



## Access to Environmental Information in China: Evaluation of Local Compliance

# Access to Environmental Information in China: Evaluation of Local Compliance



**ARTICLE 19**

Free Word Centre  
60 Farringdon Road  
London EC1R 3GA  
United Kingdom  
Tel: +44 20 7324 2500  
Fax: +44 20 7490 0566  
Email: [info@article19.org](mailto:info@article19.org)  
Website: [www.article19.org](http://www.article19.org)

**Center for Legal Assistance to Pollution Victims (CLAPV),  
China University of Political Science and Law**

Xitucheng Road No.25  
Haidian District  
Beijing 100088  
China  
Legal Aid Hotline: 86-10-62267459  
Office Tel: 86-10-62210149  
Fax: 86-10-62221291  
Email: [office@clapv.org](mailto:office@clapv.org)  
Website: <http://www.clapv.org>

© ARTICLE 19, London and Center for Legal Assistance to Pollution Victims, Beijing 2010

ISBN: 978-1-906586-25-6

This work is provided under the Creative Commons Attribution-Non-Commercial-ShareAlike 2.5 licence.

You are free to copy, distribute and display this work and to make derivative works, provided you:

- 1) give credit to ARTICLE 19 & Center for Legal Assistance to Pollution Victims;
- 2) do not use this work for commercial purposes;
- 3) distribute any works derived from this publication under a licence identical to this one.

To access the full legal text of this licence, please

visit: <http://creativecommons.org/licenses/by-nc-sa/2.5/legalcode>

## **Acknowledgements**

This report was written by Sim Kok Eng Amy from ARTICLE 19 and Hu Jing from the Center for Legal Assistance to Pollution Victims (CLAPV) at the China University of Political Science and Law in the Chinese language. The English translation was provided by Lim Hui Sin and Tan Yee Nee. David Banisar and Professor Wang Canfa provided inputs to the report. ARTICLE 19 and CLAPV are grateful to Atik Ahmed, Wang Li, Li Zhe and Li Xinyu for their assistance. Special thanks are due to all the grassroots environmental organisations that carried out the evaluation and the environmental protection bureaus for their support.

This report has been produced under the framework of the project “Access to Environmental Information in China” and is funded by the Norway Royal Ministry of Foreign Affairs. The content of this document is the sole responsibility of ARTICLE 19 and does not reflect the position of the Government of Norway.

## Table of Contents

Executive Summary .....	2
I      BACKGROUND .....	4
II     METHODOLOGY .....	5
1.      Objectives .....	5
2.      Participating Civil Society Organisations .....	5
3.      Environmental Agencies surveyed .....	6
4.      Assessment .....	6
III    RESULTS AND ANALYSIS .....	9
1.      Proactive Disclosure of Government-Held Environmental Information .....	9
2.      Information Disclosure by Enterprises .....	14
3.      Disclosure of Environmental Information Upon Requests .....	17
IV    CONCLUSION .....	25
1.      Main Findings .....	25
2.      Recommendations .....	28
About ARTICLE 19 .....	32
About Center for Legal Assistance to Pollution Victims .....	32

## Executive Summary

The *Regulations of the People's Republic of China on Open Government Information* (hereafter “OGI Regulations”) and the *Measures on Open Environmental Information (for Trial Implementation)* (hereafter “OEI Measures”) have been in effect in China for more than two years. To support the implementation of these legislations, ARTICLE 19 and the Center for Legal Assistance to Pollution Victims (hereafter “CLAPV”, also known as the Research Service Center for Environmental and Natural Resources Law) at the China University of Political Science and Law implemented the *Access to Environmental Information in China* project in 2010.

One of the main activities within the project framework is an evaluation on access to environmental information, involving grassroots environmental organisations in seven cities across China to study the extent to which local environmental protection bureaus are meeting the legal requirements to provide environmental information. The objectives of the activity are, raising capacity of civil society organisations to exercise the right to information, identify the challenges in accessing environmental information, and promoting transparency in environmental governance.

The evaluation procedure was as follows: first, the participating organisations studied the websites, message boards and publications of local environmental protection bureaus to find out if the 17 types of environmental information listed in the OEI Measures for proactive disclosure have been published. Then a similar process was carried out on targeted large enterprises to assess the extent to which they disclose relevant environmental information. Finally, requests were sent to the local environmental protection bureaus for information that should be opened under the OEI Measures that were not proactively disclosed.

The key findings of the survey are:

- There has been improvement in the mindset and actions with regards to the disclosure of government environmental information, but this change has yet to fully translate into information provision. It should be better recognised that environmental information is collected using public funds and thus should be made available to the public, and not be perceived as government-owned.
- Although a significant amount of environmental information has been disclosed by the environmental protection bureaus in various regions, information relating to pollution emissions has been the most difficult to obtain.
- The disclosed environmental information is often incomplete and outdated, and responses to information requests mostly exceeded the stipulated response period of 15 working days.
- Enterprises provided little environmental information relating to their operations, which is likely due to the lack of legal requirements on enterprises to publish information.
- Information provision by the environmental protection bureaus has yet to meet

the environmental information needs of the public, and does not fully comply with the OGI Regulations and OEI Measures.

- Civil society organisations have increased their awareness of the right to information and capacity to request for environmental information.

Based on the findings and observations of the test, this report makes the following recommendations to all environmental agencies and civil society organisations:

- The Ministry for Environmental Protection should establish a model mechanism for environmental information disclosure that can be adopted by all local environmental protection bureaus, and conduct appraisals on their compliance with the OEI Measures. The local bureaus should also engage with civil society organisations in the discussion on ways to meet the public needs on environmental information.
- The Ministry for Environmental Protection should provide training on access to environmental information for local environmental officials and equip them with guidebooks or manuals on implementing the OEI Measures. Such training can be conducted together with civil society organisations.
- Environmental protection bureaus, together with civil society organisations, should establish standards on information disclosure by enterprises, to encourage them to disclose more environmental information.
- Civil society organisations should establish an open environmental information coalition to promote and exercise the right to information, enhance collaboration and encourage environmental protection departments and enterprises to provide greater access to environmental information.
- Civil society organisations should actively exercise their right to information and make information requests based on the OGI Regulations and OEI Measures, to monitor environmentally responsible behaviours.

## I BACKGROUND

At the end of 2005, the State Council of the People's Republic of China adopted the "Decision on Implementing the Scientific Concept of Development and Strengthening Environmental Protection". Under the measures to develop mechanisms for fostering community monitoring, it was stated that information on environmental pollution incidents should be released in a timely fashion in order to provide opportunities for public participation. It also underscored that enterprises should be open about environmental information.

In 2007, the State Council and the State Environmental Protection Administration (SEPA)<sup>1</sup> adopted the Regulations on Open Government Information ("the OGI Regulations") and the Measures for Open Environmental Information (for Trial Implementation) ("the OEI Measures") respectively. Both legal documents were made effective on May 1, 2008.

To support the implementation of these two legal documents, raise awareness among citizens on their right to access information, and increase public participation and transparency in environmental governance, ARTICLE 19 and the Center for Legal Assistance to Pollution Victims at the China University of Political Science and Law (CLAPV, also known as the Research and Service Center for Environmental and Natural Resources Law) implemented the *Access to Environmental Information* project in 2010. The project consists of four main activities: 1. Training on access to environmental information for environmental officers and representatives of civil



Access to environmental information training.

society organisations; 2. Mobilising local civil society organisations to conduct an evaluation on environmental information disclosure; 3. Workshop on access to environmental information; and 4. Publication of a book on access to environmental information in China and abroad.

The training course was held in Beijing on May 7 and 8, 2010. More than 40 environmental officers and civil society organisations representatives from across China attended. The evaluation on environmental information disclosure was carried out from mid-July to mid-October, 2010, and the findings were shared at the workshop held on the November 21 in Beijing. The book on access to environmental information in China and abroad is slated for publication in 2011.

---

<sup>1</sup> Predecessor of the Ministry of Environmental Protection



This report outlines the findings and analysis of the evaluation on environmental information disclosure, which was designed by ARTICLE 19 and CLAPV and carried out by grassroots environmental organisations in seven cities across China. These organisations examined environmental information disclosure by local environmental protection bureaus (EPBs) and private companies in accordance to the OGI Regulations and OEI Measures.

## **II METHODOLOGY**

### **1. Objectives**

The objectives of the evaluation are, to understand and examine the situation regarding the disclosure of environmental information within the legal framework, raise awareness among civil society organisations of the right to information and enhance their capacity to exercise this right. By encouraging civil society organisations to actively request for information, it is expected that they can better contribute to the monitoring of environmental protection and participate in the decision making process of environmental governance.

This evaluation seeks to answer the following questions:

- What types of environmental information do local EPBs proactively disclose?
- What types of environmental information do large enterprises provide?
- How do EPBs handle information requests from the public?
- Do EPBs understand their duties and responsibilities under the OGI Regulations and OEI Measures, and have they established effective mechanisms to publish environmental information?
- What are the experiences of grassroots environmental organisations when seeking environmental information, and what are the obstacles they encounter?

### **2. Participating Civil Society Organisations**

The focus of this activity is the mobilization of civil society organisations to actively seek environmental information. The test did not use a sampling method but instead invited grassroots environmental organisations to carry out the survey. These include: Gansu Green House of Volunteers, Green Beijing, Chongqing Youth Environmental Protection Association, Hebei Green Mates, Yunnan Zhaotong Municipal Natural Resources and Environmental Protection Society, Xinxiang Municipal Environmental Protection Volunteers Association, and Shanghai Friends of Nature. These organisations spent three months studying the scope and progress of environmental information disclosure by local governments and enterprises, and submitted information requests to their local EPBs.

### 3. Environmental Agencies surveyed

The organisations surveyed include: Gansu Province Environmental Protection Office and Lanzhou Municipal EPB, Beijing Municipal EPB, Chongqing Municipal EPB, Shijiazhuang Municipal EPB, Zhaotong Municipal EPB, Xinxiang EPB, and Shanghai Municipal EPB. In addition, the participating environmental organisations also selected the large enterprises based in their localities for this study.

### 4. Assessment

#### (a) Proactive Information Disclosure:

Through examining the website content of the local EPBs, the participating organisations assessed whether the 17 types of government information as listed in Article 11 of the OEI Measures<sup>2</sup> have been disclosed. These are:

1. Laws, regulations, rules, standards and other regulatory documents with respect to environmental protection;
2. Environmental protection plans;
3. Environmental quality status;
4. Environmental statistics and environmental investigation information;
5. Emergency response plans, early warning, occurrence and handling of emergency environmental incidents;
6. Allocation of total emission quota of major pollutants and its enforcement, issuance of pollutant emission permits and result of the comprehensive urban environmental improvement examination;
7. Type, volume and disposal of solid waste produced in medium to large cities;
8. Handling of environmental impact assessment (EIA) documents of construction projects, outcomes of the examination of these documents and results of environmental protection inspection upon completion of construction projects, as well as other items, basis, conditions, procedures and results relating to environmental protection administrative licensing;
9. Items, basis, standards and procedures regarding to the collection of pollutant emission fees, amount of pollutant emission fees payable by and actual amount imposed on polluters and information on exemption, reduction and postponement of fee payments;
10. Items, basis, standards and procedures of environmental protection administrative charges;
11. Letters and complaints from the public about environmental issues or industrial environmental pollution that have been verified and their outcomes;
12. Information on environmental administrative penalties, administrative reviews, administrative litigations and enforcement of administrative compulsory measures;

---

<sup>2</sup> For full text of the Measures for Open Environmental Information, see:  
[http://www.greenlaw.org.cn/files/laws/open\\_environmental.pdf](http://www.greenlaw.org.cn/files/laws/open_environmental.pdf)

13. List of enterprises with severe pollution and whose pollutants emission exceeds the national or local emission standard or whose total pollutants emission exceeds the quota of total controlled emission determined by the local government;
14. List of enterprises that have incurred major or serious environmental pollution accidents or incidents, list of enterprises that have refused to enforce effective environmental administrative penalties;
15. Outcomes of the approval process of environmental protection setup;
16. Organisational structure, responsibilities and functions, and means of contact of environmental protection departments; and
17. Other environmental information that should be disclosed according to laws, regulations and rules.

**(b) Information Disclosure by Enterprises:**

Through examining the related websites and other public media outlets of selected enterprises, the participating organisations assessed if these enterprises have disclosed the following environmental information as encouraged by Article 19 of the OEI Measures:<sup>3</sup>

1. Their environmental protection guidelines, annual environmental protection objectives and achievements;
2. Their total annual resources consumption;
3. Investment in environmental protection and environmental technology development;
4. Types, volume and content of pollutants discharged by them and where the pollutants are discharged into;
5. Information on the construction and operation of their environmental protection facilities;
6. Information on the handling and disposal of waste generated from their production, and on the recycling and overall use of waste products;
7. Voluntary agreement entered into with environmental protection departments on amending environmental behaviour;
8. Their performance of social responsibilities;
9. For those enterprises that are listed by environmental protection departments as enterprises with severe pollution and whose pollutants emission exceeds the national or local emission standard or whose total emission of pollutants exceeds the quota of total controlled emission determined by the local government – that they disclose environmental information to the public, within 30 days after the name list is published, and disclose environmental information on local major media and file the information for record with the local environmental protection department, and
10. Other environmental information voluntarily disclosed.

---

<sup>3</sup> For full text of the Measures for Open Environmental Information, see:  
[http://www.greenlaw.org.cn/files/laws/open\\_environmental.pdf](http://www.greenlaw.org.cn/files/laws/open_environmental.pdf)

**(c) Information Requests:**

Participating organisations submitted requests to the local EPBs for the following information, if it has not already been proactively disclosed:

1. Environmental protection plan formulated by the local government for 2010;
2. Environmental quality status for 2009. It is recommended that participating environmental organisations request for environmental quality information related to their areas of focus – such as ozone quality, water quality, or noise pollution assessment;
3. Total volume of sewage discharged, chemical oxygen demand (COD) emission, solid industrial waste discharge, carbon dioxide emission, smoke and industrial dust emission, and major cities' total industrial sewage discharge and volume of which that meets the prescribed quotas in 2009;
4. Allocation of total emission quotas of sulphur dioxide, chemical oxygen demand or nitrous ammonia discharge and its enforcement in 2009;
5. List of enterprises that have exceeded local pollutants emission standard or total controlled emission quota determined by the local government in 2009;
6. List of enterprises required to pay pollutant emission fees, the actual amount of fees collected, and list of enterprises that have been provided with fee exemption, reduction, and postponement in 2009;
7. Types and disposal of specific hazardous waste such as medical waste, waste with arsenic, mercury or lead content in medium and large-size cities in 2009<sup>4</sup>;
8. The list of construction projects that underwent environmental impact assessment in 2009, the list of construction projects that were approved or disapproved based on their assessment results in 2009, the list of construction projects whose environmental facilities passed or failed inspection tests in 2009;
9. Complaints and letters from the public that have been verified in 2009 and their outcome;
10. Reports on administrative penalties, administrative reviews, and administrative litigations regarding environmental protection and enforcement of administrative compulsory measures handled by the local EPBs in 2009;
11. Information on awards by the local EPBs to enterprises which have voluntarily disclosed industrial environmental information and which have abided by environmental protection laws and regulations.

---

<sup>4</sup> The list of hazardous waste is online at

[http://www.sepa.gov.cn/info/bgw/bl/200806/t20080617\\_124095.htm](http://www.sepa.gov.cn/info/bgw/bl/200806/t20080617_124095.htm)

### III RESULTS AND ANALYSIS

#### 1. Proactive Disclosure of Government-Held Environmental Information

The evaluation used the following scoring system to assess the extent to which EPBs are fulfilling their requirements to provide proactive disclosure of environmental information under Article 11 of the OEI Measures:


- No disclosure : 0 point
- Incomplete and untimely disclosure : 1 point
- Timely but incomplete; or complete but untimely disclosure : 2 points
- Timely and complete disclosure : 3 points

Timeliness is assessed based on whether the latest information has been published, and the level of completeness according to whether all aspects of the information required have been published. The scores are used as a reference for analysis and should not be taken as fully representative of each geographical region.

**Table 1: Results of Proactive Disclosure of Environmental Information**

Type of environmental information	Hebei - Shijiazhuang	Gansu - Lanzhou	Beijing	Yunnan - Zhaoqing	Sichuan - Chongqing	Henan - Xinxiang	Shanghai	Total Score
1. Laws, regulations, rules, standards & other regulatory documents with respect to environmental protection	2	1	3	1	3	3	1	14
2. Environmental protection plans	2	3	2	1	2	3	3	16
3. Environmental quality status	1	3	3	1	3	3	3	17
4. Environmental statistics & environmental investigation	1	2	3	1	1	3	2	13
5. Emergency response plans, early warning, occurrence and handling of emergency environmental incidents	1	3	1	3	1	3	3	15
6. Allocation of total emission quota of major pollutants & its enforcement, issuance of pollutant emission permits & result of comprehensive urban environmental improvement examination	1	2	2	1	3	1	1	11
7. Type, volume & disposal of solid waste produced in medium to large cities	1	3	3	0	3	1	2	13

## Access to Environmental Information in China: Evaluation of Local Compliance

8. EIA of construction projects, outcomes of inspection upon completion of construction projects, & other items, basis, conditions, procedures & results relating to environmental protection administrative licensing	1	3	3	3	3	1	3	17
9. Items, basis, standards & procedures regarding the collection of pollutant emission fees, amount payable by and actually imposed on polluters and information on exemption, reduction and postponement of fee payments	1	3	3	1	1	1	3	13
10. Items, basis, standards & procedures of environmental protection administrative charges	3	0	3	1	2	3	1	13
11. Letters & complaints from public about environmental issues or industrial environmental pollution & their outcomes	0	3	3	1	3	3	3	16
12. Environmental administrative penalties, administrative reviews, administrative litigations & enforcement of administrative compulsory measures	0	3	3	1	3	3	3	16
13. List of enterprises with pollutants emission exceeding national or local standard or total pollutants emission exceeding total controlled emission quota	0	0	1	1	1	1	1	5
14. List of enterprises incurring major or serious pollution accidents or incidents, those refusing to enforce environmental administrative penalties	0	0	3	1	1	1	3	9
15. Outcomes of the approval process of environmental protection setup	3	3	3	1	3	3	3	19
16. Organisational structure, responsibilities & functions, means of contact of environmental protection departments	3	3	3	3	3	3	3	21
17. Other environmental information that should be disclosed according to laws, regulations and rules	3	3	3	1	3	3	3	19
Score (Full marks = 51 points)	23	38	45	22	39	39	41	
Percentage (%)	45%	75%	88%	43%	77%	76%	80%	

Based on the tabulation above, the results reveal a number of strengths and weaknesses in access to information:

**(a) There is significant progress in the proactive disclosure of government-held environmental information**

In the two years since the OEI Measures came into effect, progress has been made in the proactive disclosure of environmental information in cities across China. Cities that were tested obtained an average score of 35.3, which in percentage is 69.2%. Beijing, Shanghai, Lanzhou, Chongqing, and Xinxiang all obtained 74% and above.

**Box 1: OGI column on Beijing Municipal EPB's website**



On the website of the Beijing Municipal EPB, there is a designated column on open government information on its homepage. The column provides links to the latest published information, rules and regulations, an OGI directory and catalogue, procedures on making information requests, facilities for submitting requests online, annual OGI report, feedback and comments. The online request feature is interactive, there is also a section on complaints handling, where updates on the complaint responses are clearly organised in chronological order. For example, on a visit to the site on November 15, 2010, the latest response status was dated November 11, indicating the information has been promptly updated. But the OGI column can still be improved. Green Beijing found that some information that should be disclosed was not provided in this column, but was instead scattered across other parts of the website, with data published in various reports and documents, and requiring efforts to piece the data together – making the search for such information more difficult.

**(b) Least disclosed: enforcement of pollutant emission standards and list of enterprises exceeding pollutant emission quotas**

The level of disclosure across the different types of environmental information can be categorised into four groups:

Score	Types of Information
18-21	Institutional setup, duties and contact information for the environmental protection departments, outcomes of the approval process of environmental protection setup, and other environmental information that should be made public by law
14-17	Environment quality status, environmental impact assessment for construction projects, outcomes of inspection upon completion of construction projects and other information relating to environmental protection administrative licensing, cases and outcomes of public complaints on environmental concerns and pollution, administrative penalties and litigation regarding environmental protection and implementation of administrative compulsory measures, emergency response plans, handling of emergency environmental incidents, environmental protection regulatory documents.
10-13	Information on solid waste, standards and procedures for sewage charges, pollution fines, administrative fees on environmental protection, total emission quota of major pollutants & its enforcement, issuance of pollutant emission permits and result of comprehensive urban environmental improvement examination.
< 10	List of polluting enterprises whose pollutant discharge exceeds national or local standards, list of enterprises with major or serious environmental pollution accidents or incidents, and list of enterprises refusing to carry out effective environmental administrative penalties.

The type of information with the highest score is information on institutional setup, duties and contact information for the environmental protection departments – this item obtains full marks. The lowest score is for the list of heavily polluting enterprises with pollutant emission exceeding the national or local standards and quotas.

Clearly, the EPBs surveyed perform better for disclosure of information on laws, regulations, standards, planning, environmental status updates, administrative procedures and similar information; at the same time, they were most reluctant to provide names of enterprises who have flouted regulations. This is especially true for the list of enterprises that have exceeded emission targets – some EPBs did not provide this information at all. Even in cases where this information is provided, they are incomplete or outdated.

The public has the right to know the list of enterprises that are excessively polluting their environment. Disclosing this information will also contribute to the supervision



of these enterprises. If industrial environmental offenders are not exposed, the public will not be able to support the monitoring and enforcement of legal pollutant discharge by enterprises.

**(c) Disparities among cities**

The survey shows an uneven level of information disclosure across the different cities. Shijiazhuang in Hebei province and Zhaotong in Yunnan province fall far behind that of other localities. In comparison, Beijing and Shanghai are in the top tier; Lanzhou, Chongqing and Xinxiang are in the second tier, while Shijiazhuang and Zhaotong are in the third tier. Due to the small number of localities surveyed, it is not possible to attribute any of these differences to geography (eastern, central, and western) or level of economic development. Of the 17 types of information, the Beijing Municipal EPB provided incomplete information for three types and outdated information for another three types. On the other hand, Zhaotong Municipal EPB in Yunnan Province provided prompt and complete information for only three types of information.

**(d) Information is often not disclosed in a complete or timely manner**

Both the OGI Regulations and OEI Measures provide certain standards for information disclosure.

Article 4 of the OEI Measures clearly states: “Environmental protection departments shall observe the principles of justice, fairness, convenience to the people and objectivity and disclose government environmental information promptly and accurately.”

Article 6 of the OGI Regulations also states: “Administrative agencies should disclose government information promptly and accurately. When administrative agencies discover false or incomplete information that affects or might affect social stability and disturbs the social management order, they should release, within their scope of responsibility, accurate government information to clarify the situation.”

But this survey found that, one third of the disclosed information is not complete and/or timely. For example, for the categories “allocation of total emission quota of major pollutants & its enforcement, issuance of pollutant emission permits and result of comprehensive urban environmental improvement examination” and “environmental protection laws, regulations, rules, standards and other regulatory documents”, the information disclosed by the Gansu Environmental Protection Office is only available to year 2008.

In another instance, for the category on environmental protection planning, Shijiazhuang Municipal EPB only published the overview of the city’s 11<sup>th</sup> five-year plan for environmental protection but did not provide the full document. It also provided the environmental quality report for year 2002 to 2008, but not for 2009.

## 2. Information Disclosure by Enterprises

Enterprise environmental information, according to Article 2 in the OEI Measures, “means information recorded and archived by enterprises in a given form and relating to environmental impact arising from enterprise operational activities and enterprise environmental behaviour.”

The participating environmental organisations of this evaluation were tasked to examine information disclosure by the largest enterprises in their localities against the types of information listed in Article 19 of the OEI Measures (see II Methodology 4(b)). The enterprises surveyed in each city are listed in Table 2 below.

**Table 2: Large Enterprises Surveyed in Each Region**

City	Enterprise surveyed
Hebei - Shijiazhuang	North China Pharmaceutical Group Corporation, Shijiazhuang Iron & Steel Company; Hebei Jingye Group, CSPC Pharma, Sinopec China Petroleum & Chemical Corporation
Gansu – Lanzhou	China National Petroleum Corporation, Lanzhou Huanghe Inc, Jinchang Nickle City Metropolis Mining Industry, JISCO Group, Gansu Tobacco Industrial Company
Beijing	Shougang Group, Beijing Eastern Chemical Works, China Huaneng Group, China National Petroleum Corporation, Beijing Hyundai Motor Company
Yunnan - Zhaotong	Hongta Group, Huaxin Cement Company, Yunnan Haolong Group, Yuntianhua Group, Kunming Kuozhou Company, Zhaotong Building Materials Group, Shuifu Jinming Chemical Works, Yunnan Qiaotong Package Printing Co.
Sichuan - Chongqing	Chang'an Automobile Group, Shangshe Group, China Great Wall Steel Group, Chongqing Construction Engineering Group, Lifan Industry Group
Henan - Xinxiang	Xinxiang Jinyuan Chemicals Company, Xinxiang Wanbotongye Company
Shanghai	Shanghai Richina Leather Co.

### (a) Large enterprises provide very little environmental information

In contrast to the significant amount of accessible government-held environmental information, information disclosure by enterprises is minimal. Most companies surveyed do not make information on the environmental impact of their operations or environmental behaviour available on their website or through other communication channels. Even those large enterprises that have taken initiatives on environmental

protection failed to publish such information adequately on their own websites.

In Zhaotong city in Yunnan Province, registered letters and faxes were sent to eight large enterprises to enquire about environmental information, yet only one replied by telephone to say that the requested information was already published on their website. The other enterprises either ignored the enquiries or avoided responding with various excuses.

“It is still extremely difficult to get industrial environmental information, especially from the large enterprises. They avoid or refuse to disclose environmental information and hide behind their sheer size and official accolades.”

“These enterprises are not fulfilling their social responsibility by being unwilling to publish information on the type and quantity of pollutants discharged, or whether standards have been exceeded, claiming that the publication of which will affect business.”

- Zhaotong Municipal Natural Resources and Environmental Protection Society

Beijing enterprises were relatively more forthcoming, but all the five large enterprises surveyed were unwilling to provide information regarding pollutant emission and their voluntary agreements with environmental protection departments on amending environmental behaviour.

Green Beijing’s assessment of the Shougang Group, Beijing Eastern Chemical Works, China Huaneng Group, China National Petroleum Corporation, and Beijing Hyundai Motor Company is as follows: Shougang released three out of 10 types of information requested – some information were outdated; Beijing Eastern Chemical Works released two types of information; both Huaneng and China Petroleum released six types; Hyundai released seven types (see Table 3).

**Table 3: Results of Information Disclosure by Enterprises in Beijing**

Type of environmental news	Disclosed: Yes / No	Disclosure Ratio
1. Environmental protection guidelines, annual environmental protection objectives and achievements	Shougang : No Eastern Chemical: Guidelines yes but no objectives or achievements Huaneng & China Petroleum: Yes Hyundai: Guidelines yes but no objectives or achievements	4/5
2. Total annual resources consumption	Shougang: Published drop in consumption of main resources for 2007 Huaneng: resource reduction Eastern Chemical, China Petroleum & Hyundai: No	2/5

## Access to Environmental Information in China: Evaluation of Local Compliance

3. Investment in environmental protection and environmental technology development	Shougang: Published total investment in environmental protection projects from 2001 Eastern Chemical: No Huaneng, China Petroleum & Hyundai: Yes	4/5
4. Types, volume and content of pollutants discharged by them and where the pollutants are discharged into	Shougang: Published decrease in discharge of pollutants for 2007 in Company's Overview document Eastern Chemical, Huaneng, China Petroleum & Hyundai: No	1/5
5. Information on the construction and operation of their environmental protection facilities	Shougang: No Eastern Chemical: Environmental protection facilities images available but no operational information Huaneng, China Petroleum & Hyundai: Yes	4/5
6. Information on the handling and disposal of waste generated from their production, and on the recycling and overall use of waste products	Shougang, Eastern Chemical & Huaneng: No China Petroleum & Hyundai: Yes	2/5
7. Voluntary agreement with environmental protection departments on amending environmental behaviour	Shougang, Eastern Chemical, Huaneng & China Petroleum: No Hyundai: Yes	1/5
8. Performance of social responsibilities	Shougang & Eastern Chemical: No Huaneng, China Petroleum & Hyundai: Yes	3/5
9. For those listed as enterprises with severe pollutant emission exceeding standard or quota of total controlled emission – that they disclose relevant info to public within 30 days after name list is published, including on local media and with local EPBs	All: No	0/5
10. Other environmental information voluntarily disclosed.	Shougang & Eastern Chemical: No Huaneng, China Petroleum & Hyundai: Yes	3/5

### (b) Lack of legal obligations for enterprises to disclose information

It is likely that enterprises do very little to disclose environmental information because there is a lack of legal obligation as well as demand from the general public on industrial environmental information. The OGI Regulations and OEI Measures only encourage but do not oblige enterprises to disclose environmental information. For instance, Article 4 of the Measures states: “Enterprises shall disclose enterprise environmental information promptly and accurately under the principle of combining voluntary disclosure with mandatory disclosure.”

The only mandatory provision is Article 20 in the OEI Measures for enterprises that have been listed by environmental agencies as exceeding national or local pollutant emission standards, or whose total discharge of pollutants exceeds the local government's approved emission control targets. The named enterprises have to disclose to the public the following information: their name, address and legal representative; types of major pollutants, method, content and total volume of emission, and information on emission that has exceeded the prescribed standards or total emission quotas; information on the construction and operation of their environmental protection facilities; and contingency plans for emergency environmental pollution accidents.

The scope and content of the information that must be disclosed by enterprises, therefore, is very limited.

On the other hand, consumer behaviour is likely to be unaffected by environmental behaviour of enterprises when there is little public awareness of industrial impacts to the environment. Enterprises will see no incentives in publicising their environmental information, even in cases where they have taken initiatives to reduce negative environmental impacts.

### **3. Disclosure of Environmental Information Upon Requests**

According to Article 5 of both the OGI Regulations and OEI Measures, citizens, legal persons and other organisations are entitled to obtain government environmental information. To find out the extent to which environmental agencies are fulfilling this requirement, five participating environmental organisations submitted requests to their local EPBs for the same set of information (those that have not been already proactively disclosed).

The scoring system used for this segment is as follows:

- Already proactively disclosed : 4 points
- Responded with complete disclosure : 3 points
- Responded with partial disclosure : 2 points
- Responded but refused disclosure : 1 point
- No response : 0 point

\*No request made = NRM

Table 4: Outcomes of Information Request Testing

Type of Information requested	Hebei - Shijiazhuang	Gansu - Lanzhou	Beijing	Yunnan - Zhaotong	Sichuan - Chongqing	Total score
1. Local environmental protection plan for 2010	3	4	4	4	4	19
2. Environmental quality status for 2009	3	4	4	4	4	19
3. Total volume of sewage discharged & emissions of COD, solid industrial waste, carbon dioxide, smoke and industrial dust emission; major cities' total industrial sewage discharge & volume of which meeting quotas in 2009	3	3	1	3	0	10
4. Allocation of total emission quotas of sulphur dioxide, COD or nitrous ammonia & its enforcement in 2009	3	3	1	3	2	12
5. List of enterprises exceeded pollutants emission standard or total controlled emission quota in 2009	1	3	1	3	2	10
6. List of enterprises required to pay pollutant emission fees, actual amount of fees collected, and list of enterprises that have been given fee exemption, reduction & postponement in 2009	2	3	4	3	0	12
7. Types & disposal of hazardous waste such as medical waste, waste with arsenic, mercury or lead content in medium & large-size cities in 2009	NRM	2	4	NRM	0	6
8. List of construction projects that underwent EIA in 2009, those approved or disapproved based on their assessment results and those whose environmental facilities passed or failed inspection in 2009	1	4	2	3	4	14
9. Public complaints and letters verified in 2009 and their outcome	3	4	4	3	4	18
10. Reports on administrative penalties, reviews & litigations on environmental protection & enforcement of administrative compulsory measures handled by local EPBs in 2009	3	NRM	4	3	4	14
11. Info on awards to enterprises that voluntarily disclosed environmental info & those that abided by environmental protection laws & regulations.	3	3	1	4	NRM	11
Total (Full marks = 44)	25/40	33/40	30/44	33/40	24/40	
Percentage	63%	83%	68%	83%	60%	

The above results indicate that:

**(a) Most of the information requested were obtained**

In general, the average score is 71.1%, indicating that the participating organisations were able to obtain most of the information they requested. This demonstrates that local EPBs are aware of the OGI Regulations and OEI Measures, and their obligations to fulfil the public's right to information and provide the relevant environmental information upon requests. They have also established mechanisms for handling information requests – for instance, all the bureaus have set up units to handle public enquiries. These mechanisms, however, vary from place to place, and there remains a gap in terms of the EPBs' abilities to meet the public's demand for environmental information and fulfilment of all legal requirements on information disclosure (see section below).

**(b) Small cities performed well**

Lanzhou and Zhaotong performed best – providing 83% of the information requested, followed by Shijiazhuang, Beijing and Chongqing at around 60%. Lanzhou and Zhaotong, which are considered small cities in China, are more responsive than the larger ones in this test – this is commendable. One of the reasons for their performance could be related to the smaller populations in both cities leading to a lower volume of information and requests to process, and therefore bringing about greater efficiency in information provision.

Lanzhou has taken an interesting initiative to respond to public's requests for information. Despite not having an application form for information requests, it has an online messaging service on its website catering to public enquiries, providing an easy and convenient way to track responses to enquiries.

“In the process of making environmental information requests at Lanzhou Municipal EPB, we had used its online messaging service (Lanzhou Municipal EPB currently only provides an online messaging service and do not provide information request form). We just have to take down the online serial number to access the response to the particular request at any time. This has made obtaining information a lot easier. The only shortfall is that we had to call Lanzhou EPB to inform them that we had left a message on their online messaging service.”

– Gansu Green House of Volunteers

**(c) Information relating to the disposal and discharge of hazardous waste was hardest to obtain**

Among the 11 types of information, the easiest to obtain were environmental protection plans, and environmental quality status. These two types of information are more general in nature, and are standard documents of the bureaus. Except for Shijiazhuang in Hebei province, all the other four local bureaus published this information on their websites.

The most difficult information to obtain was on the disposal and types of hazardous waste. Chongqing Youth Environmental Protection Association sent a request to the Chongqing Municipal EPB by post but received no response. Gansu Green House of Volunteers sent requests to both Gansu Province Environmental Protection Office and Lanzhou Municipal EPB, but the information received was incomplete – only information on the disposal of medical waste but not on other types of hazardous waste. The requester was told that some of the information was still being processed. In Zhaotong and Shijiazhuang, no request for this information was made as both participating organisations in this test were certain that the local bureaus did not have such records. The Beijing Municipal EPB was the only exception, having already published this information online.

The two other types of information that were also hard to obtain were on discharge of sewage and other pollutants and the list of enterprises that have exceeded local pollutant emission standards or approved emission control quotas.

Despite that, these types of information are defined as “environmental protection supervision” information and is emphasised for disclosure according to Article 10 of the OGI Regulations, local EPBs are especially reticent to disclose information that are more concrete and sensitive in nature. The disposal of hazardous waste and the emission of pollutants have a direct impact on the environment and public health. The bureaus should be more conscientious in the collection and provision of such information, which encourages the public and community groups to do their part in monitoring industrial pollution.

#### **(d) Reasons for refusal unjustified**

The reasons that were given by the EPBs when refusing to provide information were usually very brief - mainly along the lines of “inconvenient to disclosure”, “difficult to disclose”, “can be easily sensationalised by the media” – and have no legal basis. The bureaus did not make reference to Article 14 of the OGI Regulations that states the types of government information that should not be disclosed – “information that involves state secrets, commercial secrets or individual privacy.” The agencies also failed to evaluate whether such disclosure might protect or hurt public interest.

In Beijing, the local EPB refused to disclose information on waste disposal and polluting enterprises, on the basis that the information “does not belong to the list of information for proactive disclosure. The applicant can request for information that is related to their own production, livelihood, or research field; under current conditions, the requester does not fulfil these requirements.” However, according to Article 11 in the OEI Measures, this information is clearly within the scope for public disclosure. It is apparent that the bureau was citing Article 13 of the OGI Regulations: “In addition to government information disclosed by administrative agencies on their own initiative provided for in Articles 9, 10, 11 and 12; citizens, legal persons or other



organisations may, based on the special needs of such matters as their own production, livelihood and scientific and technological research, also file requests... to obtain relevant government information.” But this Article is not a restriction and should not be interpreted as such.

Moreover, Article 5 of the OEI Measures also states: “citizens, legal persons and other organisations may request environmental protection departments for government environmental information.” In spite of that, the requester - Green Beijing - works towards the environmental protection cause in China, and is active in public education and other environmental protection activities. The information they are requesting for was highly relevant to their field of work and should therefore fulfil the conditions for disclosure of information upon requests under the OGI Regulations and OEI Measures.

#### **(e) Responses exceeded the required time**

According to Article 18 of the OEI Measures, “environmental protection departments shall reply to requests within 15 working days upon receipt. If the environmental protection departments are unable to reply within 15 working days, the time limit for responding to a request may be extended upon consent by the office staff in charge of open government environmental information and the requester shall be notified in writing. The maximum extension period may not exceed 15 working days. The same content is provided in Article 24 of the OGI Regulations.

However, the EPBs surveyed mostly did not respond within the designated time. For instance, the Chongqing Youth Environmental Protection Association sent in their request for information on industrial discharge, emission standards, sewage fees payees and amounts collected, among others, according to the format provided by the local EPB on September 13, 2010. But they only received a response on October 26 – exceeding the required timeframe of 15 working days.

In other regions, requests were only responded to after multiple reminders:

“After we submitted our request the second time, we followed up with many reminders, and finally the Municipal Environmental Protection Bureau called us back twice, saying that they would respond officially to our request and give us a comprehensive reply (electronic) on November 1. All seven questions were eventually answered, and we were satisfied with the response.”

- Gansu Green House of Volunteers

Beijing, on the other hand, was more efficient in handling information requests:

“We made information requests on paper and using the online application, the staff member was helpful and the application went smoothly with phone calls and emails responded to in a timely manner. But in terms of providing the information we

requested for, we were mainly told to retrieve these ourselves from the website and the staff was not willing to provide specific information. For the request on sewage disposal and some other types of information, we were told that such information was not within the domain of proactive disclosure, and we did not meet the conditions to requests for information, hence we were unable to obtain the information.”

- Green Beijing

**(f) Responses varied depending on request methods and connections**

According to Article 20 of the OGI Regulations and Article 16 of the OEI Measures, requests for environmental information can be made through letter, fax, email, or other written form. In the event that it is difficult for a written request to be submitted, the requester can do so orally and a representative from the administrative agency will fill out the request form on his or her behalf.

The participants of this test sent their requests through email, online information requests service, and by post to their local EPB. But they noted that emails and letter requests were largely ignored:

“We requested for public environmental information at the provincial environmental protection office, both by email and post, and both were ignored. Only when we went in person to the office’s various departments (Information Centre, Administration Office, and Monitoring Room) were our requests accepted.

- Gansu Green House of Volunteers

It is also observed that responses to requests were sometimes dependent on the requester’s connections with the local bureau and his or her understanding of the workings of the office:

“We sent Ms. Z to deal with this business (request for information). She used to work for a state-owned enterprise and at a temporary department at the provincial EPB, and from 2005 she worked temporarily for the Municipal Environmental Protection Union, and is hence familiar with the procedures involved. She was attended to by EPB personnel, and presented with a list of the requested information. However some specific data was refused, with the reason that these constitute enterprise trade secrets, and that they might draw media attention or cause unnecessary disputes and so on. On the other hand, we have also asked a student from Hebei University of Economics to request for information from Shijiazhuang Municipal EPB through a registered mail, but until now there has been no response.”

- Hebei Green Concert

**(g) Information requests motivated local bureaus to proactively disclose more information**

After receiving information requests, some local EPBs decided to make the specific information available on their website. This enables not just the requester to have access to the information, but also the greater public.

For example, in response to the Chongqing Youth Environmental Protection Association's request to disclose information on sewage discharge, COD and industrial solid waste emissions; and the list of enterprises that have exceeded emission standards for 2009, the Chongqing Municipal EPB published this information on their website.

This illustrates how information requests by the public and civil society organisations can encourage the EPBs to release more information – this increases transparency and accountability, and better fulfils the public's right to information.

On the other hand, however, the information put up by the Chongqing Municipal EPB was not complete: only the allocation for emission quotas and the volume of waste discharged were published, information on how they are disposed was not, and for the list of enterprises that have exceeded emission standards, only the names of holding companies were published.

**Box 2: The Case of Shanghai's Information Request Testing**

In addition to the five groups mentioned above, Friends of Nature Shanghai requested for five types of information (see Table 5) from the Shanghai Municipal EPB through email and by post. The bureau replied to all the questions, but did not provide information on the pollutant discharge volume, allocation quotas, and pollutant disposal. The reason cited for non-disclosure was that the information was not available. According to Article 11 of the OEI Measures, the information requested falls under item (6): "Information on allocation of total emission quotas of major pollutants and its enforcement, information on issuance of pollutant emission permits and results of comprehensive urban environmental improvement examination." The bureau should have collected this data and proactively disclosed the information.

However in response to the request for information on blacklisted polluting enterprises, the bureau provided three concrete documents that detailed the assessment conducted on one blacklisted polluting enterprise and other supporting documents. With access to such information, civil society organisations and the public will have a better understanding of how environmental pollutions are controlled and be able to support government agencies in monitoring industrial environmental behaviours, thereby strengthening environmental protection.

Friends of Nature Shanghai described their experience in making an information request:

"After receiving our application, the municipal EPB responded by telephone, short emails, and sometimes letters. The staff members in charged of this matter at the bureau were friendly enough, and we did not have to do further applications with any other departments. However, the disclosure of environmental information was not always satisfactory. For example, when applying in the second half of the year for

information regarding the first half, one would get a reply saying ‘untimely request’ or simply ‘unavailable’. Through this environmental information request testing, we can see that there is much improvement in EPB’s work on environmental information disclosure. However, there is still room for further improvement. As a civil society organisation, we need step up our work to support information disclosure, raise our own capacities, and further improve our skills in making information requests.”

**Table 5: Outcome of Information Request Testing in Shanghai**

Information Requested	Response from EPB
Environmental protection plans for Shanghai in 2010	You can find this on the 'Shanghai Hotline' website: <a href="http://www.sepb.gov.cn/news.jsb?intKeyValue=13075">http://www.sepb.gov.cn/news.jsb?intKeyValue=13075</a> . The government information is entitled Shanghai Municipal Environment Protection and Ecosystem Construction 11th five-year Plan (2006-2010)
Shanghai’s total pollutant emission allocation quota and enforcement in 2010	Not created or collected; this government information does not exist
Total pollutant emission quota and the allocation for every enterprise among polluting enterprises in 2009	Not created or collected, this government information does not exist
Shanghai’s air, water & sound quality in 2009; general status of Huangpu River water source preservation & environmental conditions in 2009	The information you requested can be found on <a href="http://www.sepb.gov.cn">www.sepb.gov.cn</a> , under the sections "Plans and schedules" and "Report on environmental quality"
On June 10, 2010, Shanghai EPB released its 2009 list of "Green" and "Black" enterprises on its website. Shanghai Richina Leather Co. was one of the two blacklisted enterprises. We request for information on the specific indicators used for the assessment of this company and the evidences used to determine these indicators.	(On August 26, 2010, we went to the Shanghai Municipal EPB to file our request and received the following 3 documents: 1. Jiangsu, Shanghai and Zhejiang’s joint "Yangtze River Delta environmental behaviour open information measures (trial) and Yangtze River Delta enterprise environmental behaviour and evaluation standards (trial)", [released by Jiangsu EPB (2009) no. 23] – original document 2. Documentation of complaints made relating to Shanghai Richina Leather Co. 2009 (2 pages, photocopies) 3. 2009 Shanghai Richina Leather Co. Environmental Impacts Monitoring Report (1 page, photocopy).

## IV CONCLUSION

### 1. Main Findings

Based on the outcomes described in the preceding three chapters, the main findings of this evaluation are:

#### **(a) Enhancement in awareness and service regarding disclosure of government-held environmental information**

In the two years since the promulgation of the OGI Regulations and OEI Measures, there is growing awareness of the public's right to information among the environmental officers in China. A substantial amount of environmental information is now accessible, as demonstrated by the outcomes of the "Proactive Disclosure of Government-held Environmental Information" and "Disclosure of Environmental Information Upon Requests" sections of the test.

In terms of proactive information disclosure, aside from the poor responses by the bureaus of two cities - Shijiazhuang in Hebei Province, and Zhaotong in Yunnan Province, the other five cities in the survey proactively provided most of the 17 types of information as listed in Article 11 of the OEI Measures. Some bureaus – such as Beijing and Lanzhou – have also created a public environmental information section on their websites providing a directory of the types of information available, search functions and other information services to facilitate members of the public to access information.

The website of Lanzhou EPB indicated that the bureau was in the process of building an online information request service – this will ease the process and encourage the public to make information requests.

But there remains room for improvement for these websites: currently, the information and data are scattered around different parts of the website in the form of various reports and documents – and each has to be located individually, which is very time-consuming.

In terms of responding to the public's information requests, the feedback from the requesters are that the local EPBs displayed a good attitude in general and in spite of having to repeatedly send reminders and follow up, a significant amount of the requested information was provided. This indicates that environmental officers are aware of their responsibility to provide information, and have established systems to deal with requests. However they have not entirely fulfilled their responsibilities on information disclosure nor met the public's information needs.

### **(b) Information on pollutant discharge was hardest to obtain**

Despite their responsiveness in providing information on environmental laws, environmental planning, administrative setup and procedures, among others, the EPBs were more reluctant when it came to information on the discharge of pollutants and the total emission allocation quotas.

Across the three sections of the evaluation, the type of environmental information most difficult to obtain is the information on the list of enterprises involved in major or serious environmental pollution incidents or those that have exceeded emission control targets, as well as information on the output and disposal of waste and pollutants. None of the EPBs provided complete and updated information on the list of excessively polluting enterprises – some totally withheld the information. Beijing was the only city that had put up information on the output and treatment of waste and pollutants on their website; the other bureaus either did not respond to the requests for this information, or only provided partial information. Among large enterprises, only the Beijing Shougang Group published information on its pollutant output and discharge in its company overview in 2007 (but this information was outdated), the other 30 companies did not provide this information at all.

Excessive discharge and inappropriate disposal of industrial waste and pollutants endangers public health and the environment. The EPBs may have been unwilling to release this information – especially exact figures – for fear of affecting economic development or generating negative press coverage. By withholding this information, however, the bureaus are undermining transparency. Such an approach is irresponsible and short sighted. Economic development can only be sustainable if environmental impact is minimised. The government and the relevant environmental agencies will lose their credibility, should the withholding of information lead to widespread panic and fatalities in pollution incidents. To address the issue of inaccurate reports in the media, bureaus should play a more active role in providing clear and prompt information and clarifications to the society and media, so as to increase their understanding of the subjects and reduce speculation and misreporting.

Providing the list of polluting enterprises and information on waste treatment not only fulfils the public right to information, it also serves as a mechanism for public monitoring of the environmental behaviours of enterprises. For environmental protection and pollution prevention to be truly effective, the government and the people have to work together to improve transparency and accountability.

### **(c) Quality of information disclosure service can be improved**

Of the environmental information disclosed by the bureaus, a third was incomplete or outdated. Disclosure of environmental information enhances transparency in environmental governance and creates opportunities for public participation in

monitoring of accountability, but if disclosed in a partial or untimely manner, it might not be useful especially in times of emergencies. In addition, many bureaus failed to respond within the 15-day time frame as required by the OGI Regulations and OEI Measures. Often it also took continuous reminders before responses were given.

There can be two reasons for the information to be incomplete and outdated: one is that the bureaus might be reluctant to provide specific information they deemed negative or sensitive, the other is that the bureaus have failed to collect and collate updated information – indicating an operational weakness in data processing.

#### **(d) Lack of information disclosure by enterprises**

Very few large enterprises provide environmental information related to their operations, even when explicitly requested in writing - through letters, fax and other means. The requests were often ignored, avoided or refused.

The fact that enterprises appear to show no interest in providing environmental information could be due to the lack of legal requirements and a low level of awareness of industrial impacts on the environment among the public. The OEI Measures only mandates enterprises that have been listed as having exceeded emission and total allocation targets to make relevant information available to the public.

On the other hand, if the public do not demand enterprises to disclose environmental information or relate consumers' actions with a company's environmental records or its environmental impact, there would be little incentives for enterprises to publish their environmental information.

#### **(e) EPBs have not met public demand for information**

Both in terms of disclosing environmental information proactively and upon requests, the service provided by the EPBs are less than satisfactory and do not fully comply with the OGI Regulations and OEI Measures. In particular when handling information requests, the survey indicated a lack of efficiency and the bureaus required repeated reminders over a long period. In other cases, requesters were asked to contact different units within the bureau before getting a response. As mentioned previously, some of the information provided was also incomplete and outdated. Some types of information that are required to be made public were withheld without clear reasons; and at times the information was not available – with no alternative sources given. Despite the awareness of the right to information among the staff members of the bureaus, they sometimes appear to be uncomfortable with the practice of the public making requests for information and have yet to develop effective systems to deal with these requests.

A member of the Gansu Green House of Volunteers summarises his experience in participating in this test, “Through this activity, we can see that there are improvements in environmental information disclosure at the provincial and municipal levels. This is a big change from how it used to be. It shows that there is progress in both mindsets and behaviours; however, there is still a wide gap to meeting public demands. Not all the information that should be published is disclosed, and in particular the exposure of polluting enterprises is still very weak and must be improved and taken seriously.”

**(f) Civil society organisations have greater right to information awareness and capacity to make information requests**

Civil society organisations that participated in this project now have a greater awareness of their right to information. They have a better understanding of the OGI Regulations and OEI Measures, and know that the environmental agencies are legally mandated to provide certain types of environmental information. Equipped with this knowledge, they are empowered to exercise their right to request for information at the EPBs, and have better skills in making such requests. For example, due to the lack of experience, the initial information request drafted by Friends of Nature Shanghai did not comply with the official format and content, resulting in a response from the Shanghai EPB stating “the requested type of government environmental information is unclear”, and requesting for further clarifications. After Friends of Nature Shanghai made the revisions accordingly and resubmitted their requests, the bureau then processed their requests. By practically exercising the right to information, these civil society organisations have increased their capacity for making information requests.

## **2. Recommendations**

Based on the findings and observations of this test, the following is a set of recommendations for the environmental agencies and civil society organisations:

**(a) The Ministry of Environmental Protection should establish a model mechanism for the disclosure of environmental information**

To address the difficulties and barriers encountered by the public when requesting for information, the Ministry of Environmental Protection (MEP) should draw from the best practices at local EPBs as well as the experiences of environmental agencies overseas, and establish a set of standard operating procedures to provide environmental information. It should also help local bureaus put the system in place and provide relevant training and assistance in applying the system. For instance, the inclusion of a column on “open government information” on the websites of the Gansu and Beijing EPBs is a practice that should be encouraged and rolled out across the country. MEP should also conduct regular assessments on the performance of local bureaus in environmental information disclosure – commending and rewarding



those that have performed well and promoting best practices. This will motivate the poorer performers to increase their level of responsiveness, and help build momentum for the implementation of the OGI Regulations and OEI Measures.

On the other hand, the EPBs should also engage with civil society organisations in addressing areas of environmental information disclosure that are still not meeting public needs, to ensure quality and timeliness in publishing information. Local bureaus could strengthen their communication and interactions with grassroots environmental organisations to understand the weaknesses of the information service and work together in strengthening the bureau's compliance with the legal requirements for information provision.

### **(b) Enhance capacity of environmental officers through training**

MEP should develop a comprehensive training course on environmental information disclosure for officers at the national and local levels. The training course should cover the following topics: proactive disclosure of information, handling public information requests, promotion of disclosure by enterprises, among others. Areas where there is weak compliance with the OGI Regulations and OEI Measures should be emphasized – especially with regards to the 15-day time limit for responding to information requests, providing updated information on the output, discharge, and disposal of pollutants; as well as the list of enterprises that have exceeded emission and pollution standards.

Currently, MEP holds a number of training courses every year, but they mostly focus on how environmental protection officers should enforce environmental laws for enterprises – courses on providing environmental information are rare. Improving compliance with OGI Regulations and OEI Measures is a task that requires urgent attention – it differs from traditional law enforcement in that the target is now the public. The successful implementation of which, hinges on the capacity of the environmental protection departments. MEP should draw from public feedback, and combine existing domestic best practices with international ones, to develop an effective training course on providing access to environmental information in China.

MEP can also work with civil society organisations for the training and establishment of a large team of trainers that can deliver environmental information disclosure courses to staff of local EPBs and the public across the country. MEP should also look into creating guidelines or handbooks on providing access to environmental information, to support local bureaus in the collection, organization, and disclosure of environmental information. Currently, there is a handbook on how to request for environmental information, developed by civil society organisations for the general public. A similar manual on how to provide information can be created for the environmental protection officers by MEP.

**(c) Set standards for the disclosure of enterprise environmental information**

The OEI Measures adopts a tone that is primarily encouraging rather than mandatory with regards the release of enterprise environmental information. Although there is no legal mandate, much can still be done to enhance disclosure of relevant environmental information by enterprises. Through systems of assessments and awards that are open to public, public opinion can be generated to influence enterprises to be more open.

MEP should also work with civil society organisations to establish a set of standards for the disclosure of enterprise environmental information to encourage and aid enterprises in making this information available to the public. After the guidelines have been established, MEP and local EPBs should conduct information campaigns to publicise the guidelines to raise awareness.

For the formulation of the standards, reference can be made to the *Opinions on Strengthening Supervision of Listed Companies for Environmental Protection* document issued by the State Environmental Protection Administration (SEPA), which includes a set of evaluation criteria and colour coding for good, very good, average, poor, and very poor – which are announced to the public. Standards for the disclosure of enterprise environmental information should cover the types of information for disclosure, completeness of information, timeliness, and accessibility, among other indicators.

**(d) Establish coalitions on access to environmental information to promote and enhance the right to information**

Environmental organisations in China focus on a range of specialised areas, which may be very different from one another. If organisations promote information openness in their own fields, it may not be the most effective and could create repetitive work for the environmental agencies. Instead, local environmental organisations could come together to establish a coalition on access to environmental information in their respective regions. Such coalitions can facilitate communication between the different organisations, fill in each other's weaknesses experiences, strengthen collaborations and capacity development; and therefore bring about a bigger push for the disclosure of government and enterprise environmental information. The coalition can hold regular meetings to discuss the difficulties faced in accessing information, and exchange experiences on the information requesting process. It can also support the bureaus in improving their work on information disclosure and monitor the level of transparency.

**(e) Civil society organisations should actively access information**

There has been a sharp increase in the number of grassroots environmental

organisations in China this year, but since the promulgation of the OGI Regulations and OEI Measures, there have been few examples of environmental groups using information requests to monitor the accountability of environmental bureaus and enterprises.

The establishment of a law does not simply guarantee its enforcement – despite the existence of the OGI Regulations and OEI Measures, they will serve no purpose should they not be effectively implemented. The aim of these regulatory instruments is to mobilise the society in monitoring the accountability of the government and enterprises, urging them to abide by the rules and improve their environmental behaviour. It is only through practical application and use by the public that this aim can be achieved.

Civil society organisations should fully utilise the rules by actively accessing information via websites and government publications, and making requests for information, in order to strengthen public demand for information disclosure and motivate bureaus to collate and publish environmental information more effectively.

## **About ARTICLE 19**

ARTICLE 19 is an independent human rights organisation that works around the world to protect and promote the right to freedom of expression. It takes its name from Article 19 of the Universal Declaration of Human Rights, which guarantees free speech. We champion freedom of expression, including freedom of information, as a fundamental human right that is also central to the protection of other rights. At present, we work with more than 80 implementing partners across the globe that are active in areas such as human rights, freedom of information, democratisation, the media, women, health and environment. ARTICLE 19 is a registered UK charity (No. 32741) with headquarters in London, and field offices in Senegal, Kenya, Bangladesh, Mexico, and Brazil.

## **About Center for Legal Assistance to Pollution Victims**

The Center for Legal Assistance to Pollution Victims (CLAPV) is a non-governmental organisation at the China University of Political Science and Law. It was set up in October 1998, and is registered with the Ministry of Justice. Most of its members are professors, associate professors, and teachers who research on environmental and natural resource laws at the China University of Political Science and Law, as well as other universities in China. The Center brings together practitioners, legal experts, scholars, lawyers, and environmental protection administrative and enforcement experts, to conduct research on environmental laws, promote domestic and international exchanges, provide training for environmental law enforcement officials, raise public awareness of environmental laws, and improve environmental legislation and enforcement practices. Through providing legal aid for pollution victims and protecting their environmental rights, the Center seeks to improve the enforcement of Chinese environmental law.