

Public Participation - Taku Community Hall, North West  
Region Cameroon (Augustine B Njamnshi, 2010).



## WHAT WE WANT FROM RIO+20: Civil Society Organizations Worldwide Voice their Demands for Environmental Democracy

As the international community gathers for the Rio+20 summit on sustainable development, we have a chance to renew our commitment to Environmental Democracy. Can national governments deliver?

At the 1992 Earth Summit in Rio de Janeiro, 178 governments recognized, in Principle 10 of the Rio Declaration, that the key to fair and effective environmental decision-making is engaging the public through greater access to information, participation and justice. Two decades later, we have the opportunity to take stock of our progress in meeting the challenge of empowering people to achieve sustainable development.

The intervening decades since Rio have unleashed a period of unprecedented economic growth, particularly in emerging economies, lifting hundreds of millions above the poverty line and concentrating wealth in more than a thousand billionaires. But this growth has come at a great cost to the planet, devastating ecosystems, destabilizing the climate system and widening the gap between rich and poor.

These extreme outcomes were not inevitable. Environmental degradation and development patterns that benefit the few at the cost of the many are often the result of failures in governance—the result of poorly managed growth, corruption, and vested interests. When appropriately empowered, citizen groups—environmental organizations, community groups, and human rights organizations and enlightened bureaucracies, among others—have done much to stave off the worst effects of development while preserving the best aspects for their communities.

In the past, citizen groups have been most effective in steering their governments toward the path of sustainable development when empowered with Access to Information, Public Participation, and Access to Justice.

Recognizing this, many governments around the world have improved their information systems, have strengthened engagement with civil society, and have empowered citizens to enforce environmental laws. The most powerful of these reforms have turned the principles of environmental democracy into enforceable legal rights to access information, participation, and justice.

Examples of major successes in access rights include:

- » Sweeping adoption and implementation of Freedom of Information Acts (FOIAs) in the Americas, Asia, and Europe<sup>1</sup>.
- » Near-universalization of public participation in decision-making tools such as Environmental Impact Assessment (EIA)<sup>2</sup>.
- » Establishment of specialized judicial procedures and environmental courts and tribunals facilitating the resolution of environmental disputes<sup>3</sup>.
- » Establishment of “Environmental Justice” regulations in a number of countries, requiring enhanced participation for poor and minority communities<sup>4</sup>.

At the same time, many governments lag in promoting environmental democracy. Access to information laws may be riddled with loopholes for some of the most environmentally destructive industries (e.g. hydraulic fracturing and oil exploration exceptions in the US legal code<sup>5</sup>). Governments have been slow to compel greater transparency in areas perceived as key to economic development (e.g. greenhouse gas emissions disclosure and revenue transparency in the extractive industries<sup>6</sup>). Often, laws remain paper tigers, without adequate enforcement mechanisms or political will to back them (e.g., freedom of information laws in Asia<sup>8</sup> or right to a healthy environment in much of Latin America and Europe<sup>9</sup>). The inadequacy of the current wave of reforms suggests that, as our economies develop and evolve, we need to continuously update and reinvigorate our efforts to open government and engage citizens.

Members of The Access Initiative have submitted Three Demands to each of their national governments -- next steps in fulfilling the promise of Environmental Democracy.

The summit at Rio will allow the world to assess our progress and to renew our commitment to Environmental Democracy. In June 2012, national governments have a great opportunity to take to the stage and announce their next steps in ensuring better national environmental governance, including improving transparency, participation, and accountability for sustainable development.

### The 3 Demands (3Ds) Campaign

In preparation for Rio+20, civil society groups around the world have presented a list of demands to their governments, next steps to encourage improved national environmental governance. Led by The Access Initiative (TAI)<sup>10</sup>, a global network of more than 250 civil society organizations promoting Principle 10, each participating country has submitted a list of “Three Demands” or “3Ds” to their national governments. Governments can respond to each and commit to ensure that the next wave of reforms to promote Environmental Democracy is more meaningful than the last.

As part of the 3Ds Campaign, civil society organizations in each participating country—from environmental organizations to democracy groups, from women’s organizations to religious organizations—have collaboratively written a list of achievable demands for their national government. They have submitted these demands officially and will continue working with their respective national governments in order to make these and similar commitments public by the summit.

So far, organizations in 24 countries have submitted demands to their governments:

- Bangladesh	- Benin
- Bolivia	- Brazil
- Cambodia	- Chile
- Costa Rica	- Ecuador
- El Salvador	- Guatemala
- Hungary	- India
- Indonesia	- Jamaica
- Madagascar	- Mexico
- Nepal	- South Africa
- Sri Lanka	- Thailand
- Trinidad and Tobago	- Uganda
- United States	- Vietnam

TAI and associates worldwide hope that civil society organizations will join the campaign and that governments will take up these demands as part of their public commitment to one another at Rio. To that end, we

highlight some of the trends and important demands from around the world in the hopes of inspiring governments and civil society organizations to join the campaign to advance Environmental Democracy worldwide.

In June 2012, national governments should take to the stage and announce their next steps in ensuring improved national environmental governance including transparency, participation, and accountability for sustainable development.

### What Civil Society is Demanding

In most countries, all three demands related to either access to information, public participation or access to justice. In others, demands covered several areas or covered policy areas such as environmental impact assessments, which have major components of access to information and public participation<sup>11</sup>.

### Top Demands

A number of demands stood out, either called for by a number of countries, or urgent in nature.

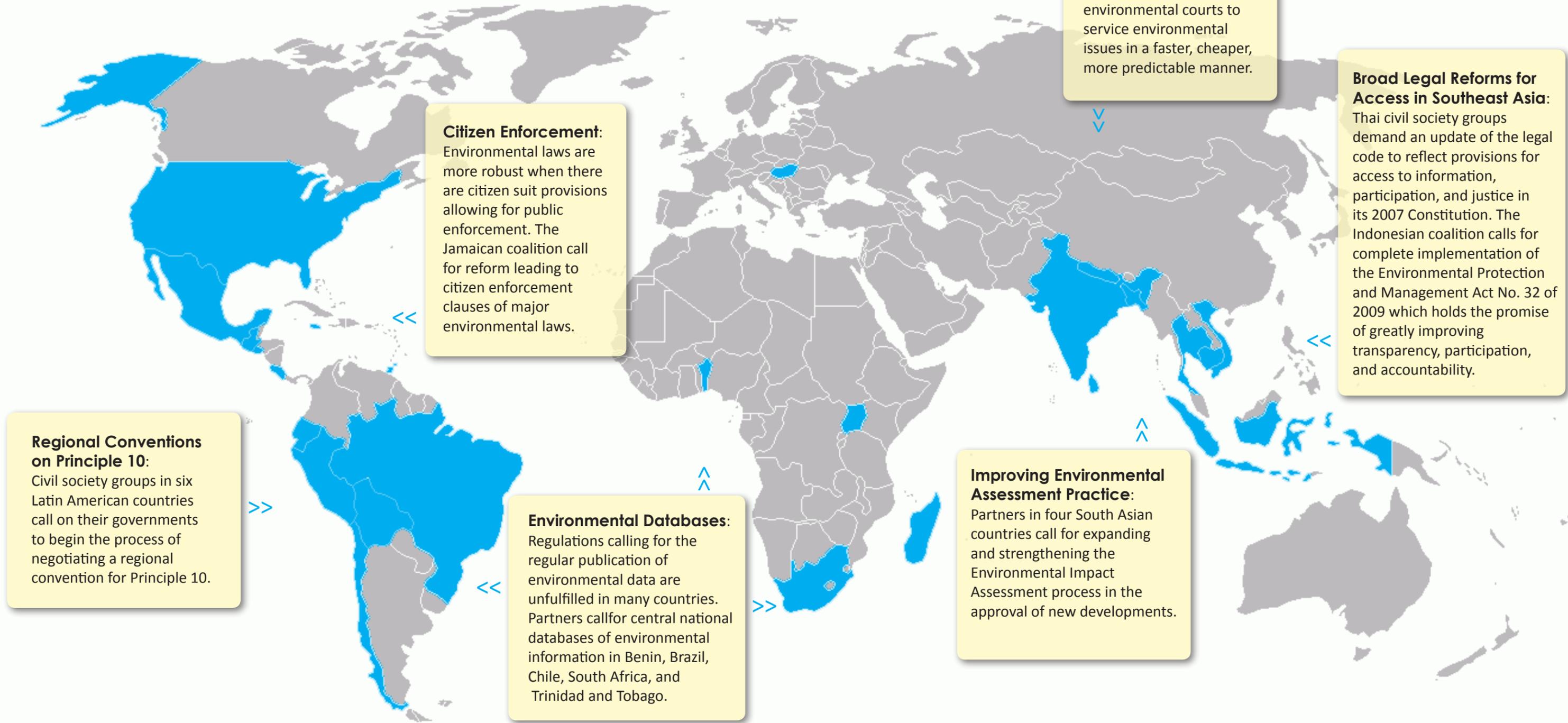
- » **Regional Conventions on Principle 10:** Many countries have regulations requiring access in major areas of environmental concern. Yet much of the time, these laws remain unenforced and accountability mechanisms are weak. Civil society organizations in many countries feel that an international mechanism to mutually raise one another to a higher level of performance would improve access at the national level. Civil society in six Latin American countries (Bolivia, Costa Rica, Ecuador, El Salvador, Guatemala, Mexico) called for their governments to begin the process of negotiating a regional convention for Principle 10, something with a similar form and function to the United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation, and Access to Justice in Environmental Matters. Thailand also called for a process for development of a regional convention in Southeast Asia.
- » **Improving Environmental Assessment Practice:** A common request in many countries was expansion and improvement of access to information and public participation in environmental impact assessment. This is often seen as one of the most important means of improving decision-making and environmental quality of new development. However, in many countries, this development is carried out in

secret or important decisions are hidden from the public<sup>12</sup>. This was especially prevalent in participating Asian countries (Bangladesh, India, Sri Lanka, and Thailand) all of which sought to expand and strengthen EIA process in the approval of new developments. In Chile, the TAI coalition pressed for introduction of a mandatory strategic environmental assessment process.

- » **Broad Legal Reforms for Access:** In some countries, coalitions felt that all three access rights could be addressed in an overarching legal reform, rather than in piecemeal legislation, as has been the practice in many countries. Thailand called for the updating of the legal code to more accurately reflect its “access-friendly” 2007 Constitution. The Costa Rican coalition called for a wholesale “access law” which would close many of the gaps and loopholes in prior environmental laws. Finally, the Indonesian coalition called for complete implementation of the Environmental Protection and Management Act No. 32 of 2009 which holds the promise of greatly improving transparency, participation, and accountability but remains, in large part, a paper tiger.
- » **Environmental Databases:** In a number of participating countries, regulations call for the regular publication of environmental data and related information. However, many of these regulations have gone unimplemented with tremendous gaps in data collection, analysis, and publication. Partners called for central national databases of environmental information in Benin, Brazil, Chile, South Africa, and Trinidad and Tobago.
- » **Environmental Courts:** Environmental courts provide what can be a cheaper means of dispute resolution than regular courts. Specialized attention to environmental laws and increased scientific expertise can mean that victims of pollution may be able to have their environmental complaints addressed in a faster, cheaper, more predictable manner. As part of their three demands, non-governmental organizations (NGOs) in Bangladesh are looking to establish environmental courts to service environmental issues more rapidly.
- » **Citizen Enforcement:** In many countries, law enforcement officers are spread thin, with little ability to prioritize among serious environmental issues. For that reason, a number of progressive governments have created citizen suit provisions allowing for citizen enforcement of laws. The Jamaican coalition called for reform leading to citizen enforcement clauses in major environmental laws.

# WHAT WE WANT FROM RIO+20

## Highlights from around the world



Bangladesh  
Benin  
Bolivia  
Brazil

Cambodia  
Chile  
Costa Rica  
Ecuador

El Salvador  
Guatemala  
Hungary  
India

Indonesia  
Jamaica  
Madagascar  
Mexico

Nepal  
South Africa  
Sri Lanka  
Thailand

Trinidad and Tobago  
Uganda  
United States  
Vietnam

## Other Demands

We list here other salient demands by category.

### Access to Information

Among the demands, calls for increased transparency were most common. They fell into a number of categories listed below:

- » **Legal and Regulatory Reforms:** By far, the most numerous requests were for legal and regulatory reform:
  - ◇ A number of civil society coalitions are looking for new laws:
    - The Jamaican coalition submitted a demand for the government to set up minimum standards for the conduct of and public consultation during the EIA process for new development projects.
    - The coalitions from both Ecuador and El Salvador are looking for specific language in access to information laws that would oblige the government to publish specific categories of information. In many countries, the process of identifying specific types of environmental information has been a long slow battle, often sector by sector. The approach taken by these coalitions might more quickly bring them into line with accepted good practices. Alternatively, each country coalition proposed new environmental information laws if such an amendment would be too politically difficult.
    - In Thailand, partners called for the modification of the National Environmental Quality Act to better reflect recent changes to the Constitution and other regulations with regard to access to environmental information.
  - ◇ In other countries, the assembled members of civil society felt that the legal framework was sufficient but that more specific regulatory reform could help implement the laws.
    - In Costa Rica partners are looking for a new directive that would outline necessary access to information.
    - Sri Lankan civil society groups are calling for development of disclosure practices in areas of the law not covered by EIA, specifically beyond individual projects.
    - In other countries, partners are seeking specific sectoral information. In Trinidad and Tobago organizations have demanded publication of cost-benefit analysis of major infrastructure and development. In Uganda,

partners have called for publication of benefit-sharing agreements.

- » **Publication of Environmental Laws:** Comprehensive compilations of environmental laws are often unavailable to citizens and even officials in some African countries. Importantly, two African countries, Benin and Madagascar, felt that existing environmental laws were not well publicized. In each country, they called for the publication and dissemination of existing environmental laws.
- » **Full Implementation of Existing Laws:** A number of countries called for full implementation of already existing laws and regulations on access to information, with the promise of existing laws otherwise unfulfilled.
  - ◇ In Bolivia, civil society groups called for full implementation of the law on Free, Prior, Informed Consent;
  - ◇ In Indonesia, TAI partners demanded that their government make serious progress on the Public Information Disclosure Act No. 14.
  - ◇ United States groups called for a federal process to evaluate and make recommendations for environmental information which exists but can be shared better, gaps in information produced by agencies, and improvements in data and information quality.
- » Other recommendations included the call by Bangladeshi organizations for a mechanism to prosecute corruption in environmental administration and the call for capacity-building of officers by the coalition from Madagascar.

### Public Participation

Twenty-four demands were relevant to public participation. Several reforms in particular are salient.

- » **Participation in Regulation and Planning:** While many countries have legislation in place to support public participation in projects, citizens have no right to participate in important, national-level decisions. Importantly, Bolivian, Chilean, and Thai coalitions demanded public participation in policy and planning-level decisions.
- » **Broadening Participation:** In Bolivia, India, and El Salvador, NGOs requested that their government consider expansion of public participation practices beyond the narrow list of decisions covered by EIA laws to areas such as permitting decisions, planning, and policy making.
- » **Reforming Freedom of Association:** While unique, the Benin coalition's call for amendments to the

restrictive civil society law would do a great deal to advance public participation in their country. In a number of countries, laws on civil society have made financing and free expression much more difficult, either by introducing significant red tape to NGO registration or by requiring official approval of an organization's mission.

- » **Other Participation Changes:** Other requests included development of best practice guidance for agencies (USA), application of Free, Prior, and Informed Consent rules in Bolivia.

### Access to Justice

Of the categories of demands, access to justice—the ability to seek redress and remedy for denial of information and participation, for environmental harm, and for weak enforcement of the law—was the least demanded category. While some of the requests addressed issues of the public ability to use courts (or their equivalent) for environmental issues, others addressed issues of cost. A number addressed issues of intimidation and harassment for defenders of the public interest. Highlights are presented below.

- » **Public Funding:** In Hungary, India, and Trinidad and Tobago, partners are seeking public mechanisms to fund public interest litigation. In Hungary, this request specifically addresses pre-trial assistance such as evidence gathering. Such funding is often provided by the state, costs are often waived, or technical assistance is provided at little cost in a number of countries. This is seen to balance the power of interest groups, when many public interest advocates simply cannot take on the risk or costs of litigation.
- » **Protection for Defenders of the Public Interest:** Indonesia and South Africa partners both sought whistleblower protection laws. In Indonesia, partners also called for passage of legislation to protect against strategic litigation against public participation (an "Anti-SLAPP" law). Both of these laws provide some protection of members of the public or of officers from intimidation and harassment when trying to protect the environment.
- » **Ombudsman:** Hungary is unique in that it has a dedicated environmental ombudsman, the "Office for the Preservation of Future Generations". Such positions are able to take up the public interest, bringing expertise and assuming the costs that a member of the public might otherwise have to bear. Hungarian organizations requested enhancement of the ombudsman's office to appoint a deputy that would expand enforcement capabilities.

- » **Right to Appeal Decisions by Environmental Authorities:** The Jamaican coalition called for the right of appeal by third parties to any official decision made by national environmental authorities. Such a general right would greatly enhance the ability of public interest advocates to protect communities and their environment, allowing for review of decisions that may have been otherwise arbitrary.

### Capacity-Building

Several countries called for official capacity-building.

- » **Sub-national Capacity-building:** In Madagascar, Thailand, Uganda, and the United States, coalitions called for strengthening the legal framework and capacity-building of officials to deliver access rights at sub-national levels.

### What's Next?

A number of emerging trends in environmental governance are clear. Civil society groups, especially in Latin America welcome the development of a regional convention on access rights. Environmental and social assessment disclosure and participation practices need a great deal of improvement. At the same time, public participation must extend beyond the now relatively established realm of EIA.

### Civil Society: Join the 3 Demands Campaign

Civil society will have a major role to play in moving access rights forward at Rio+20:

- » In those countries where there has not yet been a Three Demands Campaign, civil society organizations should organize or mobilize coalitions to use the Summit to enhance their government's fulfillment of access rights. They can do this by (a) collaboratively articulating demands, (b) submitting those demands to the government, and (c) publicizing those demands in the run-up to Rio. To join or learn more visit: [www.accessinitiative.org/rio2012/blog](http://www.accessinitiative.org/rio2012/blog).
- » In those countries where a 3Ds Campaign has already been launched, CSOs can go to [www.accessinitiative.org](http://www.accessinitiative.org) to contact leaders of the civil society coalition in your country and find out how you can contribute.
- » Sign the online petition [[www.change.org/petitions/what-we-want-from-2012-rio-earth-summit](http://www.change.org/petitions/what-we-want-from-2012-rio-earth-summit)] requesting that UNDESA and Rio+20 Bureau include national environmental governance commitments in the Rio+20 Zero draft, a document which will form the basis of negotiations for the final declarations of the Rio+20 Summit.

## Governments and International Organizations: Setting and Achieving Sustainable Development Goals

Ultimately, improving environmental governance requires action from national governments. Rio+20 provides the perfect venue for this. International organizations will also have a role in supporting development of national legislation, building capacity for implementation, and creating and leading international mechanisms such as regional conventions. We phrase these in terms of potential sustainable development goals for the region.

- » By 2022, all UN member states will enact Freedom of Information Acts giving people the right to obtain information held by their governments, especially on the environment. Governments will actively make available useful, well-publicized data and information in appropriate formats, including on the internet.
- » By 2022, all UN member states will include mandatory public participation in (a) major development project approvals and environmental impact assessment procedures, (b) drafting of national level sustainable development policies, laws and regulations and (c) administrative decisions such as pollution permitting.
- » By 2022, all UN member states will adopt laws ensuring effective access to judicial and administrative proceedings concerning sustainable development, including redress and remedy. In particular, they will ensure that the costs of such proceedings are reasonable and affordable to affected people and that access to such proceedings are available through expansion of legal standing and other means to interested people and organizations.
- » By 2022, half of UN member states will adopt laws obliging agencies to take appropriate measures to provide information and engage affected people living in poverty when making sustainable development decisions.

**THE ACCESS INITIATIVE** is the world's largest network of civil society organizations working to ensure that people have the right and ability to influence decisions about the natural resources that sustain their communities.

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10. The Access Initiative is a global network of civil society organizations working to ensure that people have the right and ability to take part in the decisions that affect their community and the environment that sustains them. The World Resources Institute (WRI) serves as the secretariat for the network. Regional leads include Advocates Coalition for Development and Environment (ACODE – Uganda), Bioresources Development and Conservation Programme (BDCPC – Cameroon), Corporación Participa (Chile), Iniciativa Acceso-Mexico, Legal Initiative for Forests and Environment (LIFE India), Thailand Environment Institute (TEI), Environmental Law and Management Association (EMLA – Hungary).
11. An evolving, complete list of demands can be found here: [<http://insights.wri.org/news/2011/08/what-do-you-want-rio20>].
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