

Comments on the Commission for Environmental Cooperation Discussion Paper on the 1998 Taking Stock Report

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I. Introduction

Environmental organizations from Canada, the United States and Mexico welcome the opportunity to comment on the North American Commission for Environmental Cooperation's (CEC) Discussion Paper on the 1998 Taking Stock Report.

II. General Comments

Taking Stock has emerged as a flagship publication of the CEC and makes a major contribution to the understanding of pollutant releases and transfers in North America. The report series has significantly enhanced public awareness of the availability of data on facility pollutant releases and transfers through Pollutant Release and Transfer Registries (PRTRs), and demonstrated their importance.

There is no need for significant changes to the structure, format or content of the report. The methodologies employed within the report are sound. The Commission's approach of measuring progress in the direction of total waste generation (e.g. releases + transfers rather than releases alone) is strongly supported, as it is consistent with statutory definitions of pollution prevention in Canada and the United States.

Both the U.S. *Pollution Prevention Act* of 1990 and the 1999 *Canadian Environmental Protection Act* define pollution prevention in terms of the reduction of the generation of pollutants at source, rather than simply reducing their direct releases to the environment. This approach is also consistent with the recommendations of the International Joint Commission regarding the virtual elimination of persistent toxic substances.

The CEC should take steps to ensure the focus, manageability and accessibility of the Taking Stock report. These steps might include:

- * maintaining a clear focus on data provided through Canadian, U.S. and Mexican PRTR Programs, while dealing with data on such things as emission from non-point sources, and emissions of greenhouse gases through separate reports, possibly in conjunction with other CEC programs;

- * providing certain aspects of the report, such as studies of specific sectors or classes of pollutants as stand-alone reports, where their content and significance warrants such treatment;
- * providing the report in two parts: brief summary report; and a technical annex containing detailed data and analysis. It is, however, critical that the summary report provide facility-specific information as well as analyses of the aggregated data; and
- * re-establishing the CEC PRTR website, with enhanced, use-friendly query and analytical functions, including the capacity to generate facility and jurisdictional rankings on a variety of criteria.

These steps would further enhance public access and use of North American PRTR data.

III. Specific Comments on the Commission's Proposals.

Option 1: Chemical Specific Focus

Chapters focussing on particular classes of chemicals or even a single chemical provide opportunities for an in-depth exploration of their use, generation, release and/or transfer and health and environmental impacts. This adds significant value to the *Taking Stock* report. The criteria proposed by the CEC for substance selection are appropriate and are supported.

The Commission should consider as a candidate substance for special study in the 1998 Taking Stock report. This substance meets the criteria for study outlined in the Commission's proposals:

Environmental and health significance. Benzene is a known carcinogen and classified as a "toxic" substance for the purposes of the *Canadian Environmental Protection Act*,

Variety of Sources: Benzene is generated by point, mobile and area sources of air pollution.

Matched Data: Benzene is a substance on the TRI, NPRI and RETC lists.

Information Available: Information is available on benzene sources, releases and transfers in all three countries, although Mexican data may be limited.

In future years, the Commission should consider undertaking chemical-specific studies

on high priority pollutants for which significant data will become available as a result of the adoption of alternative reporting thresholds under the NPRI and TRI. These would include persistent organic pollutants and heavy metals, such as mercury.

Option 2: Analysis of Trilateral Data on Criteria Air Contaminants/Greenhouse Gas Emissions

This proposal is supported in principle, particularly given the potential availability of information on criteria air pollutants and greenhouse gases through the RETC. However, given the absence of such data under the NPRI and TRI, and need to maintain focus of the Taking Stock report on toxic substances, it is suggested that data on criteria air pollutants and greenhouse gas emissions would be better presented in a separate report, possibly developed in cooperation with the CEC's air quality program.

CEC should not rely on voluntarily reported data. Rather, consistent with the Commission's mandate to promote the comparability of data available through national PRTR programs, the CEC should encourage Canada and the United States to develop annual, facility-specific inventories of industrial, commercial and institutional releases of criteria air contaminants and greenhouse gases.

Option 3: Analysis of Non-Point Sources: Mobile sources

The development of such an analysis by the CEC is supported in principle. However, the focus of the Taking Stock report should remain on data available through national PRTR programs. The development of a separate report on emissions from mobile sources of air pollution should be considered, possibly through the CEC air quality program.

Option 4: Discussion of Toxicity and Exposure

The provision of additional information on the sources, uses, and toxic and other hazardous (e.g. explosiveness, reactivity, corrosiveness) properties of substances, as initiated in the 1996 Taking Stock Report, is supported. The provision of this information in a matrix should be considered.

However, efforts to attempt to weigh the toxicity of substances or potential risks associated with their release or transfer should be avoided by the CEC. Experience suggests that it would be difficult, if not impossible, to reach agreement among stakeholders on appropriate approaches to these issues. The time and energy required for such an undertaking may be better spent elsewhere.

In addition to potential disagreements over the appropriate weighting of individual substances, we do not have even basic information on the health hazards associated with many chemicals. Furthermore, the profound differences of opinion among stakeholders regarding the appropriate role of risk assessment in evaluating the dangers posed by substance releases and transfers would have to be considered as well. These divisions make the achievement of agreement on an appropriate approach even less likely.

The Commission's practice of providing analyses of specific classes of pollutants, such as carcinogens, should be continued and expanded. Substances identified as priority pollutants through domestic and international initiatives, including those of the CEC, such as persistent organic pollutants and heavy metals, are obvious candidates for such work. Consideration should be given to the presentation of these analyses in separate, stand-alone reports, where their content and significance warrants such treatment.

Option 5: Analysis of Pollution Prevention Reporting

We support enhanced analysis of North American PRTR data with respect to pollution prevention reporting in Taking Stock. However, CEC should analyze data available through national PRTR programs, and identify gaps in current reporting requirements for pollution prevention analysis. on the analysis of the data available through national PRTR programs, rather than the development of additional data.

CEC should employ a rigorous definition of pollution prevention, consistent with that provided for source reduction in the 1990 US *Pollution Prevention Act* and in the 1999 *Canadian Environmental Protection Act* (s.3(1)). This should emphasize source reduction, and seek the reduction of total facility non-product output (i.e. releases + transfers to disposal/treatment + transfers to 3Rs (including on-site out-of-process recycling)). Pollution prevention analyses by industrial sector would be particularly helpful.

Source reduction success case studies give positive recognition to facility improvements, which we support as long as the stories are true examples of pollution prevention, and are accompanied by facility specific emissions data. A few examples in each Taking Stock report may be valuable, even if the CEC cannot provide a major analysis each year.

Option 6: Analysis of Releases and Transfers from the Vehicle Manufacturing Sector

This proposal is strongly supported. Consideration should be given to providing this analysis as a stand alone report, in order to ensure that it receives an appropriate level of attention from the public and decision-makers. This would also help to limit the bulk of the main Taking Stock report.

It will be important that the CEC examine the full supply chain in the vehicle manufacturing sector, rather than just final assembly plants. Significant use, generation and release of toxic substances may occur in parts manufacturing and processing. The releases and transfers resulting from these activities need to be considered in order to provide a complete picture of the sector. Releases and transfers of pollutants from vehicle recycling, disassembly and wrecking yards should also be analyzed to provide a full life-cycle picture.

In future years, consideration should be for studies of other specific sectors. The electricity generation sector may be a particularly appropriate subject for such a study, given the introduction of competition into the sector in Canada and the United States. The mining sector may also warrant attention, given the availability of data as a result of the recent expansion of the TRI.

Option 7: Analysis of Transfers to Recycling

The availability of NPRI 3Rs data for the 1998 Taking Stock report provides an important opportunity to analyze the fate of pollutants in the context of incentives for pollution prevention.

Both Canada and the United States have adopted statutory definitions of source reduction/pollution prevention which clearly exclude out of process recycling. A similar definition has been adopted by all Canadian provinces through the Canadian Council of Ministers of the Environment. A ranking of facility performance on the basis of total non-product output (i.e. releases + transfers to disposal/treatment + transfers to 3Rs) would be consistent with these definitions. It is also important to consider that hazardous waste recycling activities have been associated with serious environmental problems, and should not be regarded as environmentally benign.

However, CEC has developed an historical data set based on the evaluation of facility performance on the basis of releases + transfers to disposal/treatment. The CEC should present such an analysis in the 1998 Taking Stock report, in addition to a ranking on the basis of total pollution prevention activities.

A stand-alone chapter in the 1998 Taking Stock report analyzing the data reported as 3Rs activities under the NPRI and TRI should be developed. Efforts should be made to investigate the specific fates of substances reported as transferred to 3Rs. The performance of facilities reported as receiving transfers should also be examined to the greatest extent possible, particularly with respect to quantities received vs. quantities released or transferred for disposal. Transfers to energy recovery should be treated as transfers to disposal. The quality of the available data on transfers to 3Rs should also be investigated.

Option three presented by the CEC is the closest to these proposals, with the addition of an analysis of releases+transfers to treatment/disposal. This would provide the following analyses:

1. releases;
2. transfers to each waste management method, with an in-depth analysis of transfers to recycling for the 1998 data;
3. releases + transfers to disposal/treatment for comparison with historical data set; and
4. total pollution prevention/source reduction performance (releases + transfers to disposal/treatment + transfers to 3Rs). Data on on-site treatment/recycling may be included in this analysis in the future as it becomes available under each national PRTR program.

Option 8: Other Ideas

There are a number of potential areas of work that the CEC might consider in future Taking Stock reports, and more broadly, as activities for its PRTR program. Some possibilities include:

- * an analysis of transborder waste transfer data. There have been significant changes in these flows in some areas (e.g. U.S. to Ontario) since 1993. This may also provide an opportunity to examine PRTR data in conjunction with data from federal/provincial/state hazardous waste manifesting systems;
- * an analysis of data on receivers of substance transfers, once unique identifiers for waste receivers are established within PRTR programs;
- * a comparison of sectoral coverage and other differences among the NPRI/TRI and RETC, for the purpose of improving the comparability of North American

PRTR data;

- * continue and deepen analyses of differences in the environmental performance of facilities in different countries, and the reasons for these differences (see pg.180 of the 1996 Taking Stock report);
- * an examination of data gaps in current PRTR information gathering on releases and transfers of pollutants; and
- * an examination of the North American data available on non-point source uses and release of toxic substances, such as pesticides, through a separate report from the CEC PRTR program

VI. The Proposed Expert Multi-Stakeholder Task Force on Improving Access and Enhancing Understanding of PRTR Information

The establishment of this Task Force by the Parties was announced at the February 28 meeting. The purpose of this Task Force are not clear. It is important that, if such a body is established, it not duplicate the functions of the annual consultative meeting on Taking Stock. These meetings have resulted in significant improvements in the Taking Stock report, and should continue as the primary forum for its discussion.

Consequently, as noted by representatives of Canadian industry at the February 28 meeting, the value and purpose of the proposed body must be questioned. Its proposed functions with respect to the investigation of specific technical issues would be more effectively and efficiently carried out by consultants working under contract for the CEC.

Given the lack of stakeholder support for the proposed Task Force, the concept must be reconsidered. The resources which would be required to support a series of multi-stakeholder meetings at different locations could be better spent by the Commission on other activities related to the PRTR program. A number of suggestions were made, for example, at the February 28 meeting regarding the strengthening of community education and outreach activities with respect to the RETC in Mexico. Such activities would meet an identified need, and be strongly supported by environmental organizations in all three countries.

More broadly, final decisions regarding proposals like the establishment of the Task Force, which have significant implications for non-governmental stakeholders, should not be made without prior consultation with the affected stakeholders. Such consultation was specifically recommended with respect to the proposals being advanced by Canada regarding Taking Stock by the Canadian National Advisory

Committee in its January 26, 2000 Letter of Advice. The failure to undertake such consultation by the Parties has resulted in a situation where the Commission may be compelled to implement an activity in which the affected stakeholders have clearly stated that they have no desire to participate.

In the event that a Task Force is established, its mandate must be limited to specific and clearly delineated questions, such as data quality, and the normalization of pollutant release and transfer data with production data.

V. Conclusions

Environmental organizations in Mexico, the United States and Canada have been pleased to have the opportunity to participate in the development of the Taking Stock reports, and other aspects of the CEC's PRTR program. We emphasize the need to maintain the focus, manageability and accessibility of the Taking Stock Report. At the same time, the Commission should strengthen the report's analyses of pollution prevention/source reduction activities, substances and classes of substances of high concern, and the performance of specific industrial sectors. The ranking of individual facilities and jurisdictions on the basis of their releases and transfers of PRTR pollutants should remain at the core of the Taking Stock report.

The proposal for a multi-stakeholder task force on enhancing access and understanding of PRTR data is not supported. This activity would reproduce the work of the annual consultative meeting, and absorb resources and time which could be better spent elsewhere, such as strengthening community access and use of PRTR data in Mexico.

The Commission's PRTR program has made a major contribution to the advancement of pollution prevention and the principle of community right to know in North America. We look forward to working with the CEC on these issues in the future.