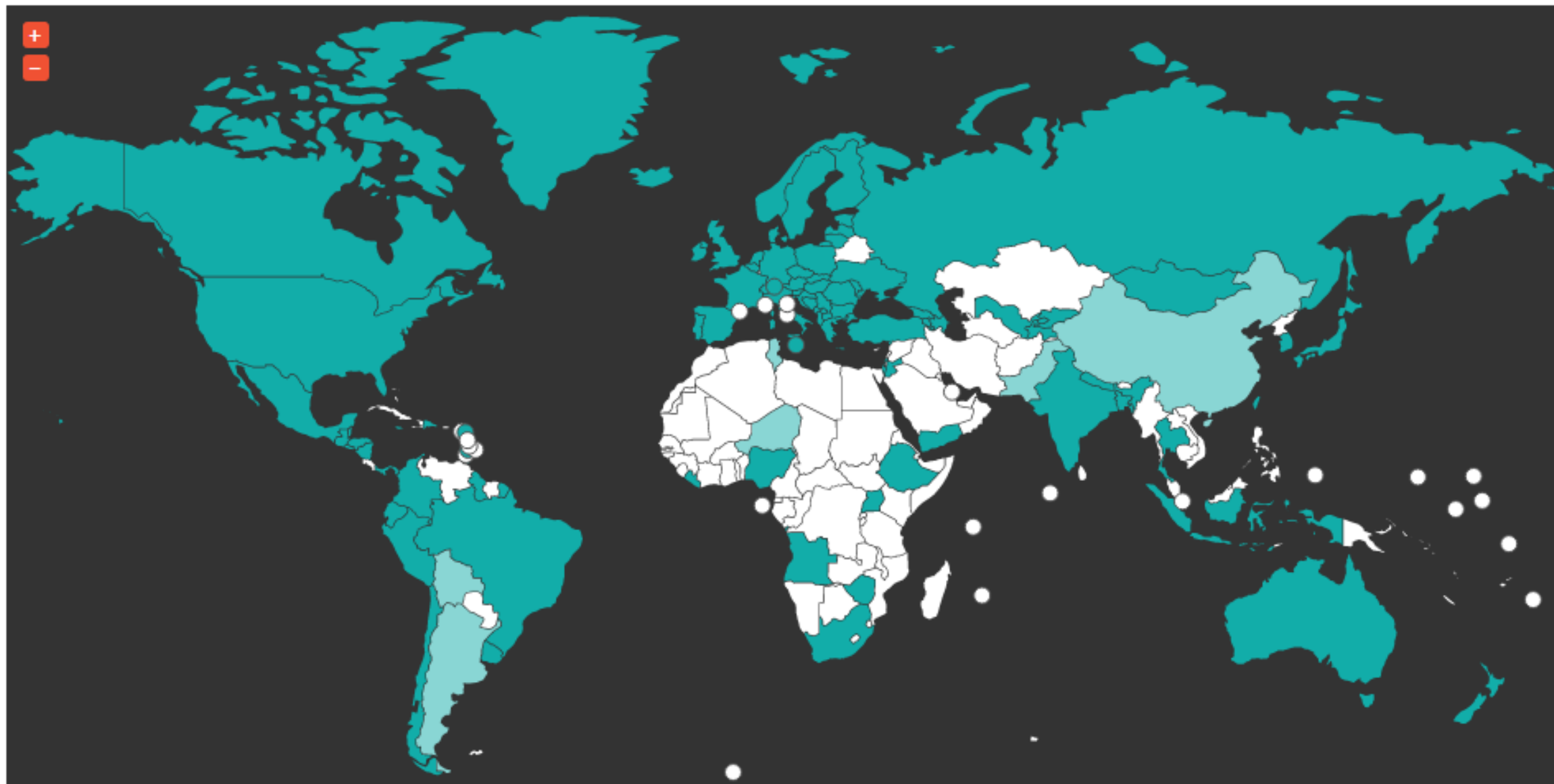

The Regional Agreement for Latin America and The Caribbean on Access To Information, Participation and Justice Arts 4-7: Access To Environmental Information



Danielle Andrade-Goffe
Elected Representative of the Public

The Access Initiative Webinar
3 March 2016

National Laws and Regulations on the Right to Information



MAP KEY



No law or regulation



National regulation


















National law

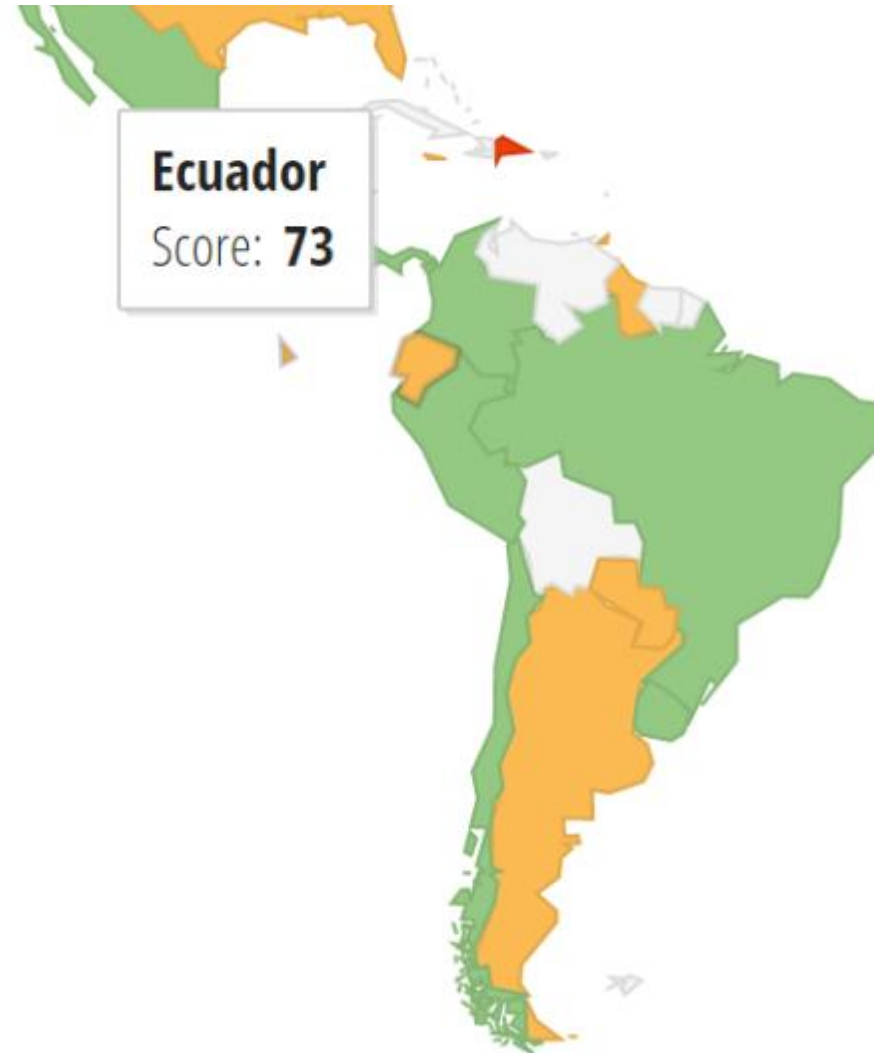
ARTICLE 19

Global Right to Information Rating

RANKING POSITION	COUNTRY	DATE	RIGHT OF ACCESS	SCOPE	REQUESTING PROCEDURES	EXCEPTIONS & REFUSALS	APPEALS	SANCTIONS & PROTECTIONS	PROMOTIONAL MEASURES	TOTAL
1	Serbia	2003	5	30	22	26	29	7	16	135
2	Slovenia	2003	3	30	26	25	28	4	13	129
3	India	2005	5	25	25	26	29	5	13	128
4	Croatia	2013	5	30	22	26	29	5	9	126
5	Liberia	2010	5	30	19	27	20	7	16	124
6	El Salvador	2011	6	30	24	22	23	1	16	122
7	Sierra Leone	2013	0	29	25	18	28	7	15	122
8	South Sudan	2013	6	27	16	26	22	8	15	120
9	Mexico	2002	6	22	23	22	26	2	16	117
92	Paraguay	2014	2	24	18	2	7	2	6	61
93	Dominican Republic	2004	5	21	14	11	3	2	3	59

Caribbean Country		Law: Draft (D), Enacted (E); Constitution only (C)
	Antigua & Barbuda	Freedom of Information Act 2004 (E)
	Bahamas	Freedom of Information Bill 2015 (D)
	Barbados	Freedom of Information Bill 2008 (D)
	Belize	Freedom of Information Act 1994 (E)
	Dominica	Section 10 of the Constitution of the Commonwealth of Dominica (C)
	Dominican Republic	General de Libre Acceso a la Información Pública 2004 (E)
	Grenada	Freedom of Information Bill 2007 (D)
	Guyana	Access to Information Act 2011 (E)
	Haiti	Article 40 of the Constitution of Haiti (C)
	Jamaica	Freedom of Information Act 2002 (E)
	St Kitts & Nevis	Freedom of Information Bill 2006 (D)
	St. Lucia	Freedom of Information Bill 2009 (D)
	St Vincent & Grenadines	Freedom of Information Act 2003 (E)
	Suriname	-
	Trinidad & Tobago	Freedom of Information Act 1999 (E)

HOW TO CREATE A REGIONAL STANDARD ACROSS COUNTRIES AND SUB-REGIONS?



I. ...IN ACCORDANCE WITH NATIONAL LAW

ART 6.3- ENVIRONMENTAL INFORMATION SYSTEMS

Each Party shall ~~shall~~ may create and keep up to date an environmental information system, whose the content of which shall be defined in accordance with national priorities. ~~to include, inter alia:~~

- ~~(a) the texts of international treaties and agreements, as well as laws, regulations and administrative acts on or relating to the environment;~~
- ~~(b) reports on the state of the environment, referred to in article 7.5;~~
- ~~(c) the list of public authorities that have information with environmental content and that should be publicly accessible;~~
- ~~(d) reports on environmental liabilities;~~
- ~~(e) information on the use, conservation and exploitation of natural resources;~~
- ~~(f) systematized and updated information on administrative environmental impact assessment files; and~~
- ~~(g) information on hazardous materials, substances and activities.~~

2. DEFINITIONS AND SCOPE OF APPLICATION OF AGREEMENT TO PEOPLE AND GROUPS

ART. 2 – DEFINITIONS: DISADVANTAGED GROUPS

means those persons or groups of persons with a greater likelihood of not knowing the risks related to the environment to which they are exposed, or of not fully exercising their access rights, including, among others, women, indigenous peoples, Afro-descendants, older persons, children, youth, persons with disabilities, in situations of vulnerability due to discrimination, poverty, illiteracy, lack of fluency in the official language, health or any other condition.



2. DEFINITIONS AND SCOPE OF APPLICATION OF AGREEMENT TO PEOPLE AND GROUPS

ART. 6.4 – ACCESS FOR DISADVANTAGED GROUPS

The Parties shall endeavour to facilitate access to information for disadvantaged individuals and/or groups, making alterations —**as their specific challenges require**— for the presentation of requests, processing and delivery of information, for the purpose of promoting access and participation under equal conditions. Each Party shall guarantee that members of indigenous peoples have the right to receive assistance for preparing their requests in the official language and to receive a prompt response.

2. DEFINITIONS AND SCOPE OF APPLICATION OF AGREEMENT TO PEOPLE AND GROUPS

ART. 5.12 – NON-DISCRIMINATION

The Parties shall guarantee enjoyment of the rights recognized in the present Agreement under equal conditions without distinctions, in accordance with the principle of non-discrimination. **In fulfilling their obligations, the Parties shall give consideration to women, minorities, indigenous peoples and Afro-descendants, children, youth and older persons.**

3. APPLICATION OF RIGHT TO OBTAIN INFORMATION FROM PRIVATE COMPANIES AND ON PRIVATE COMPANIES

ART. 6.3 – ENVIRONMENTAL INFORMATION SYSTEMS

Each Party shall create an environmental information system and keep it up to date, to include, inter alia:

- (a) the texts of international treaties and agreements, as well as laws, regulations and administrative acts on or relating to the environment;
- (b) reports on the state of the environment, referred to in article 7.5;
- (c) the list of public authorities that have information with environmental content and that should be publicly accessible;**
- (d) reports on environmental liabilities;
- (e) information on the use, conservation and exploitation of natural resources;
- (f) systematized and updated information on administrative environmental impact assessment files; and
- (g) information on hazardous materials, substances and activities.

4. TIMELINES FOR ACCESS TO INFORMATION

ART. 6.12 – CONDITIONS APPLICABLE TO DELIVERY OF INFORMATION

All competent authorities shall respond to requests for environmental information as quickly as possible and avoid any type of delaying formalities.

The maximum period for responding to an information request shall be **thirty business days** from the date of receipt of the request.

5. EXCEPTIONS REGIME

ART. 6.6. – EXCEPTIONS REGIME

The ~~only~~ circumstances which can be invoked to refuse total or partial access to environmental information are the following:

- (a) when its disclosure, communication or knowledge would affect the rights of individuals, especially as related to their safety, health or private life;
- (b) when its disclosure, communication or knowledge would affect national security or interests, particularly with respect to national defence, public order, public health or international relations;
- (c) when its disclosure, communication or knowledge would affect protection of the environment; and
- (d) when the requested information is classified as secret or confidential by laws in force and their respective regulations.”

6. BALANCING THE PUBLIC INTEREST

ART. 6.7

The aforementioned reasons for refusal shall be **legally established** in advance, **clearly defined** and **regulated taking into account the public interest** and thus interpreted restrictively. The burden of proof will lie with the competent authority.

ART. 6.10

The Parties shall encourage the establishment of **tests of public interest**, instances for mediation or other mechanisms in order to weigh the interest of withholding information against the interest of disclosing it.

7. IMPLEMENTATION AND ENFORCEMENT

ART. 6.19 – INDEPENDENT REVIEW MECHANISMS

The Parties **shall** have an autonomous, independent and impartial entity or institution to promote transparency in access to environmental information, oversee compliance with rules and guarantee the right of access to information. This entity **may** have sanctioning powers.



Riverton Landfill on fire (2014) © Jamaica Environment Trust

THANK YOU!

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Elected Representative of the Public

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