attend.

## I. Opening of the meeting and adoption of the agenda

2. The Chair opened the meeting.
3. The Committee adopted its agenda as set out in document ECE/MP.PRTR/C.1/2017/1. The Committee agreed to discuss its future work in the context of the consideration of a draft synthesis report and draft overview of the progress in

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implementing the strategic plan for 2015–2020 for the Protocol on Pollutant Release and Transfer Registers.<sup>1</sup>

## **II. Synthesis report on the implementation of the Protocol on Pollutant Release and Transfer Registers**

4. The Chair recalled that, at its fifth meeting (Geneva, 23–24 November 2016), the Working Group of the Parties had tasked the Compliance Committee to prepare a synthesis report on the status of implementation of the Protocol on the basis of national implementation reports (ECE/MP.PRTR/WG.1/2016/2, para. 33) for submission to the Meeting of the Parties to the Protocol at its third session (Budva, Montenegro, 15 September 2017). Pursuant to that decision, a first draft of the synthesis report had been prepared by the Committee’s members through electronic means prior to the meeting.

5. The Committee continued to draft the report and agreed to conclude the preparation of the next version through electronic means, focusing particularly on conclusions and its completeness in terms of the submitted national implementation reports. The consolidated draft would then be sent to the Protocol’s Bureau for comments. The Committee Chair, with the assistance of the secretariat, would finalize the report taking into consideration the comments received from the Bureau.

6. In the context of the preparation of the synthesis report, the Committee discussed whether European Union member States that were Parties to the Protocol were required under the Protocol to introduce their own national pollutant release and transfer registers to supplement what was done at the European Union level. That question went to the effect of the declaration of competence of the European Union under article 26, paragraph 4, of the Protocol. The Committee identified a number of issues that would require further analysis and agreed to continue the discussion at its next meeting. In order that the secretariat could prepare background material for the discussion, the Committee members agreed to send their written inputs to the secretariat before 15 July 2017.

## **III. Implementation of the strategic plan for 2015–2020 for the Protocol on Pollutant Release and Transfer Registers**

7. The Chair further recalled that, at its fifth meeting, the Working Group of the Parties had also entrusted the Compliance Committee with preparing an overview of the progress in implementing the strategic plan for 2015–2020 for the Protocol (*ibid.*).

8. In accordance with the Working Group’s request, the Committee had prepared a first draft of such an overview through electronic means before the meeting. It continued to draft the overview at the meeting. The Committee agreed to include the overview as an addendum to the 2017 synthesis report and to conclude the preparation of its next version through electronic means. The consolidated draft would then be sent to the Protocol’s Bureau for comments. The Chair of the Compliance Committee, with the assistance of the secretariat, would finalize the document taking into consideration the comments received.

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<sup>1</sup> For the strategic plan for 2015–2020, see ECE/MP.PRTR/2014/4/Add.1, decision II/2, available from [http://www.unece.org/prtrmopp2\\_docs.html#/](http://www.unece.org/prtrmopp2_docs.html#/).

#### **IV. Guidance for reporting on implementation of the Protocol**

9. The Committee considered that the 2017 reporting exercise provided a good basis to identify 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 had already used the draft guidance for the preparation of their reports in the current reporting cycle. The Committee hoped that more Parties would 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.

#### **V. Submissions, referrals and communications**

10. The secretariat reported that there had been no submissions, referrals or communications since the Committee's fourth meeting. The Committee took note of the information provided by the secretariat.

#### **IV. Future work**

11. During its consideration of the synthesis report and the overview of progress in implementing the strategic plan for 2015–2020, the Committee discussed the need to evaluate 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. The Committee agreed that a paper setting out its suggestions for further work to evaluate the success of the Protocol and develop indicators to that end be annexed to the report of its fifth meeting (see annex), and agreed to bring the matter to the attention of the Meeting of the Parties at its third session.

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

#### **V. Adoption of the outcomes of the meeting**

13. The Committee adopted the major outcomes presented by the Chair at the meeting and requested the secretariat, in consultation with the Chair, to finalize the report and incorporate the adopted outcomes and decisions. The Chair then closed the meeting.

## Annex

# Evaluation of the success of the Protocol and the development of indicators

## Note by the Compliance Committee

### Introduction

1. The present paper proposes that the Parties to the Protocol on Pollutant Release and Transfer Registers mandate the Protocol's Compliance Committee to start work in a new area: the development of further indicators to measure the effectiveness and success of the Protocol and facilitate its systematic evaluation.
2. The Committee developed this idea when working on its overview of progress in implementing the strategic plan for 2015–2020 for the Protocol, in particular when considering where the Committee and Parties need to see more progress. During the course of this work the Committee noted an absence of concrete indicators of success, and also that there was no work in train to evaluate the success of the Protocol itself.

### I. Evaluation

3. The Committee considers 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 justify allocating further resources to Protocol activities. 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.
4. Moreover, there is a trend in international environmental law to evaluate the success of environmental treaties. An evaluation exercise could position the Protocol strategically at the centre of those efforts and explain the contribution of the Protocol to the implementation of 2030 Agenda for Sustainable Development and the achievement of its Sustainable Development Goals.

### II. How could the success of the Protocol be measured?

5. To start from first principles, it is possible to identify two key purposes of the Protocol on Pollutant Release and Transfer Registers: first, the Protocol is intended to have the effect that environmental information is made available in a coherent, structured, standardized and specific way;<sup>1</sup> second, pollutant release and transfer registers are intended

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<sup>1</sup> The Protocol has its roots in article 5, paragraph 9, of the Aarhus Convention, which states: "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."

to provide a mechanism to pursue long-term goals, particularly corporate accountability, the reduction of pollution and the promotion of sustainable development.<sup>2</sup>

6. It is, however, 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 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 Sustainable Development Goals.

7. 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.

### **III. Measuring the success of multilateral environmental agreements: existing work**

8. There is support in the international community for more international work on measuring the effectiveness of multilateral environmental agreements. So, for example, one of the recommendations<sup>3</sup> stemming from the mid-term review of the fourth Programme for the Development and Periodic Review of Environmental Law (Montevideo Programme) was that there should be the development of "frameworks to help evaluate the effectiveness and success of environmental treaties".

9. There has also been work under particular multilateral environmental agreements. For example, article 16, paragraph 1, of the Stockholm Convention on Persistent Organic Pollutants requires periodic evaluation of the effectiveness of the Convention, and the eighth Conference of the Parties to that Convention has just considered an evaluation<sup>4</sup> carried out under that provision.

10. Furthermore, there is a periodic assessment and review of the effectiveness of the Cartagena Protocol on Biosafety to the Convention on Biological Diversity, under article 35 of the Cartagena Protocol. The third exercise was finalized in December 2016 by the eighth meeting of the Parties to that Protocol.<sup>5</sup>

<sup>2</sup> See the Protocol's second preambular paragraph: "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."

<sup>3</sup> 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), annex, para. 3 (g). The report is available from <http://staging.unep.org/delc/MontevideoProgramme/tabid/54416/Default.aspx>.

<sup>4</sup> See the executive summary of the effectiveness evaluation of the Stockholm Convention on Persistent Organic Pollutants pursuant to Article 16 (UNEP/POPS/COP.8/22/Add.1), available from <http://chm.pops.int/TheConvention/ConferenceoftheParties/Meetings/COP8/tabid/5309/Default.aspx>.

<sup>5</sup> See the final report of the Conference (UNEP/CBD/CP/MOP/8/17, decision BSVIII/15), and also the evaluation and its comparative analysis (UNEP/CBD/BS/COP-MOP/8/12 and Add.1), available from <https://bch.cbd.int/protocol/meetings/documents.shtml?eventid=5521>.

11. In a slightly different context, the Global Environmental Goals<sup>6</sup> of the United Nations Environment Programme (UNEP) are internationally agreed environmental goals and objectives drawn from existing international treaties and soft law. UNEP sets out the methodology to measure progress towards those goals<sup>7</sup> and tracks progress.<sup>8</sup>

12. There has also been related work under the Aarhus Convention: an evaluation of the current functioning and implementation of the Convention was undertaken.<sup>9</sup> But the proposed exercise on the 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 its functioning or implementation. Where the Convention exercise targeted processes, institutional arrangements and legal obligations, the proposed Protocol exercise would focus on outcomes. Secondly, it should be easier to deal with outcomes and metrics under the Protocol than under the Convention. The Convention focuses on intangibles, whereas the Protocol is more concrete.

#### **IV. Building on the strategic plan for 2015–2020 for the Protocol on Pollutant Release and Transfer Registers**

13. The strategic plan for 2015–2020 for the Protocol (ECE/MP.PRTR/2014/4/Add.1, decision II/2, annex) 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:

- (a) Different indicators;
- (b) More indicators;
- (c) More concrete and specific indicators.

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

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

#### **V. Criteria for successful multilateral environmental agreements**

16. While it may be too early to set out how the success of the Protocol on Pollutant Release and Transfer Registers 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:

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<sup>6</sup> 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>.

<sup>7</sup> See UNEP, “Measuring Progress: Environmental Goals and Gaps”, December 2012. Available from <http://geg.informea.org/wp-content/uploads/2013/04/Measuring-Progress.pdf>.

<sup>8</sup> See UNEP, Global Environment Goals (GEGs) Live Tracker. Available from <http://geodata.grid.unep.ch/geglive/> (accessed on 1 June 2017).

<sup>9</sup> See evaluation of the current functioning and implementation of the Convention (ECE/MP.PP/WG.1/2013/8). Available from [https://www.unece.org/env/pp/aarhus/wgp16.html#](https://www.unece.org/env/pp/aarhus/wgp16.html#/).

(a) A treaty must have a real impact — preferably a concrete and measurable impact — on the issue in question;

(b) The success of the treaty should be measured in the context of the breadth and depth of the challenge it faces;

(c) 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.

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

## **VI. Conclusion**

18. 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 draft documents “Systemic issues concerning the implementation of the Protocol on Pollutant Release and Transfer Registers and recommendations on how to address them” (ECE/MP.PRTR/WG.1/2016/5) and “Guidance for reporting on implementation of the Protocol on Pollutant Release and Transfer Registers” (ECE/MP.PRTR/WG.1/2016/6). 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.

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