The Right to Know:
Environmental Information Disclosure by Government and Industry

Peter H. Sand, Institute of International Law, University of Munich
<p.sand@jura.uni-muenchen.de>

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ABSTRACT

Global knowledge management is crucially dependent on public access to information – in particular, information on environmental risks. Yet most existing systems of governance favour administrative or corporate secrecy, thereby monopolizing environmental information in the hands of governmental authorities or private stakeholders. This paper describes innovative initiatives to establish civil society's 'right to know', by mandatory disclosure of government-held information (from the 1966 US *Freedom of Information Act* to the 1998 UN/ECE *Aarhus Convention*) and of industry-held environmental risk data (through the worldwide spread of *Pollutant Release and Transfer Registers*, and through court-enforced access to 'privileged' documentation – for example, on tobacco-related health risks). These disclosure strategies have triggered a 'third wave' of environmental regulation, replacing or supplementing traditional command-and-control and market-based instruments. However, the paper also highlights continuing transparency deficits (sometimes resulting in 'manufactured uncertainty') with regard to risk-sensitive information of common concern.

Environmental governance is plagued by uncertainty, with regard both to bio-geophysical processes and to socio-economic costs and benefits (Arrow & Fisher 1974; Iida 1993; Harremoës 2000; Stewart 2002). Some of those uncertainties are exogenous, often incalculable, and we simply have to cope with them as risks and unknowns (Knight 1921, 19; Jaeger *et al.* 2001; Funtowicz & Ravetz 2001; Engel *et al.* 2002).[1] Other information deficits, however, are manifestly endogenous, home-made – "manufactured uncertainty" (Beck 1998, 9) or "smokescreen uncertainty" (Lewis 1998). The sad reality is that we are all too often kept in the dark – through neglect or by design, by public officials or private stakeholders (Stiglitz 1999; Eigen 2003). The purpose of this paper is to take a closer look at instruments which different legal systems have developed to cope with the problem of undiscbsed or concealed risk information; *i.e.*, citizen access to publicly-held and privately-held data on environmental risks, the knowledge or ignorance of which may be decisive for precautionary action.

I. Public Data Disclosure

Historically, there have been significant differences between and among national administrative laws with regard to government-held information. While most European countries (including **Britain, France**, and **Germany**) have had a notorious tradition of secrecy with regard to a broad range of data kept by public authorities (Rowat 1966, 1979; Schwan 1984; Rose-Ackerman 1995, 114; Vahle 1999) – partly out of a legitimate concern with effective governance (Dahl 1994; Rowan-Robinson *et al.* 1996), – the one major exception was **Sweden**: Starting with the *Freedom of the Press Act* of 1766, Swedish citizens have had a right of access to public data, unmatched in any other legal system (Andersen 1973; Holstad 1979; Petrén 1987). Other Nordic countries followed much later: **Finland**'s *Publicity of Documents Act* in 1951; **Denmark**'s *Public Access Act* in 1970 (*Offentlighedslov* 1970; Holm 1975). Even so, the Scandinavian approach to government-held information remained unusual among the prevailing pattern of 'arcane administration' in Europe, where access to files by citizens was long viewed as incompatible with the principle of representative – as distinct from 'direct' – democracy (Bullinger 1979, 217).

Against that background, the **US** *Freedom of Information Act* of 1966 (FOIA 1966; Foerstel 1999) – already foreshadowed by the Federal *Administrative Procedure Act* (APA 1946, §3; Cross 1953), and at the state level by California's 1952 'Brown Act' (Singer 1979, 310) – and the avalanche of 'sunshine statutes'[2] following in their wake all over North America and in other common law countries (GSA 1976; Duncan 1999; McDonagh 2000; Smyth 2000; Roberts 2002) radically changed the global map of comparative administrative law, and may actually have changed the universal catalogue of constitutional rights (**South Africa** 1996, §32/1/b; South Africa 2000, §3; Calland & Tilley 2002; Banisar 2002; Bullinger 1985, 106).

Initially, European countries other than those in Scandinavia were slow to follow suit. Among the first examples in continental Europe was the Dutch *Administrative Transparency Act* of 1978 (**Netherlands** 1978; Luebbe-Wolff 1980; Rutteman 2001). More than ten years later, after considerable debate in the European Commission and Parliament, Council Directive No. 313 of 1990 on *Freedom of Access to Information on the Environment* mandated the enactment of transparency legislation in all EU member countries (EU 1990; Winter 1990; Krämer 1991; Pallemaerts 1991; von Schwanenflügel 1991; Engel 1993; Fluck 1993; Fluck & Theuer 1994; Prieur 1997).

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[1] Paradoxically, the 'veil of uncertainty' (Brennan & Buchanan 1985, 30) may even facilitate collective response and decision-making (Helm 1998; Kolstad 2002)

[2] The term goes back to U.S. Supreme Court Justice **Louis D. Brandeis**, who recommended "publicity … as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants" (Brandeis 1932, 92).

Even though 'green' politicians and academics in Europe had long hailed FOIA as "the new *Magna Carta* of ecological democracy" (Fischer 1989, 152) and as evidence of a new "structural pluralism" (Giddens 2000, 55; Roberts 2001), reactions at the governmental level were anything but enthusiastic. Several member states missed the prescribed deadline for the new statutory enactments and administrative reforms required, and the Commission had to resort to judicial actions to make Germany comply (ECJ 1999; EU 2000b; Schoch 2002). Implementation of the 1990 Directive – now superseded by EU Parliament/Council Directive 2003/4/EC (Wilsher 2001; Jahnke 2003; EU 2003) – is still far from perfect (Hallo 1996; Kimber & Ekardt 1999; EU 2000a). It seems as though old administrative habits, and especially the entrenched reluctance of civil service departments to conduct their business in the open, are hard to break indeed.

Things began to change in the wake of the 1992 Rio Conference – starting with the Convention for the Protection of the Marine Environment in the North-East Atlantic (OSPAR 1992, article 9; Sands 1995, 619), opening public access to government-held information regarding that particular maritime sub-region, which extends beyond the EU. Next was the Council of Europe, with the Convention on Environmental Liability (Lugano 1993, article 15; Ebbeson 1997, 90) providing access to information held not only by governments, but also by "bodies with public responsibilities for the environment and under the control of a public authority". Finally, the process of reform reached the still wider geographical framework of the United Nations Economic Commission for Europe (UN/ECE), which includes not only the Nordic countries but also the United States and Canada, and especially the countries of Central and Eastern Europe. Freedom of access to environmental information – under the catchword of *glasnost* – had long been one of the political demands of civil-society opposition groups in the former socialist countries, preceding and indeed precipitating the fall of the Berlin Wall (Stec 1998). Not surprisingly therefore, it was an alliance of Northern and Eastern European NGOs which played a key role in the preparation and negotiation of the 1995 UN/ECE *Sofia Guidelines* on access to information and public participation in environmental decision-making (Wates 1996). They led to the adoption of the *Aarhus Convention* on 25 June 1998 (UN/ECE 1998; Scheyli 2000; Petkova & Veit 2000; Zschiesche 2001; Rose-Ackerman & Halpaap 2002; Bruch & Czebiniak 2002), one of whose 'three pillars' now is public access to environmental information – including so-called 'passive access' (the right to seek information from public authorities, under article 4); and the duty of governments to collect, disclose and disseminate such information regardless of specific requests ('active access', under article 5; Stec *et al.* 2000, 6).

From a comparative perspective, it is probably fair to say that Europe has begun to catch up with North America, but still has a lot to learn in this regard (Coliver *et al.* 1999; Öberg 2000; Wilcox 2001). It would certainly be worthwhile to study both the trans-cultural and psychological implications of that learning process, and its impact on civic and administrative attitudes towards environmental risks (Wiener & Rogers 2002) and on the perceived balance of openness versus security (Geiger 2000; Gassner & Pisani 2001). Even though some information-based policies – such as environmental impact assessments, and 'prior informed consent' procedures – are now globally accepted (Sand 1990, 25; Kern *et al.* 1999; Farber & Morrison 2000; Wiener 2001), 'context-related' instruments for information rights and duties are still far from mainstream in EU environmental governance (Burkert 1998; Holzinger *et al.* 2002). One of the most difficult sub-tasks was to persuade the European Union itself (*i.e.*, the bureaucracy in Brussels) that it, too, had a problem with information disclosure: It took years of litigation (ECFI 1997, 1998, 1999; ECJ 2001) to establish public access to EU Parliament, Council and Commission documents (Kunzlik 1997; O'Neill 1998; Monediaire 1999; Travers 2000; Wägenbaur 2001; Broberg 2002), now guaranteed by the 'Transparency Regulation' of

30 May 2001 (EU 2001).[3] If that is any consolation – some other inter-governmental bureaucracies like the World Bank had to go through a similar learning curve as regards information disclosure to the public (Shihata 1994, 28; Udall 1998, 404).[4]

II. Private Data Disclosure

The Atlantic divide looms larger still when it comes to questions of access to privately-held environmental data, especially information on environmental and health-related risks. The turning point for North American regulatory history was the Bhopal accident in December 1984, which occurred at the local affiliate of a US chemical company in India and killed more than 2,400 people (Desai 1993; Lapierre & Moro 2001). In the face of the magnitude of that tragedy – and also because it was followed in 1985 by another, albeit less catastrophic, accident in West Virginia (in a plant owned by the same corporation; Abrams & Ward 1990, 143) which illustrated the risk of similar disasters at home – legislative reaction in the United States was swift, and truly innovative.

The *Toxics Release Inventory (TRI)* established in 1986 by the federal *Emergency Planning and Community Right-to-Know Act* (EPCRA 1986; Weeks 1998; Greenwood & Sachdev 1999) requires mandatory reporting of toxic industrial emissions. The information is then made publicly available (on-line) via a computerized database operated by the U.S. Environmental Protection Agency (EPA) <http://www.epa.gov/tri>, and also via nation-wide non-governmental networks and special NGO websites, such as the "Chemical Scorecard" <http://www.scorecard.org> kept by *Environmental Defense* and the "Right-to-Know Network" <http://www.rtknet.org> operated by *OMB Watch* (Bass & MacLean 1993). As a result, anybody can download standardized, site-specific, up-to-date and user-friendly data on specified toxic emissions from all facilities covered by *TRI*. At the state level, California's 1986 *Safe Drinking Water and Toxic Enforcement Act* (known as '*Proposition 65*', <http://www.oehha.ca.gov/prop65.html>) imposed additional warning and disclosure requirements for toxic chemicals – as interpreted and applied by the courts (Lungren case 1996; Rechtschaffen 1996, 1999; Freund 1997) – unless emitters can show that the level of exposure is low enough to pose 'no significant risk' (§25249.10.c).

Although there had been earlier toxic-emission disclosure laws at the state and local level since the 1970s – mainly in response to demands by labour leaders to alert employees to workplace risks (McGarity & Shapiro 1980; Chess 1984; Hadden 1989) – the near-instant success of *TRI* and *Proposition 65* seems to have taken everyone by surprise (Wolf 1996; Konar & Cohen 1997; Stephan 2002). Both statutes began taking effect in 1988. The most recent data available – for the 10-year period from 1988 to 1997 – show that atmospheric emissions of some 260 known carcinogens and reproductive toxins from *TRI*-reporting facilities have been reduced by approximately 85% in the state of California, and by some 42% in the rest of the country (*i.e.*, for all chemicals listed in California as known to cause either cancer or reproductive toxicity *and* reported as air emissions under *TRI*; Roe 2002, 10233/figure 1).

Attempts at explaining this "accidental success story" (Fung & O'Rourke 2000, 116) variously emphasize the innovative use made of (a) electronic communications via the

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[3] Given that the EU is a signatory to the 1998 Aarhus Convention, its own institutions will, upon ratification, become 'public authorities' subject to the convention's disclosure requirements (Davies 2001; Rodenhoff 2002, 350). See also art. 42 (access to documents), EU Charter of Fundamental Rights (Nice 2000; Goldsmith 2001)

[4] See World Bank Procedures 17.50 on *Disclosure of Operational Information* (September 1993, revised in June 2002 <http://www1.worldbank.org/operations/disclosure/policy.html>). On similar initiatives in the African, Asian and Inter-American Development Banks, the European Bank for Reconstruction and Development, the International Finance Corporation and the Multilateral Investment Guarantee Agency, see *Yearbook of International Environmental Law* **5**, 296 (1994); **7,** 262 (1996); **9**, 340 (1998); Handl 2001, 47; Saul 2002; and the website of the NGO Bank Information Center, <http://www.bicusa.org>

Internet, by *TRI* (Jobe 1999); (b) reversal of the burden of proof for exemptions, by *Proposition 65* (Barsa 1997); (c) enforcement by citizen suits, under both schemes (Grant 1997; Green 1999; Graf 2001, 669); (d) standardized data, facilitating comparison and 'performance benchmarking' (Karkkainen 2001); and (e) the 'reputational' effects of such competitive ranking on a firm's behaviour (Graham 2001, 8; Graham & Miller 2001). While it will, of course, be important to learn the right lessons from all of this, the outcome is unlikely to be attributable to a set of isolated causes, let alone mono-causal. There certainly are a number of plausible external driving forces, and 'success' more often than not rests on the right combination of information and regulation. Be that as it may, a number of observers view the advent of 'informational regulation' (Magat & Viscusi 1992; Kleindorfer & Orts 1998; Sage 1999; Sunstein 1999; Stewart 2001; Case 2001), 'smart regulation' (Gunningham *et al*. 1998, 63), or 'regulation by revelation' (Florini 1998), as a viable alternative to the stalemate of traditional environmental law-making and the kind of regulatory fatigue it seems to have spread (Lyndon 1989; Pedersen 2001; Cohen 2001). Scientists advocate "mutual transparency as a useful means to ensure accountability" (Brin 1998, 149); international lawyers and political scientists refer to 'sunshine methods' as effective new strategies to induce compliance with environmental treaties (Weiss & Jacobson 2000, 549); and economists hail disclosure strategies as the 'third wave' in pollution control (Tietenberg 1998), after command-and-control (emission standards and fines) and market-based approaches (emission charges, tradable permits).

'Right-to-know' laws have since been enacted in at least 25 U.S. states and in **Canada** (Zimmermann *et al*. 1995; Duncan 1998, 188; CEC 2001; Harrison & Antweiler 2003). Not surprisingly, the North American pilot experience had its ripple effects elsewhere, the new buzz-word being *Pollutant Release and Transfer Registers (PRTR)*: in **Australia** and **Japan**, prompted in part by guidelines developed in the Organisation for Economic Cooperation and Development (OECD 1996, 1998, <http://www.oecd.org/ehs/ehsmono/#PRTRS>) in response to a recommendation of the 1992 Rio Conference on Environment and Development (*Agenda 21*, §19.61.c); in **Brazil**, **Indonesia**, and a number of other developing countries, through technical assistance projects organized by the World Bank (Wheeler 1997; Afsah *et al*. 2000; World Bank 2000). Further initiatives for worldwide dissemination of the concept have been launched by the UN Environment Programme (UNEP, <http://www.chem.unep.ch/prtr>); the UN Institute for Training and Research (UNITAR 2000); the *Inter-Organization Programme for the Sound Management of Chemicals* (IOMC 2001); and private-sector networks such as the *International Right-to-Know Campaign*, <http://www.irtk.org> (Casey-Lefkowitz 2001), and the *Global Reporting Initiative*, <http://www.globalreporting.org> (GRI 2002).

The **European Union** decided, in July 2000, to establish a mandatory *European Pollutant Emission Register* (EPER 2000), to be operated by the European Environment Agency (EEA) 'on top' of national inventories currently under preparation in several member countries, with the first national data to be delivered to the EEA by 2003. The first operational system in Europe was introduced in 1974 by the **Netherlands** Ministry of Housing, Spatial Planning and the Environment (*VROM*), on a voluntary basis. A mandatory system followed in **Norway**, with data accessible to the public though not actively disseminated. **Sweden** has started mandatory reporting (after voluntary pilot studies since 1994) under a new *PRTR* system operated by the Environmental Protection Agency in cooperation with the Chemical Inspectorate. The **United Kingdom** currently has a multi-register system operating in England and Wales only. Other countries planning to have integrated national systems in operation by 2003 include **Austria, Belgium, the Czech Republic, Denmark, Finland, Germany, Hungary,** and **Ireland** (UN/ECE 2000, Annex I).

Perhaps the most promising regional activity currently underway in Europe is the new *Protocol on Pollutant Release and Transfer Registers*, to be signed in the framework of the

Aarhus Convention at the forthcoming Ministerial Conference on 'Environment for Europe' in Kiev, 21-23 May 2003 (UN/ECE 2002, decision I/3). Once adopted and ratified in the legal context of the convention, public access to emission data along *TRI* lines may become an actionable right – hence potentially subject to supranational judicial review by the European Court of Human Rights in Strasbourg (Guerra case 1998, McGinley case 1998; Weber 1990; Gavouneli 2000; Fievet 2001, 173) – well beyond the EU, and especially in the countries of Central and Eastern Europe. As mentioned before, people in those countries are acutely sensitive to information on environmental risks, which was denied to them in the past, and which they do not wish to see monopolized again, whether by public or by private knowledge-holders and "knowledge brokers" (Litfin 1994, 4).

The PRTR Task Force/Working Group has held eight meetings to date, and a draft text has been finalized for adoption at the Kiev Conference (UN/ECE 2003).[5] The main purpose of the Protocol is to require all member countries to establish "publicly accessible national pollutant release and transfer registers" for pollutants and source categories to be listed in annexes and expected to be expanded over time, possibly also including 'diffuse sources' such as agriculture and traffic (draft article 2/11). A net effect therefore will be to bring important environmental data held by the private sector into the public domain.

III. Outlook

Let us remember, however, that this is only the tip of the iceberg. There is a huge mass of privately-held environmental and health risk information that is woefully 'asymmetric' – to use a somewhat euphemistic term coined by Kenneth Arrow (Arrow 1963; Cranor 1999) – yet is not covered by the *Aarhus Convention* at all, and where Europe still lags years behind North America in terms of public access rules. A striking illustration is disclosure of the tobacco industry's 'privileged' documents under the 1998 Minnesota settlement (Humphrey case 1998; Ciresi *et al.* 1999; Little 2001): It is only now, after court-enforced electronic access to those corporate files, that a research team from the University of California was able to document the multinationals' well-planned and highly successful sabotage of EU tobacco advertising legislation (Bitton *et al.* 2002; Neuman *et al.* 2002), culminating in the annulment of a 1998 Council Directive (EU 1998; Simma *et al.* 1999) by the European Court of Justice in October 2000 (ECJ 2000; Schroeder 2001; Tridimas & Tridimas 2002).[6] The documentation shows, in gruesome detail and transparency, how 'captured' governments and top politicians (with **Germany** up-front)[7] were used and – to put it bluntly – corrupted in a game that will have massive and measurable negative effects on environmental health for years to come.[8]

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[5] Note that the protocol will be open to all UN member states (draft article 26) regardless of their membership in the UN/ECE or the Aarhus Convention. At the November 2002 session, however, the US delegation declared that it would not participate in a negotiating capacity but would "continue to follow this and other international processes dealing with the issue of PRTRs" (UN/ECE Doc. MP.PP/AC.1/2002/2, paragraph 19)

[6] The EU Commission has since proposed a new *Directive on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products* (30 May 2001). The EU Council, at its meeting on 2 December 2002, agreed (against German opposition) to adopt the draft directive as amended by the European Parliament on 20 November 2002. The German Government, under pressure from economic lobbyists and the conservative opposition party, now plans to take the new directive to the European Court in Luxembourg once again (Lechner 2002; Didzoleit 2002)

[7] Simpson 2002. On 17 October 2002, Germany earned the infamous 'Marlboro Man Award' from the NGO *Network for Accountability of Tobacco Transnationals* <http://www.infact.org/101702mm.html>, for the country's stalwart diplomatic efforts – in coalition with the USA and Japan – to block a global ban on tobacco advertising, promotion and sponsorship under draft article 13 of the World Health Organization's *Framework Convention on Tobacco Control*, finalized in Geneva on 1 March 2003 for adoption by the 56th World Health Assembly in May 2003 (FCTC 2003). Germany has announced her refusal to accept the treaty, while the United States now insists on a "general reservation clause" that would allow countries to opt out of any provision they find objectionable (Tobacco Lite 2003)

More transparency might also help in some of the academic analysis concerned. For example, a recent collection of legal opinions on the EU ban on tobacco advertising, by a respectable German publisher (Schneider & Stein 1999), demonstrated – according to the editors' preface – "striking conformity and unanimity" among the experts, to the effect that the ban had indeed been *ultra vires*. However, readers had to proceed as far as page 55 to discover (Kleine 2000) that the learned book had been solicited and sponsored by the *Confederation of European Community Cigarette Manufacturers (CECCM)*. Given this abundance of 'manufactured uncertainty' (and a good deal of pseudo-certainty, too), there clearly is a need for new disclosure rules – to be applied not only to government and industry, but also to scientific writers and law professors. Pending that, all I can recommend is a high degree of precaution when approaching German legal publications on this topic.

Far more serious, however, are recent developments triggered by the tragic events of September 11, 2001. In the face of terrorist bombing threats against the most vulnerable targets – for example, major chemical factories, – a large part of industrial risk data in the **United States** is now in the process of being re-classified as 'critical infrastructure information' (Cha 2002; Davis 2002; Cohen 2002). Not surprisingly, economic pressure groups which had always resisted the disclosure of environmental risks to the public – such as the *American Chemistry Council* (*ACC*, formerly the *Chemical Manufacturers Association, CMA*), the *Coalition for Effective Environmental Information (CEEI)*, and the *Center for Regulatory Effectiveness (CRE)* – are lending enthusiastic support to the Bush Administration's efforts at restricting access to such information (Greenwood 1999). They scored a first tactical victory with the 'data quality rider' attached to the U.S. Treasury Department's annual appropriation bill in December 2001 (DQA 2001; Adler 2001; Logomasini 2002; Conrad 2002), which directed the Office of Management and Budget (OMB) to develop new "*Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies*" (OMB 2002; EPA 2002). Substantive and procedural restrictions on environmental information disclosure have since been imposed by the *Homeland Security Act* of 25 November 2002 (HSA 2002; Gidiere & Forrester 2002; Blanton 2002; O'Reilly 2002; Echeverria & Kaplan 2002; Steinzor 2002; McDermott 2002). Further setbacks for public access to chemical risk information are to be expected from section 202 of the *Domestic Security Enhancement Act* now in preparation (DSEA 2003, also known as "Patriot Act II").

Right up to the 2002 Johannesburg *World Summit on Sustainable Development*, the United States – no matter how much fault critics may have found with its environmental record in other areas – had remained the undisputed champion of citizen access to environmental data, public or private. Indeed, in his message to the summit, Secretary of State Colin Powell highlighted the 'access initiative' by 26 civil society organizations in nine countries to assess how well governments are providing access to risk information (Powell 2002, 10; Petkova *et al.* 2002; WRI 2002). Starting from Principle 10 of the 1992 *Rio Declaration*, the 'Plan of Implementation' adopted by the summit re-affirmed the need "to ensure access, at the national level, to environmental information", and in particular, "to encourage development of coherent and integrated information on chemicals, such as through national pollutant release and transfer registers" (Johannesburg Report 2002; Gray 2003).[9] However, at the Nairobi session of the UNEP Governing Council in February 2003, a follow-up proposal for global guidelines on the application of Rio Principle 10 – including more specific rules on information access – ran into opposition from the United States in coalition with the Group of 77/China, and was deferred to the next (2005) session.[10]

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[8] Stochastic mortality estimates in the EU Commission's 'Explanatory Memorandum' to its proposed new Directive of 30 May 2001, COM (2001) 283/final, p. 9 (§7.3.2). For legislative and economic background see Kevekordes 1994; Donner 1999; Chaloupka & Warner 2000

[9] Sections 23(f) and 128. See also the Johannesburg Declaration's call on private sector corporations "to enforce corporate accountability, which should take place within a transparent and stable regulatory environment"

Are we about to come full circle, then? The very principle of transparency, alas, will risk a severe backlash as the public's hard-won 'right to know' suddenly confronts the ugly claw of a zombie, resurrected from the dark ages of European administrative law: Government's 'hiding hand'.

(Report p. 4, article 29); and the call for „public access to relevant information" in the work programme to implement the 'Johannesburg Principles on the Role of Law and Sustainable Development', adopted by the Global Judges Symposium on 20 August 2002; *Environmental Policy and Law* **32**, 236-238 (Rehbinder 2003)

[10] "Enhancing the Application of Principle 10 of the Rio Declaration on Environment and Development", UN Doc. UNEP/GC.22/3/Add.2/B (2002), and decision UNEP/GC.22/L.3/Add.1 (2003) directing the Executive Director to submit a report for review in 2005; *Earth Negotiations Bulletin* **16**:30, 9 (10 February 2003); see also the U.S. State Department's current position on PRTRs, note 5 above

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