



An implementation assessment of China's Environmental Information Disclosure Decree

Lei Zhang^{1,2}, Arthur P. J Mol², Guizhen He^{3,*}, Yonglong Lu³

1. School of Environment and Natural Resources, Renmin University of China, Beijing 100872, China. E-mail: lei.zhang@wur.nl

2. Environmental Policy Group, Wageningen University, Hollandseweg 1, 6706 KN, Wageningen, The Netherlands

3. State Key Laboratory of Urban and Regional Ecology, Research Center for Eco-Environmental Sciences, Chinese Academy of Sciences, Beijing 100085, China

Received 20 October 2009; revised 23 December 2009; accepted 25 January 2010

Abstract

China's 2007 Open Government Information Regulations is widely considered as a milestone in the country's information policy history and is praised as a "sunshine program". The Environmental Information Disclosure Decree was the first to operationalize these general regulations into a sectoral information disclosure system on environment. This study assessed the implementation of the environmental information disclosure system about six months after the Decree took effect on May 1, 2008. Through reviewing the websites of all 31 provincial Environmental Protection Bureaus and the Ministry of Environmental Protection, conducting an experiment with actual information disclosure request, and through interviews with all provincial Environmental Protection Bureaus, this article concluded that the implementation of the environmental information disclosure system still falls short. Future improvements should focus on further publicity of the regulations and decree to enhance public participation, the establishment of an independent evaluation and supervision system for information disclosure, the exchange of experiences and best practices among provincial Environmental Protection Bureaus, and on strengthening the legal status of environmental information disclosure.

Key words: environmental information disclosure; environmental governance

DOI: 10.1016/S1001-0742(09)60302-8

Introduction

Initiatives on right-to-know and mandatory disclosure of environmental information have been growing since the early days of modern environmentalism. Because of the specificities of its political system, information disclosure programs and right-to-know legislation emerged first and are arguably still most advanced in the United States (Beierle, 2003; Graham and Miller, 2001; Guttman, 2008; Jobe, 1999). The Emergency Planning and Community Right-to-Know Act of 1986 was a congressional reaction to a number of incidents, most notably the 1984 Union Carbide incident in Bhopal, India, in which two thousand people were killed. But this law is part of a much broader set of right-to-know activities, protests, pressures, and legal codes in many countries (Chen, 2008). In most Organization for Economic Co-operation and Development (OECD) countries right-to-know legislation and information disclosure provisions had been established in the 1980s and 1990s (even six had them installed in the 1970s) (Liu, 2008). In general, European countries followed the U.S., and within Europe especially the Nordic countries and the Netherlands were clearly preceding

countries such as the United Kingdom, Germany, France, other Mediterranean countries, and Central and Eastern European states. There is a wide literature that reviews the functioning of these environmental right-to-know and information disclosure practices against specific national backgrounds (Beierle, 2003; Fung et al., 2003; Kerret and Gray, 2007; Khanna et al., 1998; Konar and Cohen, 2001; Petkova et al., 2002; Wu and Li, 2008).

More recently, Asian countries have started to develop and implement right-to-know and information disclosure laws and provisions in environmental policies and governance (Afsah et al., 1997; Guo, 2008). But transitional economies such as Vietnam, China and Laos have been notably slow in setting up advanced systems of information disclosure (Mol, 2009). Hence, one of the most exciting developments in this field is the Chinese Open Government Information Regulations (OGIR), which was issued in 2007 by the State Council to open up access to government information and ensuring greater official transparency nationwide. China's first OGIR is widely considered as a milestone in the country's information policy history and is praised as a "sunshine program". The Chinese Ministry of Environmental Protection (MEP) was the first ministry to operationalize these general regulations into an Environmental Information Disclosure Decree (EIDD, hereafter

* Corresponding author. E-mail: heguizh@yahoo.com.cn

jesc.ac.cn

the Decree). The proposed system has taken effect from May 1, 2008, onwards. The implementation of this decree is expected to speed up the transition from conventional government-dominated environmental regulation to a more transparent and “modern” environmental governance system in China. This article reviews the contents and purpose of the Chinese system of environmental information disclosure and assesses its actual implementation at provincial level over the first six months.

1 Information disclosure and environmental governance

The U.S. Emergency Planning and Community Right-to-Know Act of 1986 formed the start of a new wave of information disclosure programs and policies, which matured especially in the 1990s. These disclosure programs and policies of the 1990s and beyond differ from right-to-know policies and practices of the 1970s, and 1980s in their proactive publication of environmental information, without specific requests being made to do so. The call for further public access to environmental information collected by polluters and state agencies got a new—now international-emphasis following Principle 10 of the Rio Declaration in 1992. Within the European continent, this resulted in the Århus Convention in 1997, whereas globally the Access Initiative and the Partnership for Principle 10 continuously kept access to and disclosure of information on the global political agenda. The 2003 Kiev Protocol under the Århus Convention further enhanced the public access to information in Europe through promoting the establishment of coherent, nationwide Pollutant Release and Transfer Registers (PRTRs). By 2000, forty-four countries had passed access-to-information legislation (World Bank, 2002), by 2006 almost seventy countries did so (Banisar, 2006). According to a World Resource Institute Report (Petkova et al., 2002), three main forces are the urgency and scope of environmental problems, the increase in activism in civil society, and the developments and spreading in information technology and communication means.

Initially, these right-to-know and mandatory disclosure legislations were not related to any ideas of creating incentives or new dynamics of environmental improvements and reform. The basic idea was simply related to ideas of democracy and transparency. It was only in the mid-1990s that information disclosure, right-to-know, and environmental reporting obligations were interpreted as having positive environmental governance effects (Kakkainen, 2001; Stewart, 2001; Mol, 2006). In the legal, economic and sociological American and international literature, the influence of the wider availability of environmental information on environmental policy-making and regulatory processes has been brought together under the notion of informational regulation or informational governance (Konar and Cohen, 1997; Tietenberg, 1998; Kleindorfer and Orts, 1999; Case, 2001; Mol, 2006). With informational regulation or governance, standard conventional regulatory practices in many countries, such as standard

setting, licensing, and enforcement, are complemented or partly replaced by new informational dynamics in which other non-state actors play a significant role: “regulation by revelation” (Tietenberg and Wheeler, 1998; Florini, 2003; Burg, 2006).

Although in most OECD countries access to environmental information has been institutionally safeguarded and is widely practiced, the debate has not lost its urgency for two reasons. First, many of the non-OECD countries have still not (fully) installed legal provisions and institutionalized practices for freedom of information and information disclosure. Second, the implementation of access to environmental information and the actual easy access of civil society to environmental information still seriously lags behind the legal codification (Petkova et al., 2002; Stephan, 2002; Kerret and Gray, 2007). In non-OECD countries four factors seem to determine the national performance on public access to environmental information (Mol, 2009): the government capacity in staff, equipment, procedures, training, and the like; an active and capable civil society with strong NGOs; the position of the media, media attention and coverage of environment, and public scrutiny; the international community – via provisions and requirements in multilateral environmental agreements and conventions, via official development assistance, and via the operations of multilateral institutions and organizations.

Especially in non-OECD countries where state authorities have difficulties in controlling and enforcing environmental regulation, information disclosure could bring in extra hands of non-state actors in environmental governance. Hence the relevance of the newly established Chinese environmental information disclosure system goes beyond democracy and transparency, towards better environmental governance.

2 China’s Environmental Information Disclosure Decree

China’s effort on legislation of information disclosure can be dated back to 1999 when a specific research institute was established within the Chinese Academy of Social Sciences to carry out research on the legislation of opening government information. In May 2002, the State Council entrusted this institute to draft the information disclosure regulations and a first draft was made in July 2002. But it took till 2006, before the draft regulations and the explanations were submitted to the State Council and were listed in the legislation planning of the State Council. The OGIR was approved in January of 2007 and has been put into force since May 1, 2008.

The main motivations behind OGIR are: to alleviate the information asymmetry between economic actors; to gain political credits by improving the transparency of governmental work; and to improve administrative performance (Wang et al., 2008; Zheng, 2007). The regulations also stipulate exemptions for disclosure. Article 8 reads “no administrative organ may disclose any government information involving state secrets, commercial secrets or

individual privacy" because government information disclosure should not endanger the "national security, public security, economic security or social stability". Like many other laws in China, OGIR regulations are not immune to implementation and enforcement shortcomings, due to legal, institutional, administrative, social and economic barriers (Zheng, 2007). Although the performance of the central Chinese government during the 2008 Sichuan earthquake relief serves as one of China's "best practices" of information disclosure during an emergency, reports on the development of OGIR since May 1 of 2008 confirms that information disclosure, especially by local governments, will take some time before being effectively implemented.

But the environment might not be an average case in China's information disclosure practices. For quite some time China was seen as a typical example of an "information-poor environment" (Mol, 2009; Wang et al., 2008), where environmental information was scarce, unreliable and monopolized by a few. But since the millennium turn, we witness increasing openness and publication of, and public access to, environmental information (Yue et al., 2007). Growing newspaper reporting and publication of environmental quality data, increasing quantities and qualities of environmental websites (e.g., for all major cities), information disclosure experiments such as the Green Watch program (Wang et al., 2002), the development of an environmental auditing system, and the start of an web-based pollutant emission and transfer register by the Institute of Public & Environmental Affairs, and all point in this direction (Mol, 2009). In that sense, the EIDD should not come as a major surprise, but should be interpreted as a logical next step in an ongoing trend of information disclosure.

The EIDD, which was published early 2007 and entered into force on May 1, 2008, is the first sectional system to operationalize the general OGIR regulations. This decree requires not only environmental authorities but also industries to disclose environmental information. In the Decree environmental information is clustered into four major categories: environmental laws and regulations; environmental quality; environmental management and supervision; and environmental accidents and emergency responses. These 4 categories are again broken down in 17 items. For example, the first category covers items such as environmental laws, regulations, standards, administrative permits and approval. For provincial Environmental Protection Bureaus (EPBs) it is compulsory to disclose information on all 17 items. Those industries who discharge above emission standards must publish 4 items of information without any exemption: name, address and legal person; concentration and volume of each pollutant and discharge approaches; environmental facility construction and operation; and emergency response plan. Other industries are encouraged to report environmental information on a voluntary basis. The EIDD also specifies how and in what time frame environmental information should be provided to the public: environmental authority information must be made available for the public within

20 working days; responses to requests for information from society should be answered within 15 working days; and major industrial polluters (as registered by EPB) must disclose and report emission data within 30 days. In addition, the Decree requires the establishment of monitoring, evaluation and supervision systems. Those organizations violating the rules of information disclosure will be held responsible and accountable by their higher level supervisors; and industries violating the rules will face penalties. Citizens can sue public authorities and industries that violate the decree. The exemptions in the general OGIR also apply to this environmental decree (Wang and Cui, 2008). This opens the possibility for strategic use of "sensitive information" excuses in refusing to answer public information requests. In general, governmental officials are still too much used to work behind closed doors and—according to one commentator—this decree only changed doors into "transparent doors"; but did not open them (Huang, 2008). Nevertheless, this decree further institutionalizes the previous efforts of the MEP to promote information disclosure and public participation, and to strengthen their civil society allies in environmental struggles against a one-dimensional economic development.

3 Methodology of assessing the implementation of the disclosure system

In assessing the implementation of the new environmental information disclosure system after being six month in operation, we focused on the role of provincial EPBs, leaving lower level environmental authorities and corporations unaddressed. Provincial EPBs play a key role in implementing this decree; they are under direct supervision of the MEP and they are responsible for supervising lower level EPBs. Through the requirements posed to EPBs we indirectly include lower level EPBs and firms, as provincial EPBs should be able to provide information on major polluters and major risks often coming from these other two constituencies. In our assessment we include all 31 provincial EPBs, as well as the MEP.

To assess to what extent these EPBs had implemented the decree by November 2008 (almost 2 years after its approval and 6 months after its formal implementation) three different methods were applied. Firstly, a standardized analysis was performed on the websites of all 31 provincial EPBs and the MEP regarding the requirements set out in the decree. As specified in the MEP Guideline on Environmental Information Disclosure, mandatory disclosed environmental information must be made available on the EPB website; and the website should also provide information on the procedure and requirements for information requests. These websites were assessed simultaneously but independently by ten academic experts in environmental information handling (all frequent users of governmental websites). The experts were given standardized instruction on scoring the websites on a 5 point Lickert scale, from 1 (insufficient/none) to 5 (complete), regarding the following three aspects.

(1) User friendliness of the website interface: (i) is there

a direct and easy to find clickable link for environmental information disclosure; (ii) if not, is environmental information—and the forms and procedures to ask for additional environmental information—reachable via the provincial governmental website on general information disclosure (indirect link); (iii) are the items on environmental information directly linked to full texts, data archives etc.?

(2) Convenience for information disclosure: how convenient can individual or organizations apply and request for environmental information from EPBs?

(3) Coverage of the mandatory information: what percentage of the 4 categories and 17 items of environmental information, as specified in the MEP Guideline on Environmental Information Disclosure, is actually included in the EPB websites? The accuracy of the provided information goes beyond the scope of this study.

Secondly, we carried out an experiment on how provincial EPBs reacted to request for environmental information by submitting formally a request for a list of key chemical industrial polluters (including their locations, sizes and emission discharges) and for the records of major environmental accidents in the province since 2005. According to the Guideline, this information falls under mandatory disclosure but does not have to be presented directly at websites. Applications for these information requests were submitted using the contact information as provided at the websites or via a telephone call in case no information was available on the websites. This resulted in 10 requests via mail, 11 via e-mail, 2 via both email and on-line forms; 2 via both on-line forms and fax, 4 via fax and e-mail, 2 via on-line form only, and 1 via both on-line form, e-mail and fax. After 15 working days, we called and faxed those EPBs that did not respond, to resubmit our request and to find out the reasons for their initial failure.

Thirdly, the officers responsible for environmental information disclosure of all 31 provincial EPBs and of the MEP were interviewed over the telephone on the implementation of actual requests for environmental information disclosure, using a closed, standardized questionnaire. Questions included related to: (1) reasons for (not) providing requested environmental information; (2) preparatory work done before May 1, 2008, and difficulties encountered in these preparations; (3) the number of requests for environmental information disclosure received since May 1, 2008, and the kind of applicants; (4) reasons for failures to disclose environmental information.

4 Implementation of the information disclosure system

In preparing for the implementation of the national EIDD and following the requirements of MEP, 21 provincial EPBs formulated their own specific guidelines for information disclosure, and 10 failed to do so up till November 2008. For most of these 21 provinces, these guidelines are not much more than an exact copy of the relevant articles and catalogue of the national Decree. In addition, in these 21 provinces sometimes limited (personnel and financial)

capacity was reserved for implementation, but mostly the implementation was added to an existing division with no additional provisions for implementation. Meetings and trainings were organized for responsible provincial staff on information disclosure services and the construction and use of information systems.

The review of 31 provincial EPB websites proved that 21 websites have a direct clickable link to the item of information disclosure. At the other 10 EPB websites information disclosure could only be indirectly reached via the website of the provincial government. In 16 of the 31 websites, one can click on the title of listed documents to obtain the full text of regulations or policy documents, while 15 websites only present a list of documents falling under the disclosure decree. Ten experts were independently asked to score the convenience of the websites using a 5-point Likert scale (1 inconvenient–5 very convenient). The average scores are provided in Fig. 1, showing a large variety between the EPB websites. Tibet EPB did not have a website.

In terms of the coverage of the contents as specified in the MEP Guideline on Environmental Information Disclosure, the experts rated the information availability (but not its quality) of the 17 items within the 4 categories of information. Again, a five point Likert scale was used, ranging from 5 (full coverage of the 17 items) to 1 (no coverage of the 17 items). The Tibet EPB has no website and thus no coverage. All the other EPB websites provide some information: 16 websites were scored on average with 5, 10 website scored on average 4 and for 4 websites the average score of the 10 experts ranged 3. Ten of the 31 EPBs give no information on environmental accidents and emergency responses.

Of all provincial EPB websites, 11 offer online application forms for disclosure of environmental information, and so does the website of the MEP. These twelve agencies offer also other possibilities for sending in information requests (e.g., via mail, e-mail, fax and/or telephone). Some of the other EPBs are more restricted in their possibilities for requesting information. Ningxia allows only letters for information requests, and Guizhou and Hainan give no indication how to request information. All EPBs and the MEP allow both individuals and organizations to send in information disclosure requests.

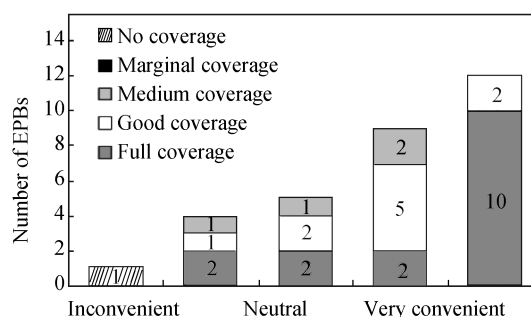


Fig. 1 Convenience and coverage of items of 31 EPB websites. The numbers 1, 2, 5, and 10 denote the number of EPBs.

We used these indicated possibilities to design an experiment in information disclosure request. As an institute of the Chinese Academy of Sciences we filed an information request on key chemical industrial polluters and on environmental accidents. Of the 32 organizations (including the MEP), 11 EPBs responded within the specified legal deadline of 15 working days, of which 5 EPBs provided adequate information on emission data of large chemical industries and major environmental accidents since 2005. The other 6 EPBs that reacted in time explained why they could not provide the requested information (Fig. 2). The other 20 EPB as well as the MEP gave no reaction within 15 working days. After the deadline, we called these 20 EPBs and the MEP and faxed our applications again, of which Guangdong and Hebei EPBs were not reachable by any means. Out of these 20 EPBs 16 claimed that they did not receive the application in first instance and four said they were still working on the collecting of the requested information. After one and a half month, 10 of the remaining 20 EPBs confirmed that they received our second application, but most of them indicated they could not provide the requested information. In the end, only 6 of the 31 EPBs actually provided the requested information, while 10 gave no response at all. It should be noted that the MEP failed to respond to our request, too. However, strongly enough, in the recently published report on the Environmental Information Disclosure Annual Report 2008 by the MEP it is stated that all the received 68 applications have been replied (Ministry of Environmental Protection, 2009). The marginal difference in providing adequate information before and after the reminder suggests that the requested information is either not available with most of the EPBs, or most of the EPBs are unwilling to disclose such information. In interviews with all EPBs, a considerable number of them used secrecy of data, state security, social stability, confidentiality or likewise arguments for the inability to provide the information. Sometimes they referred to article 10 of the OGIR, sometimes to the special position of the capital Beijing, sometimes to the articles of the State Environmental Protection Administration Policy paper No. 187, 2004, sometimes to the specific type of information requested (company information and key environmental accidents being confidential), and once questions were posed on the

identity and qualification of the applicant and for what purpose it would use the information. Few referred to the fact that this information does not exist because the poor provincial monitoring systems could not generate this information; or the existing technical facilities and support is unable to generate this information; or that further processing needs to take place before being able to disclose the information.

Figure 3 provides a frequency graph on the number of requests for information 'recorded' by EPBs over the first half year. In all provinces individuals as well as organizations are entitled to file requests for environmental information disclosure, but only in a few provinces individuals and organization have found their way to do so. Shanghai EPB seems have the best practice on information disclosure. It has received—and registered accurately—in total 81 requests, of which 70% came from individuals and 30% from organizations. The MEP estimated that it received 40–50 requests, about 90% coming from individuals. Henan EPB received around 20 requests, about 15 from individuals; and Beijing EPB received 15 requests, mostly from individuals. Fujian EPB received 5 requests from organizations only, and Gansu EPB received 2 requests, both from organizations. For 8 EPBs this experiment was the first request for environmental information they received in 6 months. Hebei and Guangdong EPBs were not reachable by either telephone or fax, while a considerable number of EPBs promised to answer later but failed to do so, even after follow-up requests. This experiment also illustrated that hardly any EPB accurately registers environmental information requests they receive. Most EPBs had to estimate the number of requests or needed much time before being able to provide an answer; 3 EPBs were even unable to provide an estimate. Obviously, information disclosure is not yet institutionalized within EPBs.

In our interviews shortcomings in capacity, capacity building and training of provincial staff, unclear procedures and responsibilities, and lack of environmental information were often mentioned by EPBs as main reasons for their poor implementation of the EIDD. Often tasks related to this Decree had been added to an existing division, without additional allocation of capacity or resources. Hence these EPB divisions responsible for the implementation of the Decree lacked capacity in hardware (technologies and information systems), human and electronic 'software' as well as finances. A number of EPBs also mentioned the ambiguity of the guidelines

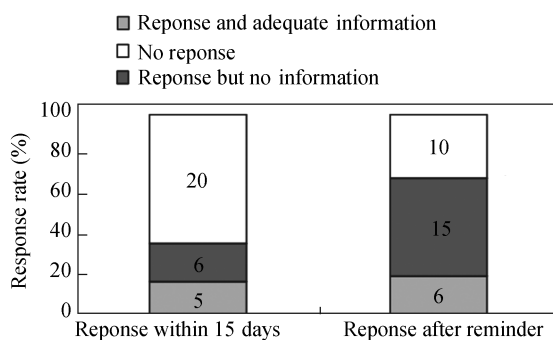


Fig. 2 Response rate of 31 EPBs following information request (excluding MEP) by November 2008. The numbers 5, 6, 10, and 15 denote the number of EPBs.

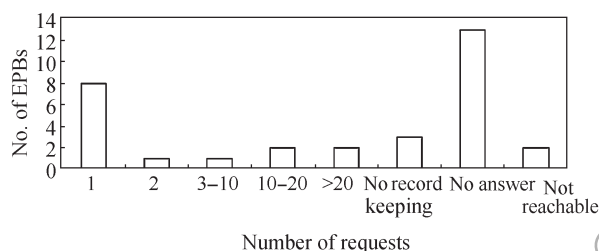


Fig. 3 Number of requests for information recorded at all 31 EPBs and the MEP by November 2008.

and rules, for instance on responsibilities and procedures, which cause significant confusion in practice. And existing (local) monitoring systems are more than incidentally of poor quality and do not generate the required information. Thus, existing data often need further processing and analysis before they can be used and meet the needs of applicants. EPBs often lack the knowledge and capacity to do so. There is also no exchange of experiences between EPBs on how they interpret and operationalize the Decree and the provincial guidelines, and how to set up efficient information disclosure systems.

5 Discussions and conclusions

As part of the nationwide program for informationization capacity building of government agencies (or E-Government movement), the MEP entrusted its Information Center to evaluate the performance of all provincial EPBs websites except Tibet EPB in December 2007 (MEP, 2008). Expert judgment was used as the main method to assess website design, public participation, environmental information provision, and online interaction functions. Their conclusions on active and passive information provision are not too different from our findings: most of them fall short on providing environmental information on pollution control, environmental standards, Environmental Impact Assessment procedures and approvals, environmental emission and monitoring data, environmental accidents and emergency responses, and environmental fees and fines. EPBs tend to release easy and less sensitive information, but keep complex and 'sensitive' information, such as environmental supervision, emission data, EIA outcomes, accidents and emergency responses—unveiled.

In comparing provincial performance in the two data sets of 2007 and 2008, eastern and coastal provinces seem to score better in websites and online interactive communication functions than the western provinces, showing the differences in technical and financial capacities between rich and poor provinces. It should be noted, although, that both studies only evaluate the coverage of the information in the websites, not on the quality of the provided information. Also in reactive information disclosure a clear division in eastern and western provinces can be noted: among the five EPBs that received the highest amount of information requests, four are from eastern China. In our experiment 5 of the 6 provinces that provided adequate information (most of them in time) were rich eastern provinces. But the suggested relationship between rich provinces and open provinces is no iron law: several rich eastern provinces never responded to our request for information, such as Guangdong, Hebei and Shandong.

At the paper revision, some studies have been conducted on the China's environmental information disclosure. Although they focused on different parties and used various methodologies, some similar results and conclusions are presented. The annual report of the governmental information disclosure by the MEP (2009) showed that the governmental disclosure made some progress in regulations improvement, website building, contents and forms

of the mandatory disclosed environmental information. Until March 1, 2009, 68 requests for environmental information via internet (61), mail (3), fax (1), face-to-face (1), and other forms (2) are all replied. The detailed guidelines, disclosure ways, the dynamic information directory, the evaluation indicators for information disclosure should be considered in the future.

The Greenpeace report analyses how well some of the largest multinational and Chinese corporations have complied with the Measures on Environmental Information Disclosure during its first year (May 2008 to May 2009) of operation (Greenpeace, 2009). The results indicated that all companies listed in the report violated Chinese regulations on environmental information disclosure. None of the 25 factories belonging to the 18 companies that were required to disclose environmental information for exceeding discharge standards disclosed information within the stipulated time limit. The four factories belonging to three companies that did eventually disclose environmental information only disclosed extremely limited data. The main reasons for such shortcomings are the corporate non-compliance, weak enforcement by local authorities, and ambiguities within the guidelines and measures.

The Institute of Public & Environmental Affairs (IPE) and the Natural Resources Defense Council (2009) developed a Pollution Information Transparency Index (PITI) to carry out a systematic first-year assessment of implementation for these regulations in 113 Chinese cities, based on eight sets of criteria. The results show that, although there is still much work to be done, many city governments have begun to improve the transparency of their environmental information. Ningbo in Zhejiang Province ranked first for its all-round performance, while Shanghai ranked first in disclosure of enterprises' environmental rule violation, and Beijing performed best in disclosure of public environmental complaints and their settlement. The maximum score is 100 points. Of the 113 cities assessed, 4 scored above 60 points (Ningbo of Zhejiang Province, Hefei of Anhui Province, Fuzhou of Fujian Province, and Wuhan of Hubei Province), 32 cities scored under 20 points, and the average score of all 113 cities was slightly more than 30 points. Only 27 cities provided complete or partial answers to the requests, while 86 cities ignored them altogether. The initial results also show that there are significant regional differences in the degree of disclosure. In general, the eastern provinces outperform the central provinces, while the central provinces outperform the western provinces of China. Some barriers exist to obtaining pollution information via request. The reasons they gave included: "such data should not be disclosed", "disclosing such information would reveal corporate secrets," and "this request can only be handled with an introduction letter from superior governmental agencies."

How should we interpret the poor response to our experiment for information disclosure? From our interviews we learned that often lack of (motivated) staff and the absence of clear responsibilities cause information requests sent by registered mail, e-mail, fax, telephone or even online submission ending up nowhere. And if these requests find

a responsive EPB staff, it proves that they are often not willing or not able to respond to information disclosure requests following the Decree. Although the information requested in our experiment is by no means confidential, and following the Decree disclosure should be the rule and non-disclosure should be the exception (Zheng, 2007), confidentiality was more than incidentally used as an argument to withhold information on environmental accident and industrial emissions. This ambiguous use of the confidentiality argument points on the one hand to conflicts between the Decree and other laws and regulations, such as the Law on Guarding State Secrets, the Archives Law, the Administrative Procedural Law, the Law on the Prevention and Treatment of Infectious Diseases, and the Regulations on Preparedness for and Responses to Emergent Public Health Hazards. On the other hand, although, the use of confidentiality arguments also depends on the strategies and "attitudes" (Liu, 2007) of the involved EPB officers how certain clauses of these laws should be interpreted.

Given the fact that all EPBs had one year of preparations before formal implementation of the Decree commenced on 1 May, 2008, these shortcomings seem more at stake than just starting-up problems. Obviously, although the Decree is meant to improve environmental governance in China and strengthen the environmental allies in civil society, it is taken by the majority of EPBs as a burden rather than a useful instrument and powerful aide. In general, insufficient resources have been allocated to build up local capacity for implementation and no political priority is given to active or passive environmental information provision and disclosure. Under these conditions, the ambiguity of some clauses in the Decree gives provincial environmental agencies great discretion to avoid disclosure. In addition, the Decree also makes EPBs more accountable and some environmental information may very well embarrass governmental officials. Hence, lip service is paid to information disclosure but real action too often lacks.

To conclude, the landmark OGIR and the related EIDD are meeting considerable implementation shortcomings six months after entering into force. These shortcomings can be only partly interpreted as start-up problems, as they are also related to the longstanding closeness, secrecy and monopoly of information in China's political system. The political system reflexes still very much resemble these conventions. But the new legal provisions are also part of wider developments and practices in China to open up environmental information systems to the public and making (environmental) authorities more accountable; as such, the Decree serves a legal base for further information disclosure, accountability and access. Hence, we can expect that also in China slowly but steadily environmental information disclosure will less and less be understood in terms of doing a favor to the public, and increasingly as an act and instrument of environmental governance for which environmental authorities are responsible and accountable. To advance this, future efforts should focus on further publicity of the regulations and Decree to enhance public participation, on the establishment of an evaluation and

supervision system of information disclosure (Sun, 2008), on the mobilization of resources within and across agencies, on the exchange of experiences and best practices among EPBs, and on strengthening the legal status (also vis-vis other regulations) of environmental information disclosure.

Critically following the implementation of this Decree and reflecting on successes and failures is instrumental for the advancement of information disclosure. Hence, further research is needed on, among others, information disclosure practices by major companies and lower level EPBs; the contents, adequacy and reliability of disclosed information; and the internal (political) processes and dynamics within and between provincial—and lower level—authorities in enabling and constraining information disclosure practices.

Acknowledgments

This work was supported by the National Basic Research Program (973) of China (No. 2007CB407307), the National Key Project of Scientific and Technical Supporting Program (No. 2008BAC32B07), the Netherlands Royal Academy of Arts and Sciences and the Chinese Academy of Sciences (No. 10CDP030).

References

- Afsah S, Laplante B, Wheeler D, 1997. Regulation in the information age: Indonesian public information program for environmental management. World Bank Policy Research Working Paper.
- Banisar D, 2006. Freedom of Information Around the World. Privacy International, London.
- Beierle T, 2003. The benefits and costs of environmental information disclosure: What do we know about right to know? Discussion papers dp-03-05, Resources for the Future.
- Burg S W K van den, 2006. Governance through information: environmental monitoring from a citizen-consumer perspective. Ph.D Thesis. Wageningen University, The Netherlands.
- Case D W, 2001. The law and economics of environmental information as regulation. *Environmental Law Reporter*, 31: 10773–10789.
- Chen Y H, 2008. Environmental information disclosure movement around the world. *Environment*, 8: 16–19.
- Florini A, 2003. The coming democracy: new rules for running a new world. Island Press Washington DC.
- Fung A, Graham M, Weil D, 2003. The political economy of transparency – what makes disclosure policies sustainable? Faculty Research Working Papers Series RWP03-039 John F. Kennedy School for Government. Harvard University. Boston, MA. Available at: http://ksg-notes1.harvard.edu/research/wpaper.nsf/rwp/RWP03-039/File/rwp03039_fung.pdf.
- Graham M, Miller C, 2001. Disclosure of toxic releases in the United States. *Environment*, 43(8): 9–20.
- Greenpeace, 2009. Silent Giants: An investigation into corporate environmental information disclosure in China. Via <http://www.greenpeace.org/raw/content/china/en/press/reports/silent-giants-report.pdf>; accessed December 9, 2009.
- Guo S Z, 2008. The environmental information disclosure system in Japan. *World Environment*, 5: 28–29.

iesc.ac.cn

- Guttman D, 2008. The environmental information disclosure in USA. *Environmental Protection*, 13: 25.
- Jobe M M, 1999. The power of information: the example of the U.S. toxics release inventory. *Journal of Government Information*, 26(3): 187–195.
- Kakkainen B C, 2001. Information as regulation: TRI and performance benchmarking, precursor to a new paradigm? *Georgetown Law Journal*, 89(2): 257, 259–263.
- Kerret D, Gray G M, 2007. What do we learn from emissions reporting? Analytical considerations and comparison of pollutant release and transfer registers in the United States, Canada, England, and Australia. *Risk Analysis*, 27(1): 203–223.
- Khanna M, Quimio W, Bojilova D, 1998. Toxics release information: a policy tool for environmental protection. *Journal of Environmental Economics and Management*, 36: 243–266.
- Kleindorfer P R, Orts E W, 1999. Informational regulation of environmental risks. *Risk Analysis*, 18(2): 155–170.
- Konar S, Cohen M A, 1997. Information as regulation: the effect of community right to know laws on toxic emissions. *Journal of Environmental Economics and Management*, 32(1): 109–124.
- Konar S, Cohen M, 2001. Does the market value environmental performance? *Review of Economics and Statistics*, 83: 281–289.
- Huang Q C, 2008. Governmental information openness confronts “glass door”. People’s Daily, November 12, 2008. <http://politics.people.com.cn/GB/8323790.html>; Accessed February 8, 2009.
- Institute of Public & Environmental Affairs, Natural Resources Defense Council, 2009. Cutting through the fog with China’s first pollution information transparency index (PITI), November 12. <http://www.nrdc.org/international/piti/files/chinapiti.pdf>; Accessed December 9, 2009.
- Liu G Q, 2008. Environmental information and data disclosure practices in USA, EU, Middle and Eastern Europe. *China ISO14000 Verification*, 1: 51–53.
- Liu L, 2007. Why it is difficult to open government information, May 24. http://cio.ccw.com.cn/research/zf/htm2007/20070524_263266.asp. December 17, 2008.
- MEP (Ministry of Environmental Protection), 2008. Provincial EPB websites evaluation 2007. MEP Information Centre, Beijing.
- MEP (Ministry of Environmental Protection), 2009. Annual report on governmental information disclosure 2008. Ministry of Environmental Protection Announcement No. 16, 2009. http://www.mep.gov.cn/info/bgw/bgg/200903/t20090327_135778.htm. April 11, 2009.
- Mol A P J, 2006. Environmental governance in the information age: The emergence of informational governance. *Environmental Planning C*, 24(4): 497–514.
- Mol A P J, 2009. Environmental governance through information: China and Vietnam. *Singapore Journal of Tropical Geography*, 30(1): 114–129.
- Petkova E, Maurer C, Henninger N, 2002. Closing the gap: information, participation, and justice in decision-making for the environment. World Resources Institute, Washington DC.
- Stephan M, 2002. Environmental information disclosure programs: They work, but why? *Social Science Quarterly*, 83(1): 190–205.
- Stewart R B, 2001. A new generation of environmental regulation? *Capital University Law Review*, 29: 21.
- Sun Y J, 2008. Audit environmental information disclosure. *Green Finance and Accounting*, 6: 30–32.
- Tietenberg T, 1998. Disclosure strategies for pollution control. *Environmental and Resource Economics*, 11(3-4): 587–602.
- Tietenberg T, Wheeler D, 1998. Empowering the community: Information strategies for pollution control. In: *Frontiers of Environmental Economics Conference*, Airlie House Virginia. <http://www.eldis.org/static/DOC6624.htm>.
- Wang C, Cui Y, 2008. The exemptions of environmental information disclosure. *Environmental Protection*, 40(9A): 56–60.
- Wang H, Bi J, Wheeler D, 2002. Environmental performance rating and disclosure: China’s Green-Watch Program; policy research working paper No. 2889. World Bank, Washington, D.C.
- Wang H, Greer L, Lin X, 2008. Practice and inspiration of environmental information disclosure. *World Environment*, 5: 24–26.
- Wu Y T, Li S G, 2008. The value of environmental information disclosure legislation. *Commercial Time*, 29: 45–46.
- World Bank, 2002. World development report 2002: Building institutions for markets. World Bank, Washington, D.C.
- Yue G H, Chen Y P, Lu Z H, 2007. Environmental information disclosure is the necessary instrument of environmental emergency response management. *Environment and Sustainable Development*, 6: 34–35.
- Zheng L, 2007. Enacting and implementing open government information regulations in China: motivations and barriers, ACM International Conference Proceeding Series: The 1st International Conference on Theory and Practice of Electronic Governance. Vol. 232.