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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 Environmental Matters

Working Group of the Parties

Eleventh meeting

Geneva, 22 November 2024

Item 5 (a) (ii) of the provisional agenda

Preparations for the fifth session

of the Meeting of the Parties to the Protocol:

Substantive preparations: declaration

Draft Declaration

Advancing Public Rights to Tackle the Triple Planetary Crisis in the Face of Geopolitical Tensions

Prepared by the Bureaux of the Meetings of the Parties to the Convention and its Protocol*

Summary

The present document contains a draft of a declaration to be considered by the Meetings of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) and to the Protocol on Pollutant Release and Transfer Registers, at a joint high-level segment (planned for late 2025). It was prepared by the Bureaux of the two Meetings of the Parties under the leadership of the Chairs of the Bureaux. The document has been prepared pursuant to the decisions made by the Working Groups of the Parties to the Protocol and the Convention at their tenth (Geneva, 27–28 November 2023)^a and twenty-eighth (Geneva, 2–4 July 2024)^b meetings, respectively.

The draft declaration constitutes a short, focused, policy-oriented document, which strives to communicate the key messages regarding the role of the Aarhus Convention and its Protocol in tackling the triple planetary crisis – the interlinked global challenges of climate

* This document was submitted to the conference services for processing after the deadline as more time was required for the Bureaux to finalize it.

change, biodiversity loss and pollution – and the commitment of the Convention’s and Protocol’s Parties in that regard. It is expected that all the specific substantive issues regarding the work of the Convention and the Protocol will be addressed through the respective decisions of the Meetings of the Parties, and not through the declaration.

The document will be submitted to the eleventh meeting of the Protocol’s Working Group of the Parties (Geneva, 22 November 2024). Thereafter, the document will be revised by the Bureaux, taking into consideration the comments received, and submitted to the twenty-ninth meeting of the Convention’s Working Group of the Parties (planned for summer 2025). Both drafts will be subject to comments by Parties and stakeholders prior to the meetings of the Working Groups of the Parties. National focal points for the Convention and for the Protocol will be requested to coordinate their comments on the document and to submit to the secretariat one consolidated input per Party. The document will then be revised again by the two Bureaux, in the light of the comments received, and submitted to the Meetings of the Parties for consideration at their joint high-level segment.

a ECE/MP.PRTR/WG.1/2023/2, para. 47

b AC/WGP-28/Inf.11, item 7 (c) (ii), available at <https://unece.org/environment/documents/2024/07/post-session-documents/list-decisions-and-major-outcomes-meeting>

I. Introduction

1. We, the ministers and heads of delegation from Parties and signatories to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) and its Protocol on Pollutant Release and Transfer Registers (Protocol on PRTRs), together with representatives of other States, international, regional and non-governmental organizations (NGOs), parliamentarians and other representatives of civil society, gathered jointly at the eighth session of the Meeting of the Parties to the Aarhus Convention and the fifth session of the Meeting of the Parties to the Protocol on PRTRs, affirm the following.

2. We recall our commitment made through our previous joint declarations¹ to promote environmental democracy and its key components, namely, access to information, public participation in decision-making and access to justice in environmental matters, in the United Nations Economic Commission for Europe (ECE) region and beyond, as essential prerequisites for building a sustainable future for present and future generations.

3. We acknowledge the essential role of the Aarhus Convention and its Protocol on PRTRs in granting the public concrete rights to access to information, to participate in decision-making and to access to justice in environmental matters. These treaties have led to significant positive changes throughout the ECE region and beyond, benefiting not only environmental protection but also the social and economic aspects of people's lives.

4. The fundamental purpose of the Convention and its Protocol – to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being – has become increasingly vital today. Despite significant progress, many countries continue to face serious challenges. We observe a trend that puts environmental defenders at higher risk of being penalized, persecuted or harassed. Some States have adopted measures limiting civil liberties with regard to environmental matters, such as disproportionate penalties in the context of the actions of peaceful civil protesters, laws targeting civil society directly and indirectly, and Parties' lack of prevention measures against penalization, persecution or harassment of environmental defenders by private natural or legal persons. We call on these States to ensure that all persons under their jurisdiction can enjoy fully all their rights, as provided under the Convention and the Protocol.

5. Human activities, especially since the Industrial Revolution, have had a severe impact on the environment, leading to climate change, biodiversity loss and pollution. The burning of fossil fuels and unsustainable deforestation, agriculture and urbanization, along with unsustainable production and consumption, have disrupted natural ecosystems, causing widespread harm. This includes the release of greenhouse gases, habitat destruction, species extinction and contamination of air, water and soil. The interconnected nature of these activities threatens the planet's ecological balance, contributing to the triple planetary crisis (climate change, pollution and biodiversity loss). Armed conflicts, in turn, have direct and reverberating effects on the environment. It is essential to empower the public by providing it with the effective means to exercise its rights in this context.

II. Aarhus Convention and its Protocol as tools for tackling the triple planetary crisis

6. We note with great concern that the triple planetary crisis poses a significant threat to human rights, sustainable development and the environment. This crisis is exacerbated by ongoing armed conflicts in the ECE region and beyond, such as the recent invasion of Ukraine by the Russian Federation, which can irreparably destroy ecosystems, impede the

¹ See the Maastricht Declaration on Transparency as a Driving Force for Environmental Democracy (ECE/MP.PP/2014/27/Add.1–ECE/MP.PRTR/2014/2/Add.1), the Budva Declaration on Environmental Democracy for Our Sustainable Future (ECE/MP.PP/2017/16/Add.1–ECE/MP.PRTR/2017/2/Add.1) and the Geneva Declaration on Environmental Democracy for Sustainable, Inclusive and Resilient Development (ECE/MP.PP/2021/16/Add.1–ECE/MP.PRTR/2021/2/Add.1).

delivery of essential services and undermine effective environmental management. Addressing the triple planetary crisis requires a sound, evidence-based and participatory approach to decision-making that is grounded in the best available evidence and data.

7. A number of commitments have been made by States Members of the United Nations under different national structures and international forums to address the triple planetary crisis. Implementation of those commitments implies consideration of different environmental, economic and social factors and various measures, such as updating long-standing institutional and legal frameworks, policies and standards. These measures concern a variety of sectors, such as agriculture, forests, land and natural resources use, water, mining, energy, housing, transport, defence and other industries. Their impact significantly influences the environment and all aspects of human life, often involving difficult trade-offs between competing solutions.

8. The triple planetary crisis, as well as the solutions to tackle it and reduce or prevent further impacts on human health and the environment, are bound to result in a substantial shift in the way humans live. To ensure a just transition to a sustainable economy and a resilient society, decision-making processes need to accommodate the urgency to act now but minimize any potential damages in the midterm and long term, and to take into consideration all impacts and social, economic and environmental costs. Also, and in the case of conflicting priorities, the judicial systems are called on to promote the rule of law, as a step towards reconciliation and the prevention and mitigation of violations of laws relating to the environment. The general public, environmental NGOs, business, industry, science, research, academia and other stakeholders all play an important role in pursuing this transition.

9. The Convention and the Protocol are important tools for assuring transparency and the rule of law, inclusive and effective public participation in decision-making, and adequate and effective remedies throughout these transition processes. We call on Parties to encourage the use of pollutant release and transfer registers as a tool and the principles of the Convention as guidelines for the transition in a variety of sectors towards climate neutrality, circular economy, sustainable consumption and production, sustainable agriculture and land use and renewable energy to reverse biodiversity loss and prevent pollution.

Supporting regional and global commitments

10. The challenge of tackling the triple planetary crisis, at scale, lies at the heart of the quest for global sustainability. Due to their interdependent nature, many major international instruments, such as the 2030 Agenda for Sustainable Development,² address climate change, biodiversity loss and pollution as key factors influencing the achievement of an inclusive, resilient and sustainable economy and societies.

11. We recognize that the effective implementation of the Convention and of the Protocol reinforces the fulfilment of a number of regional and global commitments, in particular the 2030 Agenda, General Assembly resolution 76/300 on the human right to a clean, healthy and sustainable environment³ and pledges made under the Human Rights Council,⁴ the

² General Assembly resolution 70/1 on transforming our world: the 2030 Agenda for Sustainable Development (A/RES/70/1).

³ A/RES/76/300.

⁴ See Human Rights Council resolutions 20/8 on the promotion, protection and enjoyment of human rights on the Internet (A/HRC/RES/20/8), 23/2 on the role of freedom of opinion and expression in women's empowerment (A/HRC/RES/23/2), 31/32 on protecting human rights defenders, whether individuals, groups or organs of society, addressing economic, social and cultural rights (A/HRC/RES/31/32), 37/8 on human rights and the environment (A/HRC/RES/37/8), 40/11 recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development (A/HRC/RES/40/11), 42/21 on protection of the rights of workers exposed to hazardous substances and wastes (A/HRC/RES/42/21) and 48/13 on the human right to a clean, healthy and sustainable environment (A/HRC/RES/48/13).

Global Framework on Chemicals,⁵ a number of resolutions of the United Nations Environment Assembly of the United Nations Environment Programme,⁶ the Sendai Framework for Disaster Risk Reduction 2015–2030,⁷ the European Green Deal,⁸ the World Meteorological Organization, the World Health Organization, the “Environment for Europe” Ministerial Conferences, the Group on Earth Observations, the United Nations Framework Convention on Climate Change, the Convention on Biological Diversity and other multilateral environmental agreements.

12. We reaffirm our pledge to promote the Aarhus Convention, its Protocol and their principles in international forums related to the environment, including in relation to climate change, biodiversity loss and pollution, throughout the implementation of the 2030 Agenda and other international commitments, such as on plastics, marine environment, energy, emerging technologies, minerals and metals, as well as business and trade. We invite Parties to the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean and civil society in that region to join forces in order to promote environmental democracy in international decision-making.

13. We acknowledge that the resolution of the triple planetary crisis is intertwined with the attainment of many Sustainable Development Goals, including Goals 3 (good health and well-being), 6 (clean water and sanitation), 7 (affordable and clean energy), 9 (industry, innovation and infrastructure), 11 (sustainable cities and communities), 12 (responsible consumption and production), 13 (climate action), 14 (life below water), 15 (life on land) and 17 (partnership for the Goals). We stress that Goal 16 (peace, justice and strong institutions)⁹ is key for the successful implementation of all the Goals.

14. We reaffirm that the Aarhus Convention and its Protocol provide solid frameworks to assist countries in achieving the Sustainable Development Goals; this is done by implementing commitments on access to information, public participation in decision-making and access to justice regarding a wide range of issues that affect the environment, including human health.

⁵ Adopted at the fifth session of the International Conference on Chemicals Management (Bonn, Germany, 25–29 September 2023).

⁶ Including United Nations Environment Assembly of the United Nations Environment Programme resolutions 5/7 and 6/9 on sound management of chemicals and waste (respectively, UNEP/EA.5/Res.7 and UNEP/EA.6/Res.9), 5/8 on a science-policy panel to contribute further to the sound management of chemicals and waste and to prevent pollution (UNEP/EA.5/Res.8), 5/11 on enhancing circular economy as a contribution to achieving sustainable consumption and production (UNEP/EA.5/Res.11), 5/12 on environmental aspects of minerals and metals management (UNEP/EA.5/Res.12), 6/5 on environmental aspects of minerals and metals (UNEP/EA.6/Res.5), 5/14 entitled “End plastic pollution: Towards an international legally binding instrument” (UNEP/EA.5/Res.14), 6/8 on promoting sustainable lifestyles (UNEP/EA.6/Res.8), 6/12 on environmental assistance and recovery in areas affected by armed conflict (UNEP/EA.6/Res.12), and resolutions that aim at promoting synergies, cooperation and collaboration in achieving multilateral cooperation, such as 6/3 on enhancing the role and viability of regional forums of ministers of the environment and United Nations Environment Programme regional offices in achieving multilateral cooperation in tackling environmental challenges (UNEP/EA.6/Res.3), 6/4 on promoting synergies, cooperation or collaboration for national implementation of multilateral environmental agreements and other relevant environmental instruments (UNEP/EA.6/Res.4) and 6/6 on fostering national action to address global environmental challenges through increased cooperation between the United Nations Environment Assembly, the United Nations Environment Programme and multilateral environmental agreements (UNEP/EA.6/Res.6).

⁷ Adopted at the Third United Nations World Conference on Disaster Risk Reduction (Sendai, Japan, 14–18 March 2015).

⁸ See https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal_en.

⁹ Namely, targets 16.3, 16.7 and 16.10 of the Sustainable Development Goals.

III. Way forward

Enabling frameworks

15. We pledge to provide enabling legal, policy and institutional frameworks that ensure the effective rights of the public to access to information, participate in decision-making and access to justice as critical preconditions for tackling the triple planetary crisis. We will increase efforts to: ensure the rule of law; enhance public access to environmental information, strengthen mechanisms for meaningful public involvement in decision-making processes, and promote access to justice for the public, including NGOs, in areas that are most affected by the triple crisis; and invest in programmes that promote understanding of environmental challenges and the rights provided by the Convention and the Protocol.

16. We commit to addressing the triple planetary crisis by safeguarding the public's rights under the Convention and its Protocol. We aim to ensure that these efforts respect the rights of all individuals and meet their diverse needs, including the specific needs of women, children and youth, older persons, persons with disabilities, Indigenous Peoples, migrants and refugees, and other persons in vulnerable situations. Identifying environmental and social risks, along with corresponding mitigation measures, is crucial for effectively combating the triple planetary crisis and is most effective at the earliest stages, when all options are open and can be considered. Early public participation is essential to identify and address potential risks and impacts, thereby minimizing conflicts and ensuring sustainable and inclusive outcomes.

17. We reaffirm the importance of not only maintaining but also enhancing the implementation of the rights enshrined in the Aarhus Convention and its Protocol. These rights are fundamental to sustainable and resilient societies and essential for the protection of the right of every person of present and future generations to live in a healthy and adequate environment. They promote governance and accountability, leading to more effective decision-making in environmental matters. They also encourage innovative solutions and help capture local knowledge. In addition, these rights build public consensus on environmental issues and foster public ownership of solutions and decisions, which enhances social cohesion and strengthens communities. Moreover, they build trust in authorities' decisions. Upholding robust environmental democracy and integrating environmental concerns into all measures addressing the triple planetary crisis will pave the way for sustainable, environmentally viable, socially acceptable and healthy economic development.

18. We acknowledge the increased demand for accurate environmental information, including historical data, that are suitable for use and reuse in the context of climate change mitigation and adaptation, biodiversity protection and pollution prevention. We will strive to identify and address the needs of different users, such as decision-makers, the scientific community and researchers, environmental NGOs and groups in vulnerable situations, including women, older persons, children, youth and others. We commit to designing environmental information tools and relevant reporting in such a way that they promote benchmarking on pollution prevention or reduction and allow for progress in protecting the environment and human health to be tracked. We will also provide necessary guidance and adjustments to access to information and public participation procedures, and establish effective user feedback mechanisms and review mechanisms regarding access to environmental information.

19. We also reaffirm our commitment to further transparency and effective, balanced and equitable public participation in multiple international forums relevant to environmental matters, and urge Parties to increase their efforts to avoid the exercise of undue economic or political influence, to handle the issue of conflict of interest, and to facilitate the participation of those constituencies that are most directly affected, represent the public interest and might lack the means to participate in these processes.

20. Acknowledging the value of digital transformation, we reinforce our commitment to promote digitalization and modernization of nationwide environmental information systems, making effective use of open data and pollutant release and transfer registers, and to harness e-justice systems, transparency in value chains and access to product information and other

tools integrating judicial, environmental, geospatial, historical and other relevant data, using citizen science, as appropriate, and other available modern digital technologies to ensure effective access to information, public participation in decision-making and access to justice in environmental matters. We call upon Parties and stakeholders to promote the prevalence of digital technologies and measures for digital inclusion, especially in remote areas, to achieve gender and intergenerational equity. We reiterate that the rights under the Convention must be equally guaranteed under digital and non-digital formats, taking note of the recommendations by the Convention's Compliance Committee¹⁰ and the Recommendations on the more effective use of electronic information tools.¹¹

21. We call upon Parties to the Convention to ratify its amendment on public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms to ensure its entry into force as an effective tool for promoting public rights in protecting biodiversity, ensuring climate resilience, and preventing pollution.

22. We recognize the need to take additional measures to promote environmental education and awareness-raising among the public, especially children and youth, and to ensure that information on environmental rights, climate change, pollution and biodiversity loss is integrated into environmental education within school curricula. Moreover, we encourage Parties to ensure that access to environmental information is guaranteed in child- and youth-friendly formats.

23. We reaffirm our commitment to support the training, capacity-building and specialization of authorities, judges, prosecutors, attorneys, public interest lawyers and other legal professionals, communities and the public in order to enhance their ability to fully realize the rights under the Convention and the Protocol. We strive to engage different target groups of society, in particular, those in vulnerable situations, to participate in decision-making.

24. We express our appreciation to partner organizations in capacity-building, who have an important role to play in advancing these treaties at the national and local levels and in promoting subregional cooperation.

25. We call on Parties to reach out to authorities responsible for development assistance and technical cooperation programmes to integrate into said programmes the Convention and the Protocol as cross-cutting instruments supporting attainment of the Sustainable Development Goals and achieving environmental justice.

26. We are proud to observe that the Aarhus Convention and its Protocol not only lead and inspire but also set a global benchmark for advancing democracy and the rule of law in environmental matters across the globe. These robust legal frameworks are instrumental in upholding human rights related to a safe, clean, healthy and sustainable environment, catalysing the alignment of national legislation and practices with ambitious international standards. By doing so, they drive transformative changes that are essential for the future of our planet and its people – changes that might otherwise remain unachieved.

27. We emphasize that both the Convention and the Protocol are open for accession by any United Nations Member State. We strongly encourage all interested States to accede to those treaties, and to apply their provisions in the interim, and we stand ready to offer our experience and to facilitate accession. In this regard, we welcome the expression of interest of the countries of the Mediterranean region in joining the Convention.¹²

¹⁰ ECE/MP.PP/C.1/2020/5/Add.1 and ECE/MP.PP/C.1/2021/6.

¹¹ ECE/MP.PP/2021/2/Add.2.

¹² Countries of the Mediterranean region decided to further accession to the Aarhus Convention through the Mediterranean Strategy for Sustainable Development 2016–2025 (see www.unep.org/unepmap/resources/infokit/mediterranean-strategy-sustainable-development-2016-2025). The aim in this regard is to ensure that, by 2025, two thirds of Mediterranean countries will have acceded to the Aarhus Convention.

Pollution

28. We encourage Parties to strengthen public access to environmental information by regularly updating data on pollutants and on resource consumption to align them with scientific and technological progress, with consideration of needs of groups in vulnerable situations and of transboundary effects. We recognize the value of: promoting effective mandatory systems for sharing environmental information that is accurate and suitable for use and reuse with public authorities, including the regular review of these systems to support decision-making and public awareness; and, leveraging citizen science and crowdsourcing outcomes to improve public participation and decision-making on environmental and health issues related to pollution.

Biodiversity loss

29. We acknowledge the emerging recognition of the rights of nature as a mechanism to achieve environmental justice. We call on the Parties to the Convention to integrate its principles into national biodiversity frameworks to support implementation of the Kunming-Montreal Global Biodiversity Framework and clarify provisions contained in national legislation related to public access to justice and the legal personality of natural sites. We pledge to enhance public participation and to provide the public with objective, factual, comprehensive, user-friendly and non-technical information related to biodiversity.

Climate change

30. We call on Parties to ensure robust access to information and public participation in climate change decision-making and integrate access to justice provisions into domestic climate and air quality frameworks. This includes: ensuring timely access to environmental information; enhancing current public participation procedures to foster greater collaboration among stakeholders in decision-making; and improving public access to justice by addressing challenges related to standing, jurisdiction and remedies. We call on Parties to ensure proper execution of court decisions and protection of groups in vulnerable situations, while establishing effective review and redress mechanisms related to climate change.

Environmental defenders

31. The solutions and measures to tackle the triple planetary crisis and reduce or prevent further impacts on human health and the environment are bound to result in a substantial shift in the way humans live. Members of the public who advocate for this just transition should not fear penalization, persecution or harassment when exercising their rights under the Convention and the Protocol. As environmental defenders, they should not face disproportionate penalties for actions of peaceful protest or live under the threat of harassment or even in fear of their life. This situation is usually even more prevalent in areas affected by armed conflict, where environmental defenders become targets. We reaffirm that ensuring the safety of environmental defenders is a key prerequisite for achieving the objectives of the Convention and the Protocol and their effective implementation.

32. We are deeply concerned about policy and legal developments that restrict civic space – including in relation to the exercise of the rights to freedom of expression, assembly and association, and in the context of press and other fundamental freedoms – by aiming to limit the possibility to resort to peaceful protest, including in the interconnected fields of climate change, biodiversity loss and pollution. We strongly urge Parties to abide by their obligations under international human rights law when addressing actions of peaceful protest, both in their legal framework and in law enforcement and judicial practices. We also call on Parties to firmly combat the discourse originating from public officials and in the media that discredits environmental defenders and depicts them as criminals (labelling defenders as “ecoterrorists”, etc.).

33. While we acknowledge the progress made in establishing regional and national legal frameworks to combat strategic lawsuits against public participation, we are deeply concerned that the pace of implementation remains slow and that some Parties are actively working to undermine the effectiveness of these instruments. It is disappointing to see that, despite the growing recognition of the need to protect environmental defenders, many continue to face harassment and intimidation through such lawsuits. We urge all Parties to take immediate action to strengthen their laws and ensure that environmental defenders can exercise their rights without fear of reprisal.

34. We recognize that measures negatively targeting environmental defenders have an impact on effective public participation and hinder access to environmental justice, undermining the implementation of the Convention and the Protocol. We are dedicated to creating and sustaining a safe and supportive environment that safeguards the public and empowers it to fully exercise its rights in conformity with both treaties.

Impact of armed conflicts on the public's rights and on the environment

35. Armed conflicts, such as wars and other military offensives, resulting in the death, wounding or displacement of many people, have greatly harmed the environment and the ability of members of the public to exercise their rights to access to information, public participation in decision-making, and access to justice. This has been recognized as a great challenge. Ecocide in situations of armed conflict and post-conflict can have an impact on human health, well-being and livelihoods, with persons in vulnerable situations being particularly exposed to such effects. The impact of armed conflicts is long-lasting and can be irreversible. Effective and inclusive engagement of the public, also in such extraordinary situations, is therefore essential in ensuring the proper implementation of the above-mentioned commitments. We commit to safeguard the rights under the Convention and the Protocol in such circumstances and during post-war recovery, and to ensure sustainable and inclusive reconstruction plans.

36. We recognize that the collection and sharing of environmental data is extremely important for determining the required environment-related assistance and for establishing the extent of environmental damage in States affected by armed conflict.¹³

37. We stand in solidarity with Ukraine and support its efforts in furthering the Convention's and Protocol's implementation in such extraordinary circumstances. We welcome the development of technical guidance on the collection of data on environmental damage associated with armed conflicts¹⁴ and support the creation of international tribunals and other bodies dealing with the aggression of the Russian Federation against Ukraine to ensure that opportunities for compensation of environmental damage and responsibility for such environmental damage are foreseen.¹⁵

¹³ See United Nations Environment Assembly of the United Nations Environment Programme resolution 6/12 (UNEP/EA.6/Res.12).

¹⁴ Ibid.

¹⁵ See ECE/MP.PP/WG.1/2023/4, para. 54 (f).