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Object: Comment on the Matters to be Considered in the Latin America and Caribbean Regional Instrument On the Application of Principle 10 of the Rio Declaration

Dear Sir, Madam,

I am thankful for the opportunity to provide a comment on the “matters to be considered in the regional instrument for the full application of the principle of 10 of the declaration on environment and development in Latin America and the Caribbean”.

I would like to comment on the inclusion of the following element in the list of matters to be considered of the following element:

Participation of the public in international agreements.

This inclusion is of crucial importance to further promote transparent and participatory decision-making at the international level of governance, particularly as decisions and policies adopted by international forums have increasing direct implications for communities and stakeholders.

However, I would like to call your attention on the need to broaden the scope of this element, both regarding the rights promoted at the international level and the forums in relation to which these rights are promoted.

Firstly, the Latin American and Caribbean regional instrument provides a great opportunity to promote in international forums not only participation of the public but all three access rights highlighted in principle 10 of the Rio Declaration on Environment and Development and in the Declaration on Principle 10 in Latin America and the Caribbean.

The signatory countries to the Declaration on Principle 10 in Latin America and the Caribbean have emphasized the interrelated nature of the three access rights in the Lima Vision for a Regional Instrument on access rights related to the environment, appreciating:

That access rights are interrelated and interdependent, and so each should be promoted and implemented in an integrated and balanced manner.

The interrelated and interdependent nature of these rights is as valid at the international level as it is locally and nationally. While the three rights are sometimes considered collectively by some international forums, other international forums have dedicated processes and norms to address each of them, thus highlighting the importance to consider with equal importance the provision of information, the participation of the public and the establishment of remedy or dispute settlement mechanisms in international forums (see for instance recent developments at the UN Environmental Assembly in relation to the participation of stakeholders on the one hand, and on the adoption of an access to information policy on the other).

The Aarhus Convention might provide useful experience in relation to this dimension of the full application of principle 10 of the Rio Declaration. The article 3.7 of the Aarhus Convention provides that parties to the convention shall promote all three principles of the convention in international forums.

Each Party shall promote the application of the principles of this Convention in international environmental decision-making processes and within the framework of international organizations in matters relating to the environment.

Furthermore the Almaty Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums adopted in 2005 by the Meeting of the Parties to the Aarhus Convention elaborates the actions recommended for parties in relation to the three access rights.

Since the adoption of the guidelines, the promotion of the principles of the Aarhus Convention to international forums have been the subject of a dedicated process through the work of a specific task force, followed by special thematic sessions during the working groups of the parties. These activities have consistently emphasized the importance of the promotion of all three access rights in international forums.

Secondly, I would like to raise your attention on the importance for the Latin American and Caribbean regional instrument to promote access rights across all relevant international forums. The scope of provisions addressing international governance should be broader than “international agreements” but cover also every negotiating process, intergovernmental conference or political forums. In 2014, international agreements constitute only one aspect of international governance, as many other forms of international cooperation – either dedicated to the environment or of a broader scope - contributes greatly to sustainable development.

Again, the Aarhus Convention provides a useful source of experience on the scope that the promotion of access rights in international forums related to or having implications for environmental decision-making. The Almaty Guidelines defines in a broad manner the scope of application for the article 3.7 of the Aarhus Convention.

These Guidelines relate to international forums, including:
(a) The negotiation and implementation at the international level of MEAs, including decisions and actions taken under their auspices;

(b) The negotiation and implementation at the international level of other relevant agreements, if decisions or actions undertaken at that level pursuant to such agreements relate to the environment or may have a significant effect on the environment;

(c) Intergovernmental conferences focusing on the environment or having a strong environmental component, and their respective preparatory and follow-up processes at the international level;

(d) International environmental and development policy forums; and

(e) Decision-making processes within the framework of other international organizations in matters relating to the environment.

Consequently, I would like to invite the signatories to the Latin American and Caribbean Declaration on Principle 10 and the stakeholders involved in the process to consider the promotion, through the Latin American and Caribbean regional instrument, of all three access rights in international agreements as well as to broaden the scope of this promotion to all relevant forums.

Once again, I would like to thank you for the opportunity to provide this input and would like to commend the parties involved for the participatory nature of the process initiated in the Latin American and Caribbean region since Rio+20.

Please do not hesitate to contact me for further information related to the promotion of principle 10 in international forums and on the relevant experience gained through the work of the Aarhus Convention in relation to this matter.

I wish you a productive and successful process towards a regional instrument for the promotion of principle 10.

Yours respectfully,

Sébastien Duyck