



UNITED NATIONS



Distr.  
LIMITED

LC/L.4229(CNP10.5/2)  
28 September 2016

ENGLISH  
ORIGINAL: SPANISH

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Fifth meeting of the negotiating committee  
of the regional agreement on access to information,  
participation and justice in environmental matters  
in Latin America and the Caribbean

Santiago, 21-25 November 2016

## **ANNOTATED PROVISIONAL AGENDA**



## A. BACKGROUND AND ORGANIZATION OF WORK

At the United Nations Conference on Sustainable Development, held in Rio de Janeiro, Brazil, on 20-22 June 2012, 10 Governments from Latin America and the Caribbean endorsed the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development,<sup>1</sup> in which they reaffirmed their commitment to rights of access to information, participation and justice regarding environmental matters, declared their willingness to work towards a regional instrument promoting the full application of those rights and requested the support of the Economic Commission for Latin America and the Caribbean (ECLAC) as technical secretariat. Twenty-two countries have signed the Declaration to date and it remains open for signature by all countries in Latin America and the Caribbean.

In the outcome document of the United Nations Conference on Sustainable Development, entitled “The future we want”, adopted by the General Assembly on 11 September 2012,<sup>2</sup> among the many provisions referring to Principle 10 of the Rio Declaration on Environment and Development, the Heads of State and Government and high-level representatives acknowledged that democracy, good governance and the rule of law, at the national and international levels, as well as an enabling environment, were essential for sustainable development, including sustained and inclusive economic growth, social development, environmental protection and eradication of poverty and hunger. They also underscored that broad public participation and access to information and judicial and administrative proceedings were essential to the promotion of sustainable development and encouraged action at the regional, national, subnational and local levels to promote access to information, public participation in decision-making and access to justice in environmental matters, as appropriate.

Between 2012 and 2014, four meetings of the focal points appointed by the Governments of the signatory countries of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development in Latin America and the Caribbean were held: the first in Santiago on 6 and 7 November 2012; the second in Guadalajara, Mexico, on 16 and 17 April 2013; the third in Lima on 30 and 31 October 2013; and the fourth in Santiago, from 4 to 6 November 2014.

At the fourth meeting of the focal points, the signatory countries adopted the Santiago Decision, in which they agreed to commence negotiations on a regional instrument on access to information, participation and justice in environmental matters in Latin America and the Caribbean. To that end, they established a negotiating committee, with significant participation by the public, and appointed Presiding Officers, comprising Chile and Costa Rica as co-chairs and Argentina, Mexico, Peru, Saint Vincent and the Grenadines, and Trinidad and Tobago as vice-chairs. ECLAC was requested to prepare a preliminary document on the regional instrument and the Presiding Officers were charged with steering the process, with the support of ECLAC as technical secretariat, with a view to concluding negotiations on the regional instrument by December 2016.

By virtue of resolutions 686(XXXV) and 706(XXXVI), adopted at its thirty-fifth and thirty-sixth sessions, held in 2014 and 2016, respectively, ECLAC took note of the progress made and convergence achieved at the meetings of the focal points and the negotiating committee, which are reflected in the respective reports, and commended the secretariat of the Commission on the progress made in the process.

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<sup>1</sup> A/CONF.216/13.

<sup>2</sup> General Assembly resolution 66/288.

The Committee of the Whole of the Economic Commission for Latin America and the Caribbean took note of the Santiago Decision by virtue of resolution 693(PLEN.30), adopted at its thirtieth session, held in March 2015.

Four meetings of the negotiating committee of the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean have been held to date. At the first meeting, held at ECLAC headquarters in Santiago from 5 to 7 May 2015, ECLAC presented the preliminary document on the regional instrument that it had been requested by the countries to prepare. The negotiating committee adopted its organization and work plan and agreed to hold its second meeting in Panama City, at the invitation of the Government of Panama, in October 2015.

At its second meeting, held from 27 to 29 October 2015, the negotiating committee discussed substantive aspects of the regional agreement. The negotiations focused on the preamble, article 1 and part of article 2 of the document entitled *Text compiled for the second meeting of the negotiating committee by the Presiding Officers incorporating the language proposals received from the countries on the preamble and articles 1 to 10 of the preliminary document on the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean*. The country representatives also had before them for consideration the document entitled *Proposed modalities for participation of the public in the negotiating committee of the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean. Note by the secretariat*, which had been prepared by the co-chairs.

At its third meeting, held in Montevideo from 5 to 8 April 2016, the negotiating committee made progress in the negotiations on articles 2 to 5 and numerals 1 and 2 of article 6 and adopted the modalities for participation of the public in the negotiating committee of the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean.

At its fourth meeting, held in Santo Domingo from 9 to 12 August 2016, the negotiating committee concluded its review of article 6 and reviewed part of article 7.

In the light of the foregoing, the aim of the fifth meeting is to resume the negotiations on the substantive aspects of the regional agreement, continuing, as agreed, with articles 7 to 10, using the fourth version of the compiled text, before reviewing outstanding issues from the preamble to article 10 and discussing the way forward for the negotiations.

The opening session of the fifth meeting of the negotiating committee of the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean will take place in the morning of Monday, 21 November 2016. Statements will be made by representatives of the Government of Chile, as co-host of the meeting, ECLAC, as co-host and technical secretariat of the process, the Presiding Officers of the negotiating committee and the public. In this plenary session, the agenda of the meeting will be submitted for adoption. Before the countries resume the negotiation of the regional agreement, there will be a high-level segment, organized by the co-chairs of the negotiating committee, with the support of the technical secretariat, with a view to providing fresh input to the deliberations. It is hoped that the countries will be represented at the highest level during this segment in order that they might express their positions with respect to the instrument, the process and its future.

In the afternoon on the first day, representatives of the signatory countries of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development in Latin America and the Caribbean—and observer countries, if it is so decided— will have three minutes each to report on the actions taken at the national level, to be followed by statements by a representative of the technical secretariat and an elected representative of the public.

At 9 a.m. on Tuesday, 22 November, the negotiating committee will resume negotiations of the regional agreement, using the fourth version of the text compiled by the Presiding Officers, continuing, as agreed, with articles 7 to 10, before reviewing outstanding issues from the preamble to article 10 and discussing the way forward for the negotiations. The negotiations will continue through to Friday, 25 November 2016 at 4 p.m. The negotiating committee will devote some time before closing the meeting to the consideration and adoption of agreements.

## **B. PROVISIONAL AGENDA**

1. Adoption of the agenda.
2. High-level segment.
3. Actions taken at the national level by the signatory countries of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development and activities carried out by the secretariat.
4. Negotiation of the regional agreement on access to information, public participation and justice in environmental matters in Latin America and the Caribbean.
5. Way forward for the negotiations.
6. Consideration and adoption of agreements.

## **C. ANNOTATIONS TO THE PROVISIONAL AGENDA**

### **1. Adoption of the agenda**

Delegations will have before them the provisional agenda (LC/L.4224(CNP10.5/1)) for their consideration and adoption. This draft agenda has been prepared by the secretariat in accordance with chapter II of the rules of procedure of ECLAC, bearing in mind the various mandates of the Commission. Representatives of the countries of Latin America and the Caribbean may make such observations or suggest such modifications as they deem appropriate under the aforementioned rules of procedure.

### **2. High-level segment**

The co-chairs of the negotiating committee, with the support of the technical secretariat, have organized a high-level segment, with a view to providing input to the deliberations before the countries resume the negotiation of the regional agreement. It is hoped that the countries will be represented at the

highest level during this segment in order that they might express their positions with respect to the instrument, the process and its future. Once the participants have confirmed, the secretariat will circulate the programme for the high-level segment.

**3. Actions taken at the national level by the signatory countries of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development and activities carried out by the secretariat**

Under this agenda item, the focal points of the signatory countries of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development in Latin America and the Caribbean—and observer countries, if it is so decided— will have three minutes each to report on the actions taken at the national level as part of the regional process. ECLAC will then report on the activities carried out by the technical secretariat since the fourth meeting of the negotiating committee in August 2016. An elected representative of the public will be invited to report on the action taken by the public in the region in the framework of the process.

**Reference documents:**

- Organization and work plan of the negotiating committee of the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean (LC/L.4011/Rev.1)
- Santiago Decision contained in the report of the fourth meeting of the focal points appointed by the Governments of the signatory countries of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development in Latin America and the Caribbean (LC/L.3970)

**4. Negotiation of the regional agreement on access to information, public participation and justice in environmental matters in Latin America and the Caribbean**

Under this agenda item, representatives of the countries of Latin America and the Caribbean present at the meeting will resume the negotiations on the substantive aspects of the regional agreement, continuing, as agreed, with articles 7 to 10, before reviewing outstanding issues from the preamble to article 10 of the *Text compiled by the Presiding Officers incorporating the language proposals received from the countries on the preamble and articles 1 to 10 of the preliminary document on the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean. Fourth version.*

**Working document:**

- Text compiled by the Presiding Officers incorporating the language proposals received from the countries on the preamble and articles 1 to 10 of the preliminary document on the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean. Fourth version (LC/L.4059/Rev.3)

**Reference documents:**

- Preliminary document of the regional instrument on access to information, participation and justice in environmental matters in Latin America and the Caribbean (LC/L.3987)
- Organization and work plan of the negotiating committee of the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean (LC/L.4011/Rev.1)
- Modalities for participation of the public in the negotiating committee of the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean (LC/L.4163)
- Santiago Decision contained in the report of the fourth meeting of the focal points appointed by the Governments of the signatory countries of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development in Latin America and the Caribbean (LC/L.3970)
- Report of the fourth meeting of the negotiating committee of the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean (LC/L.4232)
- Compilation of inputs submitted by the public. Note by the secretariat (DDR/1)
- Society, rights and the environment: international human rights standards applicable to access to information, public participation and access to justice (LC/W.712)
- Resolution 686(XXXV), adopted by the Commission at its thirty-fifth session, held in May 2014
- Resolution 693(PLEN.30), adopted by the Committee of the Whole at its thirtieth session, held in March 2015
- Resolution 706(XXXVI), adopted by the Commission at its thirty-sixth session, held in May 2016
- Acceso a la información, participación y justicia en temas ambientales en América Latina y el Caribe: situación actual, perspectivas y ejemplos de buenas prácticas, 2016 (LC/L.4231)

**5. Way forward for the negotiations**

As agreed at its fourth meeting, under this agenda item the negotiating committee will examine the steps that need to be taken in order to bring the negotiations of the regional agreement to a successful conclusion. Delegations shall express their positions with respect to reviewing outstanding issues from the preamble to article 10, and proceeding with articles 11 to 25, which correspond to the operative part of the future regional agreement. The negotiating committee may adopt a decision on the steps to be taken in order to conclude the negotiation of the regional agreement.

**Reference documents:**

- Organization and work plan of the negotiating committee of the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean (LC/L.4011/Rev.1)
- Modalities for participation of the public in the negotiating committee of the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean (LC/L.4163)

- Santiago Decision contained in the report of the fourth meeting of the focal points appointed by the Governments of the signatory countries of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development in Latin America and the Caribbean (LC/L.3970)
- Report of the fourth meeting of the negotiating committee of the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean (LC/L.4232)

## **6. Consideration and adoption of agreements**

The negotiating committee will adopt the agreements it deems appropriate, in accordance with the Organization and work plan of the negotiating committee of the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean (LC/L.4011/Rev.1).