



UNITED NATIONS

ECLAC

Distr.
LIMITED

LC/L.4058/Rev.1
3 December 2015

ENGLISH
ORIGINAL: SPANISH

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 (SECOND VERSION)

Note by the secretariat

In the Santiago Decision,¹ the countries signatory to the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development in Latin America and the Caribbean agreed to establish a negotiating committee with significant participation by the public in accordance with the provisions and modalities set forth in the Plan of Action adopted in Guadalajara, Mexico. It was further established under 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*² that the public will have significant participation in the negotiation process in accordance with the provisions and modalities set forth in the Santiago Decision and the Plan of Action adopted in Guadalajara, Mexico, which shall be reviewed, as appropriate, in order to facilitate their application.

In view of these considerations, the co-chairs, at the request of the Presiding Officers, made available to the countries and the public the *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*³ for consideration at the second meeting of the negotiating committee, held in Panama City from 27 to 29 October 2015. The proposed modalities were presented and discussed previously at two intersessional meetings of the negotiating committee, held on 28 July 2015 and 3 September 2015.

15-01241

¹ LC/L.3970.

² LC/L.4011/Rev.1.

³ LC/L.4058(CNP10.2/3).

At the second 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, the representatives of the participating countries agreed to continue considering the proposed modalities for participation of the public prepared by the co-chairs, with a view to their adoption at the third meeting of the negotiating committee, to be held in Punta del Este, Uruguay, from 5 to 8 April 2016.

The secretariat is accordingly transmitting herewith to the participating countries and the public the new version of the proposed modalities, including the paragraphs that were agreed on by the countries in the plenary session prior to the adoption of the agreements at the second meeting of the negotiating committee (see annex 1). Annex 2 contains a list of concerns expressed in the informal open group, led by Colombia and Mexico, which was created at the suggestion of the chair of the meeting to work in parallel on the proposed modalities for participation of the public.

Annex 1

**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**

(SECOND VERSION)

1. The negotiation of the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean is an intergovernmental process that will involve, as agreed in 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*,¹ significant participation by the public in accordance with the provisions and modalities set forth in the Santiago Decision and the Plan of Action adopted in Guadalajara, Mexico, in 2013, which are reviewed below in order to facilitate their application. [Agreed]

2. The promotion of broad and diverse participation by the public is grounded in the ultimate objective of this regional process. These modalities for public participation apply exclusively to this process and do not set a precedent for other international negotiations. [Agreed]

3. The negotiation process of the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean will have modalities for the participation of the interested public. With a view to strengthening the inclusiveness and legitimacy of the process, the purpose of these modalities is to:

- (i) Ensure that the public receives regular information on the negotiations of the regional agreement.
- (ii) Establish specific levels and opportunities for achieving the broadest possible proactive participation in the negotiations. [Agreed]

4. These modalities establish the right of the public —understood to be any natural or legal person or community organization— to participate in the meetings of the negotiating committee and the ad hoc working groups and in other forums established to further the negotiations. All parts of the process are open to the public unless the countries participating in the negotiating committee decide, in exceptional circumstances, to hold closed sessions during meetings. In such cases, the countries will explain the reasons for holding a closed session. Any decisions taken in a closed session will be announced in a subsequent public session.

5. ECLAC will continue to administer the regional public mechanism established in the Plan of Action adopted in Guadalajara, Mexico, whose main objectives are to keep all parties interested in the process informed and facilitate their involvement, to coordinate public participation in international meetings and to contribute to the transparency of the process. The mechanism also complements participation actions carried out at the national level.

¹ LC/L.4011/Rev.1, May 2015.

6. ECLAC will publish and update a calendar of meetings on its website. Meetings will be announced well in advance and information thereon will be sent by e-mail to those subscribed to the regional public mechanism. All official documents for meetings will be available to the public on the ECLAC website in due course and those subscribed to the regional public mechanism will receive an e-mail notification. Signatory countries are encouraged to make these documents available on their Government websites.

7. The modalities provide for three levels of participation:

- (i) Attendance: the public may attend negotiating committee meetings, in accordance with the present modalities, and have access to official meeting documents, including draft documents. Meetings will also be webcast, to the extent possible. Priority will be given to attendance by representatives of the public from the region.
- (ii) Reporting: the public shall have the right to share information with and to submit proposals on the specific topics under discussion to the government representatives, experts or representatives of international agencies in writing, at informal meetings or at side events, when feasible.
- (iii) Making statements: the public shall have the right to request the chair of the session for the floor. Representatives of the public are encouraged to submit statements in writing before taking the floor for the convenience of other participants and to facilitate the provision of simultaneous interpretation, if available. Statements submitted in writing and other contributions may be placed on a table provided for that purpose outside the meeting room. Under no circumstances will the public participating in the meetings have the right to vote. Any language proposals submitted by the public during negotiations will be compiled in a separate document and will be incorporated into the draft agreement only if sponsored by at least one country.

8. The chair will be responsible for ensuring that the meeting fulfils its objectives. To that end:

- (i) The chair will give the floor in the order in which it is requested, regardless of whether the respective speakers are government representatives, representatives of international agencies, elected representatives of the public or their alternates, or members of the public (natural or legal person or community organization), aiming to ensure that everyone is heard and that the meeting is effective.
- (ii) Notwithstanding point (i), the chair may propose limits on the length and the number of statements made by speakers and shall seek to prevent the repetition of points on which agreement has already been reached, in order to ensure that the meeting fulfils its objectives.
- (iii) The chair may also request the elected representatives of the public to organize their requests for the floor. To this end, the chair will provide a reasonable amount of time for the public to come to an agreement.

9. Where space is limited, representatives of the public will occupy the room in the chronological order in which they were accredited, giving priority to those with residence in any Latin American or Caribbean country. To ensure that differently abled persons who are registered can participate fully under equal conditions to everyone else, appropriate measures will be taken to ensure that they have priority access to the physical space, as well as to information and communications. If it is not possible to accommodate all members of the public who have requested to attend, to the extent possible, a space will be provided with audiovisual equipment to enable them to follow the meeting. A microphone will be installed in this room so that the public may participate in the meeting.

10. The two representatives of the public designated pursuant to the Santiago Decision to maintain a continuous dialogue with the Presiding Officers will be invited to a preparatory meeting with the Presiding Officers prior to the meeting of the negotiating committee in order to discuss the agenda for that meeting.

11. The Presiding Officers may accept any proposals submitted under paragraph 9 above, or received through other channels, at their discretion. In any event, a record will be kept of all contributions. A designated representative of the public will give a brief account of his or her participation at the opening session of the meeting of the negotiating committee.

12. In accordance with the organization and work plan of the negotiating committee, the Presiding Officers will be responsible for ensuring compliance with the modalities for public participation in the meetings and ECLAC will be responsible for supporting public participation in the negotiation process.

Annex 2

**LIST OF CONCERNS EXPRESSED IN THE INFORMAL OPEN GROUP,
LED BY COLOMBIA AND MEXICO**

- Specify early in the document (perhaps in the first paragraph) that this is an intergovernmental process with significant participation by the public.
- Include a footnote or a sentence in the text to indicate that this process is unique and should not set a precedent for other intergovernmental negotiations.
- The definition of “public” should ensure that preference is given to the public of the region with respect to participation in meetings, particularly with regard to paragraph 6 of the proposal by the co-chairs.
- Clarify the meaning of “regional public mechanism”, as it appears in paragraph 4 of the proposal by the co-chairs.
- Avoid redundant or repetitive elements in paragraph 6. Indicate that priority, especially with regard to giving statements, should be accorded to the public of the region.
- Delete the redundant or repetitive elements in paragraph 7 of the proposal since most of the functions of the chair of the meeting are common practice in negotiation processes, however, the first bullet point should be retained as it differs from international practice.
- With respect to paragraph 3 of the proposal by the co-chairs, concern was expressed regarding governments’ ability to hold closed meetings. An agreement was reached in the informal open group to delete the last sentence of the paragraph as decisions will be taken in plenary sessions, not in private sessions.