

# **Study Tour Outcome Document: Strengthening the Right to Information for People and the Environment**

**October 22, 2012 – October 25, 2012**



## **Study Tour Overview**

**The World Resources Institute** (WRI) organized a U.S. Study Tour with partners from Thailand and Indonesia, October 22 -25, 2012 as part of our “Strengthening the Right to Information for People and the Environment,”(STRIPE) project. This 2 year project is held in partnership between the Open Society Foundation, Thailand Environment Institute, Indonesian Center for Environmental Law, World Bank Institute, Washington State University, Vancouver, and the U.S. Environmental Protection Agency.

Study Tour participants included representatives from the Indonesian Center for Environmental Law (ICEL) and the Thailand Environment Institute (TEI) as well as Thailand and Indonesian government officials.

The Study Tour was designed to inspire our participants to create new, effective opportunities for Freedom of Information (FOI) law implementation and improved pollution control regulation in their respective countries by strengthening their ability to:

- Improve understanding of civil society campaigns based on pollution data.
- Share experience in setting up regulatory control and official responses to pollution.
- Develop a sequence of proactive pollution control release information, taking into consideration developing country contexts.
- Enhance civil societies ability to strategically make and enforce freedom of information requests.

Visiting Study Tour participants included:

- Mr. Henri Bastaman, Deputy for Technical Infrastructure and Capacity Building in Environmental Management, Indonesian Ministry of Environment;
- Mr Ilyas Asaad , Deputy for Environmental Communication and Community Empowerment, Indonesian Ministry of Environment;
- Mr. Ir. Noer Adi Wardoyo, M.Sc, Head of Competency and Environmental Services Provider Agency Standardization, Indonesian Ministry of Environment;
- Mr. Ir. Ery Rura Panahan Batubara, Head of Program and General Administration, Indonesian Ministry of Environment;
- Ms. Dyah Paramita, STRIPE Project Manager, Indonesian Center for Environmental Law;
- Ms. Dewi Tresya, Deputy for Freedom of Information Program, Indonesian Center for Environmental Law;
- Mr. Wijarn Simachaya, Secretary General, Office of Natural Resources and Environment Policy and Planning, Ministry of Natural Resources and Environment, Thailand;
- Mr Sutti Atchaisai Secretary General, The Eastern People's Network Thailand;
- Ms. Somrudee Nicrowattanayingyong, Senior Director, TEI;
- Mrs Kanongnij Sribuaiam, Faculty of Law, Chulalongkorn University;
- Mr. Pervatana Rungraungsri, Industrial Estate Authority of Thailand.

For the STRIPE project, TEI and ICEL are working with local village members and public interest legal clinics to evaluate the release of environmental information by using their countries specific FOI law to collect environmental data and information on air and water quality. Civil society and community members are requesting information on the pollution releases from the

- (i) BLCP coal-fired power plant, Siam Steel Company Ltd., Siam Yamato Steel Company, Ltd., and the PTT Phenol Company Ltd., in the Map Ta Phut Industrial state in the Rayong region of Thailand; and the
- (ii) Tanjung Jati B coal fired power plant in the Central Java province (air) and from the PK Indah Kiat Pulp and Paper (IKPP) paper mill (water) in the West Java province, Indonesia.

Civil Society Organizations, legal aid groups and communities are then tracking the progress of their requests and publicizing and advocating appropriate reforms on the basis of an assessment about the impact on communities affected by polluted air and water.

Overall the objectives of the STRIPE include:

- Empowering communities in the target countries to improve their environmental health through improved access to information.
- Improving the implementation of the Freedom of Information (FOI) law in partner countries by strengthening domestic constituencies demanding environmental information.
- Strengthening or accelerating the collection, analysis, dissemination, and uptake of regular monitoring data on environmental conditions (water and air) and on point source pollution releases.
- Shifting popular definitions of access to information from “reactive” to “proactive” release of information, emphasizing availability, publicity, and usability.

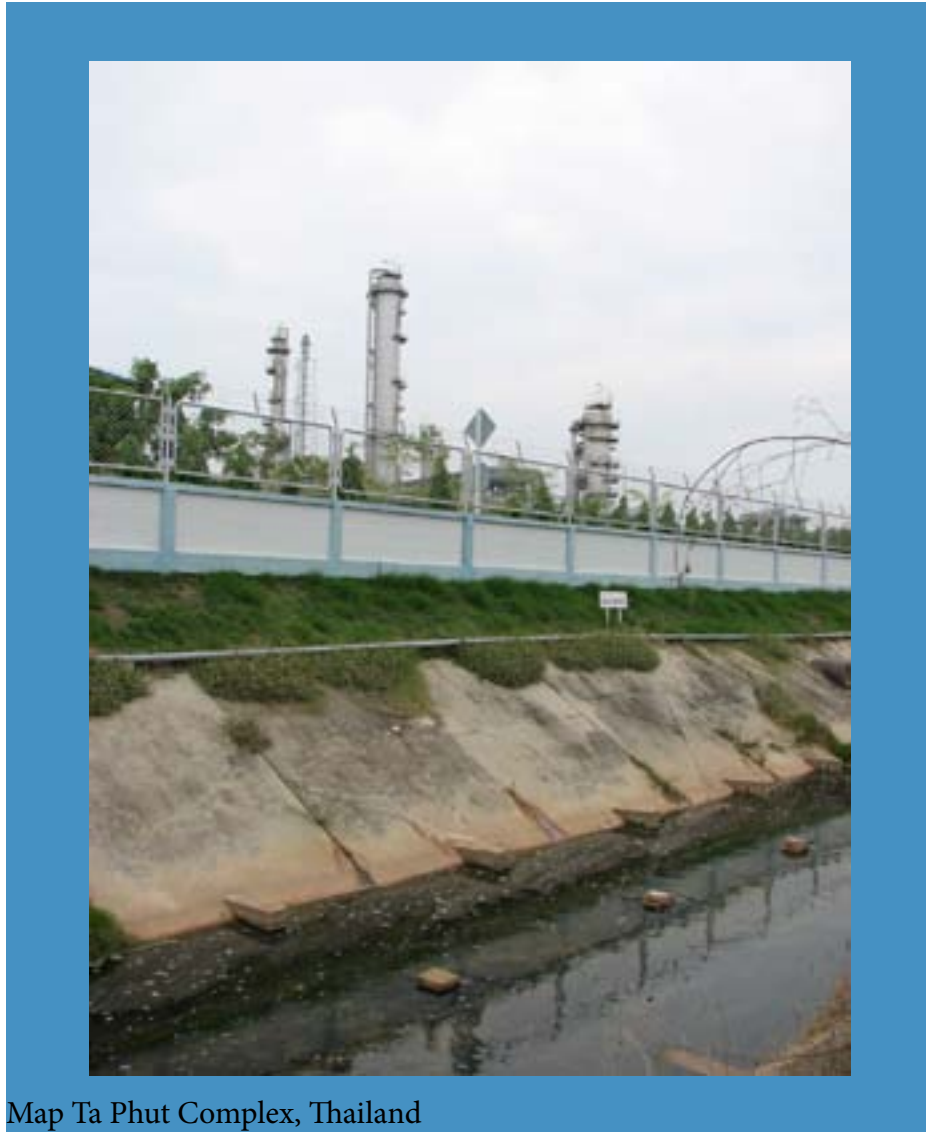
More information about the STRIPE project can be found at <http://prezi.com/18icfmq7nxdj/stripe/>.

During the Study Tour, over 20 presentations were given from the U.S. Environmental Protection Agency (EPA) and other federal, state and international government officials, World Bank representatives, and national NGO leaders. The Study Tour group also toured the GenOn Chalk Point coal-fired Power Plant, and spent a day discussing results to FOI requests and implementation gaps as well as the project's next steps. The Study Tour culminated in a concluding webinar, entitled, "[Moving the Global Access to Information Forward](#)," where participants presented their final conclusions and reflections.

The remainder of the document highlights the preliminary findings, overall conclusions, and presentation summaries. Links are provided to power point presentations and/or additional information at <http://www.accessinitiative.org/re-sources>. The Study Tour agenda and Group Discussion Questions are attached as well.

# Thailand and Indonesian Project Findings and Challenges

## Thailand



Map Ta Phut Complex, Thailand

The [Thailand Environment Institute](#), TEI, is working to identify the environmental impact of 4 industries in the Map Ta Phut Complex in the Rayong Province to the air and water in nearby communities. Established in 1988, the Map Ta Phut Industrial Estate houses 147 factories – including petrochemical plants, oil refineries, coal-fired power stations, iron and steel facilities as well as an industrial port. The estate occupies a total area of 8,000 acres and was built over approximately thirty agricultural and residential communities with more than 49,000 surrounding residents. Map Ta Phut is one of the Thailand's most toxic hot spots with a well-documented history of air and water pollution, illegal hazardous waste dumping, and pollution related health impacts.

Through a series of community FOI and basic environmental training workshops and meetings with government officials, TEI and local communities developed a focused set of FOI requests relevant to addressing the environmental issues at Map Ta Phut. The preliminary results are presented below.

## PRELIMINARY RESULTS OF FOI REQUEST

	Air	Water	All pollutions	Others*	Total
<b>FOI REQUESTS</b>					
Total number of requests made	7	17	11	14	49
Number granted	5	12	7	11	35
Number refused			1	1	2
Number appealed	0	3	2	2	7
- appeals successful		3		1	4
- appeals pending			2	1	3
Number ignored	2	2	1		5

\* e.g., commissioning of experts, EIA, HIA, city plan, buffer zone, factory license

## PRELIMINARY RESULTS OF FOI REQUEST

	Air	Water	All pollution	Others*	Total
<b>TYPES OF INFO RECEIVED</b>					
1. Standard setting	1	2		1	4
2. Initial assessment	4	4	1	1	10
3. Pollution reduction planning	1	2	2	1	6
4. Permitting	1	1	1	3	6
5. Monitoring		7	4	5	16
6. Enforcement and review		1	3	3	7

\* E.g., commissioning of experts, EIA, HIA, city plan, buffer zone, factory license

Based on their preliminary analysis, TEI concluded:

- The performance of the government agencies receiving the FOI requests was not consistent. Some government agencies provided more complete information than others.
- When provided, the information in many cases did not address the requester's question directly and was often too technical for villagers to understand.
- Villagers were not keen on writing requests or making written appeals; officials did not always respond in writing either. One agency suggested the villagers visit the agency in Bangkok to obtain the information at their own expense, citing its lack of budget and fear of being sued by the company whose information was being requested.
- Villagers were uncomfortable contacting government officials, or conducting appeals, and often lost interest in following up with requests made. They did not believe that writing to officials would bear fruit.

TEI also noted:

- There was no proactive release of information that they needed.
- It appeared that even when requested, providing information was not deemed a priority by some agencies/officials.
- Inadequate effort was made to address the questions. Ultimately, ensuring information was obtained was the requester's responsibility.
- Officials did not appear to have an official responsibility to provide information when requested, and there appears to be no rules or regulations on how agencies shall provide information when requested.
- There appears to be zero or a very limited budget to support agencies' release of information.
- No effort is made to ensure the information is comprehensible to a layman.



Map Ta Phut Complex

## Indonesia

The [Indonesian Center for Environmental Law](#), ICEL, is working with the Tubanan and Jepara villages in Central Java to address the air pollution from the coal fired Tanjung Jati B Power Plant. The Tanjung Jati B plant is owned by PT Central Java Power (CJP) a part of Sumitomo Corporation group.

ICEL is also working with Pontang and Serang village members in Banten to address the Ciujung River pollution impacts from the PT. Indah Kiat Pulp & Paper Corporation (IKPP) paper mill. The mill pollution appears to be significantly impacting air and water quality. Villagers rely on the Ciujung River for rice field irrigation, fish ponds and daily activities (bathing and washing).



Tanjung Jati B Power Plant



PT IKPP mill  
wasterwater head-  
ing into the Ciujung  
River



ICEL held a number of workshops with community members and local NGOs to develop over 100 multi-questioned FOI requests to be sent to national and local government agencies for both air and water quality information. The preliminary results are presented below:

# FOI Information category –Air

	Requested Information	Information Received
Standard setting	2	2
Initial assessment	7	0
Permitting	4	0
Monitoring	8	0
Enforcement and review	8	7
Pollution reduction	3	2
Community requests	15	4
Total	47	15



# FOI Requests Result – Air

Total requests: 20  
 Total appeal (internal & mediation) : 17

	Respond from Requests	Respond from Appeals
Granted	3	10
complete answer	1	6
incomplete answer	1	0
not comprehensible	1	4
Mute refusal	16	1
No information held	1	6
Pending/still in process	0	0
Refused	0	0



## FOI Information category –Water

	Requested Information	Information Received
Standard setting	18	6
Initial assessment	25	15
Permitting	12	3
Monitoring	24	9
Enforcement and review	12	6
Community requests	7	4
Total	98	43

## FOI Requests Result – Water

Total requests: 61

Total appeal (internal & mediation) : 11

	Respond from Requests	Respond from Appeals
Granted	27	2
complete answer	16	2
incomplete answer	5	0
not comprehensible	6	0
Mute refusal	25	9
No information held	7	0
Pending/still in process	0	0
Refused	0	0

Based on the preliminary findings ICEL concluded:

- While national environmental related regulations mandate the proactive release of information, using Indonesia's FOI law provides momentum to encourage the implementation and systemwide establishment;
- There is a significant gap between how local and national government institutions are implementing Indonesia's FOI law;
- There is weak coordination within Public Bodies in terms of information management and public dissemination which is a significant concern;
- Community members have different levels of knowledge related to the freedom of information. This varying knowledge influences their understanding of their right to information, how to collect information, and the importance to promoting good information systems.

They also noted that:

- Environmental information is not yet proactively released;
- Understanding raw information (e.g. technical data) is very difficult for most community members;
- Asking for documents is easier than asking for the specific pieces of information contained in the documents;
- Environmental information is spread across sectors (institutions) and in different authorities, and government agencies haven't identified which information should be published;
- Public bodies fundamentally do not yet understand the essence of their country's freedom of information and the implementation procedures.

# Study Tour Conclusions

Throughout the Study Tour, participants had an opportunity to reflect on the presentation materials and contemplate important lessons they could apply in their respective countries. Please see the list of Facilitated Group Discussion Questions for more information on the topics of discussion.

Reflections were outlined in the concluding webinar: “[Moving the Global Access to Information Agenda Forward](#).” A number of overarching themes stood out and generated the following conclusions:



Peravatana Rungraungsri, Industrial Estate Authority of Thailand

## Countries Need Strong FOI Laws that Promote the Proactive Release of Information

Participants all agreed on the need for strong FOI laws and effective implementation. Significant implementation gaps exist in the Thai and Indonesian FOI laws which results in limited data being available proactively.

Presentations by many government officials cited strong legislative requirements as a key factor for increasing environmental protection and citizen access to environmental pollution data. The environmental compliance officer and general plant manager at the GenOn Chalk Point Power Plant also discussed this connection. A review of the plant's pollution control history clearly outlined how stronger environmental protection requirements result in the investment of new pollution control technologies to meet more stringent regulations.

NGO leaders' presentations highlighted how civil society can work with citizens to help exercise their right to access meaningful information. They also outlined their advocacy strategies including grassroots education campaigns and

citizen lawsuits to ensure government enforcement and industry compliance of public access and environmental laws and regulations.

Specific regulatory requirements for the proactive release of information are also essential. Laws must be designed to enable people to use them effectively. The proactive release of information increases the accountability of industrial facilities and governmental agencies. It also strengthens environmental protection. Government officials from the US, Mexico, and Japan all highlighted the connection between implementation of a PRTR or TRI system and a subsequent decrease in industrial pollution releases from regulated facilities. EPA officials stated a similar goal when making compliance and enforcement data publicly available through the [ECHO database](#).

The STRIPE project has documented that there is limited proactive release of industrial pollution information in Thailand and Indonesia despite regulatory mandates and broad governmental goals and objectives. It also illustrates how the use of FOI laws can help build the case for the proactive release of information as well as a means to facilitate diagnosis of gaps in the regulatory process.



Dyah Paramita, ICEL

## **Governments Must Strengthen Their Capacity to Provide Information**

Throughout the Study Tour, all participants agreed better record management and intra-agency coordination are fundamental to government's capacity to expand the amount and quality of publicly available information. Essentially if governments are not able to collect and organize data across different government agencies, they are unable to provide meaningful information to the public.

Communities and civil society need to have a role in this capacity building, especially in guiding the form and type of information collected by government as well as what and how it is released to the public. Civil society also needs to be involved in the regulating process early on with better access to Environmental Impact Assessments and permitting level

information.

By improving the way data is collected, analyzed, and disseminated by different ministries, the Thai and Indonesian governments will be able to focus on standardization and create high quality, publicly available data. Access to facility specific and private company data also must be improved if citizens are to receive meaningful information. Standardization is equally important for the regulatory procedures governing the public release of information. Adequate budgets and staff time must be allocated for these governmental responsibilities as well.

The World Bank's Apps for Development and Apps for Climate competitions highlighted one unique way of creating effective public data tools. Thai and Indonesian governmental officials also acknowledged the need for better data management improvements.



Somrudee Nicro, TEI

## Information Must Be “Ready To Know”

Information is different than data. Governments must translate scientific and technical information and make sure all data as well as other regulatory information is made available to the public in a way which is also understandable. Citizens, civil society, and industries must also be able to trust that the data is accurate.

New communication technology can not only improve data collection but help citizens understand the information provided and improve stakeholder participation, especially when information is provided in digital form. Many EPA officials highlighted the improved accuracy and other benefits achieved with electronic data collection for example. U.S. government FOIA presentations illustrated how the newly created [online portal](#) can streamline the filing and searching of existing FOIA requests and information received.

The mechanisms for releasing information to the public proactively are equally critical. The EPA has created numerous

data tools that allow citizens to not only electronically access government data, but analyze and aggregate this information by facility, region, or chemical. The creation of these tools often required the EPA to merge multiple types and levels of data – public health information, facility-based, chemical-based, industrial-based, monitoring, and permitting for example. As the [OMB's Right To Know databases](#) illustrate, civil society can also present government data in a more easily accessible and usable format.

Government officials also raised the issue of risk communication. Receiving a list of the chemicals released into the environment is not the same as understanding the risk environmental pollutants can cause to human health and the environment. Only limited data connecting health risks and environmental release information is proactively available, including in the United States.

## **Civil Society/NGOs Have An Essential Role to Play**

FOI laws can be a critical tool to obtaining environmental data and governments have a responsibility to reach out proactively to the public. Both TEI and ICEL highlighted a number of obstacles impacting citizens' ability to collect and understand the information they received. Participants identified the need for community capacity building to make citizens aware of their right to information, how to understand the importance of the data they received, and how to use it effectively to protect their health and the environment.

Civil society and other NGO organizations have a critical role in helping communities build this capacity. They can help ensure environmental data is distilled into a user friendly product and help use this information to drive public education and coalition building campaigns and push for specific pollution reduction/prevention proposals.

Good quality, public available data is especially crucial for the poor and politically marginalized communities. Civil society can help ensure government agencies are providing meaningful avenues for public participation as well as considering the environmental & health impacts of industrial pollution and other environmental justice issues in these communities.

## **Fundamentally, Culture Change Is Needed**

The preliminary results from our STRIPE project clearly illustrate that fundamentally, the Thai and Indonesian governments have not yet developed appropriate implementation procedures to ensure that their country's freedom of information laws work to provide meaningful information to the public. Secrecy and lack of easily understandable information is still the norm in many agencies.

Participants agreed that an open process for collecting, analyzing, and releasing environmental pollution data will go a long way to building trust between civil society and government agencies. However improving specific laws and implementation procedures is only the first step. Transparency should become a policy goal in air and water quality programs. Ultimately a culture change must be achieved where strong environmental regulation and robust proactive release of information policies are central priorities for the entire government.

# Presentation Highlights

Links are provided to power point presentations and/or additional information at <http://www.accessinitiative.org/resources>.



Tim Epp, EPA

## Regulatory Overview

### **Tim Epp, Attorney, International Environmental Law Practice Group, EPA**

Tim Epp provided an overview of the regulatory framework for defining and resolving environmental impacts. He highlighted the tensions between economic productivity, public health safety, quality of life, and protecting the environment, and introduced the concept of pollution prevention as being core to any environmental program. A number of legislative management tools as well as the examples of compulsory information disclosure schemes were included.

### **Karen Finnegan, Deputy Director, National Archives and Records Administration, Office of Government Information Services**

Ms. Finnegan highlighted the importance of government accountability through transparency as a key to democracy. She outlined the concepts behind the US Freedom of Information Act (FOIA), the work of her new office and the recently created FOIA online portal, <http://FOIAonline.Regulations.gov>.



Karen Finnegan, IGIS

## Creating Quality Public Information

### **Cory Wagner, Environmental Protection Specialist, Office of Environmental Information, EPA**

Cory Wagner provided an overview of the TRI Inventory Program, one of the US EPA's most important public disclosure laws for environmental pollution information. Specifically Mr. Wagner reviewed TRI's statutory authority and scope, data reported to TRI, compliance assistance and enforcement, TRI data collection, analysis, and dissemination, TRI data users and uses. Mr. Wagner noted the TRI was the first Pollutant Release and Transfer Register (PRTR) program. There are now over 20 other PRTRs in the world, and many of them use TRI as a model.

### **Roy Chaudet, Senior Program Manager, Office of Environmental Information, EPA**

Roy Chaudet discussed the role of EPA's Office of Environmental Information and highlighted how to use an Environmental Information Lifecycle Analytical Framework to improve data and information quality. Specific examples of water quality data improvement opportunities were given.

## Public Data Tools

### **Carey Johnston, Environmental Engineer, Office of Enforcement and Compliance Assurance, EPA**

This presentation reviewed an online access tool to wastewater pollutant discharge data, the DMR Pollutant Loading Tool. This tool allows for better transparency of wastewater pollutant discharges, enhanced utility of these data, and improved data quality.

The information is being rolled out as part of the President's transparency initiative and the Agency's Clean Water Act Action Plan, which seeks to improve transparency of information and public knowledge about pollutant releases that may cause water impairments.

**Ethan McMahon, Program Analyst, Office of Information, Office of Information Analysis and Access, EPA**

Ethan McMahon reviewed how EPA's data is used and presented to the public, how EPA learns about the information people want, and how EPA has made this data available. He also discussed how EPA encourages the public use of data and highlighted a number of tools and strategies including the [DataFinder](#) tool and the [Apps for the Environment contest](#). Mr. McMahon also provided a list of many of EPA data resources.

**Lynne Blake-Hedges RSEI Team Member, Office of Chemical Safety and Pollution Prevention, EPA:**

Ms. Blake-Hedges provided an introduction to the Risk Screening Environmental Indicators model, RSEI. RSEI is a screening-level model that assesses potential chronic human health impacts of industrial releases from pounds-based, hazard-based, and risk-related perspectives. Using Toxics Release Inventory data, existing exposure models and databases, and reviewed toxicity data RSEI incorporates components of risk assessment to evaluate the link between environmental and health data. While RSEI provides a quick perspective on hazard and risk, it is only the first step and should not be considered a site-specific, formal risk assessment.



Lalanath De Silva, WRI and Study Tour participants

## Enforcement and Permitting

**Michael Barrette, Team Leader for Enforcement Targeting and Public Access, Office of Enforcement and Compliance Assurance, EPA**

Michael Barrette provided a demonstration of the ECHO database. The Enforcement and Compliance History Online, ECHO, database provides fast, integrated searches of EPA and state data for 800,000+ regulated facilities. It integrates inspection, violation, and enforcement information for the Clean Water Act, Clean Air Act, and hazardous waste laws.

ECHO also includes Safe Drinking Water Act data, Toxics Release Inventory data, National Emissions Inventory data, and Water Quality data.

Modeled after the success of the TRI inventory at changing company behavior, the EPA hopes that by making this data public, companies who do not want to be considered bad environmental actors will improve their enforcement and compliance efforts. ECHO includes an appeal process so companies can petition to have inaccurate information removed.

The current political appointed EPA administrator has made transparency one of three top EPA goals. ECHO's queries have grown from 800,000 to 2.4 million since it was first released to the public in 2002. It can be used to create maps and enforcement summaries by state.

Mr. Barrette also outlined the US system of civil penalties and enforcement power. He explained under each environmental statute, EPA has 3 authority pathways. These include informal action like written warning letters/first notification as well as administrative orders which stop short of judicial hearings. He explained that in most cases, a company will settle so they don't have to go to trial. The EPA can also take civil action. In addition, if the EPA believes a company has intentionally violated a law or engaged in criminal activity the EPA has the authority to take criminal action including sending a company representative to jail. In these cases the Department of Justice represents EPA in court. It is important to note that in the U.S., states are in charge of the enforcement process. The EPA regional office can step in, however, if a state needs support.



Kent Benjamin, EPA and Study Tour participants

### **Kent Benjamin, Acting Deputy Director, Office of Environmental Justice, EPA**

The EPA defines Environmental Justice as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. EPA has this goal for all communities and persons across this Nation. It will be achieved when everyone enjoys the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment in which to live, learn, and work."

National attention for this issue began in Warren County, NC in 1980 when PCB oil waste was secretly dumped on roadways in primarily African American communities as a means of disposal. Environmental Justice acknowledges the fact that many industries are located in low income, and people of color communities. The EPA typically regulates on a chemical by chemical basis, one facility at a time, and historically has not considered a community in the middle of an industrial area where citizens feel multiple, cumulative impacts from all of the industries. This reality is also known as

environmental racism.

Mr. Benjamin discussed how the EPA is beginning to consider these environmental justice issues and developing analytical tools for writing regulations, rulemaking and analysis procedures, and permits. They are also focusing on addressing multiple laws and regulations that address public health. He raised the issue of how to prioritize and focus attention.

Good quality, public available data is a critical component for addressing these environmental justice issues. Because many EJ communities suffer more harm and live where risk and exposure is highest, creating standards that protect these populations will ensure adequate protection for everyone.

Given the more homogeneous populations in Indonesia and Thailand, how to define environmental justice in these countries was raised as an important question. Mr. Benjamin discussed the concept of environmental equality or fairness. This concept acknowledges the economic discrepancies between those benefiting from development and others bearing the brunt of the impact such as quality of infrastructure as well as the environmental and health impacts from industrial pollution. Meaningful public participation must require the ability to impact a decision and not just notification. Equitable distribution of a project's cost and benefits must also be included in the definition of sustainable development. Various options for mitigating this unequal distribution of impact must also be included.



Jennifer Hammitt, EPA and Study Tour participants

**Nívea R. Berríos, Senior Counsel, Environmental Appeals Board, EPA**

Ms. Berríos discussed access to information and public participation in the permitting context. She outlined what permits are and why access to information in the permitting context is necessary. She specifically discussed how the EPA provides this access through notification and public comment period requirements, who can participate, and how to participate after the public commenting period is closed. She also outlined the appeals process and how the EAB ensures access to information.

**Jennifer Hammitt, Attorney, Office of General Counsel, EPA**

Ms. Hammitt was speaking on behalf of Larry Gottesman, EPA's National FOIA officer. She outlined the FOIA online tool's vision and functionality. Additional resources are available at:

- FOIA Online: <http://foiaonline.regulations.gov>
- FOIA 5 U.S.C. 552(a): [http://www.justice.gov/oip/foia\\_updates/Vol\\_XVII\\_4/page2.htm](http://www.justice.gov/oip/foia_updates/Vol_XVII_4/page2.htm)
- EPA's FOIA Regulations 40 C.F.R. 2.101: <http://www.epa.gov/foia/2101.htm>
- EPA's Confidential Business Information 40 C.F.R 2.202: <http://www.epa.gov/foia/2202.htm>

## NGO Capacity Building

### **Sofia Plagakis, Policy Analyst, Environmental Right to Know, OMB Watch**

Ms. Plagakis outlined the work of OMB Watch and their environmental right to know focus. She specifically outlined their advocacy strategies and the [Right to Know Network](#), an online site that provides free public access to environmental information from five databases managed by the EPA. She highlighted how grassroots environmental groups and other citizen activists have used the TRI database in their public education and pollution prevention campaigns. She also discussed the EPA's Risk Management Plans, and OMB's long attempt to provide this information to the public. Ms. Plagakis discussed a number of OMB's efforts to advocate for policy change, including the Environmental Information Initiative.



Carole Excell, WRI and Study Tour participants

### **Tom Blanton, Director, National Security Archives**

Tom Blanton held an interactive session where participants peppered him with questions about the work of the National Security Archives. He shared different FOI cases that the NSA had worked on over the years. He indicated that the way NSA approached FOI requests in the US was likely different from most other NGOs in the world. NSA maps out information available on a topic through creation of a chronology of events. They organize information in a sequence and do extensive research before making even one request. They carefully review published documents and piece together stories much like media organizations. He spoke about new changes in the US to support Open Government including the Open Government Directive released by President Obama. He gave the groups ideas on engaging the media. He suggested that civil society groups adopt successful practices used in other countries to obtain results including:

- (i) Carrying out audits of government agencies by sending the same request to many government agencies;
- (ii) Prizes for Best Government Agency responding to FOI requests as well as Worst agencies;
- (iii) Pushing governments to join or meet commitments in the Open Government Partnership.

### **Stephanie Maddin, Legislative Counsel, Earthjustice**

Stephanie Maddin outlined some of the techniques used by Earth Justice in their campaigns and strategies. She spoke of the importance of telling a story and framing issues to ensure a larger impact on getting change on the ground and awareness of issues by the media. She shared the work of Earth Justice on fly ash cases and how the use of FOI law was essential to identify fly ash waste pits around the country. She encouraged participants to think how mapping and other uses of technology can aid in campaigns as well as new and exciting visuals. She explained techniques like Twitter storms, the use of visual comments to the EPA on new regulations, and getting the right messengers as part of your campaigns, including an example, Mothers Against Air Pollution.



Somrudee Nicro, TEI and Sutti Atchaisai, Eastern People's Network

**Nicholas Bianco, Senior Associate, Climate and Energy Program, WRI and Kristen Meek, Associate, Climate and Energy Program, WRI**

Nicholas Bianco and Kristen Meek highlighted one example of how to present complex data by outlining the Power Almanac of the American Midwest mapping program. This mapping program looks at the Midwest's wealth of fossil fuel and renewable resources and how the deployment of those resources will impact the region's economy, landscape, environment, and public health. The Power Almanac is designed to allow the user to flexibly and dynamically explore the region's electric resources, opportunities, and challenges. The user can zoom in to an individual coal mine or power plant, or zoom out to compare wind and solar resources in the Midwest to the rest of the United States. It enables complex data to be presented in a way easily understood by the public and policy makers.

## International Government Efforts

**Arturo Rios Camarena, Mexico's Federal Institute for Access to Information and Data Protection (IFAI), María del Rosario Vásquez Rosales, IFAI, Mateo A. Castillo Ceja, Ministry of Environment and National Resources (SEMARNAT)**

Mexican governmental officials from the Federal Institute for Access to Information and Data Protection (IFAI) and the Ministry of Environment and National Resources (SEMARNAT) outlined their country's framework for Access to Information. IFAI discussed the legal framework, the key features of the FOI Act, the electronic systems relevant resolutions, main achievements, and future challenges. SEMARNAT outlined the history of Mexico's access to environmental information including the significant improvement made in the information available and ease of access in 2003.

More information about on the experience of the ATI law implementation in Mexico can be found in the [World Bank Case Study](#), "Implementing RTI: A Case Study of Mexico."

**Mr. Samuel Tumiwa, Deputy Regional Director, North American Office, Asian Development Bank**

Mr. Tumiwa outlined the Asian Development Bank's (ADB) efforts to advance inclusiveness and transparency through communications. He outlined why communications is critical to their work and the [Principles of Public Communications Policy 2011](#) report.

This report highlights the ADB's efforts, including:

- A presumption in favor of disclosure and proactive communications.
- Recognizes the right of people to seek, access, and impart information.
- Demonstrates greater transparency and accountability and improves ADB's development effectiveness, and
- Promotes participatory approaches and proactive sharing of knowledge, information, and lessons learned including a mandate which states that government must consult with civil society.

Some examples of ADB's work include their technical assistance program to improve environmental law implementation in Thailand, their work training judges on environmental issues and cases, as well as their efforts to train Asian judges on environmental decision making.

**Richard Murby, Open Innovation Consultant World Bank and Tim Herzog, Open Data Specialist, World Bank**

Tim Herzog discussed the definition and benefits of open data and provided some examples from the World Bank and other international governments. He highlighted the Apps for Climate competition and the way this contest uses open data to further the World Bank's broad climate change environmental goals.

Richard Murby discussed the World Bank's Apps for Development program. This competition challenged the public to create innovative software applications that address solutions for some of the world's most pressing problems. He also highlighted the reasons why an institution would want to use such a strategy as an apps competition including making

the boundaries of the organization more “porous” and allowing the it to create tools it normally wouldn’t do or wouldn’t think to do. He stressed the importance of defining the intentions, audience, and outcome goals very specifically before attempting to implement such a competition tool.

**Noriyuki SUZUKI, Head, Center for Environmental Risk Research, National Institute for Environmental Studies, Japan**

Mr. Suzuki outlined Japan’s PRTR system including the history of development and enforcement and the targeted categories and substances. He also provided examples of PRTR based research activities. Mr. Suzuki highlighted the experiences of PRTR-related activities and data sharing efforts of the Japan government including the additional reporting requirements for small facility emissions regulated by the metropolitan government of Tokyo. Examples of industry’s data sharing efforts include information seminars and voluntary reduction pledges. Mr. Suzuki also outlined the activities of Japanese NGOs including the PRTR company sheets created by Toxic Watch Network that collate multiple facility data for a single company into a single report.

## A Local Field Trip



Fred Tutman, Patuxent Riverkeepers and Study Tour participants

**Fred Tutman, Director, Patuxent Riverkeepers, Maryland**

The Study Tour participants visited Fred Tutman and engaged with him in a lively conversation about work of the Patuxent Riverkeepers and the role of citizens in protecting the environment and holding industry and government accountable.

Patuxent Riverkeepers is a nonprofit watershed advocacy organization affiliated with the Waterkeeper Alliance in New York, an umbrella group that licenses and links Waterkeepers internationally. The sole purpose of the Patuxent Riverkeepers is to protect, restore, and advocate for clean water in the Patuxent River and its connected ecosystem. The Riverkeepers patrol the river, investigate and resolve water quality and pollution complaints, launch and manage restoration projects, [raise awareness about the river](#) and its problems and work toward better enforcement of current laws and better laws

to protect the river.

The Waterkeeper model for advocacy stresses grassroots engagement, a willingness to challenge the status quo, confront polluters and where necessary, sue them, and pursue an uncompromising vision of clean water. Launched in 2004, Patuxent Riverkeepers has worked on a gamut of pollution, water quality, growth management, environmental justice and resource policy issues along the entire river.



GenOn Chalk Power Plant, Maryland

**Jim George, Manager, Water Quality Protection & Restoration Program, Maryland Department of Environment**

Mr. George outlined the opportunities for public input in Maryland's water quality management process. This included socioeconomic, administrative, and technical information included in analysis as well as the opportunities for public review and comment. The water management process regulated under the Clean Water Act and includes,

- establishing designated uses of waterbodies;
- establishing Water Quality Criteria to support the designated uses of waterbodies;
- monitoring waters to assess water quality criteria and maintain data, and,
- the development and implementation of TMDLs for Impaired Waters: TMDLs (Total Maximum Daily Loads) are estimates of the maximum allowable pollutant load that a waterbody can assimilate and still meet water quality criteria.

## PROPER and Facility-Wide Data Tools

### **Mark Stephan, Associate Professor, Washington State University**

The Program for Pollution Control Evaluation and Rating, or PROPER, is Indonesian's system for mandated pollution release information. The system targets major industrial water polluters and uses a public, five color scale to grade the environmental performance of industrial facilities.

Dr. Stephan presentation outlined the strengths and weaknesses of using this PROPER system as a model for other countries. He described the critical elements of an effective PRTR system, and the limits and implementation concerns surrounding the PROPER system. He concluded that while PROPER is an engaging system that could be used as a partial model, it doesn't incorporate all of the most important PRTR elements and should improved.

### **Joe Foti, Former Senior Associate, WRI**

Mr. Foti, outlined the key STRIPE data analysis points of discussion. This included the units of analysis, the descriptive statistics options, and dependent and potential independent variables that could be used for a more in-depth statistical analysis.

### **Mark Chernaik, U.S. Staff Scientist, E- Law**

Mark provided a review of websites and research strategies for analyzing facility-specific data. He also provided an outline for compiling evidence and developing strategies for pollution cleanup. He provided handouts for the civil society groups that outlined how to conduct this research including how to:

- Determine whether the data pertains to the ambient environmental quality or the rate of pollutant releases; and,
- Utilize nationally legislated standards to determine the relevant yardstick for measuring the safety or permissibility of the pollutant levels.



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**October 22, 2012 – October 25, 2012**

## **Strengthening the Right to Information for People and the Environment: Study Tour**

### **Objectives**

- A. Improve understanding of civil society campaigns based on pollution data
- B. Share experiences in setting up regulatory control and official responses to pollution
- C. Develop a sequence of proactive pollution control information release taking into consideration developing country contexts
- D. Enhance civil society ability to strategically make and enforce freedom of information requests

### **Agenda**

**Monday, October 22, 2012**

### **Building a Sequence: Pollution Data for Proactive Release and Regulatory Control**

World Resources Institute  
8<sup>th</sup> Floor, MCRs  
10 G Street NE  
Washington DC

9:00-9:10	<b>Welcome and Overview of Role and Purpose of Study Tour</b> Carole Excell, Senior Associate, The Access Initiative, WRI
9:10-9:25	<b>Introductions</b> Study Tour Participants
9:25-9:40	<b>Presentation of Thailand Project Findings and Challenges</b> Somrudee Nicro, Senior Director, Thailand Environment Institute
9:40 – 9:55	<b>Presentation of Indonesian Project Findings and Challenges</b> Dyah Paramita, Indonesian Center for Environmental Law

9:55-10:05	Questions
10:05-10:15	<b>Response from the Open Society Foundation</b> Kizito Byenkya, Rights Initiatives, Open Society Foundations
10:15 – 10:20	Coffee Break
10:20-10:40	<b>Overview of Regulatory Framework for Pollution Control and Requirements for Release of Environmental Information</b> Timothy R. Epp, International Environmental Law Practice Group, EPA
10:40-10:55	Questions
10:55-11:15	<b>Overview of Federal FOIA and Implementation of New Rules</b> Karen Finnegan, Deputy Director, National Archives and Records Administration, Office of Government Information Services
11:15-12:00	Questions/Group Discussion Facilitator: Heather McGray, WRI
12:00-1:00	LUNCH
1:00-1:20:	<b>Overview of Toxics Release Inventory program</b> Cory Wagner, Office of Environmental Information, EPA
1:20-1:35	Questions
1:35-1:55	<b>Using an Environmental Information Lifecycle to Improve Data and Information Quality</b> Roy Chaudet, Senior Program Manager, Office of Environmental Information, EPA
1:55-2:30	Questions/ Group Discussion Facilitator: Mark Stephan, Associate Professor, Washington State University
2:30-3:00	<b>Examples of How Data is Used and Presented to the Public</b> Carey Johnston, Office of Enforcement and Compliance Assurance: “Better Public Access to Point Source Wastewater Pollutant Discharge Information”  Ethan McMahon, Office of Information, Office of Information Analysis and Access: DataFinder
3:00-3:20	Questions
3:20-3:40	Coffee Break
3:40- 4:00	<b>The Link Between Environmental Data and Health Data:</b> Lynne Blake-Hedges Office of Chemical Safety and Pollution Prevention, EPA: RSEI
4:00-4:30	Questions/Group Discussion Facilitator: Mark Stephan, Associate Professor, Washington State University
4:30-5:00	Small Group Discussion: Conclusions from the Day Facilitator: Carole Excell, WRI

**Tuesday, October 23, 2012**

**Understanding Strategic use of FOIA and Pollution Release Data**

Environmental Protection Agency  
Office of International Affairs  
Ronald Reagan Building  
1300 Pennsylvania Avenue NW  
Washington, DC 20004

9:00- 9:15      **Welcome and Overview of EPA International Work**  
Rakhi Kaset, Office of International and Tribal Affairs, EPA  
Katherine Buckley, Office of International and Tribal Affairs, EPA

9:15 – 10:40    **Access to Information in Enforcement and Permitting Actions**

9:15-10:00      **Overview Presentations**  
Michael Barrette, Team Leader for Enforcement Targeting and Public Access,  
Office of Enforcement and Compliance Assurance , EPA  
Kent Benjamin, Acting Deputy Director, Office of Environmental Justice, EPA  
Nívea R. Berríos, Senior Counsel, Environmental Appeals Board. EPA

10:00-10:40    Questions

10:40-10:50    Break

10:50-11:10    **The Mechanics of Handling FOIA requests**  
Larry Gottesman, National FOIA Officer, EPA

11:10-11:30    Questions

World Resources Institute  
8<sup>th</sup> Floor, MCRs  
10 G Street NE  
Washington DC

11:30-1:00      Lunch

1:00-4:00      Separate Learning Sessions for NGO and Government Officials

**Training and Capacity Building with US NGO Organizations**

1:00-1:05      **Welcome and Outline of Goals for the Session**  
Carole Excell, WRI

1:05-1:15      **Overview of Advocacy Plan**  
Somrudee Nico, Thailand Environment Institute

1:15-1:25      **Overview of Advocacy Plan**  
Dyah Paramita, Indonesian Center for Environmental Law

1:25-3:45      **Strategy Presentations**  
Facilitator: TBA

1:25 – 1:40	<u>Types of Information Important for Environmental Justice Communities and Experiences in Synthesizing Data</u> Sofia Plagakis, OMB Watch
1:40-2:00	Questions/Discussion
2:00-2:15	<u>Refining and Strategically Making FOIA Requests</u> Tom Blanton, Director, National Security Archives
2:15-2:35	Questions/Discussion
2:35-2:50	<u>Learning from Environmental Justice Communities in Campaigns and Successful Methodologies</u> Stephanie Maddin, Legislative Counsel, Earthjustice
2:50-3:10	Questions/Discussion
3:10-3:25	<u>Gathering Large Data Sets and Creating Useful Outcomes</u> Nicholas Bianco, Senior Associate, Climate and Energy Program, WRI Kristen Meek, Associate, Climate and Energy Program, WRI
3:25-3:45	Questions/Discussion

3:45-4:00      Group Discussion: Conclusions from the Day  
Facilitator: TBA

The World Bank  
1818 H Street, NW  
Washington, DC 20433 USA

## 1. International FOI Laws

1:30-1:40      **Welcome and Outline of Goals for the Session**  
Lalanath De Silva, WRI

1:40-1:55      **Opening Remarks**  
Marcos Mendiburu, World Bank Institute

1:55-3:15      **Implementation of Access to Information Legislation: The experience of Mexico**  
Arturo Rios Camarena, Mexico's Federal Institute for Access to Information and Data Protection (IFAI)  
María del Rosario Vásquez Rosales, IFAI

Mateo A. Castillo Ceja, Ministry of Environment and National Resources (SEMARNAT)  
(Through videoconference with World Bank office in Mexico)

- 3:15-3:30     **Experience Sharing from the Asian Development**  
Mr. Tumiwa, Asian Development Bank
- 3:30-4:30     **Opening up data: The Climate Apps Experience**  
Richard Murby, World Bank  
Tim Herzog, World Bank
- 4:30-5:00     **A Proactive Release Model: Japan's PRTR system**  
Noriyuki SUZUKI, National Institute for Environmental Studies  
(Through videoconference to Japan)

## Wednesday, October 24, 2012

### Field Trip

Genon Chalk Point Generating Station  
25100 Chalk Point Road  
Aquasco, MD 20608

#### Tour

- 8:30 – 12:00     **Tour of Mirant Energy Chalk Point Generating Station**  
With driving time

- 12:00-1:30     Lunch

Patuxent Riverkeeper  
Patuxent Riverkeeper Center  
17412 Nottingham Road  
Upper Marlboro, Md 20772

- 2:00-2:20     **The Role of Citizen Participation in Environmental Protection**  
Fred Tutman, Director, Patuxent Riverkeepers

- 2:20-2:40     Questions

- 2:40-3:10     **How Data is Collected and Used by Local Regulatory Agencies and the Assessed by Citizens**  
Jim George, Manager, Water Quality Protection & Restoration Program, Maryland Department of Environment

- 3:10-4:00     Questions/ Group Discussion  
Facilitator: Elizabeth Moses, WRI

**Thursday, October 25, 2012**

**Retreat**

- |               |   |
|---------------|---|
| 9:00-9:05     | <b>Welcome back and Plan for the Day</b><br>Elizabeth Moses, WRI  |
| 9:05-9:20     | <b>Status of Thailand Campaign</b><br>(i) pollutant data (ii) FOI deficiencies (iii) facility specific information  |
| 9:20-9:30     | Questions   |
| 9:20-9:35     | <b>Status of Indonesian Campaign</b><br>(i) pollutant data (ii) FOI deficiencies (iii) facility specific information  |
| 9:35-9:45     | Questions   |
| 9:45- 10:15   | <b>PROPER: Assessment and Role as Model for Other Countries</b><br>Mark Stephan, Associate Professor, Washington State University<br><b>Developing Results/Preliminary Hypotheses</b><br>Joe Foti, Former Senior Associate, WRI |
| 10:15-10:45   | Questions/Group Discussion<br>Facilitator, Joe Foti, former Senior Associate, WRI   |
| 10:45-11:30   | <b>Working Groups on Future Strategies</b><br>Individual work on (i) FOI system deficiencies (ii) gaps in data collection and visualization<br>(iii) strategies for advocacy campaigns  |
| 11:30-12:00   | <b>Review of Facility-Specific Data and Providing Evidence and Strategies for Pollution Clean up</b><br>Mark Chernaik, E- Law via video conference  |
| 12:00 – 12:45 | LUNCH   |
| 12:45-2:45    | <b>Group Work on Strategies Continued</b><br>Presentation of prioritization and next steps including Regional Meeting plans   |
| 2:45-3:30     | <b>Reflections Preparation</b>  |
| 3:30-4:00     | Coffee Break  |
| 4:00-6:00     | <b>STRIPE: Moving Forward Webinar (see agenda below)</b>  |



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## Strengthening the Right to Information for People and the Environment: Study Tour

### Moving the Global Access to Information Agenda Forward

Thursday, October 25<sup>th</sup>, 2012

4:00 pm – 6:00 pm

WRI, 10 G Street, NE, 8<sup>th</sup> Floor

Washington DC

### Agenda

- |           |   |
|-----------|---|
| 4:00-4:05 | <b>Introductions</b><br>Lalanath de Silva, Director, The Access Initiative, WRI   |
| 4:05-4:12 | <b>Welcome</b><br>Andrew Steer, President WRI   |
| 4:12-4:19 | <b>Overview of STRIPE Project</b><br>Carol Excell, Senior Associate, The Access Initiative, WRI   |
| 4:19-4:26 | <b>Working to Strengthen FOI Law: The Indonesian Perspective</b><br>Mr. Henri Bastaman, Deputy for Technical Infrastructure and Capacity Building,<br>Indonesian Ministry of Environment            |
| 4:26-4:33 | <b>Reflections and Applying the Study Tour Lessons in Indonesia</b><br>Dyah Paramita, Indonesian Center for Environmental Law   |
| 4:33-4:40 | <b>Strengthening the Right to Access Environmental Information in Thailand</b><br>Dr. Wijarn Simachaya, Secretary General, Ministry of Natural Resources and<br>Environment, Government of Thailand |
| 4:40-4:47 | <b>Reflections and Applying the Study Tour Lessons in Thailand</b><br>Somrudee Nicro, Senior Director, Thailand Environment Institute   |
| 4:47-5:30 | Questions and Discussion  |

Cocktails/reception to follow

# Study Tour Group Discussion Questions

## **Day 1: Regulatory and FOIA Overview Discussion:**

Facilitator: Heather McGray

### FOIA

- 1 How do you build government agencies internal capacity to meaningfully implement and enforce FOIA?
- 2 What are the factors that influence the government's ability to promote proactive release of information and datasets?
- 3 What is the role of civil society to determine priority datasets?
- 4 What are ways in which government agencies can ensure greater efficiency and speed in responding to requests?

### Regulation Overview

- 5 How do you organize and prioritize what information should be released to the public?
- 6 What should be the level of public participation in environmental regulation and enforcement? When and how should the public be involved in the regulatory process?
- 7 What are the components necessary for meaningful regulation of environmental pollution?

## **Day 1: TRI/Data Quality Group Discussion:**

Facilitator: Mark Stephan

### TRI

1. What are the components and capacities needed to ensure an effective TRI system?
  - a. Internal change in company
  - b. Role in industry – bad performer among peers
  - c. Community pressure
  - d. Stock market
  - e. Effective government regulation and auditing
2. Are there alternatives models for proactive release of information on air and water quality as well as pollution?

### Data Quality

1. What are the prerequisite steps needed to create good quality of data for the environmental regulatory process and the proactive release of information to the public?
2. How could this lifecycle analysis model be used to improve the public information process?
3. What are the broad policy-making goals influencing the process for improving data and information quality for government and civil society?
  - a. Impact company behavior
  - b. Change of culture
  - c. Public accountability

## **Day 1: Tools Discussion**

Facilitator: Mark Stephan

1. What are meaningful first steps to developing databases that would be useful in your country to regulate pollution?
2. What data is currently collected and what are the gaps?
  - a. What are the current challenges to release and share data collected? How can these be addressed?
  - b. How could the data be presented and collated into meaningful tool for proactive release of information to public?
3. What are the most effective groupings for information collected?
  - a. Chemical?
  - b. Industrial sector?
  - c. Facility specific?

Facilitator: Carole Excell

## **Day 1: Conclusions from the Day By Country**

1. What are the priority first steps that should be taken in your country to facilitate proactive release of pollution and air and water quality data that would be meaningful to the public?

## **Day 2: International Government Models and NGO Capacity Building**

## **Day 3: The Role of Local**

Facilitator: Elizabeth Moses, WRI

Environmental Regulation Implementation at the Local level

1. What is the role of local government in your country in providing access to information on the quality of air and water in your communities or the regulation of industry?
2. How does/should local government engage citizens?

The Role of Citizens

1. What practical measures need to be taken to ensure citizens can participate in these types of decisions?
2. Citizen Involvement and Government Accountability
  - a. What sort of performance data should citizens request to probe accountability of government and industry?