



UNITED NATIONS



Distr.  
LIMITED

LC/L.4059/Rev.6  
6 September 2017

ENGLISH  
ORIGINAL: SPANISH

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Eighth 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

Santiago, 27 November-1 December 2017

**TEXT COMPILED BY THE PRESIDING OFFICERS INCORPORATING THE LANGUAGE  
PROPOSALS FROM THE COUNTRIES ON THE PRELIMINARY DOCUMENT  
ON THE REGIONAL AGREEMENT ON ACCESS TO INFORMATION,  
PARTICIPATION AND JUSTICE IN ENVIRONMENTAL MATTERS  
IN LATIN AMERICA AND THE CARIBBEAN**

**SEVENTH VERSION**



## NOTE BY THE SECRETARIAT

This document contains the advances made in the review of the preamble and articles 1 to 25 of the text compiled by the Presiding Officers and includes the language proposals made by the countries on the preliminary document on the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean.

The preliminary document was prepared by ECLAC at the request of the signatory countries of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development in the Santiago Decision, adopted at the fourth meeting of the focal points appointed by the Governments of the signatory countries of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development in Latin America and the Caribbean, held in Santiago from 4 to 6 November 2014,<sup>1</sup> thus launching the negotiations on the regional agreement on access to information, participation and justice in environmental matters.

The first 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 was held in Santiago from 5 to 7 May 2015. On that occasion, the countries adopted 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*.<sup>2</sup>

At the second meeting of the negotiating committee, held in Panama City from 27 to 29 October 2015, the countries reviewed the preamble, article 1 and part of article 2 of the compiled text. The results of that review were incorporated into a second version of the compiled text (LC/L.4059/Rev.1).

At the third meeting of the negotiating committee, held in Montevideo from 5 to 8 April 2016, the countries concluded the review of article 2 and reviewed articles 3 to 5 and part of article 6. In addition, the committee adopted the *Modalities for participation of the public in the negotiating committee of the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean*.<sup>3</sup>

At the fourth meeting of the negotiating committee, held in Santo Domingo from 9 to 12 August 2016, the countries concluded the review of article 6 and reviewed part of article 7.

At the fifth meeting of the negotiating committee, held in Santiago from 21 to 25 November 2016, the countries concluded the review of articles 7 and 8 and began reviewing article 9.

At the sixth meeting of the negotiating committee, held in Brasilia from 20 to 24 March 2017, the countries concluded the review of articles 9, 10 and 11 and made progress in the analysis of articles 12 to 25. The contact groups examined the outstanding issues under articles 6, 7 and 8.

At the seventh meeting of the negotiating committee, held in Buenos Aires from 31 July to 4 August 2017, the countries agreed articles 6, 7 and 8, made progress in the review of articles 9 bis and 10 and discussed the institutional arrangements for the future regional agreement (on the basis of articles 11 to 25 of the compiled text)

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<sup>1</sup> See LC/L.3970, annex A.

<sup>2</sup> LC/L.4011/Rev.1.

<sup>3</sup> See LC/L.4163.

Acknowledging the significant progress made in the negotiations of the text compiled by the Presiding Officers, the representatives of the countries participating in the seventh 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 agreed that those advances would be reflected in a seventh version of the document. They also agreed to resume the negotiations at the eighth meeting of the negotiating committee, using the seventh version of the compiled text, with the negotiations expected to conclude in December 2017.

Pursuant to the agreements adopted by the negotiating committee at its seventh meeting,<sup>4</sup> the secretariat is herewith making available to countries and the public a seventh version of the compiled text.

### **Considerations regarding the preamble and articles 1 to 25**

During its second, third, fourth, fifth, sixth and seventh meetings, the negotiating committee reviewed the paragraphs of the preamble and articles 1 to 25. Articles 6, 7 and 8 were agreed in their entirety, as is indicated at the beginning of each article. Paragraphs under other articles on which consensus was reached in the meeting room were marked as “agreed”. As to the paragraphs on which no consensus was reached, it was agreed that the country putting forward each new or alternative proposal would be reflected, as would any countries supporting the proposal, on the understanding that any countries not mentioned preferred the original text of the negotiating document. The language proposals submitted by the countries that could not be combined or condensed are grouped into suggested modifications, deletions or additions to the original text of the preliminary document, or suggested redrafts. The comments made by the countries during the meeting are contained in footnotes with Arabic numerals.

Pursuant to the *Organization and work plan of the negotiating committee* and as requested by the countries, the secretariat compiled the inputs submitted by the public on the preliminary document prepared by ECLAC in a separate document.<sup>5</sup>

All the original communications received from the countries, as well as the inputs submitted by the public, may be consulted online at:

<http://www.cepal.org/en/input-preliminary-document>,  
<http://negociacionp10.cepal.org/2/en/additional-input-for-the-meeting>,  
<http://negociacionp10.cepal.org/3/en/node/16>,  
<http://negociacionp10.cepal.org/4/en/additional-input>,  
[http://negociacionp10.cepal.org/5/en/additional\\_input](http://negociacionp10.cepal.org/5/en/additional_input),  
<http://negociacionp10.cepal.org/6/en/node/10>, and  
<https://negociacionp10.cepal.org/7/en/node/8>.

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<sup>4</sup> See the agreements [online] <https://negociacionp10.cepal.org/7/en/documents/agreements-meeting>.

<sup>5</sup> See “Compilation of inputs submitted by the public. Note by the Secretariat (DDR/1)”.

**PREAMBLE**

*The Parties to the present Agreement,*<sup>1</sup>

**1 ante. Reaffirming the importance of the Universal Declaration of Human Rights, as well as other international instruments relating to human rights and international law. We emphasize the responsibilities of all States, in conformity with the Charter of the United Nations, to respect, protect and promote human rights and fundamental freedoms for all, without distinction of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, disability or other status, [Brazil, Argentina] [Not revised in the meeting room]**

1. *Reaffirming* all of the principles of the 1992 Rio Declaration on Environment and Development (hereinafter, “Rio Declaration”) and particularly 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”, [Agreed]

**1 bis. Reaffirming that the Heads of State and Government and High Representatives undertook a commitment through the 2030 Agenda for Sustainable Development to achieve sustainable development in its three dimensions —economic, social and environmental— in a balanced and integrated manner, to eradicate poverty in all its forms and dimensions, to ensure the lasting protection of the planet and its natural resources and to promote inclusive economic growth, [Mexico] [Not revised in the meeting room]**

**1 ter. Reiterating that “States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction”, in accordance principle 21 of the Stockholm Declaration on the Human Environment and principle 2 of the Rio Declaration on Environment and Development, [Mexico] [Not revised in the meeting room]**

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<sup>1</sup> Brazil submits the following suggestion: “Taking into account the Santiago Decision, in which the countries decided to establish a committee to negotiate a “regional instrument” (paragraph 2) whose nature would be defined “during the negotiation process” (paragraph 11), Brazil reiterates its preference for the use of the term “instrument” instead of “agreement” since the former prejudices the legal nature of the future instrument. Brazil therefore requests that the documentation of past and future meetings of the negotiating committee be revised in order to reflect this change.”

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, the Plan of Implementation of the World Summit on Sustainable Development and the Small Island Developing States Accelerated Modalities of Action (Samoa Pathway), [Agreed]
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 high-level 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, [Agreed]
4. *Recalling further* the adoption, at the United Nations Conference on Sustainable Development, held in Rio de Janeiro, Brazil, from 20 to 22 June 2012, of the Declaration on the application of Principle 10 of the Rio Declaration, reaffirming the commitment to the rights of access to information, participation and justice regarding environmental matters, recognizing the need to make commitments to ensure the full exercise of those rights and declaring a willingness to launch a process to explore the feasibility of adopting a regional instrument, [Agreed]
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 in the framework of the United Nations Environment Assembly of the United Nations Environment Programme, the Human Rights Council, the Forum of Ministers of the Environment of Latin America and the Caribbean, sessions of ECLAC and the Community of Latin American and Caribbean States (CELAC), among others,
6. *Emphasizing also* that national laws, instruments and practices have led to advances in the implementation of access rights,

**Suggested redraft of paragraph 6:**

***Emphasizing also that the national laws, instruments and practices of the signatory countries of the Declaration on the application of Principle 10 have led to advances in the implementation of access rights and that national laws and practices are the main parameters for reaching agreements on and applying the rights and obligations under the present Agreement [Mexico] [Not revised in the meeting room]***

6 bis *Recalling* regional and global developments in the area of rights of access in forums such as [Mexico: ~~*Recalling*~~ regional and global developments in the area of rights of access in forums such as ***Recalling the progress made on access through the agreements and declarations adopted in regional and global forums, such as***] 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, [Peru: **the Convention concerning Indigenous and Tribal Peoples, 1989 (No. 169) of the International Labour Organization, the United Nations Declaration on the Rights of Indigenous Peoples**], 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 rights of access to information, participation and justice in environmental matters 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 [Colombia: ~~in line with a rights-based approach~~],

**Suggested redrafts of paragraph 7:**

***Resolved* to make even more significant progress towards the full implementation of access rights enshrined in Principle 10 of the Rio Declaration, taking into account the provisions of the road map for the creation of an instrument on the application of Principle 10 in Latin America and the Caribbean and the Lima Vision for a regional instrument on access rights relating to the environment, recognizing that “an instrument for Latin America and the Caribbean will contribute to ensuring effective and timely access to environmental information, participation in decisions that affect the environment and access to justice in environmental matters for all”, [Mexico] [Not revised in the meeting room]**

***Resolved* to forge a system of rights and obligations for the full implementation of the rights of access to information, participation and justice in environmental matters, as enshrined in Principle 10 of the Rio Declaration, recognizing these to be important for building a citizenry that is committed to sustainable development, [Mexico] [Not revised in the meeting room]**

8. *Recognizing* that everyone has the right to a healthy environment [Ecuador, Plurinational State of Bolivia: **to be exercised**] in harmony with nature, [Colombia, Mexico: ~~in harmony with nature~~] which is essential for the full development of human beings and for the achievement of sustainable development [Brazil, Mexico, Colombia, Jamaica, Peru: **in its three dimensions (social, economic and environmental) in a balanced manner**], poverty eradication, equality, and the preservation and stewardship of the environment for the benefit of present and future generations [Brazil, Mexico, Colombia: ~~poverty eradication, equality, and the preservation and stewardship of the environment for the benefit of present and future generations~~]

9. *Taking into account* that exercising access rights deepens and strengthens [Mexico: **contributes to strengthening**] democracy and contributes to better protection of the environment and thus of human rights, [Mexico: ~~and contributes to better protection of the environment and thus of human rights~~ **and to better protection of the environment,**]
10. *Reaffirming* the obligations assumed by the Parties [Colombia: ~~by the Parties~~]to respect, protect and fulfil the right to freedom of thought, expression, assembly and association [Colombia: ~~and association~~ **assembly, association and privacy**], and the right to information, participation in public affairs and access to justice, among others, established in international human rights law,<sup>2</sup> [Colombia: ~~established in international human rights law~~ **in accordance with the obligations enshrined in the relevant instruments established in international human rights law and domestic laws of the signatory countries to the declaration,**] [Mexico: *Reaffirming the obligations assumed to respect, protect and fulfil access rights under the present Agreement,*]
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, [agreed]
12. *Bearing in mind* that access to information is fundamental in 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 [Brazil, Saint Vincent and the Grenadines, Argentina: ~~guarantee~~ **promote**] ready, rapid, effective and practical access to that information, [Colombia: ~~doing everything possible to guarantee ready, rapid, effective and practical access to that information,~~ **within the specific circumstances of each State,**]

**Suggested modification to paragraph 12:**

***Bearing in mind* that access to information is key to making progress towards sustainable development, to which end it is essential to take timely, faithful measures to bring environmental information into the public domain in order to enable the public to participate responsibly and give objective opinions in decision-making processes that affect the public's well-being and environment, taking into account the characteristics of and in accordance with national legal frameworks, [Mexico]**

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 [Brazil: ~~furthering the issues that form the region's environmental agenda, as an important part of~~] the process of building and establishing a collective awareness [Brazil, Costa Rica, Panama, El Salvador, Guatemala, Peru: ~~building and establishing a collective awareness~~ **raising 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,

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<sup>2</sup> Brazil suggests replacing paragraph 10 with paragraph 1 ante.



**Suggested redraft of paragraph 13:**

***Reaffirming that the participation of society in the formulation and application of an environmental agenda by the countries contributes to the conservation and the sustainable use of natural resources and the achievement of sustainable development,*** [Mexico]

14. *Recalling* that, as a fundamental pillar of Principle 10, constraints on or the lack of suitable means by which to access justice in environmental matters deprives people of the “right to rights” by denying them or limiting real ways to exercise them, and that the principles underpinning rule of law, as well as equality, accessibility and effectiveness, must be guaranteed [Colombia: ~~guaranteed~~ **maintained**] not only at the start but all the way through the settlement process,

**Suggested redrafts of paragraph 14:**

***Recalling that, as a fundamental pillar of Principle 10, suitable means by which to access justice in environmental matters must be available to all, and that the principles underpinning the 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,*** [secretariat at the request of Argentina] [Not revised in the meeting room]

***Bearing in mind that access to justice in environmental matters will benefit from independent, effective and accessible judicial processes,*** [Mexico]

15. *Recognizing* that cooperation, in all its modalities, and institutional capacity-building are essential for the full implementation of access rights,

**Suggested redraft of paragraph 15:**

***Recognizing that cooperation with a view to strengthening institutional capacities and actions to raise awareness and develop capacities at different levels in government and society contribute to promoting access rights and sustainable development,*** [Mexico]

16. *Bearing in mind* also that it is necessary to promote environmental education in order to, inter alia, raise awareness<sup>3</sup> among 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, [Antigua and Barbuda, Jamaica: **including faith-based organizations,**] and especially women, children and youth, indigenous peoples [Ecuador: **and nationalities**] [Honduras: **and ethnic groups**] and other groups and constituencies in the effective implementation of access rights and the attainment of sustainable development,

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<sup>3</sup> Colombia expresses reservations on the term “awareness-raising”.

**Suggested redraft of 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,*** [Colombia, Mexico, Brazil]

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<sup>4</sup> shall be encouraged to adopt, additional measures to ensure even broader access to information, participation and justice in environmental matters,

**Suggested redraft of paragraph 18:**

***Reiterating that, regardless of the measures agreed upon in order to strengthen the full implementation of access rights, the Parties may adopt additional measures, consistent with national legislation, to promote the application of rights of access to information, participation and justice in environmental matters,*** [Mexico]

19. *Recognizing* the multiculturalism of the Latin America and the Caribbean region and the different cosmovisions<sup>5</sup> of its peoples, [Agreed]

20. *Convinced* that the present Agreement will help [Brazil: ~~that the present Agreement will help of the need to~~] generate synergies at the international, regional and national levels with a view to supporting implementation in Latin America and the Caribbean of the United Nations 2030 Agenda for Sustainable Development,<sup>6</sup>

**20 bis. *Reaffirming* the commitments enshrined in the outcome document of the United Nations summit for the adoption of the post-2015 development agenda, entitled “Transforming our world: the 2030 Agenda for Sustainable Development”, which recognizes the need to build peaceful, just and inclusive societies that provide equal access to justice and that are based on respect for human rights (including the right to development, on effective rule of law and good governance at all levels and on transparent, effective and accountable institutions. We underscore the importance of the Sustainable Development Goals included in the 2030 Agenda, in particular, among others, Goal 16, which seeks to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels,** [Brazil] [Not revised in the meeting room]

21. *Convinced* that the present Agreement will promote and strengthen [Brazil: ~~that the present Agreement will promote and strengthen of the need to promote and strengthen~~] dialogue, cooperation and technical assistance and help to generate synergies for the implementation of access rights,<sup>7</sup> [Colombia: **in line with national priorities and needs**]

<sup>4</sup> Colombia expresses reservations on the term “Parties”.

<sup>5</sup> Jamaica expresses reservations on the term “cosmovisions”.

<sup>6</sup> Colombia and Mexico express reservations on the drafting of the paragraph.

<sup>7</sup> Mexico and Panama suggest considering the drafting of paragraph 20. Colombia suggests considering the drafting of paragraph 15.

**Suggested additional preambular paragraph:**

**21 bis. 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 [Saint Vincent and the Grenadines: and justice] 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 [Saint Vincent and the Grenadines: and justice] in environmental issues, [Colombia, Dominican Republic]<sup>8</sup>**

Have agreed as follows:

Article 1  
Objective

The objective of this Agreement is to ensure the full and effective [Colombia: ~~full and effective~~ **progressive**] application of the rights of access as enshrined in Principle 10 of the 1992 Rio Declaration, based on cooperation and capacity-building, [Saint Vincent and the Grenadines: **to guarantee that those rights are fully observed and implemented**] in order to protect the rights of present and future generations to live in a healthy environment, [Mexico: ~~in order to protect the rights of present and future generations to live in a healthy environment~~]

**Suggested redraft of article 1:**

**The objective of the present instrument is the implementation in Latin America and the Caribbean of access rights as enshrined in the Declaration on the application of Principle 10 of the Rio Declaration, [Mexico]**

Article 2  
Definitions

For the purposes of the present Agreement:

“**Access rights**” means the rights of access to environmental information, public participation in the decision-making process [Brazil and Mexico: **in environmental matters**] and access to justice in environmental matters, as enshrined in Principle 10 of the Rio Declaration.

“**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) 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.

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<sup>8</sup> Costa Rica, Panama and Chile express reservations on the inclusion of the new paragraph.

**Suggested redraft of article 2, definition of “competent authority”:**

**“Competent authority” means any public body or institution that, by legal mandate, and within the sphere of its powers, is responsible for the application of access rights in accordance with the provisions of the legislation of the respective State party.** [Mexico, Colombia]<sup>9</sup>

**Suggested addition of definition of “public authority involved”** [Brazil, Mexico, Argentina]

**“Persons in vulnerable situations”** [Jamaica, Antigua and Barbuda: **“Vulnerable groups”**] means those persons [Costa Rica, Uruguay, Chile: **or groups**] 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, [Trinidad and Tobago: **inter alia,**] age, disability, belonging to [Colombia: **ethnic groups,**] indigenous communities or minority groups, victimization, migration and internal displacement, [Colombia: **armed conflict,**] 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.<sup>10</sup> [Mexico, Jamaica, Brazil, Antigua and Barbuda: **all the foregoing consistently with its national legislation**].

**“Environmental information”** means any information that is written, visual, audio, electronic or recorded in any other form, concerning the state of the environment and natural [Costa Rica: **cultural and genetic**] resources [El Salvador: **traditional knowledge and genetic resources**], including information on possible adverse impacts associated with the environment [Brazil: **in the context of sustainable development**] and human health [Colombia, Plurinational State of Bolivia: **public health**] [Costa Rica, El Salvador: ~~human~~ health]

- (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;

**Suggested deletion of letter (a) of the definition of “environmental information”** [Mexico, Colombia, Honduras, Costa Rica, El Salvador, Brazil, Saint Lucia,<sup>11</sup> Argentina, Panama] [Peru: reconsider these subparagraphs in other articles of the text]

- (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;

**Suggested deletion of letter (b) of the definition of “environmental information”** [Mexico, Colombia, Honduras, Costa Rica, El Salvador, Brazil, Saint Lucia, Argentina, Panama] [Peru: reconsider these subparagraphs in other articles of the text]

<sup>9</sup> Uruguay expresses reservations.

<sup>10</sup> Mexico suggests including environmental matters among causes of vulnerability. Colombia suggests a more general definition.

<sup>11</sup> Saint Lucia spoke as an observer country in the process of formally joining the process.

- (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;

**Suggested deletion of letter (c) of the definition of “environmental information”** [Mexico, Colombia, Honduras, Costa Rica, Uruguay, El Salvador, Brazil, Saint Lucia, Argentina, Panama] [Peru: reconsider these subparagraphs in other articles of the text]

- (d) reports and administrative acts on compliance with environmental legislation;

**Suggested deletion of letter (d) of the definition of “environmental information”** [Mexico, Colombia, Honduras, Costa Rica, Uruguay, El Salvador, Brazil, Saint Lucia, Argentina, Panama] [Peru: reconsider these subparagraphs in other articles of the text]

- (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);

**Suggested deletion of letter (e) of the definition of “environmental information”** [Mexico, Colombia, Honduras, Costa Rica, Uruguay, El Salvador, Brazil, Saint Lucia, Argentina, Panama] [Peru: reconsider these subparagraphs in other articles of the text]

- (f) the state of the health and safety of individuals, living conditions, cultural assets [Jamaica: **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);

**Suggested deletion of letter (f) of the definition of “environmental information”** [Mexico, Colombia, Honduras, Costa Rica, El Salvador, Brazil, Saint Lucia, Argentina, Panama] [Peru: reconsider these subparagraphs in other articles of the text]

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

**Suggested deletion of letter (g) of the definition of “environmental information”** [Mexico, Colombia, Honduras, Costa Rica, Uruguay, El Salvador, Brazil, Saint Lucia, Argentina, Panama] [Peru: reconsider these subparagraphs in other articles of the text]

- (h) any other information on the environment or on elements, components or concepts related thereto [Antigua and Barbuda: **for the protection of the environment for the present and future generations and protection of human health**].

**Suggested deletion of letter (h) of the definition of “environmental information”** [Mexico, Colombia, Honduras, Costa Rica, Uruguay, El Salvador, Brazil, Saint Lucia, Argentina, Panama] [Peru: reconsider these subparagraphs in other articles of the text]

**Suggested additional letter in the definition of “environmental information”:**

**(i) Community knowledge and traditional knowledge, practices of indigenous peoples and innovations, practices and knowledge acquired through generations.** [Antigua and Barbuda]

**(i bis) Information on the income the State receives from the exploitation of its natural resources.** [Peru]

**Suggested redraft in article 2, definition of “environmental information”:**

**“Environmental information” means any information that is written, visual, audio, and electronic, or recorded in any other form, regarding, inter alia, the state of the environment and its elements, natural resources, biodiversity, including genetic resources, and information on possible adverse impacts associated with factors affecting or likely to affect the environment and human health, and issues related to environmental management.”** [Trinidad and Tobago, Chile, Jamaica, Grenada]

**“Public participation”** means the process by which natural or legal persons, individually or collectively, contribute to decision-making on environmental matters through different modalities of participation that are institutionalized or otherwise established in accordance with national legislation or practice.

**“Public”** means one or more natural or legal persons and, their associations, organizations or groups, [Jamaica, Mexico, Brazil, Plurinational State of Bolivia, Colombia, Honduras, Argentina: **in accordance with national legislation or practice**].

**“Directly affected public”** means public affected or potentially affected by decisions with environmental impacts [Mexico: ~~with environmental impacts taken, in accordance with the provisions of national legislation and practices~~]. [Costa Rica, Argentina, Colombia, Plurinational State of Bolivia, Brazil, Honduras, Panama, Dominican Republic: suggest deleting this definition]

**Suggested redraft of definition of “directly affected public”:**

**“Directly affected public”** means the public that, owing to place of residence or other characteristics, perceives particular advantages or disadvantages as a result of the decision at hand. [Panama] [not revised in the meeting room] [Costa Rica, Argentina, Colombia, Plurinational State of Bolivia, Brazil, Honduras, Dominican Republic: suggest deleting this definition]

**“Public concerned”** means the public affected or likely to be affected by, or having an interest in, the environmental decision-making. [Uruguay, Peru, Ecuador] [Costa Rica, Argentina, Colombia, Plurinational State of Bolivia, Brazil, Honduras, Panama, Dominican Republic: suggest deleting this definition]

**“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 [Jamaica] [Saint Vincent and the Grenadines, Chile: ~~and meeting any requirements under national law~~] **shall be deemed to have an interest.** [Costa Rica, Argentina, Colombia, Plurinational State of Bolivia, Brazil, Honduras, Panama, Dominican Republic: suggest deleting this definition]

**“Decision-making in environmental matters”**<sup>12</sup> means the development, implementation, compliance [Panama: ~~compliance~~], [Brazil: **monitoring**] and evaluation of laws and regulations [Panama, Plurinational State of Bolivia, Peru, Mexico: ~~laws and regulations~~ **normative frameworks**], policies, plans, strategies, programmes, projects —whether [Mexico: ~~whether~~] public or private liable to affect the environment or the use, exploitation or conservation of natural resources [Costa Rica, Uruguay: **conservation and sustainable use of natural resources** ~~the use, exploitation or conservation of natural resources~~] at all levels of the internal government structure (central or federal, regional, provincial or municipal). [Mexico: ~~at all levels of the internal government structure (central or federal, regional, provincial or municipal)~~, **in accordance with national legislation and practices**].

**Suggested deletion of the definition of “environmental decision-making”** [Colombia]

**Suggested 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 [Colombia: **from national jurisdictional bodies**] [Chile: **from national jurisdictional and administrative bodies**], **under equal conditions of the parties** [Paraguay: **to the litigation**] [Chile: **to the proceedings**], **with a view to obtaining an individually and socially fair outcome.** [Argentina] [Uruguay, Colombia, Chile: ~~under equal conditions of the parties, with a view to obtaining an individual and socially fair outcome~~]

**“Access to justice”** means the removal of barriers, inter alia, legal, social, and financial, to allow persons to seek redress on environmental matters through any [formal or informal] institution of justice, while affording equal treatment for all parties. [Saint Lucia]

**“Environmental justice”** means the possibility that legal conflicts of an environmental nature receive 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. [Argentina] [Uruguay, Paraguay, Saint Lucia, Colombia: delete this definition]

**“Environmental impact assessment”** [Jamaica]

**“Open data”** [Agreed to include definition]

### Article 3 Principles<sup>13</sup>

The measures adopted to fulfil the objective of the present Agreement and apply its provisions shall be guided, inter alia, by the following principles:

- a. Principle of equality and non-discrimination;
- b. Principle of transparency and accountability;

<sup>12</sup> Brazil requests that “environmental decision-making” be replaced with “decision-making on environmental matters” throughout the whole document.

<sup>13</sup> Mexico enters a reservation. It was agreed to delete the proposed principle of responsible use of information and include it in articles concerning access to information.

- c. Principle of cooperation;
- d. Principle of non-regression and progressive realization;
- e. Principle of good faith;
- f. Preventive principle;
- g. Precautionary principle;
- h. Principle of intergenerational equity;
- i. Principle of disclosure of public information.

**Suggested addition of principles:**

- j. **Sovereignty of States over their natural resources.** [Mexico, Argentina] [Uruguay: include in preamble instead of here]
- k. **Legal equality of States** [Paraguay] [Argentina: ~~legal sovereign~~] [Uruguay: include in preamble instead of here]
- l. **Pro persona** [Panama, Chile, Costa Rica, Argentina, Brazil, Uruguay, Jamaica, Trinidad and Tobago, Antigua and Barbuda, Saint Lucia, Grenada]<sup>14</sup>

Article 4

[agreed] [deleted]

Article 5

General obligations<sup>15</sup>

- 1. In order to contribute to sustainable development, [~~Jamaica: In order to contribute to sustainable development,~~] the Parties shall ensure the full enjoyment of [~~Jamaica: the full enjoyment of~~] the right of all individuals to live in a healthy and sustainable [~~Jamaica: 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. [~~Jamaica: 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, paragraph 1** [Colombia, Uruguay, Mexico, Antigua and Barbuda, Jamaica, Saint Lucia, Grenada, Trinidad and Tobago, Costa Rica, Honduras, El Salvador, Guatemala, Plurinational State of Bolivia]

<sup>14</sup> Bolivia (Plurinational State of), Colombia and Honduras express reservations.

<sup>15</sup> Mexico suggests deletion of article 5. Mexico suggests deleting “the Parties” and putting verbs in infinitive case. Colombia, Mexico, Uruguay, Antigua and Barbuda, Jamaica, Saint Lucia, Grenada, Trinidad and Tobago, Costa Rica, Honduras, El Salvador, Guatemala and Bolivia (Plurinational State of) suggest changing the title of the article to “General provisions”.



2. Each Party shall adopt the legislative, regulatory or other measures necessary [Jamaica, Panama: **, consistent with domestic circumstances,**] to guarantee full implementation of the provisions of the present Agreement [Costa Rica: ~~the provisions of the present Agreement~~ **access rights in environmental matters**].

**Suggested deletion of article 5, paragraph 2** [Colombia]

**Suggested redraft of article 5, paragraph 2:**

**Each Party shall implement the necessary measures, inter alia, legislative, regulatory or other measures, as appropriate, and consistent with domestic circumstances, in order to facilitate the full implementation of the provisions of this Agreement.** [Trinidad and Tobago, Antigua and Barbuda, Jamaica, Saint Lucia, Grenada]

3. Each Party shall endeavour to ensure that its officials and authorities advise [Paraguay: **advise guide**] [Colombia: **advise guide**] [Mexico: **assist and guide**] [Jamaica: **educate**] the public, especially groups [Argentina: **and persons**] in vulnerable situations, and provide technical assistance [Colombia: ~~and provide technical assistance~~] so they may obtain access [Colombia: ~~so they may obtain access~~ **in order to facilitate access**] to information, participation in decision-making and access to justice in environmental matters.
4. Each Party shall promote environmental awareness and [Colombia: ~~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 [Mexico, Colombia, Chile: ~~information, participation and justice in environmental matters~~], and providing people with knowledge, capacities and understanding [Jamaica, Costa Rica: ~~knowledge, capacities and understanding~~ **information**] [Chile: ~~capacities and understanding~~], [Jamaica, Costa Rica: **and build capacity where necessary**], so they can participate in environmental decision-making.

**Suggested redraft of article 5, paragraph 4:**

**Each Party shall promote environmental education and capacity-building in the public sector and among the public, for the purpose of contributing to the effective application of access rights.** [Peru]

5. Each Party shall create an enabling environment and grant recognition, protection and [Brazil, Chile, Jamaica: **institutional**] support<sup>16</sup> [Colombia, Jamaica: **subject to national capacities and situations**] to associations, organizations, groups and/or individuals that defend [Jamaica: **and/or protect**] the environment [Costa Rica: **and the public interest**] [Trinidad and Tobago, Antigua and Barbuda, Jamaica, Saint Lucia, Grenada: **in the public interest**] and will ensure that they will not be harassed, victimized [Costa Rica, Chile: **intimidated**] or subjected to illegitimate coercive measures in the exercise of the rights recognized in the present Agreement. [Brazil, Chile, Uruguay, Mexico, Paraguay, Costa Rica, Argentina, El Salvador] [Mexico, Colombia, Paraguay: **in accordance with its domestic legislation**].<sup>17</sup>

<sup>16</sup> Paraguay expresses reservations on the term “support”.

<sup>17</sup> Argentina proposes to include language on labour organizations in another provision.

6. The Parties shall encourage the non-Party countries of Latin America and the Caribbean to adhere to the present Agreement.<sup>18</sup> [Jamaica, <sup>19</sup> Chile: ~~adhere to the present Agreement~~ **observe the provisions of this Agreement and become signatories**]
7. 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. [Jamaica: ~~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~~ **The Parties shall collaborate with all sectors within their respective States 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.<sup>20</sup>

**Suggested modification to article 5, paragraph 7:**

**The Parties shall cooperate with all sectors of society, taking measures to advance the fulfilment of the purpose of this Agreement.** [Mexico, Brazil]

8. None of the provisions of the present Agreement shall limit or repeal other rights or standards set forth in any other existing international agreement.<sup>21</sup> [Brazil: **or in national legislation**] [Peru: **including the right of indigenous peoples to consultation and to free, prior and informed consent**].

**Suggested deletion of article 5, paragraph 8.** [Colombia]

9. 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. [Mexico: ~~by means of existing or future national measures~~]

**Suggested deletion of article 5, paragraph 9.** [Colombia]

10. Each Party shall endeavour to ensure that the principles set out in [Chile, Mexico: ~~principles set out in provisions of~~] the present Agreement are applied [Brazil: ~~applied~~ **taken into consideration**] in international decision-making on environmental matters [Argentina, Mexico, Brazil: ~~on environmental matters~~ **on access rights**], as well as in the framework of international forums when environmental matters are involved. [Argentina, Mexico, Brazil: ~~environmental matters are involved~~ **access rights are involved**]

**Suggested deletion of article 5, paragraph 10.** [Colombia, Mexico]

<sup>18</sup> Colombia, Argentina, Saint Lucia, Peru, Brazil and Chile suggest moving this item to the preamble. Mexico, Argentina and Peru suggest moving it to interim arrangements. Mexico suggests linking it to cooperation and capacity-building.

<sup>19</sup> Jamaica expressed flexibility regarding the possibility of moving this item to the preamble, maintaining this wording.

<sup>20</sup> Jamaica suggests separating the second sentence into a new paragraph.

<sup>21</sup> Mexico suggests moving to final provisions. Argentina suggests deleting the numeral or revising the language to cast in a positive formulation.

11. The Parties shall guarantee enjoyment [Brazil, Trinidad and Tobago, Antigua and Barbuda, Jamaica, Saint Lucia, Grenada: **enjoyment exercise**] of the rights recognized in the present Agreement under equal conditions without distinctions, in accordance with the principle of non-discrimination.[Trinidad and Tobago, Antigua and Barbuda, Jamaica, Saint Lucia, Grenada: ~~in accordance with the principle of non-discrimination~~] In fulfilling their obligations, the Parties shall give consideration to women, minorities, indigenous peoples and Afrodescendants, children, youth and older persons. [Argentina: **among others**] [Trinidad and Tobago, Antigua and Barbuda, Jamaica, Saint Lucia, Grenada: ~~to women, minorities, indigenous peoples and Afrodescendants, children, youth and older persons~~ **especially to persons or groups in vulnerable situations**]

**Suggested redraft of article 5, paragraph 11:**

**The Parties shall endeavour to ensure that their authorities, within the scope of their powers and in accordance with their domestic legislation, promote the enjoyment of recognized rights under equal conditions without distinction under the principle of non-discrimination.** [Mexico]

12. 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 [Antigua and Barbuda: **access to justice**] and the protection of the environment.<sup>22</sup>

**Suggested deletion of article 5, paragraph 12.** [Jamaica].

13. To guarantee access rights, the [Colombia: ~~To guarantee access rights, the~~ **The**] Parties shall encourage the use of, inter alia, [Jamaica, Chile, Colombia: **such as**] new information and communications technologies, electronic government, social networks and social and telematic media, [Mexico: ~~inter alia~~ **open data or any other means**,] in all [Chile: **relevant**] languages including those used by indigenous peoples [Plurinational State of Bolivia, Paraguay, Colombia, Mexico, Brazil: **when possible/as appropriate**].[Argentina, Chile: **In no circumstances shall the use of electronic media constrain or result in discrimination against the public**]. [Agreed to make reference to “open data” in paragraph 13 of article 5 (ex 7.9)]

Article 6

Access to environmental information<sup>23</sup>

*Accessibility of environmental information*

1. Each Party shall ensure the public’s right of access environmental information in its possession, control or custody in accordance with the principle of maximum disclosure.
2. The exercise of the right of access to environmental information includes:
  - (a) requesting and receiving information from **public authorities** without mentioning any special interest or explaining the reasons for the request;

<sup>22</sup> Argentina suggests moving this item to the principles. Colombia suggests considering it under another section.

<sup>23</sup> Agreed. Text in bold pending harmonization with definitions and consistency with other articles.

- (b) being informed promptly whether the requested information is in possession or not of the **public authority** receiving the request; and
  - (c) being informed of the right to appeal and the requirements for exercising this right, when information is not delivered.
3. Each Party shall facilitate access to environmental information for individuals and/or groups in vulnerable situations, establishing procedures for the provision of assistance, from the formulation of requests through to the delivery of the information, taking into account their conditions and specificities, for the purpose of promoting access and participation under equal conditions.

Each Party shall guarantee that the above-mentioned individuals and/or groups in vulnerable situations, including members of indigenous peoples and ethnic groups, receive assistance in preparing their requests and obtain a response.

*Refusal of access to environmental information*

- 4. If the requested information or part thereof is not delivered to the petitioner because it falls under the domestic legal regime of exceptions, the **public authority** shall communicate its refusal in writing, including the legal provisions invoked to withhold it and the reasons justifying the decision in each case, and inform the petitioner of the right to appeal.
- 5. When refusing access to information, domestic legislation may be applied. In cases where a Party does not have a domestic legal regime of exceptions, that Party may apply the following exceptions:
  - (a) when disclosure would put at risk the life, safety or health of individuals;
  - (b) when disclosure would adversely affect would put at risk the life, safety or health of individuals;
  - (c) when disclosure would adversely affect the protection of the environment, including any endangered or threatened species;
  - (d) when disclosure would create a clear, probable and specific risk of substantial harm to law enforcement, prevention, investigation and prosecution of crime.
- 6. The exception regimes shall take into account each Party's human rights obligations. Each Party shall encourage the adoption of exception regimes that favour the disclosure of information.
- 7. The 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 **public authority**.
- 8. When applying the public interest test, the **public authorities** shall weigh the interest of withholding the information against the public benefit of disclosing it, based on suitability, need and proportionality.
- 9. Where not all the information contained in a document is exempt under paragraph 5 of the present article, the non-exempt information shall be provided to the applicant.

*Conditions applicable to the delivery of environmental information*

10. The **public authorities** shall guarantee that the environmental information is provided in the format requested by the petitioner, if available. In the absence of such a format, the environmental information shall be provided in the format in which it is available.
11. The **public authorities** shall respond to requests for environmental information as quickly as possible and within a period not longer than 30 business days from the date of receipt of the request, or less if so stipulated in domestic legislation.
12. Where, in exceptional circumstances under domestic legislation, the **public authority** requires more time to respond to the request, it shall notify the petitioner in writing of the justification for the extension prior to the expiration of the period established in paragraph 11 of the present article. Such an extension shall not exceed 10 business days.
13. In the event that the **public authority** does not respond within the periods established in paragraphs 11 and 12 of the present article, **paragraph 2 of article 9 shall apply**.
14. When the **public authority** receiving the request does not have the requested information, it shall notify the petitioner as quickly as possible, indicating, where possible, which authority may be in possession of the information. The request shall be forwarded to the relevant authority, and the petitioner so informed.
15. When the requested information does not exist or has not yet been generated, the petitioner shall be so notified within the period established in paragraphs 11 and 12 of the present article.
16. Environmental information shall be made public at no cost, insofar as its reproduction and/or delivery is not required. Reproduction and delivery costs shall be applied in accordance with the procedures established by the **public authority**. Such costs shall be reasonable and made known in advance, and payment can be waived in the event that the petitioner is deemed to be in a vulnerable situation or to have special circumstances warranting such a waiver.

*Independent oversight mechanisms*

17. Each Party shall establish or designate one or more impartial entities or institutions with autonomy and independence to promote transparency in access to environmental information, to oversee compliance with rules, and monitor, report on and guarantee the right of access to information. Each Party may consider including or strengthening, as appropriate, sanctioning powers within the scope of the responsibilities of the aforementioned entities or institutions.

Article 7  
Generation and dissemination of environmental information<sup>24</sup>

1. Each Party shall guarantee, to the extent possible within available resources, that the **public authorities** generate, collect, publicize and disseminate environmental information relevant to their functions in a systematic, proactive, timely, regular, accessible and comprehensible manner, and periodically update this information and encourage the disaggregation and decentralization of environmental information at the subnational and local levels. Each Party shall strengthen coordination between the different authorities of the State.
2. The **public authorities** shall endeavour to ensure, to the extent possible, that environmental information is reusable, processable and available in formats that are accessible, and that no restrictions are placed on its reproduction or use, in accordance with domestic legislation.
3. Each Party shall have in place one or more up-to-date environmental information systems, which may include, inter alia:
  - (a) the texts of international treaties and agreements, as well as environmental laws, regulations and administrative acts;
  - (b) reports on the state of the environment;
  - (c) a list of public entities competent in environmental matters, and where possible, their respective areas of operation;
  - (d) a list of polluted areas, by type of pollutant and location;
  - (e) information on the use and conservation of natural resources and ecosystem services;
  - (f) scientific, technical or technological reports, studies and information on environmental matters produced by academic and research institutions, public or private, national or foreign;
  - (g) climate change sources aimed at building national capacities;
  - (h) information on environmental impact assessment processes and on other environmental management instruments, where applicable, and/or environmental licences or permits granted by the competent authorities;
  - (i) an estimated list of waste by type and, when possible, by volume, location and year; and
  - (j) information on the imposition of administrative sanctions in environmental matters.

Each Party shall guarantee that environmental information systems are duly organized, accessible to all persons and made progressively available through information technology and georeferenced media, where appropriate.

4. Each Party shall take steps to establish a pollutant release and transfer register for the air, water, soil and subsoil, materials and waste in its jurisdiction. This register will be established progressively and updated periodically.

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<sup>24</sup> Agreed. Text in bold pending harmonization with definitions and consistency with other articles.

5. Each Party shall guarantee that in the case of an imminent threat to public health or the environment, the relevant **public authority** shall immediately disclose and disseminate through the most effective means all pertinent information in its possession that could help the public take measures to prevent or limit potential damage. Each Party shall develop and implement an early warning system using available mechanisms.
6. In order to facilitate access by **individuals and/or groups in vulnerable situations** to information that particularly affects them, each Party shall endeavour, where applicable, to ensure that the **public authorities** disseminate environmental information in the various languages used in the country, and prepare alternative formats that are comprehensible to those groups, using suitable channels of communication.
7. 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 may contain
  - (a) information on the state of the environment and natural resources, including quantitative data, where possible;
  - (b) national actions to fulfil environmental legal obligations;
  - (c) advances in the implementation of the access rights under the present Agreement;<sup>25</sup> and
  - (d) collaboration agreements among public, social and private sectors.

Such reports shall be drafted in an easily comprehensible manner and accessible to the public in different formats and disseminated through appropriate means, taking into account cultural realities.

Each Party may invite the public to make contributions to these reports.

8. Each Party shall encourage independent environmental performance reviews that include nationally or internationally agreed criteria and guides and common indicators, with a view to evaluating the efficacy, effectiveness and progress of its national environmental policies in fulfilment of their national and international commitments. The reviews should include participation by the various stakeholders.
9. Each Party shall promote access to environmental information contained in concessions, contracts, agreements or authorizations granted, which involve the use of public goods, services or resources, in accordance with domestic legislation.
10. Each Party shall ensure that consumers and users have official, relevant and clear information on the environmental qualities of goods and services and their effects on health, favouring sustainable production and consumption patterns.
11. Each Party shall create and keep updated its archiving and document management systems in environmental matters in accordance with the applicable rules with the aim of facilitating access to information.

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<sup>25</sup> To be considered when examining art. 17.

12. Each Party shall take the necessary measures, through legal or administrative frameworks, among others, to promote access to environmental information in the possession of private entities, in particular information on their operations and the possible risks and effects on human health and the environment.
13. In accordance with its capacities, each Party shall encourage public and private companies, particularly large companies, to prepare sustainability reports that reflect their social and environmental performance.

### Article 8

#### Public participation in environmental decision-making<sup>26</sup>

1. Each Party shall ensure the public's right to participation and for that purpose shall commit to implement open and inclusive participation in environmental decision-making processes based on domestic and international normative frameworks.
2. Each Party shall guarantee mechanisms for the participation of the public in decision-making processes, revisions, re-examinations or updates with respect to projects and activities and other processes for granting environmental permits that have or may have a significant impact on the environment, including when they may affect health.
3. Each Party shall promote the participation of the public in other decision-making processes, revisions, re-examinations or updates than those referred to in paragraph 2 of the present article with respect to environmental matters of public interest, which have or may have a significant impact on the environment, such as land-use planning, policies, strategies, plans, programmes, rules and regulations, among others.
4. Each Party shall adopt measures to ensure that the public can participate in the decision-making process from the early stages,<sup>27</sup> so that due consideration can be given to the observations of the public, thus contributing to the process.

To that effect, each Party shall provide the public with the necessary information in a timely, clear and comprehensible manner, to give effect to its right to participate in the decision-making process.

5. The public participation procedure will provide for reasonable timeframes that allow sufficient time to inform the public and for its effective participation.
6. The public shall be informed, through appropriate means, such as in writing, electronic, oral and customary methods, and in a timely, comprehensible and effective manner, as a minimum, of the following:
  - (a) the type or nature of the environmental decision under consideration and, where appropriate, in non-technical language;
  - (b) the authority responsible for making the decision and other authorities and bodies involved;

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<sup>26</sup> Agreed. Text in bold pending harmonization with definitions and consistency with other articles.

<sup>27</sup> Include "early stage" in the definitions. Panama: When defined include, "when all the options are open".



(c) the procedure foreseen for the participation of the public, including the date on which the procedure will begin and end, mechanisms for participation and, where applicable, the date and place of any public consultation or hearing; and

(d) the **public authorities** involved from which additional information on the environmental decision under consideration can be requested and the procedure for requesting information.

7. The public's right to participate in environmental decision-making processes shall include the opportunity to present observations through appropriate means available, according to the circumstances of the process. Before adopting the decision, the competent **public authority** shall give due consideration to the outcome of the participation process.
8. Each Party shall ensure that once a decision has been made, the public is informed in a timely manner thereof and of the grounds and reasons underlying the decision, including how the observations of the public have been taken into consideration. The decision and its basis shall be made public and be accessible.
9. The dissemination of the decisions resulting from environmental impact assessments and other environmental decision-making processes, in which the public has participated, foreseen in the present Agreement, shall be carried out through appropriate means, which may include in writing, electronic, oral and customary methods, in an effective and prompt manner.

The information disseminated shall include the established procedure to allow the public to take the relevant administrative and legal actions.

10. Each Party shall establish conditions that are favourable to public participation in environmental decision-making and that are adapted to the social, economic, cultural, geographical and gender characteristics of the public.
11. When the primary language of the directly affected public is different to the official languages, the competent authority shall ensure that means are provided to facilitate their understanding and participation.
12. Where appropriate, and in accordance with national legislation, each Party shall promote public participation in international forums and negotiations on environmental matters and/or with an environmental impact, in accordance with the procedural rules on participation of each forum.

The participation of the public at the national level on matters of international environmental forums shall also be promoted, where appropriate.

13. Each Party shall encourage the establishment or make use of existing appropriate spaces for consultation on environmental matters, in which various groups and sectors are able to participate. Each Party shall promote regard for local knowledge, dialogue and interaction of different views, where appropriate.
14. The **public authorities** shall make efforts to identify and support **individuals and/or groups in vulnerable situations** in order to engage them in an active, timely and effective manner in participation mechanisms. For these purposes, appropriate means and formats will be considered, in order to eliminate barriers to participation.

15. In the implementation of the present Agreement, each Party shall guarantee that its domestic legislation and respective international obligations in relation to the rights of indigenous peoples and local communities are observed.
16. The **public authority** shall make efforts to identify the public directly affected by the projects or activities that have or may have a significant impact on the environment and shall promote specific actions to facilitate their participation.
17. With respect to the environmental decision-making processes referred to in paragraph 2 of the present article, as a minimum, the following information shall be made public:
  - (a) a description of the area of influence and physical and technical characteristics of the proposed project or activity;
  - (b) a description of the main environmental impacts of the project or activity and, as appropriate, the cumulative environmental impact;
  - (c) a description of the measures foreseen with respect to those impacts;
  - (d) a summary of (a), (b) and (c) of the present paragraph in comprehensible, non-technical language;
  - (e) the public reports and opinions of the involved entities addressed to the competent authority related to the project or activity under consideration;
  - (f) a description of the available technologies to be used and alternative locations for executing the project or activity subject to assessment, when the information is available; and
  - (g) actions taken to monitor the implementation and results of environmental impact assessment measures.

The aforementioned information shall be made available free of charge to the public in accordance with paragraph 16 of article 6 of the present Agreement.

Article 9  
Access to justice in environmental matters

1. Each Party shall [**guarantee/facilitate**] [Chile, Argentina: **guarantee**] the right of access to justice in environmental matters through administrative and/or judicial means, in accordance with [Argentina: **the guarantees of**] due process [Argentina: **and the principles established in the present Agreement**].
2. Each Party shall ensure, in accordance with its national laws, access to national judicial or administrative entities to challenge, with respect to substance and procedure, the legality of:
  - (a) any decision, action or omission related to the access to environmental information;
  - (b) any decision, action or omission related to public participation in the decision-making process regarding environmental matters; and
  - (c) any decision, action or omission that affects or could affect the environment adversely or violate laws and regulations related to the environment.

3. Each Party shall ensure the right of appeal to a higher administrative and/or judicial body.

**Suggested deletion of article 9, paragraph 3 [Jamaica]**

4. To [**guarantee/facilitate**] the right of access to justice in environmental matters, each Party shall have:
- (a) judicial or non-judicial competent entities with expertise in environmental matters;
  - (b) procedures subject to the principles of due process, such as effectiveness, publicity and impartiality, among others;
  - (c) broad active legal standing in defence of the environment;
  - (d) mechanisms to execute and enforce judicial and/or administrative rulings and decisions [**through all means available in the national legal framework**]
  - (e) mechanisms for redress, including restitution, restoration, compensation, assistance for affected persons and, as applicable, the establishment of financial mechanisms, such as funds to assist in redress;
  - (f) the possibility of ordering precautionary, interim and oversight measures to safeguard, prevent, halt and rehabilitate or mitigate damage to the environment [**and public health**]; and
  - (g) measures to facilitate the production of evidence of environmental damage, including, where appropriate, strict liability [**and the reversal of the burden of proof**] [**and the inclusion of a dynamic burden of proof as applicable**]. Mechanisms should be promoted to ensure the production of evidence, even when the Parties do not have the necessary funds to do so.

The Parties shall encourage the establishment of judicial and/or administrative standards of review in cases pertaining to environmental damage.

5. To facilitate access to justice in environmental matters, each Party shall establish:
- (a) mechanisms to minimize or eliminate barriers to the exercise of the aforementioned right, including those linked to financial costs;
  - (b) mechanisms to publicize the right of access to justice and procedures to ensure its effectiveness;
  - (c) mechanisms to communicate and disseminate judicial and/or administrative decisions; and
  - (d) the use of interpreters or translators when the petitioners or defendants speak indigenous languages.
6. In order to [**guarantee/facilitate**] [Argentina: **give effect to**] the right of access to justice, each Party shall give consideration to [**vulnerable groups/ persons and groups in vulnerable situation**] by establishing, inter alia:
- (a) support mechanisms, including free technical and legal assistance; and
  - (b) assistance for persons with disabilities or difficulties with reading and/or writing.

7. The Parties shall ensure that the [Costa Rica: **judicial and administrative**] decisions adopted [Costa Rica: **in environmental matters**] are set out in writing and duly justified [~~Jamaica: are set out in writing and duly justified and the legal reasonings are set out in writing~~], and made available to the public.
8. The Parties shall encourage the generation of public registers of judicial and/or administrative decisions in environmental matters.
9. The Parties shall [**encourage/ establish**] the development and use of alternative dispute resolution mechanisms, where appropriate.
10. When implementing the present article [Dominican Republic: ~~present article~~ **right of access to justice in environmental matters**] [Panama: ~~present article~~ **paragraphs above**], the Parties shall apply, where appropriate, the following interpretation principles: *in dubio pro natura*, prevention, precautionary and non-regression, among others.

**Suggested redraft of article 9:**

**Each Party shall guarantee the right to access to justice in environmental matters through administrative and/or judicial means, in line with their domestic legislation and in keeping with the principles of equality, legality, effectiveness, publicity and transparency, ensuring that the service is free, timely and impartial.**

**The Parties shall ensure the right of appeal to a superior administrative and/or judicial body with competency over environmental matters.** [Mexico]

Article 9 bis

**Suggested new title for article 9 bis: Safeguards in the exercise of access rights** [Argentina]

The Parties shall take adequate measures to prevent,<sup>28</sup> investigate and prosecute attacks, threats, coercions or intimidations that any person or group may suffer while exercising the rights guaranteed by the present Agreement.

**Suggested redraft of article 9 bis: [Costa Rica, Panama, Paraguay, Peru, Chile]**

**Article 9 bis**  
**Recognition and protection of environmental defenders**

1. **Environmental defenders are individuals or groups that work to protect and promote human rights related to the environment.**
2. **The Parties shall guarantee conditions conducive to the work of environmental defenders, including by recognizing them, protecting and promoting their rights to freedom of opinion and expression, peaceful assembly and association, to free movement and the free exercise of their access rights.**

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<sup>28</sup> Jamaica expresses reservations on the term “prevent”.

3. **Each Party shall take measures to recognize, protect and provide institutional support to environmental defenders in order to prevent their harassment, persecution, intimidation or subjection to coercive measures.**
4. **The first meeting of the Conference of the Parties shall establish an ad hoc working group that will prepare a plan of action on creating conditions conducive to the work of environmental defenders, which will be presented at the second meeting of the Conference of the Parties for consideration and adoption.**

Article 10<sup>29</sup>  
Capacity-building and cooperation<sup>30</sup>

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.<sup>31</sup>

**Suggested redraft of article 10, paragraph 1:**

**In order to contribute to the implementation of the provisions of the present Agreement, the Parties commit to creating and strengthening their national capacities, where necessary.** [Chile, Mexico]

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 [Colombia: **those Parties that are**] least developed countries or Caribbean small island developing States.<sup>32</sup>
3. For the purposes of implementation of the previous paragraph, and within the framework of the commitments established in the present Agreement, cooperation modalities [Colombia: **modalities activities**] may include, inter alia: [Argentina, Colombia: ~~cooperation modalities may include, inter alia:~~ **States may make use of all types of activities and mechanisms that contribute to that end.**]<sup>33</sup>
  - (a) discussions, workshops, exchanges of experts, technical assistance, education and awareness-raising [Colombia: ~~and awareness-raising~~] and observatories;

<sup>29</sup> At the seventh meeting of the negotiating committee, held in Buenos Aires from 31 July to 4 August 2017, article 10 was negotiated on the basis of the clean text prepared by Costa Rica and Saint Vincent and the Grenadines (LC/CNP10.7/DDR/3).

<sup>30</sup> Mexico suggests dividing the article into: (i) article 10 “Capacity-building”, assimilating the current arts. 10.1, 10.5(a), 10.5(b) and 9.8; (ii) article 10 bis “Cooperation”, assimilating the current arts. 10.2, 10.3, 10.6 and 9.9; and (iii) article 10 ter “Clearing house”, assimilating the current art.10.4. Jamaica reserves the right to re-examine the article at a future meeting and to make comments after the review of arts. 11 to 25 and before beginning to re-examine other substantive articles.

<sup>31</sup> Colombia and Argentina suggest reformulating the paragraph. Paraguay suggests reviewing the reference to this matter in the preamble.

<sup>32</sup> Mexico suggests adding the objective of cooperation. Colombia suggests that no distinctions should be made between countries and that the paragraph should be reformulated. Chile notes the complementarity among all countries and the need to reflect the particularity of some countries.

<sup>33</sup> Mexico suggests not listing the elements. Chile, Paraguay and Peru suggest keeping the list.

- (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;<sup>34</sup>
  - (d) sharing of experiences at all levels;<sup>35</sup> and
  - (e) committees, councils and public-private platforms to address cooperation priorities and activities.<sup>36</sup>
4. A clearinghouse on access rights, to be managed by the secretariat, is hereby established for the purpose of [~~Costa Rica: A clearinghouse on access rights, to be managed by the secretariat, is hereby established for the purpose of~~ **The Parties shall establish a {Mexico: virtual and universally accessible} clearinghouse on access rights for the purpose of**] promoting synergies and coordination in [~~Chile: coordination in~~] capacity-building [~~Mexico, Colombia: for the purpose of promoting synergies and coordination in capacity-building~~].<sup>37</sup> [~~Dominican Republic: that will be managed by the secretariat~~].

[Colombia, Dominican Republic: **Without prejudice to the protection of confidential information,** The Parties shall provide to the clearinghouse on access rights whatever may be required [~~Colombia: whatever may be required~~ **all information required**] in accordance with the decisions adopted by the Conference of the Parties [~~Mexico: in accordance with the decisions adopted by the Conference of the Parties~~], which may include, inter alia:<sup>38</sup>

- (a) legislative, administrative and policy measures on access rights;
- (b) information on the national focal point and the competent authority or authorities;<sup>39</sup> and
- (c) codes of conduct and good practices. [~~Brazil: change in Spanish does not change English version~~]

#### **Suggested redraft of article 10, paragraph 4:**

**Each Party shall make available to the clearinghouse any information required by the present Agreement, as well as information required pursuant to the decisions taken by the Conference of the Parties** [Paraguay]

The Conference of the Parties shall examine operational modalities for the clearinghouse on access rights, including reports on its activities and take decisions with respect to those modalities, no later than its third meeting.

<sup>34</sup> Chile and Colombia suggest merging (c) and (d).

<sup>35</sup> Colombia expresses reservation about “at all levels”.

<sup>36</sup> Costa Rica suggests moving (e) to article 10.5.

<sup>37</sup> Colombia expresses reservations about the purposes of the clearinghouse and the word “coordination”. Paraguay, Chile and the Dominican Republic suggest keeping the purposes of the clearing house.

<sup>38</sup> Colombia suggests deleting the list.

<sup>39</sup> Colombia expresses reservations about “focal point”. Paraguay suggests including an article on focal points.

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:<sup>40</sup>
- (a) capacity-building and guidance for the competent authorities and entities to help them perform [Argentina: ~~help them perform~~ **support the execution of**] their duties under the present Agreement. These measures may include, inter alia:<sup>41</sup>
    - (i) training for officials and authorities to assist and guide<sup>42</sup> the public in access to information, participation and justice in environmental matters;

**Suggested redraft of article 10, paragraph 5, letter (a) (i):**

- (i) **training campaigns** [Guatemala: ~~campaigns activities~~] **on environmental rights for the public, civil servants and national human rights institutions;** [Mexico]
- (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.<sup>43</sup>

**Suggested redraft of article 10, paragraph 5, letter (a) (iii)**

- (iii) **ongoing evaluation of the collection of qualitative and quantitative information on the environment and improvements in line with such evaluations.** [Chile]

**Suggested addition under article 10, paragraph 5, letter (a):**

- (iv) **the hiring of interpreters or translators of indigenous languages.**<sup>44</sup> [Peru]

**Suggestion to delete article 10, paragraph 5, letter (a) (iv) [Argentina]**

- (v) **the development of environmental law awareness-raising and capacity-building programmes for the public, judicial and administrative officials, national human rights institutions, law enforcement officers and other jurists, inter alia.** [Paraguay]
- (b) promotion of environmental education and public awareness [Argentina, Paraguay: proposal does not affect the English version] [Colombia: ~~public awareness~~] concerning environmental matters [Mexico: proposal does not affect the English version], so the public will know [Colombia: ~~so the public will~~

<sup>40</sup> Mexico suggests moving article 9.8. Colombia expresses reservations on “shall promote and facilitate, at the national level”.

<sup>41</sup> Colombia suggests not listing the measures. The Dominican Republic suggests considering the instances already established in each country.

<sup>42</sup> Mexico expresses reservations about “and guide”.

<sup>43</sup> Colombia expresses reservations about “improvements consistent with”. Chile suggests finding a more suitable location. Mexico suggests keeping it here.

<sup>44</sup> Chile and Paraguay suggest replacing “hiring” with another term.

~~know~~ **in order to guide the public on**] how to proceed to gain access to information, participate in decision-making and have recourse to justice. These measures may include, inter alia:<sup>45</sup>

- (i) organization of awareness-raising campaigns targeting the general public;<sup>46</sup>
  - (ii) promotion, on an ongoing basis, of public access to relevant information, as well as broad public participation, in education and awareness-raising activities;
  - (iii) promotion of the establishment [Dominican Republic: ~~of the establishment~~] of associations, organizations or groups that [Dominican Republic: ~~that~~ in order to] help raise awareness among the public;<sup>47</sup>
  - (iv) development and implementation of training and awareness-raising programmes for the public, especially [disadvantaged groups/persons and groups in vulnerable situations] on access rights<sup>48</sup> [Ecuador: **and the mechanisms available that allow those rights to be exercised and guaranteed**];
  - (v) preparation and dissemination of basic educational modules on access rights for students in primary and secondary school<sup>49</sup> [Chile: ~~in primary and secondary school~~ **at all levels of education** [Ecuador: **, from primary school to university**]]; and
  - (vi) training for workers, scientists, educators and technical and management personnel.<sup>50</sup>
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 non-governmental, academic and private [Peru: ~~non-governmental, academic and private~~ **civil society and indigenous peoples'**] organizations or other relevant stakeholders.

#### **Suggested redrafts of article 10, paragraph 6:**

**The Parties may establish partnerships with existing global, regional, subregional and national organizations, such as civil society, academic, private and indigenous peoples' organizations.** [Dominican Republic]

**The Parties shall cooperate, as applicable, with each other and with intergovernmental organizations, in order to enhance capacity-building for the implementation of the present Agreement.** [Colombia]

**The Parties commit to cooperating with each other to implement the present Agreement.** [Mexico, Costa Rica, Jamaica]

<sup>45</sup> Paraguay suggests harmonizing with paragraph 16 of the preamble.

<sup>46</sup> Mexico notes that this was already covered in (b).

<sup>47</sup> Mexico requests clarification. Antigua and Barbuda and Grenada suggest keeping the original text.

<sup>48</sup> Chile suggests merging (i) and (iv) leaving "programmes" instead of "campaigns".

<sup>49</sup> Colombia expresses reservations. Suggests moving to (a).

<sup>50</sup> Colombia suggests not limiting it to specific groups.



7. The Parties commit to adopting measures to create [Jamaica: ~~create~~ **strengthen**] technical and scientific entities to provide support to jurisdictional and non-jurisdictional bodies [Peru: the change does not affect the English version] on environmental matters, and to strengthen and develop their capacities.<sup>51</sup>

**Suggested redraft of article 10, paragraph 7:**

**The Parties commit to adopting measures that can provide legal, scientific and technical knowledge to support judicial or administrative bodies.** [Chile]

8. The Parties shall [Colombia: **progressively**] develop environmental law awareness and capacity-building programmes for the public, judicial and administrative officials, national human rights [Peru: **and environmental**] institutions, law enforcement officers and other jurists [Jamaica: ~~jurists~~ **justice sector actors**], inter alia.

**Suggested redraft of article 10, paragraph 8:**

**The Parties shall promote awareness-raising and capacity-building** [Mexico, Argentina: ~~awareness-raising and capacity-building~~ **training**] **programmes on access rights for the competent judicial and administrative authorities** [Mexico, Argentina: ~~the competent judicial and administrative authorities~~ **civil servants**]. [Costa Rica, Argentina, Chile]<sup>52</sup>

9. The Parties shall promote [Peru: **, adopt and execute mechanisms for**] Latin American and Caribbean regional cooperation for the investigation, prosecution and punishment of [Peru: **cross-border**] environmental crimes [Argentina: ~~environmental~~ **that may have an impact on the environment**] [Peru: **or with international implications**].<sup>53</sup>

**Suggested deletion of article 10, paragraph 9.** [Uruguay]

Article 11  
Resources<sup>54</sup>

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.<sup>55</sup>

**Suggested deletion of article 11, paragraph 1.** [Mexico]

2. A fund, to be managed by the secretariat [Jamaica: ~~to be managed by the secretariat~~ **under the guidance of the Conference of the Parties**], is hereby established to finance [Mexico: ~~finance~~ **support the financing of the**] implementation of the present Agreement to be defined at the Conference of the Parties in accordance with article 12.

<sup>51</sup> Peru suggests moving to article 10.5 (a). Colombia suggests reformulating it.

<sup>52</sup> Argentina suggests that there is a similarity with article 10.5 (a) (i). Chile suggests considering a gender approach.

<sup>53</sup> Costa Rica and Jamaica suggest incorporating into article 10.6.

<sup>54</sup> Colombia expresses reservations about this article.

<sup>55</sup> Jamaica notes that this text is not as comprehensive as in other environmental agreements.

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.<sup>56</sup> [Chile: **The fund may receive funding from a variety of sources, including contributions from the Parties.**] [Trinidad and Tobago: **The Conference of the Parties shall seek to mobilize financial resources for the implementation of this 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 paragraph 4 of article 17 of the present Agreement.
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 paragraph 4 of article 17 of the present Agreement;
  - (e) prepare and adopt, as applicable, protocols to the present Agreement;

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<sup>56</sup> Mexico requests clarification.

- (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.
- (h) consider the creation and development of standards in relation to environmental information systems;<sup>57</sup> and
- (i) develop manuals and propose guidelines for the implementation of public participation in environmental decision-making.<sup>58</sup>

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;

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<sup>57</sup> Originally paragraph 3 of article 7. It was agreed to address this matter under article 12.

<sup>58</sup> Originally paragraph 11 of article 8. It was agreed to address this matter under article 12.

- (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 of the present Agreement; 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 [Peru: , **which shall include representatives of civil society and indigenous groups in the panels**].
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<sup>59</sup>

##### 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.

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<sup>59</sup> Consider advances in the implementation of the access rights under the present Agreement (see paragraph 7 (b) of article 7 [agreed]).

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 the present 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 the present 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 the present 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  
Withdrawal

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 withdraw the present Agreement by providing written notification to the Depository.
2. The withdrawal will take effect one year after the date of which the Depository receives the corresponding notification, or thereafter, on the date indicated in the notification.

Article 24  
Depository

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