

## **Submission to UN Economic Commission for Latin American and the Caribbean on a Regional Convention on Access to Environmental Information, Public Participation and Access to Justice**

**January 2015**

### **I. Introduction**

ARTICLE 19 welcomes the agreement reached by member states of the Economic Commission for Latin America and the Caribbean (ECLAC) in the Santiago Decision to commence negotiations on a regional instrument based on the San José Content and the opportunity given to civil society to express their proposals on the instrument, to be considered by the Commission as part of the preliminary document to be released in March 2015.

ARTICLE 19 is a human rights charity established in 1987. Its mission is "to promote, protect, develop and fulfill freedom of expression and the free flow of information and ideas in order to strengthen global social justice and empower people to make autonomous choices." Its global headquarters is in London, UK and has regional offices in Brazil and Mexico, as well as in Bangladesh, Kenya, Myanmar, Senegal and Tunisia.

ARTICLE 19 works extensively in the environmental field in promoting access to information, freedom of expression, and freedom of association and assembly as enabler rights to achieve a clean and sustainable development. It engages at the international level with Aarhus, United Nations Environmental Program (UNEP), and the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, as well as projects on human rights defenders, water safety and social-environmental issues and conflicts in Brazil, Bangladesh and Kenya.

In this document, we would like to highlight further some of the key areas we believe that the instrument for the implementation of Principle 10 in the region should address. We believe that the San José Content sets forward an excellent framework for the instrument, but that it needs further elaboration, based on best practices and international standards.

### **2. The Need for a Binding Instrument**

*The member states of ECLAC should adopt a **legally binding international instrument** on access to information, public participation and access to justice based on best international, regional and national practices.*

A new binding convention provides an opportunity for states to comprehensive weave together the many disparate regional documents including, high level statements, guidelines, recommendations, and national and international cases into a comprehensive and effective regime which protects the environment and promotes sustainable development to the benefit of all persons in the region.

• **The regional courts already recognize the value of access rights:** In addition to these voluntary initiatives, the Inter-American system on Human Rights has developed valuable jurisprudence on access rights. On access to information, in the case *Claude Reyes v. Chile*, the Inter-American Court recognised that freedom of expression includes the right of access to information of public interest held by States, as well as the duty of the States to disclose it. With respect to access to public participation and justice, the Inter-American Court and Commission have recognised these rights in numerous cases, particularly concerning indigenous peoples, such as in *Awas Tingni v. Nicaragua*, *Maya Communities v. Belize*, and *Saramaka People v. Suriname*. These decisions are binding on all of the member states of the OAS.

• **Another non-binding instrument is likely to be ineffective:** A non-binding instrument such as guidelines and declarations is unproductive for Latin America and the Caribbean (LAC) as it is a clear duplication of efforts and, consequently, the waste of considerable and valuable time and resources used in the process of implementation of Principle 10 in the region. Rather than to repeat voluntarily principles, LAC should work to build upon the existing regional efforts to expand and better harmonise the Principle 10 rights and renew its commitment to sustainable development.

Access rights have been adopted into international and regional law and in many non-binding initiatives in the region. These include undertakings by the United Nations (UN), the Organisation of American States (OAS), Central American Commission on Environment and Development, Caribbean Community and others. For example:

- The Inter-American Democratic Charter adopted by OAS in 2001 recognises the right of the public to participate in environmental affairs as a fundamental basis of a democratic society;
- The OAS Declaration of Santa Cruz+10 in 2006, as well as numerous OAS General Assembly resolutions on access to information adopted in the last years;
- The Model Inter-American Law on Access to Information adopted in 2010 by the OAS which provides legal and regulatory frameworks necessary to guarantee the right of access to information;
- The Inter-American Strategy on the Promotion of Public Participation in Decision-Making for Sustainable Development created by OAS in 2001 sets out detailed standards and plan of actions for the promotion of public participation;
- The Community of Latin American and Caribbean States (CELAC) Declaration of Santiago of 2013 which states the appreciation with regional initiatives for the implementation of the Principle 10 and Santiago Declaration CELAC-EU where the Heads of State and Government of CELAC and the European Union (EU), and the Presidents of the European Council and the European Commission acknowledged the importance of implementing Principle 10 and reiterated the importance of initiatives in this matter.

• **Legally binding instruments represent a source of benefits for their Member States:** Legally binding instruments such as conventions or treaties are preferable as involved greater political commitments, giving them a higher sense of respect, of seriousness and effectiveness than non-binding instruments. Some benefits of a binding instrument implementing Principle 10 in LAC, can be:

A legally binding instrument will establish regional and sub-regional minimum standards for transparency, participation and accountability. This will result in a cleaner and healthier environment for all.

It has now been over 20 years since world leaders at the 1992 Earth Summit adopted Principle 10 setting out the rights of access to environmental information, public participation and access to justice. Many of the countries in the ECLAC region have made great strides in adopting right to information and environmental impact assessments into their national legal systems. The best practices should be recognised and promoted in the instrument.

However, as the review by the ECLAC Secretariat shows, there remains a great disparity between the countries. Many have no right or only a weak right of access to information. Public participation, especially for indigenous communities, remains inadequate. And even the biggest and richest countries of the region have enormous problems with access to justice. The access to those rights should be available to every person in the region, no matter how large or small their country is and whatever stage of development they are at. Thus, a new instrument that allow citizens to be able to use and enforce their rights is needed over another voluntary commitment.

• **Better regional cooperation, technical assistance and training.** Many of the problems that face ECLAC member states are common difficulties. Air pollution, lack of clean water and safe waste disposal are all issues that need to be addressed at the regional or sub-regional level through cooperation and common standards. The instrument should promote regional initiatives that facilitate rights of individuals both nationally and across borders when it relates to them, such as pollution, access to clean water, collection of weather data and other important issues.

The bodies of a binding instrument (e.g. Meeting of the Parties and Compliance Committee) provide capacity-building and carry out programmes to assist States in the implementation and compliance with their obligations under the instrument. The above has particular relevance to least developed countries as allows them to get the support needed for a faster confluence between the instrument's provisions and their domestic legislations. In comparison, voluntary documents usually have no mechanisms for follow up.

• **Better compliance.** A legally binding instrument gives the opportunity for a formal mechanism for the revision and assessment of State's compliance. This mechanism can enable participation of civil society through communications regarding non-performance with the obligations by States Parties to the instrument. A voluntary document by its nature does not have mechanisms for compliance.

International compliance mechanisms already exist in the region under the North American Agreement On Environmental Cooperation, the Dominican Republic-Central America-

United States Free Trade Agreement and many other trade agreements. A single, simplified compliance mechanism such as is found under the UNECE Aarhus Convention would allow all persons in the region to benefit from the protections.

**Better and more secure funding.** A legally binding instrument offers a solid structure and a channel for funding (coming from international organisations, international financial institutions and other kind of donors), for the purpose of building States capacity to meet the obligations under the instrument.

**Better sharing of knowledge.** A legally binding instrument facilitates a sharing of knowledge and resources between States and civil society which encourages a greater regional integration. Moreover, it helps to reach common environmental and sustainable development standards and higher levels of socio-political stability as it reduces socio-environmental conflicts.

**Better civil society engagement.** A legally binding instrument on access rights may be a powerful tool for civil society, individually or organised, as it could provide an effective set of provisions imposing clear obligations to States in direct benefit to people as far as access rights.

Overall, in order to harmonize the disparate legislations across the region and to reach stronger transparency, participation, accountability and justice in environmental matters, a legally binding instrument is the best option for LAC. The Latin America and the Caribbean region has the chance to focus on the important task of really ensure that all States adopt and implement comprehensive laws on access rights and to be effectively available for all people in the region.

### **3. A Broad Approach is Necessary for integration with Post 2015**

*The instrument should broadly apply to the three strands of sustainable development and apply to the public and private sectors.*

It is now well established that protecting the environment and promoting development are necessarily inter-related. The 2012 Rio+20 Declaration “The World We Want” reemphasized the linkages between environmental protection and the right to development, under the framework of sustainable development. Numerous UN and regional bodies and Special Rapporteurs have noted the importance of the access rights in areas including the rights to health and water and the rights of indigenous groups. A stronger approach to the access rights would be to ensure that all rights relating to sustainable development are encompassed rather than limiting it to the environment. It should also impose obligations on private sector organisations when their actions relate to development.

The regional instrument, with its obligations and mechanisms, could provide an important mechanism for the implementation of the Sustainable Development Goals (SDG). The access rights have been extensively discussed as part of the crucial mechanisms to ensure that Post 2015 development goals are implemented across the LAC region.

The regional mechanisms set up by a binding Instrument, including some form of compliance committee, would play a key role in allow for discussions and debates to become actual

changes of cultural paradigms towards the necessary sustainable developed world that has been thought with the SDGs.

#### **4. Standards on Access to Information**

*Access to information under the instrument should be released under the principle of maximum disclosure. Governments should affirmatively make the information available.*

Access to information is crucial for the promotion of environmental democracy and for the exercise of public participation and justice. Information must be widely accessible to all members of the public in an effective, timely, and affordable manner. The right should be broadly defined to ensure that information is plainly accessible and not withheld on the grounds of not being “environmental enough” as to reflect to consensus in Rio+ 20 that protection of the environment and sustainable development are integrated. The right of access to instrument has been widely recognised across the region, with right to information laws in 19 countries.<sup>2</sup>

International human rights law and the cases of the Inter-American Convention on Human Rights set limits on the legitimate restrictions to human rights. The rights of access can only be limited when they are established by law, relate to the exemptions under Article 13(2) of the Convention, are necessary in a democratic society to satisfy a compelling public interest, are proportionate to the interest that justifies it, and must be appropriate for accomplishing this legitimate purpose, interfering as little as possible with the effective exercise of the right.

The Inter-American Court of Human Rights ruled in the *Claude Reyes vs. Chile* case that all persons have a right to access information held by public bodies and that access should be governed by the “the principle of maximum disclosure, which establishes the presumption that all information is accessible, subject to a limited system of exceptions.” The Court also ruled that individuals should not be obliged to show reasons for demanding information. This has also been repeatedly included in declarations of the OAS Ministers and by the Inter-American Commission on Human Rights. These obligations create a baseline level in the instrument that all nations must ensure is adopted into national law.

##### *Passive Transparency*

The right of individuals to be able to demand information from public and private bodies that is important to their lives, families and communities is the essential underpinning of the right of information, as well as many other essential human rights including the right to water and sanitation and the right to health. The regional instrument should promote a broad access to information held by public authorities at all levels, and by private organisations, including natural and legal persons acting under public capacity or using public funding. Additionally, the instrument should indicate that all persons have the right to seek, receive, and impart

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<sup>2</sup>Antigua and Barbuda, Belize, Brazil, Chile, Colombia, Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Trinidad and Tobago, and Uruguay.

information without any interest to be stated. Under the principle of non-discrimination, the LAC instrument should ensure that all persons have the right to make a request for access information. Likewise, anonymous requests should be accepted as a valid manner to exercise the right.

Information requests should be processed through an easy and swift process. A reasonable limit term should be set for providing a reply to all information requests.

It is extremely important for the regional instrument to have clarity with regard the exceptions on the disclosure of information. Information may be subject to restrictions only when it is provided by unambiguous, clear, and precise legislation and only when it can be proved that is needed by reasons of public interest and is proportional. In addition, the instrument should require that in case of rejection of a request of information, the refusal must be clearly justify and state all the reasons of the decision. The instrument should as well require an independent appeals process available to all those who have their information requests denied.

Finally, the instrument should considerate that access to information must be free of charge or, in cases specifically stated the request must be affordable.

#### *Active Transparency*

The instrument should set out State's obligation to create reliable, accurate, and up- to date information (including data and statistics) about all matters relevant to environmental matters such as air and water quality, and to ensure that it is available for the public in different forms including electronic systems, web sites, community meetings, radios, and social media, irrespective of specific demand. Environmental information, including about environmental quality, impacts on health and factors that influence them, in addition to information on legislation and policy, advice on how to obtain information, among others, should be in the public domain. All relevant systems should be established to ensure adequate flow of information in these areas. The information should be made available where possible in open data format and without any restrictions on its republication or use. Mechanisms such as pollution release transfer registers already in place in a number of LAC countries and eco-labels should be promoted by the regional instrument.

The LAC instrument should include specific provision on access to information of vulnerable groups such as indigenous communities. It should also promote the accessibility and dissemination of environmental information using understandable language rather than technical, and require the use of communication tools and mechanisms which respect the culture and traditions of communities facing problems on access to information due to technological, economic, language, or other types of barriers. This includes non-electronic means including radio, newspapers, and local bulletin boards depending on the communities' needs.

A regional instrument should also ensure that, in the event of any imminent threat to human health or the environment, whether caused by human activities or due to natural causes, all information which could enable the public to take measures to prevent or mitigate harm arising from the threat is disseminated as widely as possible. Such information must be effectively and immediately disseminated to communities and members of the public who may be affected.

Lastly, the regional instrument must ensure access to information held by private organisations, when it relates to harms or threats to the environment or the public interest.

## 5. Ensuring Public Participation

*A mechanism of public participation should be mandatory for all initiatives that could affect any individual or groups' environmental or development rights. Indigenous persons should have additional procedural safeguards.*

Public participation in environmental and other sustainable development decision-making process helps to integrate public concerns into decisions regarding environmental issues. A regional instrument should state that environmental decision-making matters must be democratic and transparent process which represent the needs of those affected by the decision. The instrument should provide active, free, and meaningful participation of individuals, communities and groups representing them in decision-making processes on environmental issues at national, regional, and local levels when all options are open.

Public participation in development has been well established as a necessary condition for environmental protection by the United Nations and the OAS. The Inter-American Democratic Charter states that “It is the right and responsibility of all citizens to participate in decisions relating to their own development” while the regions’ leaders in the Declaration of Santo Domingo for the Sustainable Development of the Americas committed to “promote citizen and public participation as a key element in the sustainable development policy decision-making process.”

The model of participation should be based on existing standards such as the *Inter-American Strategy for the Promotion of Public Participation in Decision-Making for Sustainable Development* which requires that participation be proactive, inclusive, shared, open, transparent, and respectful of public input.

The instrument must ensure that the participation processes are not limited to overall information sharing, but conducted in good faith and provide real and meaningful opportunities to freely and actively influence decisions. Moreover, the instrument should include, at minimum, the following:

- States have a positive obligation to identify communities and individuals who are affected by projects and engage with them as part of the decision-making process.
- It is crucial that the instrument encourage States to provide all related information in an efficient manner at the start of the decision-making and throughout the process at an appropriate time, through multiple channels and using culturally appropriate procedures.
- Information should be made available and meetings should be held in the language / dialect of those directly and indirectly affected.



- The meetings and the events part of the participation process should be organized in the locality of those affected and in locations that can be easily accessed. The time and agenda, as well as supporting documents, should be released in advance.
- Safe participation must be secured by States to all community members, activists, and all those interested in participating in the discussion.
- Public participation should be duly taken into account when the decisions are being taken. The decision should be informed promptly, indicating the outcome of the public participation process and to explain clearly the reasons of the final decisions and why particular options were chosen over others.
- Appeal mechanisms are available for affected communities if they believe that their opinions were not fairly considered.
- Publicizing the process, reporting their result.

The Instrument should include special provisions promoting the participation of individuals and groups who are vulnerable, marginalized, and disadvantaged among the region, in particular indigenous people, in the decision-making processes relating to the environment as required by the Inter-American Court of Human Rights in *Saramaka People v. Suriname*. The Court set out additional obligations for states when addressing interests that affect indigenous populations including “free, prior and informed consent” and “environmental and social impact assessments are conducted by independent and technically competent entities, prior to awarding a concession for any development or investment project”

The Instrument should ensure that these individuals and groups are provided with the necessary information and skills to participate meaningfully. Special consideration should be stated in relation to their traditions, culture, and language in the participation process. Furthermore, the instrument should note the obligation to identify vulnerable groups, and to promote participation in the process of decision-making through incentives (financial support, experts, etc.) and capacity –building.

## **6. Access to Justice Must be Simple, Prompt and Effective at Local, National and Regional Levels**

*Each country shall ensure that all persons have an effective and inexpensive means to enforce their rights to the instrument at the domestic level. This includes internal mechanisms such as ombudsmen and commissions as well as appeals to court systems.*

Access to justice is vital for the enforceability and effectiveness of access to information and public participation. In the future LAC instrument, access to justice should be established as simple, prompt and effective. Moreover, it should indicate the obligation of each country to ensure that all persons have an effective and inexpensive means to enforce their environmental rights at the domestic level. This includes internal mechanisms such as ombudsman and commissions, legal aid schemes, alternative-dispute resolution mechanisms, as well as appeals to court systems.

In the Reyes case, the Inter-American Court ruled that Article 25(1) of the Inter-American Convention establishes a “State’s obligation to offer to all persons subject to their jurisdiction an effective judicial recourse to contest acts that violate their fundamental rights.” Individuals have a right to a “simple, prompt and effective recourse”.



The instrument should ensure that states adopt procedures to ensure that their access rights under it are addressed in a quick and simple manner rather than requiring that all persons seek recourse before courts. In many countries in the region including Mexico and Chile, governments have established access to information commissions to hear complaints on denials of access. Others use existing Ombudsman's offices. These bodies or new ones should be tasked to hear complaints of denials of access and limits on public participation and order remedies.

It is essential for the regional instrument to include provisions on the following issues:

- Broad legal standing, including all natural and legal persons, domestic or foreign, without justification of a specific interest. NGOs promoting environmental protection and human rights should be included also.
- Independence and impartiality of the mechanisms and in the administrative or judicial tribunals.
- Enforceability and binding nature of the rulings.
- Inexpensive procedures, including financial aid to vulnerable groups, or in cases of public interest procedures.
- Inclusion of precautionary measures in order to protect the environment.
- Existence of compensation for victims, and restorations measures.
- Reasonable time frames.
- Mechanisms to enforce access to information, public participation, and to challenge both public and private acts, decisions, plans, programs, or any other kind of action that violates environmental legislation.
- Lastly, it is fundamental for an efficient access to justice to provide capacity- building and training to judges, and judicial and administrative officials.

A system of regional oversight should be set up which allows for both peer review and monitoring between states, as well as a complaints mechanism that also allows for individuals or organisations to ask for a review of countries' efforts to implement their treaty obligations.

It is necessary to ensure that there are mechanisms at the regional level which allow for information sharing, evaluation and monitoring. A system of peer review by countries should also allow for interested persons and civil society to participate in the evaluation.

There should also be a mechanism for individuals and organisations in these countries to raise failures to meet the requirements of the treaty and to receive justice. The Inter-American Commission on Human Rights allows any person to file a complaint under the Inter-American Convention on Human Rights. Ultimately, a person can raise the issue at the Inter-American Court of Human Rights. Already, the Court has recognised access to information, public participation and access to justice in its decisions. However, it often takes nearly a decade to reach this point and basic issues of access to justice require that the procedure should be simple, quick and fast.

There are already complaint bodies established by NAFTA and Dominican Republic - Central America - United States Environmental Cooperation Agreement that allow any citizen to petition the body. These bodies should be harmonized and extended under the instrument to be given formal ruling powers.

## **7. Leveraging the Power of Information and Communications Technologies**

*The treaty should promote Information and Communities Technologies to facilitate the access rights.*

Modern information and communications technologies can be key facilitator in ensuring the rights of access and participation. Pollution release transfer registers are a key example where technology and policy combine in an efficient manner.

Governments and other covered bodies under the instrument should be required to make access and the dissemination of information that they hold through electronic systems including web sites and social media when possible. The information should be made available where possible in open data format and without any restrictions on its republication or use.

One long term goal should be the creation of a regional pollution register, which can be integrated with the one set up by the North American Agreement On Environmental Cooperation. This will require that each country adopt a set of common standards for pollution information rather than its own national ones. In addition, smaller regional datasets for Caribbean or Amazon Basin countries could also facilitate environmental cooperation.

E-govt and e-participation can also be effective tools. They allow for interested persons across large areas to be able to access important documents on projects and easily submit their views. However, they should be used in combination for more traditional methods of consultation and participation for communities that are not able to fully and effectively use them due to technological, cultural, language, or other barriers.

## **8. Ensure Protection of Environmental Defenders**

The instrument should include specific, clear protections to ensure that no person shall be threatened or harmed in any way for enforcing their environmental rights including demanding access to information, participation in processes, protest or advocacy against projects, or publication of information.

There has been an epidemic of attacks on human rights defenders, environmentalists, journalists and others. The instrument needs to set out strong obligations on States to ensure that those that are protecting the rights of persons to a healthy and preserved environment are not subject to harassment or attacks. This should apply to social and environmental NGOs, journalists, whistleblowers and others.

Environmental human rights defenders are individuals, groups, local communities, activists, defenders, journalists, or anyone who seeks the promotion, realisation and protection of the environment, legitimate actions, such as peaceful protests, reports and advocacy activities, among others.

EHRDs face various obstacles, risks and abuses when carrying out their activities to promote and protect the environment from activities carried out by the public or by the private sector. The Inter American Commission of Human Rights (IACHR) has detected that the most common problems on EHRDs are murders, assaults, forced disappearances, threats, illegal searches, and stigmatization of the work of defending human rights and the environment. Over 400 have been killed in Brazil alone in the last 10 years.

Furthermore, there is a growing sophistication in the mechanisms designed to hamper, block, or discourage the work of EHRDs. For instance, in some countries of LAC, these actions have resulted in criminal charges, restriction of financial resources, and deficient and inadequate protective mechanisms for EHRDs.<sup>3</sup>

In this respect, the Inter-American Court of Human Rights (IACtHR) has already addressed these matters in a number of cases, being *Kawas Fernandez vs. Honduras* a milestone for the protection of environmentalists. Blanca Kawas Fernandez was a recognised environmental activist who was killed in her home in 1995 after publicly opposed and protest against the illegal exploitation of natural resources in Honduras. In this case, the IACtHR found that the defence of human rights should not be limited to civil and political rights and, in concordance with the principles of indivisibility and independence of human rights, the defence must include economic, social and cultural rights. Under this context, the Court found that Honduras violated its positive obligation to protect EHRDs who are in serious jeopardy from human right violations. In addition, other cases have dealt with the right to life, right to fair trials, freedom of expression and assembly, and judicial protection of human rights defenders. For example, in *Fleury vs. Haiti*, *Myrna Mack Chang vs. Guatemala*, and *Velez Restrepo vs. Colombia*, the Court found a State's obligation to effectively investigate, identify, and punish the responsible in cases of violations of these human rights. States are also required to adopt positive measures to ensure that individuals are able to effectively exercise the rights between themselves.

It is important that a future instrument implementing access rights in LAC incorporates provisions on the protection of all persons seeking the right to a healthy environment to ensure that they are fully implemented into national laws. These provisions must enable them to be able to do so without the fear of threats, harassment, physical violence, intimidation, arbitrary arrest and detention, limitations on civil society organisations, and abuse of criminal and civil proceedings. The provisions should apply to all persons who are seeking or promoting the right to a healthy environment, including environmental and human rights defenders, activists, lawyers, officials, community organisers, whistle-blowers, and journalists. The instrument should apply in all cases including those enforcing laws, educating or organising communities, demanding access to information, participating in decision-making processes, engaging in legal challenges, protesting or advocating against projects or policies, or publishing information.

The provisions in the future instrument should set out a framework for States to adopt, where countries should in particular:

- Promote the work of EHRDs and to acknowledge the important role that they play in democratic societies.
- Ensure that legal frameworks and official actions do not limit fundamental rights to association, peaceful assembly and expression and information to those demanding a right to a healthy environment. Moreover, they must protect EHRDs to prevent any type of physical, mental or moral attack.

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<sup>3</sup> IACHR, Second Report on the Situation of Human Rights defenders in the Americas (OEA/Ser.L/V/II. Doc. 66, 31 December 2001).

- Put in place comprehensive measures for identifying and protecting those individuals and groups who are likely to be targeted.
- Ensure that all attacks and forms of intimidation are subject to independent, prompt and effective investigations and prosecutions, and those responsible are held accountable for their actions.
- Ensure that victims and their families have access to appropriate remedies.

## 9. Conclusion

ARTICLE 19, as part of organized civil society that has been following the process of discussions and negotiations for the implementation of Principle 10 in LAC region strongly believe in the necessity of building a legally binding document.

We have exposed our reasons in this document highlighting the importance of having a binding instead of voluntary Instrument in many specific cases, which we consider crucial for the necessary change of cultural paradigm within signatory States from ECLAC to ensure that access to information, participation and Justice are rights fully implemented in the LAC region.

It is important to take into account that the goals proposed on the Principle 10 debate are very ambitious. The cultural heritage of secrecy, authoritarianism and lack of transparency in LAC region is very strong. Not only the whole history of colonization but also the long and recent periods of dictatorship in many of the countries in the area have built strong interests in maintain this tradition of opacity. Add to this the importance of agribusiness and exploitation of natural resources in LAC region, and as consequence the huge social-environmental impacts, that have been generating destruction in natural areas and violent environmental and human rights conflicts.

Having actual changes in this scenario that enable guarantee the fully implementation of Principle 10 demand strong commitment and decisions from States, international cooperation – that could build capacity and compliance mechanisms - and political will. For that, it is crucial that we have a binding instrument that enforces in an affirmative way the implementation of such politics.

The civil society is willing to build along with the signatory States the long process of rooting a sustainable and transparent development politic for the region, and we strongly believe that the only way for that is to work on a legally binding Instrument that is strong enough to enforce the necessary changes.

The urgency of implementing a sustainable development program is evident, and although patience is crucial for the construction of international agreements, the natural changes we have been going through specially on the last century show us that we have to take immediate and efective actions as society to be able to reach the Sustainable Development Goals.

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