
Building Bridges between Region on implementation of Principle 10 Rio Declaration

REPORT May 5-7, 2015 in Santiago de Chile

First Negotiating Committee meeting in Santiago, on the LAC regional instrument

Signatory countries of the declaration on the application of Principle 10 of the Rio Declaration gathered at the headquarters of ECLAC in Santiago, Chile for a three days meeting on May 5-7, 2015 in Santiago for their first Negotiating Committee meeting of the regional instrument on Principle 10.

During the meeting, delegates agreed to begin a process of internal national consultations on the [preliminary document](#), prepared by ECLAC at the request of the signatory countries, regarding the creation of a regional instrument on access to information, public participation and justice in environmental matters. The document may serve as the basis for forging a future regional agreement, which should be completed by December 2016 at the latest.

At the end of the meeting, the delegates agreed to present their observations on the document prepared by the Commission to the process's secretariat—which is held by ECLAC—before August 31, 2015. Additionally, they agreed to negotiate on the new text that includes these observations during the Second Meeting of the Negotiating Committee for a Regional Agreement on Principle 10, which will take place in October 2015 in Panama.

With the incorporation of Antigua and Barbuda as a signatory country of the declaration on Principle 10, the number of nations in the region adhering to this process rises to 20. The process itself is open to all Latin American and Caribbean countries. (Link to meeting report, documents and list of participants: <http://www.cepal.org/cgi-bin/getProd.asp?xml=/dmaah/noticias/noticias/7/54807/P54807.xml&xsl=/dmaah/tpl-i/p1f.xsl&base=/rio20/tpl-i/top-bottom.xsl>)

Side Event “Perspectives for implementing the draft regional instrument in the Latin American and Caribbean region”.

During the Negotiating Committee meeting, on May 5th, 2015, the Regional Environmental Center (REC) together with The Access Initiative (TAI), and the Government of Chile organized a side event on “Perspectives for implementing the draft regional instrument in the Latin American and Caribbean region”. The event was supported financially by the Ministry of Infrastructure and the Environment of the Netherlands in the framework of the project “Building Bridges between Regions on the implementation of Principle 10 of the Rio Declaration”, implemented by the REC. The side event brought together representatives of governments and civil society from the Latin American and Caribbean (LAC) region to discuss and exchange examples of legislation and best practices that will enable the full exercising of the rights of access to environmental information, participation and justice. Reference was made to the current



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draft Principle 10 regional instrument and its potential implications at national level in the region. Representatives of the UNECE Aarhus Convention and the Regional Environmental Center (REC) also participated and offered their experience.

The side event was opened by Ms. Andrea Sanhueza, TAI, Representative of the Public, Ms. Constance Nalegach, Chief of the International Department, Ministry of the Environment, Chile and Ms. Tsvetelina Borissova Filipova, Leader of the Participatory Governance Topic Area, REC. Ms. Nalegach emphasized the importance of the good terms and the dialogue between civil society and governments in the regional instrument process and also, that it is necessary to consider, if there will be a regional agreement negotiated, how it will be implemented in the future. Ms. Borissova Filipova mentioned that REC was actively involved in the process of negotiating and implementing the Aarhus Convention. She congratulated the governments and CSOs of the LAC region for the outstanding initiative and offered support by sharing the experiences of how the provisions of the Aarhus Convention have influenced positive changes in national legislation and in practice. In addition to the current project, REC intends to fundraise for further support in the future.

In the first part of the side event NGO speakers shared their views on the “Achievements of LAC countries in implementing Principle 10: Legislation and best practice examples”. Ms. Yamile Najle, Coordinator, FUNDEPS, highlighted the high standards regarding the right to public participation in environmental matters in the Argentinian national legislation. Some of these standards have been taken as the basis of some articles proposed in the preliminary document developed by ECLAC.

Ms. Carole Excell, World Resources Institute, Director of TAI, pointed out the progressive history of Caribbean in development of environmental laws from the early 90s (Belize, Trinidad and Jamaica, Antigua). A number of countries in the region have recognition of a right to a healthy environment in their legislation (Jamaica, Guyana, Cayman, Dominican Republic), however the recognition of procedural rights or access rights has been fragmented through-out sectoral legislation. There is innovation in the region to support public participation in one of the countries, Guyana, regarding public scoping, public commenting on final EIA and response to public comments. In a few countries more comprehensive frameworks laws were adopted for access rights on access to information (Guyana, JA, Trinidad and Antigua). Where the region really shines however is in relation to Access to Justice. Several Caribbean Governments have adopted judicial review legislation that provides most of the basic procedural rights, standing and legal enforcement mechanisms in the domestic legal framework (Haiti, St. Lucia, Trinidad and Tobago, Belize and Jamaica).

Ms. Natalia Gómez, Ambiente y Sociedad, Colombia, highlighted that in the Colombian Constitutional Framework the right of access to information is recognized by the Constitution and the decisions of the Constitutional Court as a fundamental right. Despite this recognition, Colombia did not have a specific legislation on the right of access to information until last year September when the Law on transparency and access to public information entered into force. It is difficult yet to assess effective implementation but the law has been an important step forward in terms of access rights.

In the second part of the side event, Dr. Jerzy Jendroska, the former Vice Chair of the Aarhus Convention; former Secretary of the Aarhus Convention; member of the Aarhus Compliance Committee spoke of “Implementing the Aarhus Convention’s provisions in national legislation and practice: The experience of countries in the UNECE region in the light of „0”draft LAC Agreement”. Dr Jendroska, talking about the approaches to codifying Principle 10 in Europe and other regions, mentioned that in Europe, the governments embarked upon the negotiation and implementation of the agreement as embedding the values of transparency, participation and rule of law. In other regions transparency, participation and rule of law are seen as instruments for stability and environmental protection. Discussing the preliminary



document of the regional instrument, he called the attention to the formulation of the definition of „directly affected public” and its practical implications on notification, as well the need to cover separately notification and making available all relevant information needed for decision/making during the stages of public participation. On access to justice, he pointed out some problems how standing is included in the draft, as the traditional approach is to grant standing only those with legal interests, as well as the issue of the scope of review and costs.

The presentations was followed by dicussion moderated by Mr. Mariano Castro, Vice Minister of Environmental Management, Ministry of the Environment, Peru, including questions, comments and contributions by various participants.



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