ENGO principles and questions regarding public access to information reported under the national reporting system for emissions of greenhouse gases (GHGs) and related information

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ENGOs have previously made a number of interventions in the work of the Stakeholder Advisory Committee on Reporting regarding the need for maximum public access to information. The present document is intended to supplement, not reproduce or summarize, those previous interventions.

Principles

ENGOs believe that the following principles should guide public access to this information:

1. Ethic of transparency. Public accountability and good governance benefit from maximum transparency. In other words, all information should be made public except where there is a compelling case that it should not be.
2. Transparent compliance with legal requirements. In particular, when emitters are legally bound to meet GHG intensity targets, the public must be able to see, in all or the vast majority of cases, how each company has complied with each of the targets applying to it, i.e., the extent to which a company has reduced its actual GHG intensity for each of its products and the identification of any compliance units it may have purchased. Any lack of transparency in this regard will further undermine the already shaky confidence of opinion leaders and the public in the use of emissions trading.
3. Disaggregation by facility and gas. There are also particular reasons to ensure public access to information disaggregrated by facility and by gas. Although the effects of GHGs are global, responsibility for emissions is local, and management of emissions has substantially to do with decisions taken at the facility level. Public access to facility-level information is therefore critical to holding emitters accountable. Public access to emissions disaggregated by gas is a well-established principle in public emissions reporting systems and is necessary to allow recalculation of total emissions when Global Warming Potentials are revised.
4. Transparency regarding data quality. Both the general meaningfulness of public information and the specific meaningfulness of compliance with legal requirements require public access to key indicators of data quality and consistency, notably quantification methodologies and corresponding uncertainties.
5. Burden of proof. The burden of proof that certain information should be kept confidential should be placed on those who wish it to be so. Blanket assertions, without convincing justifications, that certain categories of information should be kept confidential are not credible and not acceptable.
6. Convincing justifications. Competitiveness concerns may potentially, in certain circumstances, justify keeping certain information confidential. However, a detailed, convincing account of how competitiveness is damaged must be provided before confidentiality is granted. The existence of negotiations between industry and government regarding mandatory GHG targets cannot be a convincing justification for confidentiality. The fact that GHG emissions represent a future financial liability to emitters cannot be a convincing justification for confidentiality.
7. Relevance of current/previous practice. It is essential to examine whether a certain element of information is currently, or was previously made public, before granting confidentiality. If a certain type

of information is currently, or was previously made public in some other forum, there is no justification for keeping it confidential.

8. Relevance of the age of information. It is essential to examine the age of a certain element of information before granting confidentiality. Information that has a significant impact on competitiveness when it is current or recent will likely no longer have any significant impact on competitiveness after a certain amount of time has elapsed.

9. Distinct character of company information compared to government information. Given the importance of climate change, there is a compelling public interest in the publication of company-specific GHG emissions and related information. This interest is not dissimilar to the public interest in financial information on publicly-traded companies, and goes beyond the public interest in publication of general information held by government. The Access to Information Act is therefore not a sufficient basis for publication of company-specific GHG emissions and related information.

Questions

- In what manner and timeframe does Environment Canada intend to publish the 2004 emissions data reported under the Phase I reporting system? In particular:
  - Will Environment Canada consult stakeholders in the SACR on how the Minister should respond to requests for confidentiality for Phase I reporting?
    - If not,
      - When do Environment Canada officials expect to reach a decision on how to respond to those requests for confidentiality?
- Does Environment Canada intend to use CEPA 1999's provisions on confidentiality as the basis for treating public access to information and confidentiality in the Phase II reporting system?
  - If yes,
    - Will Environment Canada establish a process for consulting stakeholders in the SACR on the manner in which CEPA 1999's confidentiality provisions will be interpreted by the Minister for Phase II reporting?
    - Will stakeholder views on public access and confidentiality, expressed through the SACR, be formally transmitted to the CEPA Review process?
    - Can regulations adopted under CEPA 1999 modify the Act's confidentiality provisions?
      - If yes, are there any limits on the manner in which regulations can do this?
  - If no,
    - Is the government planning to propose changes to CEPA 1999's provisions on confidentiality as part of the CEPA Review?
      - If yes,
        - Will Environment Canada consult the SACR before finalizing those proposed changes?
- More generally, will Environment Canada establish a process to consult stakeholders in the SACR to determine in what manner information reported under the Phase II reporting system will be made available to the public?