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First meeting of the Conference of the Parties
to the Regional Agreement on Access to Information,
Public Participation and Justice in Environmental Matters
in Latin America and the Caribbean

Santiago, 20–22 April 2022

**SCENARIO NOTE PREPARED BY THE SECRETARIAT ON THE CONFERENCE OF
THE PARTIES TO THE REGIONAL AGREEMENT ON ACCESS TO INFORMATION,
PUBLIC PARTICIPATION AND JUSTICE IN ENVIRONMENTAL MATTERS IN
LATIN AMERICA AND THE CARIBBEAN**

This scenario note sets out, for information purposes, the background and general expectations for the first meeting of the Conference of the Parties to the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean. The main objective of this note is to assist States Parties and other participants in preparing for the meeting so as to enable the discussion of the issues to be addressed and to achieve the expected outcomes.

A. BACKGROUND

The Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement)¹ was adopted in Escazú, Costa Rica, on 4 March 2018, and entered into force² on 22 April 2021.

The Agreement has its origins in the United Nations Conference on Sustainable Development (Rio+20), held in Rio de Janeiro, Brazil, on 20–22 June 2012. On that occasion, 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 in Latin America and the Caribbean, reaffirming 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.³

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 this end, the countries established a negotiating committee, with significant participation by the public; Presiding Officers were appointed—comprising Chile and Costa Rica as co-chairs and Argentina, Mexico, Peru, Saint Vincent and the Grenadines and Trinidad and Tobago as vice-chairs—and ECLAC was asked to prepare a preliminary document on the regional instrument. The Presiding Officers were asked to lead the process, with the support of ECLAC as technical secretariat.

The negotiating committee met on nine occasions, concluding with the adoption of the text of the Escazú Agreement. The committee held its first meeting at ECLAC headquarters in Santiago from 5 to 7 May 2015; the second meeting was held in Panama City from 27 to 29 October 2015; the third meeting was held in Montevideo from 5 to 8 April 2016; the fourth meeting was held in Santo Domingo from 9 to 12 August 2016; the fifth meeting was held at ECLAC headquarters in Santiago, from 21 to 25 November 2016; the sixth meeting was held in Brasilia, from 20 to 24 March 2017; the seventh meeting was held in Buenos Aires, from 31 July to 4 August 2017; the eighth meeting was held at ECLAC headquarters in Santiago, from 27 November to 1 December 2017; and the ninth meeting took place in Escazú (Costa Rica), from 28 February to 4 March 2018.

¹ See [online] <https://treaties.un.org/doc/Treaties/2018/03/20180312%2003-04%20PM/CTC-XXVII-18.pdf>.

² See depositary notification C.N.15.2021.TREATIES-XXVII.18 of 22 January 2021, communicated by the Secretary-General of the United Nations, acting in his capacity as depositary.

³ See annex to the note verbale dated 27 June 2012 from the Permanent Mission of Chile to the United Nations addressed to the Secretary-General of the United Nations Conference on Sustainable Development (A/CONF.216/13).

The Final Act of the ninth meeting of the negotiating committee established that, between adoption and entry into force, the Presiding Officers of the negotiating committee would continue to steer and conduct the necessary work, with signatory countries, significant participation by the public and the support of ECLAC as technical secretariat, and that 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 would apply *mutatis mutandis* until the first Conference of the Parties.^{4 5} All Latin American and Caribbean States were also invited to sign the Agreement, in accordance with article 21 thereof, and to ratify, accept, approve or accede to it, as appropriate, as soon as possible.

The Agreement was opened for signature from 27 September 2018 to 26 September 2020 at United Nations Headquarters in New York. The countries that signed it may deposit their instruments of ratification at any time. Those countries that have not signed it within the stipulated time frame can become a party through accession (a one-step procedure without the need for a signature). Instruments of accession have the same legal requirements and effects as ratification.

The Agreement entered into force on 22 April 2021, the ninetieth day after the date of deposit of the eleventh instrument of ratification, acceptance, approval or accession. To date, there are 24 signatory countries and 12 States Parties to the Agreement.⁶

To ensure the continuity of work, two meetings of the countries signatory to the Escazú Agreement were held. The first meeting of the countries signatory to the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement) took place in San José, on 11 and 12 October 2019, under the auspices of Costa Rica.⁷ The second meeting took place in a virtual format on 9 and 10 December 2020, under the auspices of the Government of Antigua and Barbuda.⁸ To move forward on discussing the topics to be addressed at the first meeting of the Conference of the Parties, a preparatory meeting was held in virtual format on 4 March 2022.⁹

⁴ See the report of the ninth 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/CNP10.9/6/Rev.1).

⁵ See the report of the third 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.4163).

⁶ See the list of States Parties [online] <https://observatoriop10.cepal.org/en/treaties/regional-agreement-access-information-public-participation-and-justice-environmental>.

⁷ See the Report of the first meeting of the countries signatory to the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (LC/ESZ.1/3).

⁸ See the Report of the second meeting of the countries signatory to the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (LC/ESZ.2/3).

⁹ See the Report of the preparatory meeting for the first meeting of the Conference of the Parties to the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (LC/RPCOP-EZ.1/3).

B. DATES AND OBJECTIVES OF THE FIRST MEETING OF THE CONFERENCE OF THE PARTIES

Article 15.2 of the Agreement states that the first meeting of the Conference of the Parties shall be convened no later than one year after its entry into force. The first meeting of the Conference of the Parties is therefore being held from 20 to 22 April 2022.

The meeting will take place at ECLAC headquarters in Santiago in hybrid format. At the meeting, the Presiding Officers will be elected and the following topics will be discussed, as set forth in the Agreement: (i) the rules of procedure of the Conference of the Parties, including the modalities for significant participation by the public (article 15.4(a)); (ii) the financial provisions that are necessary for the functioning and implementation of the Agreement (articles 14 and 15.4(b)); and (iii) the rules relating to the structure and functions of the Committee to Support Implementation and Compliance (article 18.1). Other matters deemed relevant by the States Parties will also be discussed.

The provisional agenda and annotated provisional agenda are contained in documents LC/COP-EZ.1/1/Rev.1 and LC/COP-EZ.1/2/Rev.1, respectively.

C. ELECTION OF PRESIDING OFFICERS

At 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, held in Santiago in 2014, Presiding Officers were appointed — comprising Chile and Costa Rica as co-chairs and Argentina, Mexico, Peru, Saint Vincent and the Grenadines and Trinidad and Tobago as vice-chairs.

The Final Act of the ninth meeting of the negotiating committee of the Regional Agreement established that, between adoption and entry into force, the Presiding Officers of the negotiating committee would continue to steer and conduct the necessary work until the first meeting of the Conference of the Parties.

In view of the above, the Conference of Parties will elect a Chair, two Vice-Chairs and two members from among the representatives of the Parties present at the meeting. The results of that election will be recorded as a decision of the Conference.

D. RULES OF PROCEDURE OF THE CONFERENCE OF THE PARTIES (ARTICLE 15.4(a))

Pursuant to article 15.4(a) of the Agreement, at its first meeting, the Conference of the Parties shall discuss and adopt by consensus its rules of procedure, including the modalities for significant participation by the public.

The rules of procedure of the Conference of the Parties have been under discussion since the first meeting of the signatory countries held in 2019. At that meeting a presentation was given, providing a comprehensive overview, describing the state of the art and offering comparative experiences, followed by a round table with experts and then open discussions.

On 15 April and 25 June 2020, two virtual meetings were held on the rules of procedure of the Conference of the Parties. At these meetings, a proposal on the core elements for consideration in the preparation of the rules of procedure of the Conference of the Parties was presented, the rules applicable to other multilateral environmental agreements, including the Aarhus Convention, were reviewed, and input was received from countries and the public.

At the second meeting of the countries signatory to the Regional Agreement, held in 2020, the proposed rules of procedure of the Conference of the Parties to the Escazú Agreement (LC/ESZ.2/DDR/1) were presented. These were prepared by the secretariat at the request of the Presiding Officers on the basis of the virtual working meetings held on 15 April and 25 June 2020 and the inputs received from countries and the public. During the meeting, additional comments were received and a period of three months was given for further comments. It was also agreed that the Chair would review the proposed document on the basis of the comments received.

At the preparatory meeting for the first meeting of the Conference of the Parties, held on 4 March 2022, the Chair presented the new proposed rules of procedure of the Conference of the Parties (LC/RPCOP-EZ.1/DDR/1) and further comments were received.

The new proposed rules of procedure are contained in document LC/COP-EZ.1/DDR1 and shall be submitted to the Conference for adoption as a decision of the Conference.

E. FINANCIAL PROVISIONS NECESSARY FOR THE FUNCTIONING AND IMPLEMENTATION OF THE AGREEMENT (ARTICLES 14 AND 15.4(b))

Pursuant to article 15.4(b), at its first meeting, the Conference of the Parties shall discuss and adopt by consensus the financial provisions necessary for the functioning and implementation of the Agreement.

In addition, article 14 establishes a Voluntary Fund to support the financing of the implementation of the present Agreement, the functioning of which shall be defined by the Conference of the Parties. Article 14.2 states that Parties may make voluntary contributions to support the implementation of the Agreement. Article 14.3 further elaborates that the Conference may seek to obtain funds from other sources to support the implementation of the Agreement.

At the first meeting of the countries signatory to the Regional Agreement in 2019, other examples of financial arrangements, such as those under the Minamata Convention and the Aarhus Convention, as well as the rules applicable to United Nations trust funds, were discussed.

At the virtual meeting on 25 August 2020 the core elements for consideration in the preparation of the financial arrangements, including the Voluntary Fund, were presented and participants discussed the lessons learned from the Aarhus Convention.

At the second meeting of countries signatory to the Agreement held in 2020, a specific session was devoted to this matter. The discussions went into greater depth on the essential elements to be considered and on the experience of ECLAC in the management and handling of multi-donor funds. In addition, a working group headed by Antigua and Barbuda, Argentina and Mexico was established to further discussions on the matter.

The working group spearheaded the submission of a draft resolution recognizing and welcoming the Agreement to the Economic and Social Council; the resolution was adopted as Economic and Social Council resolution 2021/31 on 22 July 2021.

It is hoped that the Conference will adopt a decision on financial arrangements establishing the terms of reference of the Voluntary Fund and strategic priorities.

F. RULES RELATING TO THE STRUCTURE AND FUNCTIONS OF THE COMMITTEE TO SUPPORT IMPLEMENTATION AND COMPLIANCE (ARTICLE 18.1)

Pursuant to article 18.1 of the Agreement, a Committee to Support Implementation and Compliance is established as a subsidiary body of the Conference of the Parties to promote the implementation of the Agreement and to support the Parties in that regard. The rules relating to its structure and functions shall be determined by the Conference of the Parties at its first meeting.

At the first meeting of countries signatory to the Agreement in 2019, several models and practices were presented drawing from multilateral environmental agreements, the human rights system and the experience of the Compliance Committee of the Aarhus Convention.

Two virtual meetings were held to discuss this matter, on 29 April and 23 June 2020. At these meetings, progress was made in identifying the elements to be considered, inputs were received and the functioning of the Compliance Committee of the Aarhus Convention was explained and discussed.

At the second meeting of the countries signatory to the Regional Agreement in December 2020, the proposed core elements for consideration in the preparation of rules relating to the structure and functions of the Committee to Support Implementation and Compliance of the Escazú Agreement were submitted and a working group headed by Saint Lucia, Panama and Uruguay was established. A three-month period for comments was agreed.

The working group coordinators then fleshed out these core elements into proposed rules, which were discussed at a working meeting on 21 October 2021, with an additional month given for further comments.

At the preparatory meeting for the first meeting of the Conference of the Parties, held on 4 March 2022, the working group coordinators and the Chair presented the revised proposal on the rules relating to the structure and functions of the Committee to Support Implementation and Compliance (LC/COP-EZ.1/DDR/2) and further comments were received.

The revised proposal is contained in document LC/COP-EZ.1/DDR/2 and shall be submitted to the Conference for adoption as a decision of the Conference.

G. OTHER MATTERS

The Parties may consider other decisions on issues they deem relevant, such as the issue of human rights defenders in environmental matters, capacity-building and cooperation and other aspects related to the implementation of the Agreement (including, for example, the Observatory on Principle 10 in Latin America and the Caribbean, national implementation plans or the need to convene extraordinary meetings of the Conference). The Conference may also wish to decide the date and place of the second ordinary meeting of the Conference of the Parties, as well as a programme of work for the period until the next ordinary meeting.