TO: *by email* Prtr@survey@un.org

Cc:
Secretariat of the Aarhus Convention and its Protocol on PRTRs, Chair of the Protocol on PRTRs

RE: Public Consultation on development of the UNECE Protocol on Pollutant Release and Transfer Register (PRTRs)

Brussels, 20/03/2019 **FINAL**

Dear Ms Ella BEHLYAROVA, Dear Mr Kristof DOUÇOT,
Dear Ms. Tina SKARMAN,

We very much value and support the opportunity to provide comments in regard to the development of the PRTR Protocol.

As you are aware, the EEB considers that a review of the Protocol is necessary on several aspects, in order to improve its effectiveness and added value to meet various objectives in terms of contributing to pollution prevention and reduction in a more holistic manner, improving the safeguarding of relevant environmental quality standards as well as progress tracking against the set Sustainable Development Goals.

The EEB comments build on previous comments / suggestions made such as at the 4th meeting and 6th meeting of the Working Group of the Parties to the Protocol of 26/11/2015 and 9/11/2018, the Global Roundtables on PRTRs, and in particular the joint position submitted by the EU EcoForum and the EEB of 18/01/2016 on the "quick wins" paper on 'Draft systematic issues concerning the implementation of the PRTR and recommendations on how to address them' (ECE/MP.PRTR/WG/WG.1/2015/5).
At these events we were pleased to sense a strong willingness and enthusiasm by the parties and associate stakeholders to enhance the PRTR further. The EEB is willing to play its part to this shared engagement.

In this letter we set our preliminary views as to the items subject to the public consultation procedure i.e. a) Activities to be covered and thresholds (Annex I), b) Pollutants and thresholds (Annex II) as well as c) other provisions / issues of the Protocol which lead to implementation challenges. A fuller response is provided in the relevant documents attached to this email such as possible amendments incorporating those suggestions.

Best regards,

Christian Schaible *Christian.Schaible@eeb.org Policy Manager on Industrial Production*

Annex : Preliminary response public consultation

a) Activities list and thresholds (Annex I)

Our general position is to:

- include all activities listed in any of the MEA so to streamline existing reporting obligations and mutually improve synergies in objectives to be achieved under these various MEA (in particular information exchange and compliance promotion);

- in order to allow comparison and matching of industrial activity sectors the entries should be classified according to agreed international Standard industrial Classification (ISIC) code lists. The Long Reporting Sector List (419 ISIC) or the "Short Reporting sector list" (152 ISIC) should be used as a minimum with possible matching with the NACE classification system. The same applies to the coverage of facilities / units / installation level where it should be broken down to the smallest (disaggregated) source level (in EU that would be the "installation" definition used in the Industrial Emissions Directive);

- The reporting should change focus in terms of intended outputs / service provided by a given industrial activity. Some examples: for the energy sector the intended output of the energy sector is to provide energy. There are various ways of producing energy, the current wording focuses only on the polluting and unsustainable types of energy production, there will be a shift away from fossil-based / combustion type generation and the reporting is therefore incomplete and not up to date. The performance reporting should also be expressed as mg of pollutant / KWh net output (eletric, heat or mechanical energy) and complemented by other environmental impacts such as water and resource consumption. **"Energy conservation"** should also be added. Similarly, the activities falling under "waste management" should be broader to include **'resource management'** due to circular economy objectives. For water we propose to cover "**water services (water quality and conservation measures)",** where this relates to processing / providing XXX m³ of water/annum or achieving water savings of YYYm³/annum " (thresholds to be defined). This way the intended service (providing improved water supply and preservation activities will be reported upon which in turn allows benchmarking and identification on how to further optimize). The activities should be adapted to new ways of food production (e.g. which could include rearing of insects or other types of protein production). The current list is incomplete, there is no sound rationale on why a high number of pigs and poultry is covered but not other livestock such as cattle. A Possible reclassification would be "Protein production of animal and non-animal origin" or "Production of food with net ecological footprint higher than XXX" (relevance threshold to be defined in this case);

- Other activities should be added such as "**soil remediation activities and biodiversity protection measures**", "**sustainable transportation of goods**" and "**Industrial solutions for improved air quality, where measured improvement is XXX µg/Nm**³" (the list of pollutants should then be further established. As a starting point we would expect all WHO critical air pollutants to be listed);

- Certain activities are obsolete e.g. asbestos production or use of leaded gasoline, it should be expected that these activities are prohibited so focus should be on compliance promotion instead of reporting (should be "0") The asbestos entry could be amended to "Decontamination activities of asbestos";

- **We strongly support to add (diffuse emissions from) products in the reporting activities**. As a start we suggest adding a first set of products group with default emission factors. A possible first list could be that developed by the OECD and the Nordic PRTR group, reporting by parties should be based on application of the default emission factors (see list of product group and default emission factors in the OECD Annex to the resource compendium of PRTR release estimation techniques part VI : summary of techniques for estimating releases of chemicals from products (ENV/JM/PRTR(2016)2/ANN. That includes: PAH from bitumen roofing products, PCBs from sealants in building and construction, DEHP from PVC flooring, Ethanol from car care products, heavy metals and NMVOC from plastic bags, heavy metals from boats seals, fish farming nets, vehicle brake and tyre wear, mercury containing products, micropollutants e.g. from synthetic fibres / tyres / cosmetics etc. A multi-stakeholder expert group should be tasked to complement the product groups and default emission factors to apply, define the methodology to use as well as ensure a streamlining with other databases on chemical management at a global level so to maximise synergies and policy coherence.

Should that expert group not reach an agreement based on a qualified majority between the various interest group categories within a given time, then the Protocol should foresee that default emission factors set on the basis of other work done by the OECD for another set of product groups would apply after a certain transition time (see point c / Annex III for more details).

Thresholds should be removed or adapted to any of the lowest entry in any MEA or lowest applied by any given party to those MEA.

b) Pollutants list and thresholds (Annex II)

- it is not clear why the D entry column under "OECD shortlist" (ENV/JM/MONO 2014 - 32 is just listing 40 entries. The OECD "short" list is listing in its option 2 list 177 pollutants. **The EEB supports to report on the option 2 of the OECD "shortlist" (177 entries) as an absolute minimum;**
- certain emerging pollutants or wider groups of substances based on hazard criteria should be added, notably: Persistent mobile organic chemicals (PMOC), a list of (4) relevant substances identified by the scientific body of the European Commission as of very concerning is listed in the excel (see lines 134-136);
- Substances that are meeting the properties of a substance of very high concern according to Article 57 of REACH" should be added. As a minimum "Substances that are listed to the 'candidate list' referred to in Article 59(10) of REACH" should be added. Those are the highest concern chemicals identified in the EU for substitution obligations. Adding this category to the PRTR would address the reporting deficit as to presence of those unwanted substances in imported articles and promote substitution efforts worldwide;
- Entry 115 should be amended as follows: "Substances and mixtures **which are suspected or meet** carcinogenic or mutagenic properties or properties which may affect reproduction in or via the aquatic environment" (to ensure a more precautionary approach); Entry 116 should be amended as follows: "Substances and mixtures **which are suspected or meet** carcinogenic or mutagenic properties or properties which may affect reproduction via the air" (to ensure a more precautionary approach);
- Entry 117 should be amended as follows: "Substances listed in Annex X to Directive 2000/60/EC a**nd the watch list substances pursuant to Article 8b of Directive 2013/39/EU"** (those substances are identified as priority pollutants for further monitoring, reporting and source control measures);

The EEB objects to establish any reporting thresholds in particular for CMR or P or B or T properties or other pollutants with hazard properties of equivalent concern. If monitoring is done on a certain pollutant it does not make sense to apply reporting thresholds in order not to share that available information.

c) Other provisions / aspects of the PRTR leading to implementation challenges (See proposed track change version on protocol text)

Important implementation challenges have been identified as to fulfilling the requirements set within Article 1 of the Protocol, these relate namely to contributing to the prevention and reduction of pollution of the environment and the deficit in timely and effective public participation in decision making when the options are still open. These challenges are directly linked to unclear wording of the Protocol provisions.

In order to understand why there is a possible lack of public interest or end user groups in the PRTRs, the needs of the public / end user of the type and design of information provided needs to be assessed. Focus should be on the areas where the PRTR could become more effective tools to change the behaviour of the polluters and how it can be a tool for driving improvements to achieve the desired policy outcomes. This requires some change in certain provisions in order to ensure the design is fit for purpose in addressing those various end user needs as well as fulfilling related objectives such as benchmarking of environmental performance of entities reporting to the PRTR and compliance promotion. Needs and purposes of PRTR have evolved over time. Stronger considerations should be made to report against achieving relevant Environmental Quality Standards likely to be affected by the industrial activity in question including the following subject matters: Air quality, Soil quality and biodiversity restoration, Water quality , Resource efficiency and circular economy, Accidents prevention, Pollution prevention and control (source measures), including substitution of substances of concern as well as other measures taken to achieve the Sustainable Development Goals.

The main suggestions which would imply an amendment to certain provisions are as follows:
- Enhance user friendliness of search functions of the registers by allowing multi query search e.g. end users should be able to filter search results by applying specific criteria on relevant parameters or pollutants of facility level such as fuel type, "regulatory status", status of key decision making phases on Environmental Impact Assessments, permit reviews (finalised/upcoming/ongoing), inspection/compliance reports, abatement techniques and source control measures relevant items;
- The following set of key documents should be required to be made available online: inspection reports, compliance assessment reports, Permits (consolidated version), latest decision making status (date permit review / last permit review / upcoming permit review) as well as email contact to regulating authority;

- Articles 5 and 7 of the Protocol should be complemented to include explicitly the following additional elements listed (**in bold new**) and as a minimum: production volumes, energy and water consumption, **resource consumption (indicating whether originate off site or from production residues), outputs** , useful **energy provided** (heat or electricity), waste codes and **waste characterisation.** The minimal list of items should be provided in an Annex to the Protocol.
- For reporting on waste, this should also apply to reception of waste at other then waste management sites. Information on waste classification and presence of pollutants / chemicals within the waste should also be shared (that information should be available due to the Waste legislation). In this regard we would propose to set as a minimum the list of the 22 Substances set in the Czech PRTR[1]. For the sake of consistency, the same R and D codes as those listed in Annex IV of the Basel Convention should be required to be used.
- Additional to reporting in annual quantities of release or transfer (tonnes/per annum) the operators should report as well the available monitoring results in concentration values for pollutants (x mg/Nm3) or information based on same reference conditions used in permitting which would enable compliance assessment and benchmarking;

The PRTR should also be used as a tool to track progress towards achievement of the SDG goals and compliance with relevant Environmental Quality Standards as a whole. Environmental Quality Standard would mean 'the set of requirements which must be fulfilled at a given time by a given environment or particular part thereof, as set out in relevant national law, regional law or policy objectives set within international conventions.' It would be useful to set in an Annex to the Protocol some essential design features and possible indicators to apply when parties or economic actors report on progress towards achieving the Sustainable Development Goals. Some preliminary suggestions as to SDG reporting are as follows:

design features

 - enable evaluation of global trends

- enable evaluation of impacts of environmental policies and programmes

- improve knowledge into human and ecosystem heath issues

- characterize transboundary impacts of releases, waste flows and resource consumption

- identify pollution prevention opportunities (release or consumption per unit of production, efficiency of pollution
prevention techniques etc)

- enable review of environmental performance and efficiency.

possible indicators to apply to information;

- ratio of releases of PRTR covered chemicals and production outputs

- ratio of recyclability of resources and waste prevention per production outputs

- hazard ranking (hazard properties of substances used in industrial activities)

- environmental quality index (air, water, soil)

- environmental footprint index (per capita)

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[1] See Arnika Publication, section 6 https://english.arnika.org/publications/crucial-elements-of-the-pollutant-release-and-transfer-register-and-their-relationship-to-the-stockholm-convention

- social impacts (reduced health risks)

- effectiveness rating of measures taken to prevent pollution / reduce impact.

Data quality and timely access:
Automated Monitoring Systems (AMS) which do monitor continuously certain pollutants are required for many activities / installations covered within the PRTRs. Art 9 para 2 of the Protocol requires to use "best available information". In our view that is (continuous) monitoring data generated in accordance to CEN/ISO standards that is up to date, which is much more accurate in comparison to calculations or other methods. For a number of pollutants Continuous Emission Monitoring (CEM) is a standard requirement for these sorts of large scale activities and is anyways required, however this large amount of high quality information is not accessible for most installations. That data should be reported on real time to the relevant register or regional registers. In case of periodic measurements, the information shall be disseminated within 1 week after obtaining the results of the monitoring campaign by the accredited monitoring body.
The provisions should be amended to ensure that IT access is improved in its user friendliness for various end users. Reporting of data should be made in such a way such as to ensure comparability of information at global level in light of the objectives set under Article 1. For AMS / CEMs an indication about substraction of any confidence interval or monitoring uncertainty and indication of last calibrations of the monitoring devices should therefore be reported so to be able to compare the information reported.

Further new ways of monitoring and data generation, such as from the use of Satellites for assessing the state for the environment and compliance promotion or environmental surveillance of industrial activities should be integrated in the PRTR system(s).

Regular consultation with end users of PRTRs:
Set up national and regional focal points (PRTR end user organisations) which need to be <u>consulted on an annual basis</u> / prior to any change undertaken on existing PRTR designs and structure