



Distr.
LIMITED

LC/L.4059(CNP10.2/4)
22 October 2015

ENGLISH

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

Panama City, 27-29 October 2015

**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**

NOTE BY THE SECRETARIAT

At their meeting on 4 August 2015, the Presiding Officers of the negotiating committee of the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean requested the Office of the Secretary of the Commission of the Economic Commission for Latin America and the Caribbean (ECLAC) to distribute among the countries of Latin America and the public 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” six weeks before the second meeting of the negotiating committee of the regional agreement.

To that end, the negotiating committee, at its first meeting, held in Santiago from 5 to 7 May 2015, agreed that the countries and the public should submit language proposals in relation to the preamble and articles 1 to 10 of the preliminary document¹ by 31 August 2015. The preliminary document was prepared by ECLAC at the request of 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 in the Santiago Decision, adopted at the fourth meeting of the focal points appointed by the Governments of the signatory countries of the Declaration held in Santiago, Chile, from 4 to 6 November 2014.²

The negotiating committee also agreed that the text compiled by the Presiding Officers incorporating the language proposals received from the countries would form the basis for negotiations at its second meeting.

Pursuant to 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*,³ the secretariat is transmitting herewith the text of the official communications that it had received from the following countries in the region by 31 August 2015: Antigua and Barbuda, Argentina, Chile, Colombia, Costa Rica, Guatemala, Jamaica and Panama. In their communications, Chile, Costa Rica and Panama recognized the preliminary document prepared by ECLAC at the request of the countries in the Santiago Decision as the basis for negotiations. Communications received after 31 August 2015 will be circulated in the meeting room at the second meeting of the negotiating committee.

Also pursuant to the *Organization and work plan of the negotiating committee*, the secretariat has compiled the contributions made by the public into a separate document.⁴

All of the original communications received by the countries, as well as the inputs submitted by the public, may be consulted on the ECLAC website (see [online] <http://www.cepal.org/es/insumos-documento-preliminar>).

As agreed by the Presiding Officers, the present document compiles the language proposals on the preamble and articles 1 to 10, presented in alphabetical order by country name (identified in the end notes). The language proposals are grouped into suggested modifications, deletions or additions to the original text of the preliminary document, or suggested redrafts.

¹ LC/L.3987.

² See LC/L.3970, annex A.

³ LC/L.4011/Rev.1.

⁴ See document DDR/1.

PREAMBLE

The Parties to the present Agreement,

1. *Reaffirming* the Rio Declaration on Environment and Development (hereinafter, “Rio Declaration”) and especially Principle 10 thereof,¹ which establishes, “Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided”,

Suggested modification to preambular paragraph 1:

***Reaffirming the 1992* Rio Declaration on Environment and Development (hereinafter, “Rio Declaration”) and especially Principle 10 thereof, which establishes, “Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided”²**

2. *Recalling* the Declaration of the United Nations Conference on the Human Environment, Agenda 21, the Programme for the Further Implementation of Agenda 21, the Declaration of Barbados and the Programme of Action for the Sustainable Development of Small Island Developing States, the Mauritius Declaration and the Mauritius Strategy for the Further Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States, the Johannesburg Declaration on Sustainable Development and the Plan of Implementation of the World Summit on Sustainable Development, as well as the multilateral environmental agreements adopted to date,³

Suggested addition to preambular paragraph 2:

Small Island Developing States Accelerated Modalities of Action (Samoa Pathway).⁴

3. *Recalling also* that, in the outcome document of the United Nations Conference on Sustainable Development, held in Rio de Janeiro (Brazil) in June 2012, entitled “The future we want”, among the many provisions referring to Principle 10 of the Rio Declaration, the Heads of State and Government and highlevel 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; 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,

4. *Recalling further* that, at the United Nations Conference on Sustainable Development, held in Rio de Janeiro (Brazil) from 20 to 22 June 2012, the Governments of Latin America and the Caribbean put forward the Declaration on the application of Principle 10 of the Rio Declaration, in which they reaffirmed their commitment to the rights of access to information, participation and justice regarding environmental matters (hereinafter, “rights of access”) and declared their willingness to work towards a regional instrument promoting the full application of those rights,

Suggested modification to preambular paragraph 4:

***Recalling further* that at the United Nations Conference on Sustainable Development, held in Rio de Janeiro (Brazil) from 20 to 22 June 2012, the Governments of the signatory countries ~~Latin America and the Caribbean put forward the Declaration on the application of Principle 10 of the Rio Declaration, in which they reaffirmed their commitment to the rights of access to information, participation and justice regarding environmental matters (hereinafter, “rights of access”) and declared their willingness to work towards a regional instrument promoting the full application of those rights,~~ recognized the need to make commitments to ensure the full exercise of those rights and declared their willingness to launch a process to explore the feasibility of adopting a regional instrument,⁵**

5. *Emphasizing* that the countries of Latin America and the Caribbean have underscored the importance of the application of Principle 10 of the Rio Declaration to increase public participation in promoting sustainable development in the framework of the Community of Latin American and Caribbean States (CELAC),
6. *Emphasizing also* the national laws, instruments and practices, as well as regional and global developments in the area of rights of access in forums⁶ such as the United Nations Environment Assembly, the Human Rights Council, the Forum of Ministers of the Environment of Latin America and the Caribbean, sessions of ECLAC, the Port of Spain Accord on the Management and Conservation of the Caribbean Environment, the Port of Spain Consensus of the Caribbean Regional Economic Conference, the St. George’s Declaration of Principles for Environmental Sustainability and the Treaty of Basseterre of the Organization of Eastern Caribbean States, the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) and its Protocol on Pollutant Release and Transfer Registers, the Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters (Bali Guidelines), the Inter-American Strategy for the Promotion of Public Participation in Sustainable Development Decision-Making, the Model Inter-American Law on Access to Public Information and the Open Government Partnership, among others,

7. *Resolved* to make commitments to ensure the full exercise of the access rights as enshrined in Principle 10 of the Rio Declaration, understanding these to be prerequisites for building a citizenry that is committed to sustainable development in line with a rights-based approach,⁷

Suggested modifications to preambular paragraph 7:

***Resolved* to make commitments to ensure the full exercise of the access rights as enshrined in Principle 10 of the Rio Declaration, understanding these to be interdependent rights, which should be implemented in an integrated and balanced manner, and prerequisites for building a citizenry that is committed to sustainable development in line with a rights-based approach,⁸**

***Resolved* to make commitments to ensure the full exercise of the rights of access to information, participation and justice regarding environmental matters ~~access rights~~ as enshrined in Principle 10 of the Rio Declaration, understanding these to be prerequisites for building a citizenry that is committed to sustainable development ~~in line with a rights-based approach,~~⁹**

***Resolved* to make commitments to ensure the full exercise of the access rights as enshrined in Principle 10 of the Rio Declaration, understanding these to be important prerequisites for building a citizenry that is committed to sustainable development in line with a rights-based approach,¹⁰**

8. *Affirming* that everyone has the right to a healthy environment in harmony with nature, which is essential for the dignity and full development of human beings and for the achievement of sustainable development, poverty eradication, equality, and the preservation and stewardship of the environment for the benefit of present and future generations,

Suggested modification to preambular paragraph 8:

***~~Affirming~~ Recognizing* that everyone has the right to a healthy environment ~~in harmony with nature,~~ which is essential for the ~~dignity and~~ full development of human beings and for the achievement of sustainable development, poverty eradication, equality, and the preservation and stewardship of the environment for the benefit of present and future generations,¹¹**

9. *Taking into account* that exercising access rights deepens and strengthens democracy and contributes to better protection of the environment and thus of human rights,
10. *Reaffirming* the obligations assumed by the Parties to respect, protect and fulfil the right to freedom of thought, expression, assembly and association, and the right to information, participation in public affairs and access to justice, among others, established in international human rights law,

Suggested modification to preambular paragraph 10:

***Reaffirming* the obligations assumed by the Parties to respect, protect and fulfil the right to freedom of thought, expression, assembly and association, and the right to information, participation in public affairs and access to justice, among others, established in international human rights law and domestic laws of the Parties,¹²**

11. *Emphasizing* that access rights are interrelated and interdependent, and so each and every one of them should be promoted and implemented in an integrated and balanced manner,
12. *Bearing in mind* that access to information is the cornerstone of all democratic societies and that it is essential to take active measures to bring environmental information into the public domain, doing everything possible to guarantee ready, rapid, effective and practical access to that information,

Suggested modification to preambular paragraph 12:

***Bearing in mind* that access to information is the cornerstone of all democratic societies and that it is essential to take active measures to bring environmental information into the public domain, within specific circumstances of individual states doing everything possible to guarantee ready, rapid, effective and practical access to that information,¹³**

13. *Reaffirming* that it is essential to promote participation by all sectors of society in furthering the issues that form the region's environmental agenda, as an important part of the process of building and establishing a collective awareness of the diverse natural and cultural heritage of our peoples, in order to advance social inclusion, enhance solidarity, eradicate poverty and inequality and restore the balance and the health and integrity of our planet,¹⁴
14. *Recalling* that, as a fundamental pillar of Principle 10, constraints on and/or the lack of suitable means by which to access environmental justice deprives people of their legitimate right by denying them and/or limiting real ways to exercise them, and that the principles underpinning environmental rule of law, as well as equality, accessibility and effectiveness, must be guaranteed not only at the start but all the way through the settlement process,¹⁵

Suggested modification to preambular paragraph 14:

***Recalling* that, as a fundamental pillar of Principle 10, constraints on and/or the lack of suitable means by which to access environmental justice deprives people of ~~their legitimate right~~ the "right to the right" by denying them and/or limiting real ways to exercise them, and that the principles underpinning ~~environmental~~ rule of law, as well as equality, accessibility and effectiveness, must be ~~guaranteed~~ maintained not only at the start but all the way through the settlement process,¹⁶**

15. *Recognizing* that institutional cooperation, capacity-building and political consensus-building through effective mechanisms are essential for the full implementation of access rights,¹⁷

16. *Bearing in mind* also that it is necessary to promote awareness and environmental education of the public sector and the public, in order to contribute to the effective implementation of access rights, and provide people with the knowledge, skills and understanding they need to participate in environmental decision-making,
17. *Underscoring* the important contribution and fundamental role of the public and social organizations, and especially women, children and youth, indigenous and tribal peoples and other groups and constituencies in the effective implementation of access rights and the attainment of sustainable development

Suggested redraft of preambular paragraph 17:

***Underscoring* the importance of public participation and recognizing that social organizations, women, boys, girls, youth, indigenous peoples, the public sector, the private sector and other groups and communities can contribute to the effective implementation of access rights and the achievement of sustainable development,**¹⁸

18. *Reiterating* that, regardless of the measures agreed upon in order to strengthen the full implementation of access rights, nothing shall preclude, and the Parties shall be encouraged to adopt, additional measures to ensure even broader access to information, participation and justice in environmental matters,
19. *Recognizing* the pluricultural diversity and pluriculturalism of the Latin America and the Caribbean region and the different cosmovisions of its peoples as well as the holistic and spiritual view of the environment,

Suggested modification to preambular paragraph 19:

***Recognizing* the pluricultural diversity and pluriculturalism of the Latin America and the Caribbean region and the different cosmovisions of its peoples ~~as well as the holistic and spiritual view of the environment,~~**¹⁹

***Recognizing* the ~~plur~~multi-icultural diversity and ~~plur~~multi-culturalism of the Latin America and the Caribbean region, and the different cosmovisions of its peoples as well as the holistic and spiritual view of the environment.**²⁰

20. *Convinced* that the present Agreement will help generate synergies at the international, regional and national levels by supporting implementation in Latin America and the Caribbean of the United Nations agenda for sustainable development,²¹
21. *Reiterating* that the present Agreement will facilitate concerted action and strategies, promote and strengthen dialogue, cooperation and technical assistance and promote the creation of a regional agenda in line with national priorities and needs with respect to access rights,

Suggested additional preambular paragraph:

***Recognizing* that States should promote and take appropriate and necessary measures with a view to achieving progressively the full exercise and enjoyment of rights of access to information and participation in environmental issues, and that, in order to ensure their realization, States must refrain from adopting measures that could hinder the effectiveness and guarantee of the right of access to information and participation in environmental issues,**²²

Have agreed as follows:

Article 1
Objective

The ultimate objective of the present Agreement is the strengthening of environmental governance and the realization of the right to live in a healthy and sustainable environment through the full application in Latin America and the Caribbean of the access rights enshrined in Principle 10 of the Rio Declaration, under an approach based on cooperation and capacity-building that enables the Parties to improve their laws, policies, institutions and practices to guarantee that those rights are fully observed and implemented.

Suggested modification to article 1:

The ultimate objective of the present Agreement is the strengthening of environmental governance and the realization of the right to live in a healthy and sustainable environment through the full application in Latin America and the Caribbean of the access rights enshrined in Principle 10 of the Rio Declaration, under an approach based on cooperation and capacity-building that enables the Parties to improve their laws, policies, institutions and practices to ensure that mechanisms are put in place that ~~to~~ guarantee that those rights are fully observed and implemented.²³

Suggested redraft of article 1:

The Parties undertake to advance progressively towards guaranteeing the access rights enshrined in Principle 10 of the Rio Declaration, under an approach based on cooperation and capacity-building.²⁴

Suggested modification to article 1:

The ~~ultimate~~ main objective of the present Agreement is the strengthening of environmental governance and the realization of the right to live in a healthy and sustainable environment through the full application in Latin America and the Caribbean of the access rights enshrined in Principle 10 of the Rio Declaration, under an approach based on cooperation and capacity-building that enables the Parties to improve their laws, policies, institutions and practices to guarantee that those rights are fully observed and implemented.²⁵

Suggested redraft of article 1:

The ultimate objective of this Agreement is to ensure the full application in Latin America and the Caribbean of the rights of access to information, public participation in decision-making and justice in environmental matters as enshrined in Principle 10 of the 1992 Rio Declaration in order to strengthen environmental governance and to protect the rights of present and future generations to live in a healthy environment in accordance with the provisions of this Agreement.²⁶

Article 2 Definitions

For the purposes of the present Agreement:

“Competent authority” means any public body that, by legal mandate, exercises the powers, authority and functions for the application of access rights. In the right of access to information provisions set out under article 6 the present Agreement, a competent authority shall mean any public authority in any branch of the State (executive, legislative and judicial)²⁷ and at any level of the internal government structure (central or federal, regional, provincial or municipal); it also applies to independent and autonomous bodies, organizations and entities owned or controlled by the government, whether by virtue of powers granted by the Constitution or other laws, as well as to private organizations that receive substantial public funds or benefits (directly or indirectly) or that perform public functions and services, but only with respect to the public funds or benefits received or to the public functions and services performed.²⁸

“Access rights” means the rights of access to information, participation and justice in environmental matters, as enshrined in Principle 10 of the Rio Declaration.²⁹

“Disadvantaged groups” means those persons or groups of persons with a greater likelihood of not knowing the risks related to the environment to which they are exposed, or of not fully exercising their access rights, including, among others, women, indigenous peoples, Afro-descendants, older persons, children, youth, persons with disabilities, in situations of vulnerability due to discrimination, poverty, illiteracy, lack of fluency in the official language, health or any other condition.³⁰

Suggested redraft of article 2, definition of “disadvantaged groups”:

“Persons in vulnerable situations” means those persons who, because of their age, gender, physical or mental condition, or social, economic, ethnic and/or cultural circumstances, face particular difficulties in fully exercising the access rights recognized in this Agreement. The causes of vulnerability may include age, disability, belonging to indigenous communities or minority groups, victimization, migration and internal displacement, poverty, gender and deprivation of liberty. The determination of persons in vulnerable situations in each country shall depend on its specific characteristics, including its level of social and economic development.³¹

Suggested modification to article 2, definition of “disadvantaged groups”:

“Vulnerable groups”~~“Disadvantaged groups”~~ means those persons or groups of persons with a greater likelihood of not knowing the risks related to the environment to which they are exposed, or of not fully exercising their access rights, including, among others, women, indigenous peoples, Afro-descendants, older persons, children, youth, persons with disabilities, minority groups, in situations of vulnerability due to discrimination, poverty, illiteracy, lack of fluency in the official language, health or any other condition.³²

“Environmental information” means, non-exhaustively, any information that is written, visual, audio, electronic or recorded in any other form that is in the possession of the competent authority, or should be, in fulfilment of its national obligations and international commitments and that addresses the following matters:³³

- (a) the state of the biotic and abiotic elements of the environment, such as the air and atmosphere, water, earth, landscapes, protected areas, biological diversity and its components, including genetically modified organisms; and the interaction between these elements;
- (b) factors, such as substances, energy, noise, radiation and waste, including radioactive waste, emissions, spills and other releases into the environment, that affect or could affect elements of the environment;
- (c) legislation, administrative acts related to environmental matters or that affect or could affect the elements and factors cited in subparagraphs (a) and (b), and the measures, policies, rules, plans, programmes that support them;
- (d) reports and administrative acts on compliance with environmental legislation;
- (e) economic and social analyses, as well as other studies used to make decisions related to the legislation, administrative acts and supporting mechanisms referred to in subparagraph (c);
- (f) the state of the health and safety of individuals, living conditions, cultural assets, when these are or could be affected by the state of the elements of the environment cited in subparagraph (a) or any of the factors or measures indicated in subparagraphs (b) and (c);

Suggest deletion of letter (f) on the definition of “environmental information”.³⁴

Suggested modification to letter (f) on the definition of “environmental information”:

(f) the state of the health and safety of individuals, living conditions, cultural assets sites and built structures, when these are or could be affected by the state of the elements of the environment cited in subparagraph (a) or any of the factors or measures indicated in subparagraphs (b) and (c);³⁵

(g) acts, resolutions, and decisions on matters related to the environment that are issued by the national judicial and/or administrative bodies; and

(h) any other information on the environment or on elements, components or concepts related thereto.

Suggested modification to letter (h) on the definition of “environmental information”:

(h) Any other information on the environment or on elements, components or concepts related thereto for the protection of the environment for the present and future generations and protection of human health.³⁶

Suggested additional letter (i) in the definition of “environmental information”:

(i) Community knowledge and traditional knowledge, practices of indigenous peoples and innovations, practices and knowledge acquired through generations.³⁷

“Public participation” means the process by which people, individually or collectively, influence decisions on environmental matters through institutionalized ways of participation

Suggested modification to the definition of “public participation”:

“Public participation” means the process by which people, individually or collectively, are engaged in the decision-making process ~~influence decisions on~~ environmental matters through institutionalized ways of participation.³⁸

“Public participation” means the process by which people, individually or collectively, influence decisions on environmental matters through ~~institutionalized~~ various modalities ~~ways of~~ participation.³⁹

“Public” means any natural or legal person or community organization.⁴⁰

Suggested modification to the definition of “public”:

“Public” means any natural or legal person or community organization or non-governmental organization.⁴¹

“Directly affected public” means public affected or potentially affected by decisions with environmental impacts.⁴²

“Environmental decision-making” means the design, implementation, compliance and evaluation of laws, regulations, policies, plans, strategies, programmes, projects —whether public or private— and rules liable to affect the environment or the use, exploitation or conservation of natural resources, at all levels of the internal government structure (central or federal, regional, provincial or municipal).⁴³

Suggested modification to the definition of “environmental decision-making”:

“Environmental decision-making ” means the ~~design~~development, implementation, compliance and evaluation of laws, regulations, policies, plans, strategies, programmes, projects —whether public or private— and rules liable to affect the environment or the use, exploitation or conservation of natural resources, at all levels of the internal government structure (central or federal, regional, provincial or municipal).⁴⁴

Suggest addition of the following definitions:

“Access to justice” means any judicial process through which an expeditious and comprehensive resolution to a legal conflict of an environmental nature is sought, under equal conditions of the Parties, with a view to obtaining an individual and socially fair outcome.⁴⁵

“Environmental justice” means the possibility of legal conflicts of an environmental nature receiving from the jurisdictional bodies expeditious and full settlement, which, to the degree that it can be achieved by the courts of justice, will contribute to environmental protection and the promotion of sustainable development.⁴⁶

Article 3 Principles

The Parties, in the measures they adopt to fulfil the objective of the present Agreement and apply its provisions, shall be guided, inter alia, by the following:

a. Equality and non-discrimination: The Parties should guarantee that all persons are able to exercise their access rights without experiencing any form of discrimination based on social status, gender, age, nationality, race, religion, language, disability, political opinion or any other factor.⁴⁷

Suggested redraft of article 3, letter (a):

a. Equality and non-discrimination: The competent authorities should guarantee that all persons are able to exercise their access rights, under equal conditions and without making arbitrary distinctions.⁴⁸

b. Inclusion: The Parties should make special efforts to involve all persons and groups and ensure equality of opportunities.⁴⁹

Suggested modification to article 3, letter (b):

b. Inclusion: The Parties should make special efforts to involve all persons and groups and ensure equality of opportunities in accordance with provisions in this Agreement.⁵⁰

c. Transparency and accountability: The Parties should promote transparency and accountability to ensure that the interests and the objectives of the decisions with environmental impacts of the Parties are explicit and that all necessary information is reliable and provided in a timely manner

Suggested modification to article 3, letter (c):

Transparency and accountability: The Parties should promote transparency and accountability to ensure that the interests and the objectives of the decisions with environmental impacts ~~of the Parties are explicit~~transparent/clear and that all necessary information is reliable and provided in a timely manner.⁵¹

d. Proactivity, co-responsibility and mutual trust: The Parties and the public should take initiatives consistent with their respective roles, exercised responsibly, to develop their full potential and enrich the decision-making process for sustainable development in an effective and timely manner based on clearly defined responsibilities, legal certainty, transparency and mutual trust.

Suggested modification to article 3, letter (d):

d. Proactivity, co-responsibility and mutual trust: The Parties and the public should take initiatives consistent with their respective roles, exercised responsibly, to develop their full potential and enrich the decision-making process for sustainable development in an effective and timely manner~~based on clearly defined responsibilities, legal certainty, transparency and mutual trust.~~⁵²

e. Collaboration: The Parties should recognize that collaborative efforts between the various stakeholders and between countries at all levels are essential because they facilitate the achievement of common objectives, strengthen and improve the quality of dialogue, enable the exchange of experiences and knowledge and promote prevention and dispute settlement.

Suggested modification to article 3, letter (e):

e. Collaboration: The Parties should recognize that collaborative efforts between the various stakeholders and between countries at all levels are essential because they facilitate the achievement of common objectives, strengthen and improve the quality of dialogue, enable the exchange of experiences and knowledge and promote prevention of conflicts and dispute settlement.⁵³

f. Progressive realization and non-regression: The Parties should advance progressively towards full implementation of Principle 10, building on the agreements already reached in the region and avoid taking any step backward, while recognizing the individual circumstances of each country with regard to access rights.⁵⁴

Suggested modification to article 3, letter (f):

f. Progressive realization and non-regression: The Parties should advance progressively towards full implementation of Principle 10, building on the agreements already reached in the region and avoid taking any step backward, while recognizing the individual circumstances and capacity of each country with regard to access rights.⁵⁵

g. Good faith and solidarity: The Parties should cooperate in good faith and in the spirit of solidarity in the implementation of the present Agreement.

h. Prevention: The Parties should take the necessary measures to prevent environmental damage. The causes and sources of environmental problems will be addressed comprehensively and as a matter of priority.

i. Precaution: In order to protect the environment, the Parties should broadly apply the precautionary principle in accordance with their capacities. When there is danger of serious or irreversible damage, the lack of absolute scientific certainty shall not be invoked as a reason for postponing the adoption of cost-effective measures to prevent environmental degradation.

Suggested modification to article 3, letter (i):

i. Precaution: In order to protect the environment, the Parties should ~~broadly~~ apply the precautionary principle in accordance with their capacities. When there is danger of serious or irreversible damage, the lack of absolute scientific certainty shall not be invoked as a reason for postponing the adoption of cost-effective measures to prevent environmental degradation.⁵⁶

i. Precautionary: In order to protect the environment, the Parties should broadly apply the precautionary principle in accordance with their capacities. When there is danger of serious or irreversible damage, the lack of absolute scientific certainty shall not be invoked as a reason for postponing the adoption of cost-effective measures to prevent environmental degradation.⁵⁷

j. Intergenerational equity: The Parties should take steps to ensure appropriate use and enjoyment of the environmental by present and future generations.⁵⁸

k. Traceability: The Parties should consider the possibility of identifying the origin and different stages of a process related to access rights. They should also recognize that it is essential to guarantee appropriate documentation of attributions, sources, responsible parties and custodians.⁵⁹

Suggested addition to the principles:

l. Responsible use of information: By virtue of this principle, any person who makes use of the information provided by the competent authorities shall do so responsibly.⁶⁰

Article 4
Scope of application

Within the limits of the scope of application of the relevant provisions of the present Agreement, all persons shall have the right to obtain access to information, to participate in decision-making and to have access to justice in environmental matters.⁶¹

Suggested modifications to article 4:

Within the limits of the scope of application of the legislation of the Parties and in accordance with the provisions of the present Agreement ~~relevant provisions of the present Agreement~~, all persons shall have the right to obtain access to the relevant environmental information, to participate in decision-making and to have access to justice in environmental matters.⁶²

Within the limits of the scope of application of the relevant provisions of the present Agreement, all persons shall have the right to ~~obtain~~ access to information, to participate in decision-making and to ~~have~~ access to justice in environmental matters.⁶³

Article 5
General obligations⁶⁴

1. In order to contribute to sustainable development, the Parties shall ensure the full enjoyment of the right of all individuals to live in a healthy and sustainable environment that enables them to guarantee their health and well-being and the effective enjoyment of their human rights in harmony with nature.

Suggested deletion of article 5, numeral 1.⁶⁵

Suggested modification to article 5, numeral 1:

~~In order to contribute to sustainable development, t~~The Parties shall ensure the full enjoyment of the right of all individuals to live in a healthy and sustainable environment. ~~that enables them to guarantee their health and well-being and the effective enjoyment of their human rights in harmony with nature.~~⁶⁶

2. Each Party shall adopt the legislative, regulatory or other measures necessary to guarantee full implementation of the provisions of the present Agreement.

Suggested modification to article 5, numeral 2:

Each Party shall adopt the legislative, regulatory or other measures necessary, consistent with domestic circumstances, to guarantee ~~full~~the implementation of the provisions of the present Agreement.⁶⁷

3. Each Party shall endeavour to ensure that its officials and authorities advise the public, especially disadvantaged groups, and provide technical assistance so it can obtain access to information, participate in decision-making and have access to justice in environmental matters.

Suggested modifications to article 5, numeral 3:

Each Party shall endeavour to ensure that its officials and authorities advise the public, especially ~~disadvantaged groups~~ persons in vulnerable situations, and provide technical assistance so it can obtain access to information, participate in decision-making and have access to justice in environmental matters.⁶⁸

Each Party shall endeavour to ensure that its public officials ~~and authorities advise~~ educate the public, where necessary, ~~especially disadvantaged groups, and provide technical assistance so it can obtain~~ using a differential approach, advise on how to access information, participate in decision-making and ~~have access to~~ justice in environmental matters.⁶⁹

Each Party shall endeavour to ensure that its officials and authorities advise the public, especially vulnerable ~~disadvantaged~~ groups, and provide technical assistance so it can obtain access to information, participate in decision-making and have access to justice in environmental matters.⁷⁰

4. Each Party shall promote environmental awareness and education in the public sector and among the public, for the purpose of contributing to the effective application of rights of access to information, participation and justice in environmental matters and providing people with knowledge, capacity and understanding so they can participate in environmental decision-making.

Suggested modification to article 5, numeral 4:

Each Party shall promote environmental awareness and education in the public sector and among the public, for the purpose of contributing to the effective application of rights of access to information, participation and justice in environmental matters, and providing people with information ~~knowledge, and build~~ capacity where necessary ~~and understanding~~ so they can participate in environmental decision-making.⁷¹

5. Each Party shall create an enabling environment and grant recognition, protection and support to associations, organizations, groups and/or individuals that defend and/or protect the environment and exercise the rights recognized in the present Agreement.

Suggested modifications to article 5, numeral 5:

Each Party shall create an enabling environment and grant recognition, protection and support to associations, organizations, groups and/or individuals that defend and/or protect the environment, including labour organizations, and exercise the rights recognized in the present Agreement.⁷²

Each Party shall progressively create an enabling environment and grant recognition, protection and support to associations, organizations, groups and/or individuals that defend and/or protect the environment and exercise the rights recognized in the present Agreement.⁷³

Suggested redraft of article 5, numeral 5:

Each Party shall foster an environment which does not impede the operations of associations, organizations, groups and/or individuals which, compatible with the principles of this Agreement, defend or protect the environment to exercise their rights as recognized in the present Agreement.⁷⁴

6. The Parties shall encourage the non-Party countries of Latin America and the Caribbean to adhere to the present Agreement.⁷⁵

Suggested modification to article 5, paragraph 6:

The Parties shall encourage the non-Party countries of Latin America and the Caribbean to observe the provisions and become signatories ~~adhere to the~~ present Agreement.⁷⁶

7. The Parties shall increase cooperation, including cross-border cooperation, in order to fully implement rights of access to information, participation and justice, based on the principles of sovereign equality, territorial integrity, solidarity, mutual benefit and good faith.⁷⁷
8. The Parties shall collaborate within each State, at all levels and with all sectors of society, for implementation of the provisions of the present Agreement. They shall also coordinate the activities conducted in accordance with the present Agreement as well as with any other relevant international agreements to which they may be party, in order to strengthen synergies between the activities carried out under each agreement, while avoiding duplication of efforts

Suggested modification to article 5, numeral 8:

The Parties shall collaborate ~~within each State, at all levels and with all sectors~~ within their respective States ~~of society~~, for implementation of the provisions of the present Agreement.⁷⁸

Suggested division of article 5, numeral 8, to create a new paragraph:

They shall also coordinate the activities conducted in accordance with the present Agreement as well as with any other relevant international agreements to which they may be party, in order to strengthen synergies between the activities carried out under each agreement, while avoiding duplication of efforts.⁷⁹

9. None of the provisions of the present Agreement shall limit or repeal other rights or standards set forth in any other existing international agreement.
10. The provisions of the present Agreement shall not prevent the Parties from ensuring broader access to information, participation and justice in environmental matters than provided herein, by means of existing or future national measures.

Suggested deletion of article 5, numeral 10.⁸⁰

11. Each Party shall endeavour to ensure that the principles set out in the present Agreement are applied in international decision-making on environmental matters, as well as in the framework of international forums on the environment.

Suggested modification to article 5, numeral 11:

Each Party shall endeavour to ensure that the principles set out in the present Agreement are applied in international decision-making on ~~environmental matters~~rights of access, as well as in the framework of international forums on ~~the environment~~rights of access.⁸¹

Suggested deletion of article 5, numeral 11.⁸²

Suggested modification to article 5, numeral 11:

Each Party shall endeavour to ensure that the principles set out in the present Agreement are applied in international decision-making on environmental matters, as well as in the framework of international forums on the environment.⁸³

12. The Parties shall guarantee enjoyment of the rights recognized in the present Agreement under equal conditions without distinctions, in accordance with the principle of non-discrimination. In fulfilling their obligations, the Parties shall give consideration to women, minorities, indigenous peoples and Afro-descendants, children, youth and older persons.

Suggested modification to article 5, numeral 12:

The Parties shall guarantee enjoyment of the rights recognized in the present Agreement under equal conditions without distinctions, in accordance with the principle of non-discrimination. In fulfilling their obligations, the Parties shall give any necessary or required consideration to women, minorities, indigenous peoples and Afro descendants, children, youth and older persons.⁸⁴

The Parties shall guarantee enjoyment of the rights recognized in the present Agreement under equal conditions without distinctions, in accordance with the principle of non-discrimination. In fulfilling their obligations, the Parties shall give consideration to women, minorities, indigenous peoples and Afro-descendants, children, youth and older persons, among others.⁸⁵

The Parties shall guarantee enjoyment of the rights recognized in the present Agreement ~~under equal conditions without distinctions~~, in accordance with the principle of equality and non-discrimination. In fulfilling their obligations, the Parties shall give special consideration to vulnerable groups.~~women, minorities, indigenous peoples and Afro descendants, children, youth and older persons.~~⁸⁶

13. In the implementation of the present Agreement, the Parties shall adopt the most favourable interpretation in order to guarantee the fullest effectiveness of access rights and the protection of the environment.

Suggested modification to article 5, numeral 13:

In the implementation of the present Agreement, the Parties shall adopt the most favourable interpretation in order to guarantee the fullest effectiveness of access rights, access to justice and the protection of the environment.⁸⁷

Suggested deletion of article 5, numeral 13.⁸⁸

14. To guarantee access rights, the Parties shall encourage the use of, inter alia, new information and communications technologies, electronic government, social networks and social and telematic media.

Suggested modifications to article 5, numeral 14:

To guarantee access rights, the Parties shall encourage the use of, inter alia, new information and communications technologies, electronic government, social networks and social and telematic media in all languages including those used by indigenous peoples.⁸⁹

To guarantee access rights, the Parties shall encourage the use of, inter alia, new information and communications technologies, electronic government, social networks and social and telematic media. In no circumstances shall the use of electronic media constrain or result in discrimination against the public.⁹⁰

To guarantee access rights, the Parties shall encourage the use of, inter alia, new information and communications technologies, such as electronic government, social networks and social and telematic media.⁹¹

Article 6

Access to environmental information

Accessibility of environmental information

1. The Parties shall guarantee that all environmental information in possession of, under the control of, or in the custody of competent authorities is public and presumed to be relevant, regardless of format, medium, support, date of creation, origin, classification or processing, except as established in the present Agreement.

Suggested modifications to article 6, numeral 1:

The Parties shall guarantee that, in accordance with existing national regulatory frameworks, all environmental information in possession of, under the control of, or in the custody of competent authorities is public and presumed to be relevant, regardless of format, medium, support, date of creation, origin, classification or processing, except as established in the present Agreement.⁹²

The Parties shall guarantee that all environmental information that is in the possession or ~~of, under the control of, or in the custody of competent authorities is public and presumed to be relevant,~~ shall be provided at the request of the public, in accordance with national legislation ~~regardless of format, medium, support, date of creation, origin, classification or processing,~~ except as established in the present Agreement.⁹³

Suggested redraft of article 6, numeral 1:

Each Party shall ensure that, subject to this Agreement, competent authorities, in response to a request for environmental information, make such information available to the public, within the framework of national legislation.⁹⁴

2. For effective exercise of the right of access to environmental information, the Parties shall guarantee the following for any person requesting environmental information from competent authorities:⁹⁵
 - (a) to freely request information without demonstrating or even mentioning a special interest or explaining why the information is being requested;
 - (b) to be informed promptly whether the documents that contain the requested information or from which such information can be derived are in the possession or not of the entity, authority or organization receiving the request; and⁹⁶
 - (c) to be informed of the right to appeal if information and requirements are not delivered.⁹⁷

The requests for environmental information should be understood in the broadest possible terms, such that the response includes all other information that can be presumed to be part of the request even if not expressly requested, such as background information, supplemental annexes, clarifications or contextual statements that contribute to a full understanding of the requested information.

Suggested modification to article 6, numeral 2, subparagraph:

The requests for environmental information should be understood in the broadest possible terms, ~~such that the response includes all other information that can be presumed to be part of the request even if not expressly requested, such as background information, supplemental annexes, clarifications or contextual statements that contribute to a full understanding of the requested information.~~⁹⁸

Suggested redraft of article 6, numeral 2, subparagraph:

The requests for environmental information should be understood in the broadest possible terms, and the competent authority shall afford the applicant reasonable opportunity to consult with the authority with a view to identifying the information that may be required to contribute to a full understanding of the requested information.⁹⁹

3. Each Party shall create an environmental information system and keep it up to date, to include, inter alia:¹⁰⁰
 - (a) the texts of international treaties and agreements, as well as laws, regulations and administrative acts on or relating to the environment;
 - (b) reports on the state of the environment, referred to in article 7.5;¹⁰¹
 - (c) the list of public authorities that have information with environmental content and that should be publicly accessible;
 - (d) reports on environmental liabilities;¹⁰²
 - (e) information on the use, conservation and exploitation of natural resources;

Suggested addition to article 6, numeral 3, letter (e):

Research papers and projects presented by climate change bodies or other agencies.¹⁰³

- (f) systematized and updated information on administrative environmental impact assessment files; and
- (g) information on hazardous materials, substances and activities.

Suggested modification to article 6, numeral 3, letter (g):

Information on hazardous materials, substances and disposal and management activities.¹⁰⁴

The Parties shall guarantee that environmental information systems are duly organized, updated, accessible to all persons and available electronically.

The Conference of the Parties/secretariat may promote the creation and development of standards in relation to environmental information systems. The Conference of the Parties/secretariat may also suggest measures to facilitate the best use of resources.

Suggested deletion of article 6, numeral 3, subparagraph two.¹⁰⁵

Suggested modification to article 6, numeral 3:

Each Party shall may create and keep up to date an environmental information system, whose the content of which shall be defined in accordance with national priorities. ~~to include, inter alia:~~

- ~~(a) the texts of international treaties and agreements, as well as laws, regulations and administrative acts on or relating to the environment;~~
- ~~(b) reports on the state of the environment, referred to in article 7.5;~~
- ~~(c) the list of public authorities that have information with environmental content and that should be publicly accessible;~~
- ~~(d) reports on environmental liabilities;~~
- ~~(e) information on the use, conservation and exploitation of natural resources;~~
- ~~(f) systematized and updated information on administrative environmental impact assessment files; and~~
- ~~(g) information on hazardous materials, substances and activities.~~

The Parties shall guarantee that environmental information systems are duly organized, updated, accessible to all persons and available electronically.¹⁰⁶

~~**The Conference of the Parties/secretariat may promote the creation and development of standards in relation to environmental information systems. The Conference of the Parties/ secretariat may also suggest measures to facilitate the best use of resources.**~~

4. The Parties shall endeavour to facilitate access to information for disadvantaged individuals and/or groups, making alterations — as their specific challenges require— for the presentation of requests, processing and delivery of information, for the purpose of promoting access and participation under equal conditions. Each Party shall guarantee that members of indigenous peoples have the right to receive assistance for preparing their requests in the official language and to receive a prompt response.

Suggested modifications to article 6, numeral 4:

The Parties shall use their best endeavours to facilitate access to information for disadvantaged individuals and/or groups, making alterations —as their specific challenges require— for the presentation of requests, processing and delivery of information, for the purpose of promoting access and participation under equal conditions. Each Party shall guarantee that members of indigenous peoples have the right to receive assistance for preparing their requests in the official language and to receive a prompt response.¹⁰⁷

~~The Parties shall endeavour to facilitate access to information for disadvantaged individuals and/or groups, making alterations — as their specific challenges require — for the presentation of requests, processing and delivery of information, for the purpose of promoting access and participation under equal conditions. Each Party shall guarantee that members of indigenous peoples have the right to receive assistance for preparing their requests in the official language and to receive a prompt response.~~¹⁰⁸

The Parties shall endeavour, subject to the availability of resources, to facilitate access to information for vulnerable~~disadvantaged~~ individuals and/or groups, making alterations — as their specific challenges require — for the presentation of requests, processing and delivery of information, for the purpose of promoting access and participation under equal conditions. Each Party shall guarantee that members of indigenous peoples have the right to receive assistance for preparing their requests in the official language and to receive a prompt response.¹⁰⁹

*Exceptions regime*¹¹⁰

5. In the event that the requested information or part thereof is not delivered to the petitioner because it falls under the exceptions regime, the competent authority shall duly justify its refusal and give the petitioner:
 - (a) a reasonable estimate of the volume of material that is considered confidential;
 - (b) a specific description of the provisions invoked to withhold it; and
 - (c) information on the petitioner's right to file an appeal and proceedings.

Suggested modifications to article 6, numeral 5:

In the event that the requested information or part thereof is not delivered to the petitioner because it falls under the exceptions regime, the competent authority shall duly justify its refusal and give the petitioner:

- ~~(a) a reasonable estimate of the volume of material that is considered confidential;~~
 - ~~(b) a specific description of the provisions invoked to withhold it; and~~
 - ~~(c) information on the petitioner's right to file an appeal and proceedings.~~
- in accordance with the provisions of domestic legislation.**¹¹¹

In the event that the requested information or part thereof is not delivered to the petitionerapplicant because it falls under the exemption~~exceptions~~ regime, the competent authority shall duly justify its refusal and notify~~give~~ the petitionerapplicant:

- ~~(a) a reasonable estimate of the volume of whether the material that is considered confidential~~exempt;

(b) ~~a~~ of the specific ~~description of the provisions invoked~~ and the reasons relied on to withhold it; and

(c) ~~information on the petitioner~~applicant's right to file an appeal and proceedings.¹¹²

6. The only circumstances which can be invoked to refuse total or partial access to environmental information are the following:

(a) when its disclosure, communication or knowledge would affect the rights of individuals, especially as related to their safety, health or private life;

(b) when its disclosure, communication or knowledge would affect national security or interests, particularly with respect to national defence, public order, public health or international relations;

(c) when its disclosure, communication or knowledge would affect protection of the environment; and

(d) when the requested information is classified as secret or confidential by laws in force and their respective regulations.

Suggested modifications to article 6, numeral 6:

The ~~only~~ circumstances which can be invoked to refuse total or partial access to environmental information are the following:

(a) when its disclosure, communication or knowledge would affect the rights of individuals, especially as related to their safety, health or private life;

(b) when its disclosure, communication or knowledge would affect national security or interests, particularly with respect to national defence, public order, public health or international relations;

(c) when its disclosure, communication or knowledge would affect protection of the environment; and

(d) when the requested information is classified as secret or confidential by laws in force and their respective regulations.¹¹³

Suggested redraft of article 6, numeral 6:

Access to environmental information may be refused in accordance with established national legislation or the following provisions:

(a) When knowledge of that information would affect the rights of individuals, especially as related to their safety, health or private life;

- (b) When its disclosure, communication or knowledge would affect national security or interests, particularly with respect to national defence, public order, public health, international relations, the prevention, investigation and prosecution of crimes, the effective administration of justice, or the rights of children and adolescents
- (c) when its disclosure, communication or knowledge would affect protection of the environment; and
- (d) when the requested information is classified as secret or confidential by laws in force and their respective regulations.¹¹⁴

Suggested modification to article 6, numeral 6:

The ~~only~~ circumstances which can be invoked to refuse total or partial access to environmental information are the following:

- (a) when its disclosure, communication or knowledge would affect the rights of individuals, especially as related to their safety, health or private life;
 - (b) when its disclosure, communication or knowledge would affect national security or interests, particularly with respect to national economy, national defence, public order, public health or international relations;
 - (c) when its disclosure, communication or knowledge would affect protection of the environment; and
 - (d) when the requested information is classified as exempt in accordance with national laws secret or confidential by laws in force and their respective regulations.¹¹⁵
7. The aforementioned reasons for refusal shall be legally established in advance, clearly defined and regulated taking into account the public interest and thus interpreted restrictively. The burden of proof will lie with the competent authority.
 8. For the purposes of the present Agreement, information on human and environmental health and safety shall not be considered confidential.¹¹⁶

Suggested deletion of article 6, numeral 8.¹¹⁷

9. Severability/partial disclosure: When not all information contained in a document is exempt from disclosure under the exceptions set out in article 6.6, a public version may be created that redacts only the indispensable part. The non-exempt information shall be provided to the petitioner and made public. To the extent practicable, the Parties shall ensure that the public knows the nature of the information excluded, including through non-confidential indexes or summaries.¹¹⁸

Suggested modification to article 6, numeral 9:

Severability/partial disclosure: When not all information contained in a document is exempt from disclosure under the ~~exceptions~~exemptions set out in article 6.6, a public version may be created that redacts only the indispensable part. The non exempt information shall be provided to the ~~petitioner~~applicant and made public. To the extent practicable, the Parties shall ensure that the public knows the nature of the information excluded, including through non-confidential indexes or summaries.¹¹⁹

10. The Parties shall encourage the establishment of tests of public interest, instances for mediation or other mechanisms in order to weigh the interest of withholding information against the interest of disclosing it.¹²⁰

Conditions applicable to the delivery of environmental information

11. The Parties shall guarantee that requested information is provided in the format specified by the petitioner at any time in the event that it is available, whether by physical or electronic means.

Suggested redraft of article 6, numeral 11:

The Parties shall guarantee that, in cases where information is in the possession of the competent authority, it shall be provided in the format specified by the petitioner when it is available, whether by physical or electronic means.¹²¹

Suggested modification to article 6, numeral 11:

The Parties shall guarantee that requested information is provided in the format specified by the ~~petitioner~~applicant at any time in the event that it is available, whether by physical or electronic means.¹²²

12. All competent authorities shall respond to requests for environmental information as quickly as possible and avoid any type of delaying formalities. The maximum period for responding to an information request shall be thirty business days from the date of receipt of the request.¹²³

Suggested modification to article 6, numeral 12:

Each Party shall establish domestic rules on the maximum period for providing requested information, and the conditions under which that period can be extended.¹²⁴

13. Inasmuch as a request requires a search or review of a large number of documents, a search in offices that are physically separate from the office receiving the request or consultations with other obligated entities prior to taking a decision on disclosure, the competent authority handling the request may extend the deadline for responding to the request by up to twenty additional business days.¹²⁵

14. In the event that the competent authority cannot complete the response process in thirty business days, or within fifty business days if under the conditions set out in paragraph 13 of this article, the lack of response from the competent authority shall be understood as a refusal of the request.¹²⁶
15. The competent authority to which the request is made shall respond by either granting access to the information or issuing a reasoned refusal.
16. In the event that the entity to which the request for information is made is not competent to handle the request or does not possess the requested documents, it shall immediately forward the request to the competent authority or the authority that possesses the documents, to the extent that the latter can be identified, and so notify the petitioner. If the competent authority cannot be identified or if the requested information is in the possession of multiple entities, the entity to which the request is made shall notify said circumstances to the petitioner.¹²⁷

Suggested modifications to article 6, numeral 16:

In the event that the entity to which the request for information is made is not competent to handle the request or does not possess the requested documents, it shall endeavour, in keeping with applicable legislations, to immediately forward the request to the competent authority or the authority that possesses the documents, to the extent that the latter can be identified, and so notify the petitioner. If the competent authority cannot be identified or if the requested information is in the possession of multiple entities, the entity to which the request is made shall notify said circumstances to the petitioner.¹²⁸

In the event that the entity to which the request for information is made is not competent to handle the request or does not possess the requested documents, it shall immediately forward the request to the competent authority or the authority that possesses the documents, to the extent that the latter can be identified, and so notify the petitionerapplicant. If the competent authority cannot be identified or if the requested information is in the possession of multiple entities, the entity to which the request is made shall notify said circumstances to the petitionerapplicant.¹²⁹

17. When the information does not exist, the petitioner shall be so notified.

Suggested modification to article 6, numeral 17:

When the information does not exist, the petitionerapplicant shall be so notified.¹³⁰

18. The Parties shall guarantee that access to environmental information is free and that no fees are charged other than the cost of reproducing the information and, as applicable, the cost of delivery, if required. No fee may be charged for information delivered electronically.¹³¹

Independent review mechanisms

19. The Parties shall have an autonomous, independent and impartial entity or institution to promote transparency in access to environmental information, oversee compliance with rules and guarantee the right of access to information. This entity may have sanctioning powers.¹³²

Suggested deletion of article 6, numeral 19.¹³³

Suggested modification to article 6, numeral 19:

Each party shall charge its existing supervisory and monitoring entities with ensuring the enforcement of access rights.¹³⁴

Article 7

Generation and dissemination of environmental information¹³⁵

1. The Parties shall endeavour to generate, collect, systematize, make publicly available and disseminate environmental information in a proactive and timely, regular, accessible and comprehensible manner. The Parties shall periodically update this information and encourage the disaggregation and decentralization of environmental information at the subnational and local levels.¹³⁶

Suggested modifications to article 7, numeral 1:

The Parties shall use their best endeavours to generate, collect, systematize, make publicly available and disseminate environmental information in a proactive and timely, regular, accessible and comprehensible manner. The Parties shall periodically update this information and encourage the disaggregation and decentralization of environmental information at the subnational and local levels.¹³⁷

The Parties shall endeavour to generate, collect, systematize, make publicly available and disseminate environmental information in a proactive and timely, regular, accessible and comprehensible manner. The Parties shall periodically update this information and encourage the disaggregation and decentralization of environmental information at the subnational and local levels. The Parties shall strengthen the role of coordination between the different authorities of federal States.¹³⁸

2. All environmental information in the public interest that is produced, handled and disseminated shall be timely, objective, reliable, complete, up-to-date, reusable, processable and available in formats that are accessible to petitioners and interested parties, with no restrictions on its reproduction or use, in accordance with legal provisions and exceptions. Open-data formats shall be encouraged.¹³⁹

Suggested modification to article 7, numeral 2:

All environmental information in the public interest that is produced, handled and disseminated shall be as practicable timely, ~~objective~~, reliable, complete, up-to-date, reusable, processable and available in formats that are accessible to ~~petitioner~~applicants and interested parties, with no restrictions on its reproduction or use, in accordance with legal provisions and ~~exception~~exemptions. Open-data formats shall be encouraged.¹⁴⁰

3. Emergencies and disasters: Each Party shall ensure that in the case of an imminent threat to the health or environment, whether attributable to human activities or due to natural causes, all information that might help the public take measures to prevent or limit potential damage that is in the possession of an obligated entity is disseminated immediately and without delay.

Suggested modification to article 7, numeral 3:

Emergencies and disasters: Each Party shall ensure that in the case of an imminent threat to the health or environment, whether attributable to human activities or due to natural causes, all information that could~~might~~ help the public take measures to prevent or limit potential damage that is in the possession of an obligated entity is disseminated immediately and without delay.¹⁴¹

Emergencies and disasters: Each Party shall ensure that in the case of an imminent threat to human~~the~~ health or environment, whether attributable to human activities or due to natural causes, all information that might help the public take measures to prevent or limit potential damage that is in the possession of an ~~obligated entity~~competent authority is disseminated immediately and without delay.¹⁴²

4. In order to facilitate access by disadvantaged groups to information that particularly affects them, the Parties shall ensure that obligated entities disclose environmental information in various languages and prepare alternative formats that are comprehensible for said groups. The Parties shall guarantee access to that information for the various ethnic and cultural groups in the country and in particular shall ensure that suitable channels of communication are arranged to provide access to disadvantaged individuals or groups.¹⁴³

Suggested modifications to article 7, numeral 4:

In order to facilitate access by disadvantaged groups to information that particularly affects them, the Parties shall ensure that obligated entities disclose environmental information in various languages used in the country and prepare alternative formats that are comprehensible for said groups. The Parties shall guarantee access to that information for the various ethnic and cultural groups in the country and in particular shall ensure that suitable channels of communication are arranged to provide access to disadvantaged individuals or groups.¹⁴⁴

In order to facilitate access by disadvantaged groups to information that particularly affects them, the Parties shall ensure that, ~~obligated entities at the request of community authorities, the competent authorities~~ disclose environmental information in various languages and prepare alternative formats that are comprehensible for said groups. The Parties shall guarantee access to that information for the various ethnic and cultural groups in the country and in particular shall ensure that suitable channels of communication are arranged to provide access to disadvantaged individuals or groups.¹⁴⁵

In order to facilitate access by ~~vulnerable~~~~disadvantaged~~ groups to information that particularly affects them, the Parties shall ensure, where practicable, that ~~obligated entities~~competent authorities disclose environmental information in various languages and prepare alternative formats that are comprehensible for said groups. The Parties shall guarantee access to that information for the various ethnic and cultural groups in the country and in particular shall ensure that suitable channels of communication are arranged to provide access to vulnerable~~disadvantaged~~ individuals or groups.¹⁴⁶

5. Each Party shall use its best endeavours to publish and disseminate at regular intervals not to exceed five years a national report on the state of the environment, which will contain at least:

(a) information on the quality of the environment;

Suggested modification to article 7, numeral 5, letter (a):

(a) information on the quality of the environment, including quantitative data;¹⁴⁷

(b) pressures on the environment;

(c) environmental legislation;

Suggested modification to article 7, numeral 5, letter (c):

(c) environmental legislation and policies;¹⁴⁸

(d) national actions to fulfil international commitments;

(e) number and type of participation mechanisms that were implemented during the period covered by the report and evaluation; and

(f) specific description of advances in the implementation of access rights.

Suggested additional subparagraph under article 7, numeral 5:

Institutional arrangements among responsible government ministries, departments and agencies.¹⁴⁹

The reports should be drafted in an easily comprehensible manner and should be accessible to interested parties in different formats on various means. They should also be disseminated through culturally adequate means, including community radios and neighbourhood or community meetings.

The Parties may invite the collaboration of the public in the preparation of these reports and may also request the support of the secretariat, along with other international organizations, for the systematization, publication and dissemination of these reports at the regional level.

Suggested modification to article 7, numeral 5:

Each Party shall use its best endeavours to publish and disseminate at regular intervals not to exceed five years a national report on the state of the environment, which ~~will~~ could contain at least:

- (a) information on the quality of the environment;**
- (b) pressures on the environment;**
- (c) environmental legislation;**
- (d) national actions to fulfil international commitments;**
- (e) number and type of participation mechanisms that were implemented during the period covered by the report and evaluation, as applicable; and**
- (f) specific description of advances in the implementation of access rights.**

The reports should be drafted in an easily comprehensible manner and should be accessible to interested parties in different formats on various means. They should also be disseminated through culturally adequate means, including community radios and neighbourhood or community meetings.

The Parties may invite the collaboration of the public in the preparation of these reports and may also request the support of the secretariat, along with other international organizations, for the systematization, publication and dissemination of these reports at the regional level.¹⁵⁰

6. The Parties shall encourage independent environmental performance review on the basis of common criteria and indicators on environmental, economic and social matters, with a view to evaluating the efficacy, effectiveness and progress of their national environmental policies in fulfilment of their national and international commitments and generating relevant conclusions and recommendations for said policies. The reviews should include participation by the various stakeholders in society.¹⁵¹

7. Each Party shall create, administer and periodically update a pollutant release and transfer register for the air, water, soil and subsoil, materials and waste in its jurisdiction, among others. The registered information will be public and electronically accessible and will contain disaggregated and standardized data.¹⁵²

Suggested redraft of article 7, numeral 7:

Parties are urged to take steps to create emissions and discharge registers that envisage mechanisms for access to information through proper aggregation and standardization.¹⁵³

8. Each Party shall establish dissemination mechanisms in accordance with its national laws for the purpose of guaranteeing public access to contracts, authorizations or permits signed by public authorities that involve the execution of investment projects subject to environmental assessment.

Suggested modification to article 7, numeral 8:

Each Party ~~shall~~may establish dissemination mechanisms in accordance with its national laws for the purpose of guaranteeing public access to contracts, authorizations or permits signed by public authorities that involve the execution of investment projects subject to environmental assessment.¹⁵⁴

Suggested addition to article 7, numeral 8:

Each Party shall establish dissemination mechanisms in accordance with its national laws for the purpose of guaranteeing public access to contracts, authorizations or permits signed by public authorities that involve the execution of investment projects subject to environmental assessment or the obtention of permits, authorizations or concessions in order to use or otherwise harness renewable natural resources.¹⁵⁵

9. The Parties shall encourage the implementation of open-data policies at the various levels of government to help improve information systems, enhance transparency, generate inter-operability of data and promote innovation. The Parties shall also encourage the use of new information and communication technologies, including social networks and media, to disseminate environmental information. In the event of limitations, consideration should likewise be given to alternative dissemination and access mechanisms.

Suggested modification to article 7, numeral 9:

The Parties shall ~~ensure~~encourage the implementation of open data policies at the various levels of government to help improve information systems, enhance transparency, generate inter operability of data and promote innovation. The Parties shall also encourage the use of new information and communication technologies, including social networks and media, to disseminate environmental information. In the event of limitations, consideration should likewise be given to alternative dissemination and access mechanisms.¹⁵⁶

The Parties shall encourage the progressive implementation of open- data policies at the various levels of government to help improve information systems, enhance transparency, generate inter- operability of data and promote innovation. The Parties shall also encourage the use of new information and communication technologies, including social networks and media, to disseminate environmental information. In the event of limitations, consideration should likewise be given to alternative dissemination and access mechanisms.¹⁵⁷

10. The Parties shall ensure that consumers and users have information that is verifiable, relevant, precise, non-deceptive and science-based on the environmental qualities and corresponding health effects of goods and services, in order to promote sustainable production and consumption patterns.

Suggested modifications to article 7, numeral 10:

The Parties shall ensure that the public consumers and users have information that is verifiable, relevant, precise, non-deceptive and science-based on the environmental qualities and corresponding health effects of goods and services, in order to promote sustainable production and consumption patterns.¹⁵⁸

~~The Parties shall ensure that consumers and users have~~ The Parties shall promote instruments that give consumers and users access to information that is verifiable, relevant, precise, non-deceptive and science-based on the environmental qualities and corresponding health effects of goods and services, in order to promote sustainable production and consumption patterns.¹⁵⁹

Suggested deletion of article 7, numeral 10.¹⁶⁰

Suggested modification to article 7, numeral 10:

The Parties shall use their best endeavours to ensure that consumers and users have information ~~that is verifiable, relevant, precise, non-deceptive and science-based on the environmental qualities and corresponding health effects of goods and services, in order to promote sustainable production and consumption patterns.~~¹⁶¹

11. The Parties shall develop regulations that promote adequate management and archiving of environmental information and corresponding requests, to help make it available to the public, redistribute and reuse it, except as established in article 6.6 of the present Agreement. In no case may a competent authority destroy information in its possession.¹⁶²

Suggested modification to article 7, numeral 11:

The Parties shall develop regulations that promote adequate management and archiving of environmental information and corresponding requests, to help make it available to the public, redistribute and reuse it, except as established in article 6.6 of the present Agreement. ~~In no case may a competent authority destroy information in its possession.~~¹⁶³

The Parties shall develop legislation, policies and guidelines~~regulations~~ that promote adequate management and archiving of environmental information and corresponding requests, to help make it available to the public, redistribute and reuse it, except as established in article 6.6 of the present Agreement. The competent authority may destroy information in its possession in accordance with national legislation, policies and guidelines.~~In no case may a competent authority destroy information in its possession.~~¹⁶⁴

12. The Parties shall promote, through legal and/or institutional frameworks, the access to environmental information generated by private entities. The Parties shall also encourage the preparation of sustainability reports on State-owned and private enterprises that contain information on the social and environmental performance of their activities.¹⁶⁵

Suggested modifications to article 7, numeral 12:

The Parties shall promote, through legal and/or institutional frameworks, the access to environmental information generated by private entities. The Parties shall also encourage the preparation of sustainability reports on State-owned and private enterprises that contain information on the social and environmental performance of their activities. These reports shall be prepared with the participation of the workers.¹⁶⁶

Suggested separation of numeral 12 into two paragraphs:

The Parties shall promote, ~~through legal and/or institutional frameworks,~~ the access to environmental information generated by private entities. The Parties shall ~~also encourage the preparation of sustainability reports on State-owned entities and private enterprises that contain information on the social and environmental performance of their activities.~~¹⁶⁷

The Parties shall encourage private entitiesenterprises that contain information on the effects of companies' activities on the environment, health and safety, in particular information on dangerous substances or activities to provide such information to the public~~social and environmental performance of their activities.~~¹⁶⁸

13. The Parties shall encourage access to adequate and specific information on the effects of companies' activities on the environment, health and safety, in particular information on dangerous substances or activities.

Suggested modification to article 7, numeral 13:

The Parties shall ~~encourage~~ ensure access to adequate and specific information on the effects of companies' activities on the environment, health and safety, in particular information on dangerous substances or activities.¹⁶⁹

Article 8
Public participation in environmental decision-making¹⁷⁰

1. The Parties commit to implement open and inclusive participation mechanisms for environmental decision-making. These mechanisms shall also apply to processes associated with conservation, use, exploitation and management of natural resources.¹⁷¹

Suggested modifications to article 8, numeral 1:

The Parties commit to implement open and inclusive participation mechanisms for environmental decision-making, in accordance with their normative frameworks, legal traditions and international instruments. ~~These mechanisms shall also apply to processes associated with conservation, use, exploitation and management of natural resources~~ mechanisms shall apply to processes associated with conservation, use, exploitation and management of natural resources and procedures linked with environmental land management.¹⁷²

The Parties commit to implement open and inclusive participation mechanisms for environmental decision-making.¹⁷³ ~~These mechanisms shall also apply to processes associated with conservation, use, exploitation and management of natural resources.~~¹⁷⁴

2. Each Party shall adopt measures to ensure public participation when all options and solutions are still possible and when the public is able to exercise real influence.

Suggested modifications to article 8, numeral 2:

Each Party shall adopt measures to ensure public participation when all options and solutions are still possible and when the public is able to participate in an effective manner.¹⁷⁵

Each Party shall adopt measures to ensure timely public participation when all options and solutions are still possible and when the public is able to influence the outcome of the decision-making process exercise real influence.¹⁷⁶

3. The public shall have access to relevant information for active and effective participation in a timely, comprehensible and objective manner and in a simple and clear format, through suitable means. The information will contain at least the following:
 - (a) the type or nature of the decision, including a non-technical summary thereof;
 - (b) the competent authority for making the decision and other authorities involved; and
 - (c) the procedure specified for participation, including the date on which the procedure will begin, the possibilities offered to the public to participate and the date and place of any public consultation or hearing as applicable.

Suggested modification to article 8, numeral 3:

The public shall have access to relevant information for active and effective participation in a timely, comprehensible and objective manner and in a simple and clear format, through suitable means. The information will contain at least the following:

- (a) the type or nature of the decision, including where practicable a non technical summary thereof;**
 - (b) the competent authority for making the decision and other authorities involved; and**
 - (c) the procedure specified for participation, including the date on which the procedure will begin and end, the possibilities offered to the public to participate and the date and place of any public consultation or hearing as applicable.¹⁷⁷**
4. For the different phases of the public participation procedure, reasonable periods will be provided that allow sufficient time to inform the public and enable it to prepare and participate effectively throughout the entire environmental decision-making process.
5. Any person may present observations, information, analysis or opinions that he or she considers relevant in writing or through electronic means, at a public hearing or consultation or other established mechanisms.

Suggested modification to article 8, numeral 5:

~~Any~~Any individual or group consulted ~~person~~ may present observations, information, analysis or opinions that he or she considers relevant in writing or through electronic means, at a public hearing or consultation or other established mechanisms.¹⁷⁸

6. The Parties shall ensure that the public is able to participate with full autonomy and that accommodations are made for the social, economic, cultural, geographical and gender characteristics of communities, by implementing differentiated participation processes intended to overcome any barrier. In particular, when groups reside in the involved areas that speak primarily languages other than the official language, the competent authority shall guarantee that the means are provided to facilitate their understanding and participation.

Suggested modifications to article 8, numeral 6:

The Parties shall ensure that the public is able to participate with full autonomy and that accommodations are made for the social, economic, cultural, geographical and gender characteristics of communities, by implementing differentiated participation processes intended to overcome any barrier. In particular, when groups reside in the involved areas that speak primarily languages other than the official language, the competent authority shall guarantee that the means are provided to facilitate their understanding and participation through processes and forms of organization pertaining to their traditions and cultural identity.¹⁷⁹

The Parties shall ensure that the public is able to participate with full autonomy and that accommodations are made for the social, economic, cultural, geographical and gender characteristics of individuals or groups of communities, by implementing differentiated participation processes intended to overcome ~~any barriers to participation~~. In particular, ~~when groups reside in the involved areas that~~ the directly affected public speak primarily languages other than the official language, the competent authority shall guarantee that the means are provided to facilitate their understanding and participation.¹⁸⁰

7. Each Party shall duly take into consideration the outcome of the participation process when making decisions. When the observations or recommendations of the public are not taken into account, the reason should be reported and substantiated in writing to those who made them.

Suggested modifications to article 8, numeral 7:

Each Party shall duly take into consideration the outcome of the participation process when making decisions. When the observations or recommendations of the public are not taken into account, the reason should be reported and substantiated in writing to those who made them and to the public.¹⁸¹

Each Party shall duly take into consideration the outcome of the participation process when making decisions. When the observations or recommendations of the public are not taken into account, the reason should be reported and substantiated in writing to those who made them and to the public in general.¹⁸²

Each Party shall duly take into consideration the outcome of the participation process when making decisions. A consultation report inclusive of ~~When the observations or recommendations of the public should be disseminated accordingly, are not taken into account, the reason should be reported and substantiated in writing to those who made them.~~¹⁸³

8. Each Party shall ensure that when a public authority re-examines or updates projects, activities, policies, plans, rules, regulations, programmes or strategies liable to generate environmental impacts, the provisions contained in this article are observed.

Suggested modification to article 8, numeral 8:

Each Party shall ensure that when a public authority or designated authority re-examines or updates projects, activities, policies, plans, rules, regulations, programmes or strategies liable to generate environmental impacts, the provisions contained in this article are observed.¹⁸⁴

Suggested deletion of article 8, numeral 8.¹⁸⁵

9. Each Party shall ensure that once a decision has been made, the public is informed promptly, following the appropriate procedure. Each Party shall communicate to the public the text of the decision, accompanied by the interests and reasons on which the decision is based, including consideration of the observations of the public. The decision and its basis will be public.

Suggested modifications to article 8, numeral 9:

Each Party shall ensure that once a decision has been made, the public is informed ~~promptly~~ as soon as practicable and within 72 hours following the appropriate procedure. Each Party shall communicate to the public the text of the decision, accompanied by the interests and reasons on which the decision is based, including consideration of the observations of the public. The decision and its basis will be public.¹⁸⁶

Each Party shall ensure that once a decision has been made, the public is informed ~~promptly~~ in a timely manner, following the appropriate procedure. Each Party shall communicate to the public the text of the decision, accompanied by the interests and reasons on which the decision is based., ~~including consideration of the observations of the public. The decision and its basis will be public.~~¹⁸⁷

Each Party shall ensure that once a decision has been made, the public is informed promptly, following the appropriate procedure. Each Party shall communicate to the public the text of the decision, and where applicable in-keeping with national laws communicate to the public ~~accompanied by the interests and reasons on which the decision is based, including consideration of the observations of the public. The decision and its basis will be public.~~¹⁸⁸

10. The Conference of the Parties may develop manuals and propose guidelines for the implementation of public participation in environmental decision-making.¹⁸⁹
11. Each Party shall strive to promote effective public participation in international forums and negotiations on environmental matters and/or with an environmental impact.¹⁹⁰
12. The Parties shall encourage the establishment of permanent formal spaces for consultation on environmental matters in which representatives of various groups and sectors will participate. The Parties shall promote regard for local knowledge, dialogue and interaction of different views and knowledge.

Suggested modification to article 8, numeral 12:

The Parties shall encourage the establishment of ~~permanent formal~~ approved spaces for consultation on environmental matters in which representatives of various groups and sectors will participate. The Parties shall promote regard for local knowledge, dialogue and interaction of different views and knowledge.¹⁹¹

Suggested deletion of article 8, numeral 12.¹⁹²

13. The Parties shall make additional efforts to identify disadvantaged individuals and groups in order to engage them in an active, timely and effective manner. For these purposes, the best media and formats will be considered, to support their participation and ensure respect for their cultural characteristics.¹⁹³

Suggested modifications to article 8, numeral 13:

The Parties shall make additional efforts to identify ~~disadvantaged~~ individuals in vulnerable situations and groups in order to engage them in an active, timely and effective manner. For these purposes, the best media and formats will be considered, to support their participation and ensure respect for their cultural characteristics.¹⁹⁴

The Parties shall make additional efforts to identify vulnerable~~disadvantaged~~ individuals and groups in order to remove barriers to participation~~engage them in an active, timely and effective manner~~. For these purposes, the best media and formats will be considered, to support their participation and ensure respect for their cultural characteristics.¹⁹⁵

14. When individuals or groups belonging to an indigenous people are affected, the Parties shall ensure that the applicable national and international standards on this matter are observed.

Suggested deletion of article 8, numeral 14.¹⁹⁶

Suggested modification to article 8, numeral 14:

When individuals or groups belonging to an indigenous people are affected, the Parties shall ensure that the applicable national and international standards ~~on this matter~~ are observed.¹⁹⁷

Additional measures for activities and projects

Suggested addition to section on additional measures for activities and projects:

The Parties shall promote additional measures with a view to achieving effective participation in environmental decision-making processes.¹⁹⁸

Suggested deletion of the heading “*Additional measures for activities and projects*”, while maintaining numerals 15 to 18.¹⁹⁹

15. The Parties shall guarantee mandatory public participation procedures for all projects and activities subject to environmental assessment in accordance with national law. In all cases, public participation shall be guaranteed in projects and activities related to mining, electricity generation, production activities and certain uses of hazardous substances and treatment and disposal of waste. In addition, public participation shall be ensured in projects and activities relating to coastal development.

Suggested modifications to article 8, numeral 15:

The Parties shall guarantee mandatory public participation procedures for all projects and activities subject to environmental assessment in accordance with national law. In all cases, public participation shall be guaranteed in projects and activities related to the extraction of minerals and other resources ~~mining~~, electricity generation, production activities and

~~certain~~ uses of hazardous substances and treatment, including but not limited to disposal of waste. In addition, public participation shall be ensured in projects and activities relating to coastal development.²⁰⁰

The Parties shall guarantee mandatory public participation procedures for all projects and activities subject to environmental assessment in accordance with national law. In all cases, public participation shall be guaranteed in ~~projects and activities related to mining, electricity generation, production activities and certain uses of hazardous substances and treatment and disposal of waste~~. In addition, public participation shall be ensured in ~~projects and activities relating to coastal development~~.²⁰¹

The Parties shall guarantee ~~mandatory~~ public participation procedures for ~~all~~ projects and activities subject to environmental assessment in accordance with national law. In all cases, public participation shall be guaranteed in projects and activities related to mining, electricity generation, production activities and certain uses of hazardous substances and treatment and disposal of waste. In addition, public participation shall be ensured in projects and activities relating to coastal development.²⁰²

The Parties shall guarantee mandatory public participation procedures as contained in the article for all projects and activities subject to environmental assessment in accordance with national law. In all cases, public participation shall be guaranteed in projects and activities related to mining, electricity generation, production activities and certain uses of hazardous substances and treatment and disposal of waste. In addition, public participation shall be ensured in projects and activities relating to coastal development.²⁰³

16. Each Party shall require the competent authorities to make efforts to identify the public directly affected by the project or activity and promote specific actions to facilitate their informed participation in decision-making, including, inter alia, technical and financial assistance.²⁰⁴

Suggested deletion of article 8, numeral 16.²⁰⁵

17. The public directly affected will have access, from the point in time at which it is available, to all information of interest for the environmental assessment of projects and activities, which will encompass at least the following:

- (a) description of the site and physical and technical characteristics of the proposed project or activity;
- (b) description of the major effects of the project or activity on the environment;

Suggested modification to article 8, numeral 17, letter (b):

(b) description of the major and minor effects of the project or activity on the environment and people;²⁰⁶

- (c) description of the measures established to prevent or reduce those effects;
- (d) a non-technical summary of (a), (b) and (c) of this paragraph; and
- (e) the reports and opinions addressed to the public authority.

Suggested additional letter in article 8, numeral 17:

(f) alternatives and different options.²⁰⁷

Suggested modification to article 8, numeral 17:

17. The public ~~directly affected~~ will have access, from the point in time at which it is available, to all information of interest for the environmental assessment of projects and activities, which will encompass at least the following:

- (a) description of the site and physical and technical characteristics of the proposed project or activity;**
- (b) description of the major effects of the project or activity on the environment;**
- (c) description of the measures established to prevent or reduce those effects;**
- (d) a non-technical summary of (a), (b) and (c) of this paragraph; and**
- (e) the reports and opinions addressed to the public authority.**²⁰⁸

The public ~~directly affected will~~shall have access, ~~from the point in time at which it is available, to all information of interest for the~~ to environmental impact assessments ~~offor~~ for projects and activities, which will encompass at least the following:

- (a) description of the site and physical and technical characteristics of the proposed project or activity;**
- (b) description of the major effects of the project or activity on the environment;**
- (c) description of the measures established to prevent or reduce those effects;**
- (d) a non-technical summary of (a), (b) and (c) of this paragraph; and**
- (e) the reports and opinions addressed to the public authority.**²⁰⁹

Suggested additional letter in article 8, numeral 17:

(f) description of alternative locations and technologies.²¹⁰

18. Any public directly affected by a decision in the environmental assessment of projects and activities shall be promptly and specifically informed, and the decision shall be accompanied by the reasons and considerations supporting it. The decisions adopted and the grounds on which they are made will be public.

Suggested deletion of article 8, numeral 18.²¹¹

Article 9
Access to justice²¹²

1. Each Party shall guarantee the right to access justice in environmental matters within a reasonable period of time through administrative and/or judicial means, in the framework of a process that grants guarantees of due process based on the principles of legality, effectiveness, publicity and transparency, through clear, fair, appropriate and independent procedures. The Parties shall ensure the right of appeal to a superior administrative and/or judicial body.²¹³

Suggested modification to article 9, numeral 1:

Each Party shall guarantee the right to access justice in environmental matters ~~within a reasonable period of~~ with the shortest time through administrative and/or judicial means, in the framework of a process that grants guarantees of due process based on the principles of legality, effectiveness, publicity and transparency, through clear, fair, appropriate and independent procedures. The Parties shall ensure the right of appeal to a superior administrative and/or judicial body.²¹⁴

Each Party shall ~~guarantee the right~~ facilitate to access to justice in environmental matters ~~within a reasonable period of time~~ through administrative and/or judicial means, in the framework of a process that grants guarantees of due process ~~based on the principles of legality, effectiveness, publicity and transparency,~~ through clear, fair, public, transparent ~~appropriate~~ and independent procedures. The Parties shall ensure the right of appeal to a superior administrative and/or judicial body.²¹⁵

2. Each Party shall ensure, in the framework of its national laws, that any person is entitled to have access to a judicial body or other autonomous, independent and impartial body or administrative procedures to challenge the legality of:
- (a) any decision, action or omission related to the access to environmental information;
 - (b) any decision, action or omission, with respect to substance or procedure, related to participation by the public in environmental decision-making; and
 - (c) any decision, action or omission by an individual, public authority or private entity that could affect the environment or violate, with respect to substance or procedure, the environmental laws and regulations of the State related to the environment.

Suggested modifications to article 9, numeral 2:

Each Party shall ensure, in the framework of its national laws, that any person is entitled to have access to a judicial body or other autonomous, independent and impartial body or administrative procedures to challenge the legality of:

- (a) any decision, action or omission related to the access to environmental information;**
- (b) any decision, action or omission, with respect to substance or procedure, related to participation by the public in environmental decision-making; and**
- (c) any decision, action or omission by an individual, public authority or private entity that could affect the environment or violate, with respect to substance or procedure, the environmental laws and regulations of the State related to the environment.²¹⁶**

Each Party shall ensure, in accordance with ~~the framework of~~ its national laws, that any person is entitled to have access to a judicial body or other autonomous, independent and impartial body or administrative procedures to challenge the legality of:

- (a) any decision, action or omission related to the access to environmental information;**
- (b) any decision, action or omission, with respect to substance or procedure, related to participation by the public in environmental decision-making; and**
- (c) any decision, action or omission by an individual, public authority or private entity that could adversely affect the environment or violate, with respect to substance or procedure, the environmental laws and regulations of the State related to the environment.²¹⁷**

3. To guarantee this right, the Parties shall establish:²¹⁸

- (a) jurisdictional or non-jurisdictional entities specialized in environmental matters;**
- (b) effective, reasonable, fair, open, rapid, transparent, equitable and timely procedures;²¹⁹**
- (c) broad active legal standing in defense of the environment, which may include collective actions;**
- (d) timely and effective execution mechanisms for decisions;**
- (e) timely, adequate and effective mechanisms for redress, including restitution, compensation and other suitable measures, and attention to victims as applicable, and the establishment of funds;**

Suggested modification to article 9, numeral 3, letter (e):

(e) timely, adequate and effective mechanisms for redress, including restitution, restoration, compensation and other suitable measures, and attention to ~~victims~~ affected persons, as applicable, and the establishment of funds.²²⁰

(f) the possibility of ordering precautionary, interim and oversight measures to safeguard the environment and public health;

Suggested modification to article 9, numeral 3, letter (f):

(f) the possibility of ordering precautionary, interim and oversight measures to safeguard the environment, public health and the livelihood of people, including the traditional and spiritual use of land;²²¹

(g) measures to facilitate the determination of environmental damage, including objective responsibility and reversal of the onus of proof.

The Parties shall encourage, insofar as possible, the establishment of judicial and/or administrative standards of review in cases pertaining to environmental damage, such as the *in dubio pro natura* principle.²²²

Suggested modifications to article 9, numeral 3:

To guarantee this right, the Parties shall establish:

- (a) jurisdictional or non-jurisdictional entities specialized in environmental matters, as applicable;**
- (b) effective, reasonable, fair, open, rapid, transparent, equitable and timely procedures;**
- (c) broad active legal standing in defense of the environment, which may include collective actions;**
- (d) timely and effective execution mechanisms for decisions;**
- (e) timely, adequate and effective mechanisms for redress, including restitution, compensation and other suitable measures, and attention to victims as applicable, and the establishment of funds;**
- (f) the possibility of ~~ordering~~ introducing precautionary, interim and oversight measures to ~~safeguard~~ prevent and halt damage to the environment and public health; and**²²³

- (g) measures to facilitate the production of evidence ~~determination~~ of environmental damage, including objective responsibility and reversal of the onus of proof. The inclusion of a dynamic burden of proof in cases where called for by the proceeding, with a view to contributing to access to environmental justice. Mechanisms should be promoted to ensure the production of evidence, even when the Parties do not have the funds to do so.

The Parties shall encourage, insofar as possible, the establishment of judicial and/or administrative standards of review in cases pertaining to environmental damage, such as the *in dubio pro natura* principle and the prevention principle.²²⁴

To facilitate access to justice as described in Article 9.1~~guarantee this right~~, the Parties shall ensure where practicable establish jurisdictional or non-jurisdictional entities specialized in environmental matters which have:

- (a) ~~effective, reasonable,~~ clear, fair, public~~open~~, rapid, transparent, equitable and timely~~independent~~ procedures;
- (b) ~~broad active~~ rules relating to legal standing ~~in defense of the environment~~, which may include collective actions;
- (c) an enabling environment for timely and effective execution mechanisms for decisions and redress;
- ~~(d) timely, adequate and effective mechanisms for redress, including restitution, compensation and other suitable measures, and attention to victims as applicable, and the establishment of funds;~~
- (e) ~~the possibility of~~power for ordering precautionary, interim and oversight measures to safeguard the environment and public health; and
- (f) measures to facilitate the determination of environmental damage, including objective responsibility and reversal of the onus of proof.

The Parties shall encourage, insofar as possible, the establishment of judicial and/or administrative standards of review in cases pertaining to environmental damage, such as the *in dubio pro natura* principle.²²⁵

4. The Parties shall take adequate measures to prevent any attack, threat, coercion or intimidation that any person or group may suffer while exercising the rights guaranteed by the present Agreement and ensure that these acts, should they occur, are investigated, prosecuted and punished in an independent, rapid and effective manner. Victims will be entitled to protection and damages.

Suggested modification to article 9, numeral 4:

The Parties shall take adequate measures to prevent any attack, threat, coercion or intimidation that any person or group may suffer while exercising the rights guaranteed by the present Agreement and ensure that these acts, should they occur, are to be investigated, and prosecuted and punished in an independent rapid and effective manner any attack, threat, coercion or intimidation that any person or group may suffer while exercising the rights guaranteed by the present Agreement. Victims will be entitled to protection and damages.²²⁶

5. To facilitate access to justice in environmental matters, the Parties shall establish:

- a) mechanisms to eliminate and reduce any obstacle that prevents or hinders access to justice and the duration of the processes. The procedures will have no costs and no restrictions of any kind will be allowed;
- b) mechanisms to publicize the right of access to justice and procedures to ensure its effectiveness; and
- c) new mechanisms, including virtual, electronic and telephone mechanisms.

Suggested modification to article 9, numeral 5:

To facilitate access to justice in environmental matters, the Parties shall establish:

- (a) mechanisms to eliminate and reduce any obstacle that prevents or hinders access to justice and the duration of the processes. ~~The procedures will have no costs and no restrictions of any kind will be allowed;~~**
 - (b) mechanisms to publicize the right of access to justice and procedures to ensure its effectiveness; and**
 - (c) new mechanisms, which may include virtual, electronic and telephone mechanisms.²²⁷**
6. In order to exercise the right of access to justice, the Parties shall give consideration to disadvantaged groups by establishing, inter alia:
- (a) support mechanisms, including free technical and legal assistance;
 - (b) channels that are linguistically, culturally, economically, spatially and temporally appropriate; and
 - (c) assistance in case of difficulties with reading and writing.

Suggested modifications to article 9, numeral 6:

In order to ~~exercise~~guarantee the right of access to justice, the Parties shall give consideration to economically disadvantaged groups by establishing, inter alia:

- (a) support mechanisms, including free technical and legal assistance;**
- (b) channels that are linguistically, culturally, economically, spatially and temporally appropriate; and**
- (c) assistance in case of difficulties with reading and writing and other challenges, including blindness and deafness.**²²⁸

In order to ~~exercise the right of~~facilitate access to justice for vulnerable groups, the Parties shall give consideration to ~~disadvantaged groups~~ by establishing, inter alia:

- (a) support mechanisms, including free technical and legal assistance;**
- (b) channels that are linguistically, culturally, economically, spatially and [temporally] appropriate; and**
- (c) assistance in case of difficulties with reading and writing.**²²⁹

7. The Parties shall ensure that the decisions adopted are set out in writing and duly justified, notified in a timely manner and made available to the public. The Parties shall encourage the generation of public registers of judicial and/or administrative decisions on environmental matters.

Suggested modification to article 9, numeral 7:

The Parties shall ~~encourage~~ensure that the decisions adopted and reasons are set out in writing ~~and duly justified, notified in a timely manner~~ and made available to the public. The Parties shall encourage the generation of public registers of ~~judicial and/or administrative decisions on environmental matters.~~²³⁰

8. The Parties shall develop environmental law awareness and capacity-building programmes for the public, judicial and administrative officials, national human rights institutions, law enforcement officers and other jurists, inter alia.

Suggested modifications to article 9, numeral 8:

The Parties shall progressively develop environmental law awareness and capacity-building programmes for the public, judicial and administrative officials, national human rights institutions, law enforcement officers and other jurists, inter alia.²³¹

The Parties shall develop environmental law awareness and capacity-building programmes for the public, judicial and administrative officials, national human rights institutions, law enforcement officers and other justice sector actorsjurists, inter alia.²³²

9. The Parties shall promote Latin American and Caribbean regional cooperation for the investigation, prosecution and punishment of environmental crimes.
10. The Parties should encourage the development and use of alternative dispute resolution mechanisms, as applicable and provided that no relinquishment of the right to access to justice is involved.

Suggested modifications to article 9, numeral 10:

The Parties should establish ~~encourage~~ the development and use of alternative dispute resolution mechanisms, as applicable and provided that no relinquishment of the right to access to justice is involved.²³³

The Parties ~~shall~~ should encourage the development and use of alternative dispute resolution mechanisms, as applicable, and provided that no relinquishment of ~~the right to~~ access to justice is involved.²³⁴

Article 10
Capacity-building and cooperation²³⁵

1. To guarantee implementation of the provisions of the present Agreement, the Parties shall promote capacity-building and cooperation based on national demands and needs, specific regional considerations, flexibility, efficiency and effectiveness, results-based management and consideration of the target audiences. The purpose of capacity-building and cooperation will be to establish a framework for peers to share experiences and carry out activities of common interest.²³⁶
2. The Parties shall cooperate to build capacity and strengthen human and institutional resources to implement the present Agreement in an effective manner, particularly in those Parties that are least developed countries or Caribbean small island developing States.

Suggested modification to article 10, numeral 2:

The Parties shall cooperate to build capacity and strengthen human and institutional resources to implement the present Agreement in an effective manner, particularly in those Parties that are least developed countries or Caribbean small island developing States.²³⁷

3. For the purposes of implementation of the previous paragraph, and within the framework of the commitments established in the present Agreement, cooperation modalities may include, inter alia:

- a) discussions, workshops, exchanges of experts, technical assistance, education and awareness-raising and observatories;
 - b) development, exchange and implementation of educational, training and awareness-raising materials and programmes at the national and international level;
 - c) voluntary codes of conduct, guidelines, good practices and/or standards;
 - d) sharing of experiences at all levels; and
 - e) use of committees, councils and public-private platforms to address cooperation priorities and activities.
4. A clearinghouse on access rights, to be managed by the secretariat, is hereby established for the purpose of promoting synergies and coordination in capacity-building.²³⁸

The Parties shall provide to the clearinghouse on access rights whatever may be required in accordance with the decisions adopted by the Conference of the Parties, which may include, *inter alia*.²³⁹

- (a) legislative, administrative and policy measures on access rights;
- (b) information on the national focal point and the competent authority or authorities; and
- (c) codes of conduct and good practices.

The Conference of the Parties, at its third meeting at the latest, shall examine operational modalities for the clearinghouse on access rights, including reports on its activities and take decisions with respect to those modalities.

5. In fulfilment of the commitments assumed under the present Agreement, each Party, to the extent of its ability, shall promote and facilitate, at the national level:
- (a) capacity-building and guidance for the competent authorities and entities to help them perform their duties under the present Agreement. These measures may include, *inter alia*:
 - (i) training for officials and authorities to assist and guide the public in access to information, participation and justice in environmental matters;
 - (ii) provisioning of government offices with human and technological resources, including information and communications technologies, to deliver assistance to the public; and
 - (iii) ongoing evaluation and improvements consistent with the collection of qualitative and quantitative information on the environment.
 - (b) promotion of environmental education and public awareness concerning environmental matters, so the public will know how to proceed to gain access to information, participate in decision-making and take recourse to justice. These measures may include, *inter alia*:

- (i) organization of awareness campaigns targeting the general public;
- (ii) promotion, on an ongoing basis, of public access to relevant information, as well as broad public participation, in education and awareness activities;
- (iii) promotion of the establishment of associations, organizations or groups that help raise awareness among the public;
- (iv) development and implementation of training and awareness programmes for the public, especially disadvantaged groups on access rights;
- (v) preparation and dissemination of basic educational modules on access rights for students in primary and secondary school; and
- (vi) training for workers, scientists, educators and technical and management personnel.

Suggested modification to article 10, numeral 5, letter (b):

(b) promotion of environmental education and public awareness concerning environmental matters, so the public will know how to proceed to gain access to information, participate in decision-making and take recourse to justice. These measures may include, inter alia:

- i. organization of awareness campaigns targeting the general public;**
 - ii. promotion, on an ongoing basis, of public access to relevant information, as well as broad public participation, in education and awareness activities;**
 - iii. promotion of the establishment of associations, organizations or groups that help raise awareness among the public;**
 - iv. development and implementation of training and awareness programmes for the public, especially ~~disadvantages~~ disadvantaged groups on access rights;**
 - v. preparation and dissemination of basic educational modules on access rights for students in primary and secondary school; and**
 - vi. training for workers, scientists, educators and technical and management personnel.²⁴⁰**
6. The Parties shall cooperate, as applicable, with existing global, regional, subregional and national institutions and organizations. In this context, the Parties may partner with, inter alia, non-governmental, academic and private organizations and other relevant stakeholders.

Article 11
Resources

1. Each Party, to the extent of its ability, subject to budgetary availability and in accordance with its national policies, priorities, plans and programmes, commits to provide the resources for national activities that are needed to fulfil the obligations assumed under the present Agreement.
2. A fund, to be managed by the secretariat, is hereby established to finance implementation of the present Agreement to be defined at the Conference of the Parties in accordance with article 12.

3. The Conference of the Parties shall examine the possibility of establishing other financial provisions by consensus and technical assistance mechanisms to facilitate implementation of the present Agreement. It shall also explore additional means of financing for implementation of the present Agreement.

Article 12
Conference of the Parties

1. A Conference of the Parties is hereby established.
2. The Executive Secretary of the Economic Commission for Latin America and the Caribbean shall convene the first meeting of the Conference of the Parties no later than one year after the entry into force of the present Agreement. Subsequently, ordinary meetings of the Conference of the Parties will be held at regular intervals to be decided by the Conference.
3. Extraordinary meetings of the Conference of the Parties will be held when the Conference deems necessary or when a Party so requests in writing, provided that within six months of the secretariat's notification of the request to the Parties, at least one third of the Parties support the request.
4. At its first meeting, the Conference of the Parties shall:
 - (a) discuss and approve the rules of procedure for subsequent meetings, including the modalities for significant participation by the public;
 - (b) discuss and approve by consensus the Fund and other financial provisions for the functioning of the bodies of the present Agreement; and,
 - (c) discuss and approve the rules of procedure and membership of the body created under article 17.4.
5. The Conference of the Parties shall keep implementation and effectiveness of the present Agreement under permanent review and evaluation. To that effect, it shall:
 - a) establish such subsidiary bodies as it deems necessary for implementation of the present Agreement;
 - b) cooperate, as applicable, with the competent international organizations and bodies and intergovernmental and non-governmental entities;
 - c) receive communications from the Parties on the lessons learned from the conclusion and implementation of bilateral and multilateral agreements or other agreements related to the objective of the present Agreement to which one or several of them are party, and share these with all the Parties;
 - d) consider all recommendations made to it pursuant to article 17.4;

- e) prepare and adopt, as applicable, protocols to the present Agreement;
- f) examine and adopt proposals to amend the present Agreement in accordance with the provisions of article 19; and
- g) examine and adopt any additional measures needed to achieve the objective of the present Agreement.

Article 13
Right to vote

Each Party to the present Agreement shall have one vote.

Article 14
Presiding Officers

1. At the Conference of the Parties, the Parties shall elect Presiding Officers consisting of at least one chair and two vice chairs, one of whom will act as rapporteur.
2. The Presiding Officers shall exercise their functions until the next meeting of the Conference of the Parties.
3. The functions of the Presiding Officers will be:
 - a) to support implementation of the present Agreement, with the support of the secretariat;
 - b) to convene, along with the secretariat, the meeting of the Conference of the Parties;
 - c) to chair the meetings of the Conference of the Parties and ensure compliance with the rules of procedure; and
 - d) to perform other functions derived from agreements reached at the meetings of the Conference of the Parties.

Article 15
Secretariat

A secretariat is hereby established to exercise the following functions:

- (a) convene and prepare the meetings of the Conference of the Parties and its subsidiary bodies and provide the necessary services;

- (b) implement the rules of procedure for participation by the public in meetings of the Conference of the Parties and its subsidiary bodies;
- (c) provide assistance to the Parties for capacity-building, including the sharing of experiences and exchange of information and the organization of activities in accordance with article 10; and
- (d) perform any other secretariat functions specified in the present Agreement and any other functions as determined by the Parties.

Article 16
Consultative groups or subsidiary bodies

1. The Conference of the Parties may create specialized technical panels or groups to advise the Parties on specific issues relevant to implementation of the present Agreement or other issues related to implementation of access rights.
2. The technical panels or groups may be composed of representatives from all the Parties. Meetings of the technical panels or groups will be open.

Article 17
Implementation, monitoring and evaluation

1. At the meetings of the Conference of the Parties, the Parties shall report on the policies and measures (legal, institutional or otherwise) adopted to implement the present Agreement as well as activities conducted with the public. The Conference of the Parties may adopt individual or collective recommendations to this effect.
2. With a view to implementing the provisions of the present Agreement, those Parties that are least developed countries or Caribbean small island developing States shall be taken into account.
3. The secretariat may prepare periodic implementation guidelines and good practices for promoting the exchange of experiences in fulfilment of the provisions of the present Agreement.
4. A Facilitation and Follow-up Committee is hereby established as a subsidiary body of the Conference of the Parties, to promote application and support the Parties with implementation of the present Agreement based on capacity-building and cooperation.

The Committee will be non-adversarial, non-judicial and of a consultative nature to review compliance of the provisions of the present Agreement and formulate recommendations, with special attention to the national capacities and circumstances of the Parties. The Committee will allow appropriate participation by the public and review communications from the Parties, other entities of the present Agreement and members of the public. It may also submit recommendations for the consideration of the Conference of the Parties.

5. The Conference of the Parties shall establish a peer review mechanism to evaluate observance of the provisions of the present Agreement. The rules of operation shall ensure effective participation by the public and will be established by consensus by the Conference of the Parties no later than at its third meeting.
6. The Conference of the Parties shall evaluate the effectiveness of the present Agreement no later than six years after the date of its entry into effect, and periodically thereafter at intervals that it will determine.

Article 18 Settlement of disputes

1. If a dispute arises between two or more Parties with regard to the interpretation or implementation of the present Agreement, these Parties shall endeavour to resolve it through negotiation or any other means of dispute resolution they consider acceptable.
2. Upon signing, ratifying, accepting, approving or acceding to the present Agreement, or at any time thereafter, a Party may indicate in writing to the Depositary, with respect to any disputes not resolved in accordance with paragraph 1 of this article, that it agrees to regard as obligatory one or both of the following means of dispute settlement in its relations with any Party that agrees to the same obligation:
 - a) presentation of the dispute to the International Court of Justice; and/or
 - b) arbitration in accordance with the procedures that the Conference of the Parties will establish, as feasible.
3. If the parties to the dispute have accepted both means of dispute settlement mentioned in paragraph 2 of this article, the dispute may be submitted only to the International Court of Justice, unless the parties agree otherwise.

Article 19 Amendments

1. Amendments to the present Agreement may be proposed by any Party.
2. Amendments to the present Agreement shall be adopted at a meeting of the Conference of the Parties. The text of any proposed amendment shall be communicated to the Parties by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate the proposed amendment to the signatories to the present Agreement and, for information, to the Depositary.

3. The Parties shall make every effort to reach agreement on any proposed amendment to the present Agreement by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting.
4. An adopted amendment shall be communicated by the Depositary to all Parties for ratification, acceptance or approval.
5. Ratification, acceptance or approval of an amendment shall be notified to the Depositary in writing. An amendment adopted in accordance with paragraph 3 of this article shall enter into force for the Parties having consented to be bound by it on the ninetieth day after the date of deposit of instruments of ratification, acceptance or approval by at least three fourths of the number of Parties that were Parties at the time at which the amendment was adopted. Thereafter, the amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits its instrument of ratification, acceptance or approval of the amendment.

Article 20

Signature, ratification, acceptance, approval and accession

1. The present Agreement may be signed by any of the countries of Latin America and the Caribbean included in annex 1 at (city, country) on (date), and thereafter at the United Nations headquarters in New York until (date).
2. The present Agreement will be subject to the ratification, acceptance or approval of the States that have signed it. The Agreement will be open to accession by any country in Latin America and the Caribbean included in annex 1 starting on the day following the deadline for signing the Agreement. Instruments of ratification, acceptance, approval or accession will be deposited with the Depositary.
3. The States are encouraged to transmit, at the time of their ratification, acceptance, or approval of the Agreement or accession to it, information to the secretariat on the measures they will take to comply with the provisions of the present Agreement.

Article 21

Entry into force

1. The present Agreement will enter into force on the ninetieth day after the date on which the fifth instrument of ratification, acceptance, approval or accession has been deposited.
2. With respect to each State that ratifies, accepts or approves the present Agreement or accedes to it after the fifth instrument of ratification, acceptance, approval or accession has been deposited, the present Agreement will enter into effect on the ninetieth day after the date on which the State has deposited its instrument of ratification, acceptance, approval or accession.

Article 22
Reservations

No reservations may be made to the present Agreement.

Article 23
Termination

1. At any time after a period of three years from the effective date of the present Agreement with respect to a Party, that Party may terminate the present Agreement by providing written notification to the Depositary.
2. The termination will take effect one year after the date of which the Depositary receives the corresponding notification, or thereafter, on the date indicated in the notification.

Article 24
Depositary

The Secretary-General of the United Nations will be the Depositary for the present Agreement.

Article 25
Authentic texts

The original of the present Agreement, whose texts (Spanish and English) are equally authentic, will be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed the present Agreement.

DONE at (city, country) on (date).

Annex 1

- Antigua and Barbuda
- Argentina
- Bahamas
- Barbados
- Belize
- Bolivia (Plurinational State of)
- Brazil
- Chile
- Colombia
- Costa Rica
- Cuba
- Dominica
- Dominican Republic
- Ecuador
- El Salvador
- Grenada
- Guatemala
- Guyana
- Haiti
- Honduras
- Jamaica
- Mexico
- Nicaragua
- Panama
- Paraguay
- Peru
- Saint Kitts and Nevis
- Saint Lucia
- Saint Vincent and the Grenadines
- Suriname
- Trinidad and Tobago
- Uruguay
- Venezuela (Bolivarian Republic of)

-
- ¹ Jamaica. Verify the language used with the reference for the Declaration.
- ² Jamaica. Insert date.
- ³ Colombia. Not all multilateral environmental agreements are relevant to the discussion.
- ⁴ Jamaica. The Samoa Pathway (2014) can be added to the list considering that SIDS are members of the process.
- ⁵ Colombia.
- ⁶ Jamaica. Error in translation (fora).
- ⁷ Jamaica. Use of access rights vs rights of access – there should be some consistency throughout the document.
- ⁸ Argentina.
- ⁹ Colombia.
- ¹⁰ Jamaica.
- ¹¹ Colombia.
- ¹² Jamaica.
- ¹³ Jamaica.
- ¹⁴ Jamaica. Clarification and/or further discussion needed.
- ¹⁵ Jamaica. Clarification and/or further discussion needed.
- ¹⁶ Colombia.
- ¹⁷ Jamaica. “Political consensus-building” at what level? Clarification needed.
- ¹⁸ Colombia.
- ¹⁹ Colombia.
- ²⁰ Jamaica. Clarification needed on “cosmovisions”.
- ²¹ Jamaica. Verification of “United Nations agenda for sustainable development” is needed.
- ²² Colombia.
- ²³ Antigua and Barbuda.
- ²⁴ Colombia.
- ²⁵ Guatemala.
- ²⁶ Jamaica.
- ²⁷ Jamaica. This would include all branches of government and is a major concern for Jamaica.
- ²⁸ Argentina. The article lends itself to confusion upon application of this Agreement, as there is a lack of distinction between those who are bound by the document (the Parties) and those who must fulfil the various obligations it contains (according to art. 4 of Law 25831 in Argentina, “obligated entities” are the competent authorities of public bodies and owners of companies providing public services, whether public, private or mixed...). This article also fails to take due account of the difference between federal States and centralized States.
- Colombia. It is necessary to clarify how private organizations that receive public funds or benefits “indirectly” can be designated as competent authorities. This definition leaves room for subjective interpretation.
- Jamaica. Covered under the ATI Act to some extent. ATI Act and/or other local laws would need to be amended to give effect to this. The obligations of the Competent authority would need to be assessed. This bit could be deleted. A definition of “public function” is needed.
- ²⁹ Jamaica. Definition for “access rights” should be before “competent authority”. A list of the provisions under Principle 10 should be provided here rather than making a reference.
- ³⁰ Colombia. This definition should be revised in order to align it with legally binding human rights instruments.
- ³¹ Argentina. This definition should be used throughout the document.
- ³² Jamaica. In most conventions the term “vulnerable groups” is used and should be adopted for the document. Include “minority groups” to capture other groups as well.

-
- ³³ Colombia. The definition of environmental information is very broad and detailed and we believe that it would be better if drafted with a more general scope. For Colombia it is essential that this definition should refer solely and exclusively to information in the possession of the competent authority.
Jamaica. The language from article 6.1 should replace this phrase which is in keeping with the ATI Act. Delete “or should be” if necessary.
- ³⁴ Colombia. Each person’s health status is considered private.
- ³⁵ Jamaica. Remove “cultural assets” and replace with “cultural sites and built structures” (as in the Aarhus Convention.)
- ³⁶ Antigua and Barbuda.
- ³⁷ Antigua and Barbuda.
- ³⁸ Antigua and Barbuda.
- ³⁹ Jamaica.
- ⁴⁰ Colombia. Recommendation to evaluate whether “public” is the most appropriate term for an international agreement.
- ⁴¹ Jamaica. Adopt the definition used in the Aarhus Convention. “The public” means [one or more] natural or legal persons, and, in accordance with national legislation or practice, [their] associations, organizations or groups. There is still need for discussion on requirements for NGO/groups.
- ⁴² Argentina. In its current form, the concept is not clear. It would be preferable to refer to “natural and legal persons”.
Jamaica. Adopt the definition used in the Aarhus Convention. “The public concerned” means the public affected or likely to be affected by, or having an interest in, the environmental decision-making; for the purposes of this definition, non-governmental organizations promoting environmental protection and meeting any requirements under national law shall be deemed to have an interest. It was agreed that those sections in which the term is used should be assessed for obligation before the definition can be approved. There is mention of future generations in the Preamble which could support the point for potentially affected. This is to be assessed further. “Potentially affected” should remain.
- ⁴³ Colombia. The drafting of the definition of “decision-making” is not clear. It is important to point out that there is no international consensus on this definition and that the points in the proposed text are part of the decision-making process rather than the action itself. This concept should be discussed during the negotiation and, if no consensus is reached, we believe it prudent not to include it in the Agreement.
- ⁴⁴ Jamaica. To be rephrased based on discussions.
- ⁴⁵ Argentina.
- ⁴⁶ Argentina. The definition of “environmental justice” was taken from the declaration adopted at the Judicial Symposium on Environmental Law and Sustainable Development: Access to Environmental Justice in Latin America, organized by the United Nations Environment Programme (UNEP) from 26 to 28 January 2000.
- ⁴⁷ Argentina. This article should be modified in the light of the definition of “persons in vulnerable situations”, incorporating the conditions that are mentioned there.
- ⁴⁸ Colombia.
- ⁴⁹ Colombia. The relevance of this principle should be evaluated, considering that it is in the same vein as equality and non-discrimination.
- ⁵⁰ Jamaica. It is also captured under A and could be removed.
- ⁵¹ Jamaica. Disclaimers are normally used when information is from secondary sources.
- ⁵² Jamaica.
- ⁵³ Jamaica.
- ⁵⁴ Argentina. It is important to consider the principle of gradualness as well.
- ⁵⁵ Jamaica. Same as before.
- ⁵⁶ Colombia. Recommendation to use neutral language in the drafting of the principles.

57 Jamaica. Reference and use the definition from the 1992 Rio Declaration. In addition, the term
 “precautionary” should be used instead of “precaution”.

58 Jamaica. Intragenerational equity should also be added.

59 Jamaica. Further clarification needed on the definition provided.

60 Colombia.

61 Colombia. We think that the drafting of the scope of application is not clear.

62 Argentina.

63 Jamaica.

64 Colombia. Suggestion to change the title to “general provisions”.

65 Colombia. We believe that this obligation is not directly related to fulfilment of the principle. Colombia
 suggests deleting it and keeping to the obligations that are specifically related to rights of access.

66 Jamaica.

67 Jamaica.

68 Argentina.

69 Colombia.

70 Jamaica.

71 Jamaica. In keeping with allocation that will be made available throughout this process. Clarity needed
 from ECLAC.

72 Argentina.

73 Colombia.

74 Jamaica.

75 Colombia. Rather than an obligation, this should be an open invitation included in the preamble.

76 Jamaica.

77 Guatemala. Define what is meant by the provision on “cross-border cooperation”.

78 Jamaica.

79 Jamaica. New paragraph needed to express this obligation.

80 Colombia. This provision is implicit in the principle of progressive realization and non-regression of
 this Agreement.

81 Argentina.

82 Colombia. Colombia requests that this paragraph be deleted as it is contrary to the country’s
 constitutional provisions.

83 Jamaica. [Editor’s note: for purposes of standardization, the United Nations uses the plural form
 “forums” in all official texts]

84 Antigua and Barbuda.

85 Argentina. It is important to incorporate “among others” since a non-exhaustive list would go against
 the principle of non-discrimination.

86 Jamaica.

87 Antigua and Barbuda.

88 Jamaica.

89 Antigua and Barbuda.

90 Argentina.

91 Jamaica.

92 Argentina.

93 Colombia. Contingent on what is agreed in the provisions on exceptions.

94 Jamaica.

95 Jamaica. Assuming that the Aarhus wording is adopted for 6.1 which speaks to working within the
 “framework of national legislation” the wording is satisfactory. Otherwise, insert “within the
 framework of national legislation”.

96 Argentina. Although there is no express provision on this obligation, it is a good practice that could avoid
 additional costs associated with judicial processes undertaken in connection with erroneous requests.

-
- ⁹⁷ Colombia. The drafting is confusing.
- ⁹⁸ Argentina. It does not seem prudent, from the point of view of those who must respond to requests for environmental information, to include in this paragraph the reference to “such that the response includes all other information that can be presumed to be part of the request even if not expressly requested”. This observation is based on the fact that the person responding to the request cannot be charged with the responsibility of making presumptions, which can be subjective.
- ⁹⁹ Jamaica. In keeping with sections 10 and 7(3) of National Legislation establishes a framework whereby the applicant is afforded an opportunity and assistance to clarify and identify the information that is to be the subject of the application.
- ¹⁰⁰ Colombia. The paragraph is very specific in nature. We recommend that it should be drafted in more general terms.
- Jamaica. Move to article 7 based on the contents of the paragraph.
- ¹⁰¹ Antigua and Barbuda. Details of the author, source of report should be stated. All the reports should be available in the language of any indigenous groups/people should they be available in Braille (NB Cost implications).
- ¹⁰² Guatemala. Before finalizing paragraph 3(d), define what is meant by the provision on “environmental liabilities”.
- ¹⁰³ Colombia.
- ¹⁰⁴ Antigua and Barbuda.
- ¹⁰⁵ Colombia. Since the nature of this instrument has not been defined, bodies, such as a conference of the parties, cannot be created. We therefore request that the paragraph following subparagraph (g) be deleted, namely “The Conference of the Parties/secretariat may promote the creation and development of standards in relation to environmental information systems. The Conference of the Parties/secretariat may also suggest measures to facilitate the best use of resources.”
- ¹⁰⁶ Argentina.
- ¹⁰⁷ Antigua and Barbuda.
- ¹⁰⁸ Guatemala.
- ¹⁰⁹ Jamaica. Reference: Inter-American Court of Human Rights (Maroons in Suriname).
- ¹¹⁰ Colombia. With a view to ensuring respect for the exceptions set forth under the exceptions regime in this article, in cases where the the information is not entirely covered under the regime, it is proposed that the petitioner be provided with a version of the public document containing the non-confidential information available, as stipulated in paragraph 5 of the preliminary document.
- Jamaica. Replace “exceptions” with “exemptions”. [Editor’s note: term “exceptions” used in Antigua and Barbuda. The term “exemptions” is used in Jamaica, Saint Vincent and the Grenadines and Trinidad and Tobago. In the Inter-American Model Law on Access to Public Information, the terms “*excepción*” in Spanish and “exception” in English.]
- ¹¹¹ Argentina. An exlusions regime such as that contained in law 25831 offers sufficient guarantees to the petitioner and is broad enough to protect the information that the State deems necessary. The refusal must be founded and reasonability must be applied in the administrative act.
- ¹¹² Jamaica.
- ¹¹³ Argentina.
- ¹¹⁴ Colombia.
- ¹¹⁵ Jamaica. The wording at items (a) to (c) is acceptable except that for the categories of exemptions should be expanded to be aligned with internationally accepted/standard list such as those reflected in the Jamaican ATI Act; (d) raises the issue as to whether state sovereignty will be impeded/constrained in its ability to enact legislation that may alter the categories of exemptions as it determines appropriate. If so, there is need to determine whether the Government of Jamaica is willing to be so constrained.
- ¹¹⁶ Argentina. Definitions are lacking in this article. At present, these are insufficient and require greater depth in order to avoid misinterpretations.

-
- ¹¹⁷ Colombia.
- ¹¹⁸ Antigua and Barbuda. The public should not be given a sanitized version of the document. They should get the document with exempt parts blocked out. This will ensure that they are getting a true redacted copy of the document.
- ¹¹⁹ Jamaica.
- ¹²⁰ Argentina. A common definition of this concept is needed. It is not clear what the aim is here or the scope.
- ¹²¹ Colombia. According to Colombia, these conditions impose very specific guidelines, which should be left in the hands of each country.
- ¹²² Jamaica.
- ¹²³ Antigua and Barbuda. Thirty business days for a decision seems long but is probably fair. It would not make sense to put too short a time.
Guatemala. These time frames should be consistent with the Law on Access to Information, Decree No. 57-2008 of the Congress of the Republic of Guatemala; and, by extension, with the legislation in force in each Party.
Note by the secretariat: the time frame in the law of Guatemala is 10 days, which can be extended by a further 10 days.
- ¹²⁴ Colombia. This paragraph would also cover article 6, numeral 13.
- ¹²⁵ Guatemala. These time frames should be consistent with the Law on Access to Information, Decree No. 57-2008 of the Congress of the Republic of Guatemala; and, by extension, with the legislation in force in each Party.
Note by the secretariat: the time frame in the law of Guatemala is 10 days, which can be extended by a further 10 days.
- ¹²⁶ Antigua and Barbuda. If the authority does not respond in 50 days then it is deemed a refusal of the request – there be some sanction attached to the refusal or a right to seek reprisal.
- ¹²⁷ Antigua and Barbuda. The term petitioner could be substituted by the person and or entity making the request.
- ¹²⁸ Argentina.
- ¹²⁹ Jamaica.
- ¹³⁰ Jamaica.
- ¹³¹ Antigua and Barbuda. Should the information be given free of cost to everyone? What is the position if the documents are voluminous, should the information still be given free of cost? Should we consider a tier system as opposed to the economic cost of reproduction? Do we charge different rates for different persons i.e. CSO and NGO as opposed to business entities
- ¹³² Antigua and Barbuda. The entity should have sanctioning powers. The entity or institution should be made up of different members of society including NGOs and CSOs.
- ¹³³ Argentina. It is excessively rigorous to create an independent body to this end. Perhaps this paragraph could be modified to provide for the creation of an area within the structure of the highest level environmental agency. In our country, Offices of the Ombudsman serve as independent entities in this regard; petitioners of public information also have direct access to the courts.
- ¹³⁴ Colombia.
- ¹³⁵ Colombia. For article 7, we propose that the generation and dissemination of environmental information should be governed by the following principle: the principle of proactive disclosure of information. The right of access to information lies not only in the obligation to respond to petitions by society, but also in the duty of the competent authorities to promote and create a culture of transparency by publishing and disseminating documents and files on State activities that are in the public interest in a routine, proactive, timely, accessible and comprehensible manner, within reasonable limits of human talent and the physical and financial resources of the competent authority.
Jamaica. It was suggested that article 6.3 be moved to article 7. It could be placed before or after 7.1.
- ¹³⁶ Jamaica. Capacity concerns.

-
- ¹³⁷ Antigua and Barbuda.
- ¹³⁸ Argentina. [Translator's note: typically "coordinación" and "articulación" are both translated as "coordination" in English]
- ¹³⁹ Argentina. It is considered important to define what is meant by "open data formats".
Guatemala. Before agreeing on numeral 2, define what is meant by "open data" and "open data formats".
- ¹⁴⁰ Jamaica. Capacity concerns.
- ¹⁴¹ Antigua and Barbuda. "Might" should be removed and replace with "could". "Might" is not specific enough; "might" means "maybe".
- ¹⁴² Jamaica.
- ¹⁴³ Guatemala. Care should be taken when regulating matters that favour only one group of persons since this could go against the principle of equality.
- ¹⁴⁴ Antigua and Barbuda.
- ¹⁴⁵ Colombia. In order to maintain the language of the text, in accordance with the agreed definitions, it is requested that "obligated entities" be changed to "competent authorities".
- ¹⁴⁶ Jamaica.
- ¹⁴⁷ Antigua and Barbuda.
- ¹⁴⁸ Jamaica.
- ¹⁴⁹ Jamaica.
- ¹⁵⁰ Argentina.
- ¹⁵¹ Argentina. We believe this concept should be discussed in greater depth. Furthermore, it should be specified what is meant by common indicators, who will establish them, etc. As drafted, it seems to indicated that there would be evaluation entities beyond the national level.
Jamaica. Capacity concerns. Also, seek clarification from ECLAC on the paragraph. What will the review process entail, is it an independent audit? What about review of legislation?
- ¹⁵² Jamaica. Not all categories would apply as legislation covers only air and water.
- ¹⁵³ Argentina.
- ¹⁵⁴ Argentina.
- ¹⁵⁵ Colombia.
- ¹⁵⁶ Antigua and Barbuda.
- ¹⁵⁷ Argentina.
- ¹⁵⁸ Antigua and Barbuda.
- ¹⁵⁹ Argentina.
- ¹⁶⁰ Guatemala.
- ¹⁶¹ Jamaica. Reference should be made to "the public".
- ¹⁶² Antigua and Barbuda: Should a competent authority destroy information in its possession? Is the information to be kept forever? Information can be kept in a technological format which does not require a lot of space. It could prove to be very valuable in a historic context. Should the competent authority consult with the public before destroying any information and should the public be able to have the information which the competent. authority was going to destroy?
Colombia. Suggest clarifying that the information may be destroyed provided that its expiry date has been defined, in accordance with the rules of each Party.
- ¹⁶³ Argentina. [Translator's note: first change does not affect the English]
- ¹⁶⁴ Jamaica.
- ¹⁶⁵ Colombia: More information is needed on this proposal.
Guatemala: Before agreeing on numeral 12, consider and align with the provisions of the Law on Access to Public Information.
- ¹⁶⁶ Argentina.
- ¹⁶⁷ Jamaica. ECLAC to provide clarification on information that would be included in the sustainability reports.
- ¹⁶⁸ Jamaica.

-
- ¹⁶⁹ Antigua and Barbuda. The word shall encourage in line is not showing enough should be replaced by shall ensure.
- ¹⁷⁰ Colombia. Colombia reiterates that the preliminary document gives very precise instructions on how this principle should be implemented. In this connection, we reiterate the importance of giving more general guidelines in order to make implementation more simple and effective. This relates to the principle of maintaining the pace of the process.
- Guatemala. Article to be implemented in accordance with the domestic legislation of each Party.
- ¹⁷¹ Colombia. The scope of the proposed paragraph must be specified since the vast majority of government decisions have an impact on the environment.
- ¹⁷² Argentina.
- ¹⁷³ Jamaica. In article 8.1 there is a different commitment to article 8.15.
- ¹⁷⁴ Jamaica. Deleted based on the consideration for the definition for environmental decision-making under article 2 and reference to article 8.15.
- ¹⁷⁵ Argentina.
- ¹⁷⁶ Jamaica.
- ¹⁷⁷ Jamaica.
- ¹⁷⁸ Jamaica.
- ¹⁷⁹ Argentina. This addition is in keeping with our “general observations”.
- ¹⁸⁰ Jamaica.
- ¹⁸¹ Antigua and Barbuda.
- ¹⁸² Argentina.
- ¹⁸³ Jamaica.
- ¹⁸⁴ Antigua and Barbuda.
- ¹⁸⁵ Colombia. Colombia considers that this article repeats the overall sense of the instrument and we therefore suggest deleting it.
- ¹⁸⁶ Antigua and Barbuda.
- ¹⁸⁷ Colombia.
- ¹⁸⁸ Jamaica.
- ¹⁸⁹ Colombia. Conferences of the Parties are traditionally established for instruments of a binding nature. Since the nature of this process has not yet been defined, we request deletion of this paragraph until these discussions have been concluded.
- ¹⁹⁰ Jamaica. This provision can be interpreted in two ways: (1) for Parties to include mechanisms for public participation and (2) for Parties to champion the issue of public participation at international and regional meetings. Clarification is needed from ECLAC as to which interpretation should be adopted.
- ¹⁹¹ Antigua and Barbuda. “Permanent formal spaces” could be too restrictive for some countries depending on the topography and terrain of the country; maybe wording should be “approved spaces”.
- ¹⁹² Jamaica.
- ¹⁹³ Guatemala. Care should be taken when regulating matters that favour only one group of persons since this could go against the principle of equality.
- ¹⁹⁴ Argentina.
- ¹⁹⁵ Jamaica. It is recommended that this article be merged with article 8.6 which speaks to barriers to participation.
- ¹⁹⁶ Guatemala. Does not pertain specifically to the article entitled “Public participation in environmental decision-making”.
- ¹⁹⁷ Jamaica. The status of Maroons in Jamaica will have to be further assessed before a consensus can be reached on this paragraph.
- ¹⁹⁸ Colombia.
- ¹⁹⁹ Jamaica.
- ²⁰⁰ Antigua and Barbuda.
- ²⁰¹ Argentina.

202 Guatemala.

203 Jamaica. Such obligations would not apply in all cases and the language used could be softer as
 “mandatory” suggests that the public would be forced to participate.

204 Argentina. It is not clear who would assume these costs.

205 Jamaica.

206 Antigua and Barbuda.

207 Antigua and Barbuda.

208 Argentina.

209 Jamaica.

210 Jamaica.

211 Jamaica. This provision is similar to article 8.9 and as such can be deleted. There is also a similar
 reference in article 6.

212 Colombia. Provisions on this matter should be more general.

213 Argentina. This article could be broadened to guarantee the right to a second hearing in all procedures
 and processes in which decisions are taken on environmental rights or obligations, in accordance with
 international procedural guarantees.

214 Antigua and Barbuda.

215 Jamaica.

216 Argentina. [Translator’s note: change does not affect English]

217 Jamaica.

218 Colombia. Colombia considers this paragraph to be very specific on the institutions to be set up in
 respect of access to justice.

219 Guatemala. For those States Parties that already have established legal processes and procedures that
 recognize environmental crimes, it should be specified that those processes and procedures are
 effective, reasonable, fair, open, rapid, transparent, equitable and timely.

220 Antigua and Barbuda.

221 Antigua and Barbuda.

222 Jamaica. The precautionary principle could be adopted as it is recognized in international and regional
 agreements provided that is what is being implied.

223 Argentina.

224 Argentina.

225 Jamaica. Clarification needed from ECLAC relating to non-jurisdictional.

226 Jamaica.

227 Jamaica.

228 Antigua and Barbuda.

229 Jamaica.

230 Jamaica. Not sure if all administrative decisions are amenable to public disclosure. All judicial
 decisions are posted on the websites of the Supreme Court and the Court of Appeals. Any decision to
 create a register for environmental cases will need policy approval.

231 Colombia.

232 Jamaica.

233 Antigua and Barbuda.

234 Jamaica.

235 Antigua and Barbuda. All workshops, seminars and programmes should also be available in all the
 traditional and indigenous languages used in the country.

236 Jamaica. What kind of “activities of common interest” are envisaged by ECLAC?

237 Colombia. [Translator’s note: change to Spanish does not affect English]

238 Jamaica. There is need for further clarification on this paragraph.

239 Jamaica. Softer language could be used.

240 Jamaica.