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ORIGINAL: SPANISH



Fifth [Virtual] Meeting of the Working Group on Access Rights and Regional Instrument created in the Plan of Action to 2014 of the Declaration on the application of principle 10 of the Rio Declaration on Environment and Development in Latin America and the Caribbean

Friday, 23 May 2014

[This document has not been subject to editorial review]

MINUTES – SUMMARY OF THE MEETING

1. BACKGROUND

The Plan of Action to 2014 for the implementation of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development in Latin America and the Caribbean, adopted in Guadalajara (Mexico) in April 2013, established two Working Groups in order to advance towards the achievement of a regional instrument. According to the Plan of Action, the Working Group on access rights and the regional instrument has the objective of deepening knowledge on access rights with the outlook of proposing the nature and contents of a regional instrument.

Below is a description of the development and conclusions of the Fifth meeting of the Working Group on Access Rights and Regional Instrument, which had the aim of initiating the discussions on the matters to be considered in the regional instrument on the basis of the document prepared by ECLAC. Annex 1 contains the list of participants of the meeting.

2. DEVELOPMENT OF THE MEETING

In the welcoming words, ECLAC showed gratitude for the high participation and briefly summarized the development of the process on Principle 10 in Latin America and the Caribbean since the adoption of the Declaration.

Afterwards, the coordinators of the Working Group (Brazil and Costa Rica) recalled that at the last meeting, the group adopted a working calendar for 2014 where it was established that the Sixth meeting would be held virtually on 1 August and the Seventh meeting would be in person in September on a date to be determined. In these meetings, the group will continue to work on the proposal on the nature and contents of the regional instrument to be considered by the Fourth Meeting of the Signatory Countries scheduled for November.

In relation to the document of matters to be considered prepared by ECLAC, the coordinators outlined that it was an initial document to contribute to the discussions of the Working Group on the proposal of matters to be considered in the regional instrument. On the other hand, they stressed that the proposal to be defined would not contain the details and contents of each of the matters to be considered, since this would be accomplished at a later stage of the process.

A window of one month was established so that the rest of delegates and participants could send their inputs, comments and suggestions. Along with inviting all participants to send their comments, the coordinators highlighted that the inputs had to be submitted on time. It was indicated that all proposals received would be circulated among all participants so that the process be transparent.

In their capacity of Presiding Officers of the process, Mexico, Chile and Dominican Republic took the floor.

Mexico thanked ECLAC for the document which was presented and the coordinators of the Working Group for their work. Stressing the importance of the matters included in the document, it proposed that the points within each matter be stationed in a separate document so that, as the review advances and after a detailed collective analysis, a decision be taken with regard to their inclusion in the final proposal of matters to be incorporated in the instrument.

For its part, Chile also thanked ECLAC and the coordinators of the Working Group and recalled that the document presented by ECLAC was a proposal for the consideration of the countries which had the aim of initiating discussions on the content to include in the instrument. In addition, it noted the importance of the principles of gradualness and the need to build the process on the basis of solid, consensual and widely consulted agreements. On the other hand, it indicated the need to know the limit up to which progress can be made in the contents.

The Dominican Republic expressed its gratitude to ECLAC for having correctly interpreted its mandate of elaborating the document and said that it constitutes a highly useful basis to enrich and complement discussions. It also pointed to need of carrying out the corresponding national consultations and considering the gradual nature of the process as well as the contributions from civil society.

ECLAC then delivered a brief presentation of the document of matters to be considered, highlighting that it was a document prepared by ECLAC to kick off the discussions, being up to the countries to decide on the content of the regional instrument with the significant participation of the public. At the same time, it underlined the importance of disseminating the document and

the process among the signatory countries and civil society and encouraging their participation so that they could make contributions that include the specific needs of the region.

The discussion with participants followed the presentation.

A representative of the group of students from the Catholic University of Chile recalled that they were carrying out, for the Ministry of the Environment of Chile, a research work and gathering of good practices on access rights in the region which will be presented at the beginning of June as an input to the process.

A representative of the public indicated that the contents of the document which was presented should not be simplified but should rather include sufficient detail and elements to build a robust and effective document that would be the basis for the negotiations. With regard to the nature of the instrument, he noted that various countries had expressed their intention of adopting a binding convention and that it was hoped that at the Meeting of Focal Points in November all countries be of this same opinion.

The delegate from Chile informed that a meeting with civil society organized by the Ministry of Foreign Affairs and the Ministry of the Environment had taken place in order to acknowledge their impressions on the document. He highlighted that at this point in time the process was taking place in a non negotiating framework. This notwithstanding, the objective of the discussions was to advance in the contents that would be considered in such negotiation. He also underlined that for Chile it was important that the end result of the process be the adoption of a binding convention, being the content jointly agreed, and that this instrument be useful in the full application of access rights in environmental matters.

The delegate from Peru, in turn, positively valued the document from ECLAC and indicated that they had analyzed the proposal presented by ECLAC and would send their commentaries, observations and suggestions. She added that what was important was to renew the commitment of each member of the process and take into consideration those documents which had been approved and the developments that had been achieved both in the process and at the national level in each country. She also requested an assessment of best practices on access rights in the region.

Delegates and the public requested an extension of the deadline to be able to review with sufficient detail the document and ensure wide dissemination among civil society organizations.

The delegate from Colombia was thankful for the document and stated that the focus at this moment should be determining the contents to be included in the instrument and that these be useful and relevant. Furthermore, he indicated that they were carrying out the corresponding consultations and that they would send their commentaries. He also highlighted the need to coordinate actions with the Working Group on Capacity-Building and Cooperation.

A representative from the TAI Network (The Access Initiative) stated that determining the nature and content should be done simultaneously. However, she underlined the need of knowing what the governments' stance on the nature of the instrument is. Moreover, she expressed satisfaction

for the fact that some countries such as Peru had made public their will of adopting a binding convention and called on the rest to do the same. She also said that the Network was working on concrete proposals with respect to contents in the three pillars.

A representative from IFAI Mexico highlighted the creation of access to information commissions that uphold the right of access to information in some countries. In addition to the Lima Vision, the principles of access to information, such as maximum publicity and the development of mechanisms that encourage open data in the different levels of government should be considered.

The delegate from Argentina was thankful of the document presented by ECLAC and indicated that it would be used as the basis for carrying out the corresponding national consultations. She also requested an extension of the deadline to send inputs to the document. In addition, she stated that progressing in some contents will allow to define the nature of the instrument with greater clarity.

The coordinator of the group intervened on behalf of Costa Rica indicating that for her country it was fundamental that the instrument be rights-based and that it include democracy and human rights. Furthermore, she requested that within the means of implementation capacity-building and cooperation be further expanded. On the other hand, she stated that Costa Rica was in favour of the adoption of a binding regional document.

The delegate from Honduras backed the rights-based and democracy approach referred to by Costa Rica, highlighted the importance of progressive realization and indicated that they had been carrying out internal consultations on the proposal presented by ECLAC.

A representative of the public from Chile undertook to disseminate and analyze the document. He expressed concern for the participation of citizens in major investment projects and indicated the need of having a greater support from the State to guarantee this participation. In addition, he considered that States should favour a binding instrument.

The delegate from Guatemala reiterated the need of having the inputs from civil society, considering good practices at the regional level and putting in place regional mechanisms for the transfer of information. She requested the widening of the concept of environmental information and that the deadline to send inputs be extended.

The delegate from Mexico raised the need to specify some of the contents included in the document presented by ECLAC and requested further clarification on their scope.

In reply, the delegate from Costa Rica thanked Mexico for raising these concerns and clarified that at this stage what was important was to determine the matters to include as the scope and specific content would be determined at a later stage. The delegate from Brazil added that such observations should be put in writing and underlined that the document from ECLAC should serve as the basis on which all should make their contributions.

The coordinators agreed to extend the deadline. The new document with all the inputs would be analyzed in the in person meeting of the Working Group but should be sent three weeks in advance.

The representatives from the TAI initiative made three consecutive interventions to make specific commentaries on the text in each of the pillars on the basis of a rights-based approach: I) In the right to information, among other aspects, they considered the following: wide definition of environmental information; importance of the principle of maximum dissemination; having a framework law on access to information, clear restrictions, established specifically by law and subject to review; access should be timely and affordable and take into consideration cultural differences; environmental impact assessments and genetically modified organisms as well as references to vulnerable groups should be included. II) As regards participation, it should be open and inclusive; early notification of means of participation; there should be an opportunity to express opinions; clear, timely, objective and understandable information; due consideration to the observations from the public; reply to comments and meaningful response; special consideration to vulnerable communities including assuming their costs of participation. III) In access to justice, the criterion of wide active legal standing including environmental organizations; violation of environmental norms by public and private entities; quality of judging institutions (independence and impartiality); precautionary principle in environmental matters (precautionary measures); adequate and effective reparations of the environment including compensations to those affected; possibility of demanding timely compliance of rulings.

Another representative from the public added the importance that cooperation and capacity-building had in the instrument, given the current capacities of the countries. Flexible commitments that consider these capacities should be established. It is necessary to establish a link with the private sector and civil society.

The delegate from Mexico highlighted that some concepts could contain descriptions which would give rise to different interpretations and suggested that the meaning of each term be reviewed in order to adopt an instrument which is feasible, realistic and applicable given the different capacities and levels of development on access rights. In addition, he proposed that ECLAC prepare for the in person meeting a document analyzing the capacities and situation of each country with regard to the matters included in the document of matters to be considered.

The delegate from the Dominican Republic stated that the priority should be the realization of wide internal debates at the national level, of an intersectoral nature and with all relevant stakeholders. She added that this would allow defining the basic proposals in each country on the basis of the document of reference presented by ECLAC.

For its part, and to contribute to clarifying this point, Peru undertook to send a list of technically and legally-grounded definitions on the basis of the matters put forward for consideration in ECLAC's document.

In turn, ECLAC indicated that it will clarify any doubt any party may have with regard to the scope or content of the document which was presented, even if the specific content of each matter should be determined by the countries at a later stage. It recalled that the document from

ECLAC on the current situation and outlooks in access rights in the region was an input to analyze the capacities and situation of the countries as regards the implementation of Principle 10.

A representative from the public showed concern for the protection of environmental human rights defenders and civil society and called for the establishment of protection mechanisms for those who exercise rights contained in the instrument.

The delegate from Argentina also intervened to state that the document presented by ECLAC was sufficient and that it would be used to carry out the relevant consultations at the national level.

Finally, the coordinators took the floor to thank all the interventions and comments. They also informed that there would be a window of six weeks to send inputs and comments to the document from ECLAC (Monday, 7 July). Moreover, they also stated that all documents would be circulated and uploaded to the webpage and invited all countries and the public to send their inputs anytime before that date.

3. AGREEMENTS

- It was agreed that a window of six weeks (until Monday, 7 July) would be given to make comments and suggestions to the document on matters to be considered presented by ECLAC.
- It was agreed that all inputs received would be widely disseminated and uploaded to the website of the process.
- ECLAC undertook to clarify any doubt with regard to the accuracy or scope of the points included in the document of matters to be considered at the request of any participant.

Annex 1
LIST OF PARTICIPANTS

A. Países signatarios de la Declaración
Signatory countries of the Declaration

ARGENTINA

Punto focal/Focal Point:

- Fabiana Loguzzo, Directora de la Dirección General de Asuntos Ambientales, Ministerio de Relaciones Exteriores y Culto
- Brenda Mariana Pangrazi, Secretario de Embajada, Ministerio de Relaciones Exteriores y Culto

BRASIL/BRAZIL

Punto focal/Focal Point:

- Bernardo Macke, Coordinación General de Desarrollo Sostenible, Ministerio de Relaciones Exteriores

CHILE

Otros participantes:

- Julio Cordano, Dirección de Medio Ambiente y Asuntos Marítimos, Ministerio de Relaciones Exteriores
- Marcela Ponce Villarroel, Encargada del Sistema Nacional de Información Ambiental, Ministerio de Medio Ambiente

COLOMBIA

Punto focal/Focal Point:

- Hans De Francesco Maldonado, Tercer Secretario, Dirección de Asuntos Económicos, Sociales y Ambientales, Ministerio de Relaciones Exteriores

COSTA RICA

Otros participantes:

- Mariamalia Jiménez, Ministerio de Relaciones Exteriores

GUATEMALA

Otros participantes / Other participants:

- Paola Andrea Morris, Coordinadora, Unidad de Relaciones y Cooperación Internacional, Ministerio de Ambiente y Recursos Naturales

HONDURAS

Otros participantes:

- Xiomara Cubas, Coordinadora Técnica, Consejo Nacional de Desarrollo Sostenible
- Mauro Salgado

MÉXICO/MEXICO

Punto focal/Focal Point:

- Dámaso Luna, Director General Adjunto para Temas Ambientales, Secretaría de Relaciones Exteriores

Otros participantes / Other participants:

- Berta Helena de Buen, Directora General Adjunta de Participación y Atención Ciudadana, Secretaría de Medio Ambiente y Recursos Naturales
- Vicente Silva Liga, Subdirector de Participación Social, Secretaría de Medio Ambiente y Recursos Naturales
- Alfa María Ramos Herrera, Directora de Normas de Participación Social, Secretaría de Medio Ambiente y Recursos Naturales
- Miguel C. Molina, Subdirector de Asuntos Internacionales de Acceso, Instituto Federal de Acceso a la Información y Protección de Datos

PERÚ/PERU

Puntos focales/Focal Points:

- Sonia María Gonzales, Directora General de Investigación e Información Ambiental, Ministerio del Ambiente

REPÚBLICA DOMINICANA/DOMINICAN REPUBLIC

Puntos focales/Focal Points:

- Tirsis Quezada, Directora de Planificación y Desarrollo, Ministro de Medio Ambiente y Recursos Naturales

D. Público / Public

- Danielle Andrade, Legal Director, Jamaica Environment Trust, Jamaica
- Daniel Barragán, Centro Ecuatoriano de Derecho Ambiental, Ecuador
- Anne Laure Bouchet, Centro Ecuatoriano de Derecho Ambiental, Ecuador
- Isabel Calle Valladares, SPDA, Perú
- Jorge Calvo Campos, Magister Universidad Católica, Chile
- Denisse Carvacho
- Olimpia Castillo Blanco, Comunicación y Educación Ambiental SC
- Andrea Cerami, CEMDA, México
- Chiara Costanzo, Phd candidate, National University of Ireland, Ireland
- Jaime Delgado, Magister Universidad Católica, Chile
- Franklin Díaz, Magister Universidad Católica, Chile
- Yolanda Díaz, COEPAL, Directora Carrera Administración Ambiental, U Distrital Colombia, Colombia
- Juan José Dimas, El Otro Medio, Argentina
- Noel Ehrler, Magister Universidad Católica, Chile
- Carole Excell, Senior Associate, The Access Initiative, USA

- Teresa Flores, Coordinadora de la Coalición Iniciativa Acceso en Bolivia, Bolivia
- Juan Ignacio Ipinza, Magister Universidad Católica, Chile
- Alessandro Lodi, Encargado de Incidencia y Participación Ciudadana, Fundación Casa de la Paz, Chile
- Paula Martins, Diretora para América do Sul, Artigo 19, Brasil
- Renato Morgado, Imaflora, Brazil
- Valeria Noé Figueroa, Magister Universidad Católica, Chile
- Marcos Orellana, Center for International Environmental Law, Washington College of Law, USA
- Camila Ostornol Navarrete, abogada, FIMA, Chile
- Laura Palmese, Instituto de Derecho Ambiental de Honduras, Honduras
- Francisca Reyes, Instituto de Ciencia Política, Universidad Católica, Chile
- Daniel Ryan, Director Área Cambio Global, FARN, Argentina
- Andrea Sanhueza, Chile
- Carlos Sato, Abogado, Brazil
- Pía Slanzi, LLM student, Queen Mary, University of London, UK
- Kelly Sorto, Instituto de Derecho Ambiental de Honduras, Honduras
- Francisco Vicencio, Magister Universidad Católica, Chile
- Ernesto Villegas
- Sharon Zabarburu Chávez, SPDA, Perú

E. Secretaría / Secretariat

Comisión Económica para América Latina y el Caribe (CEPAL)/Economic Commission for Latin America and the Caribbean (ECLAC)

- Carlos de Miguel, Oficial de Asuntos Ambientales, División de Desarrollo Sostenible y Asentamientos Humanos/Environmental Affairs Officer, Sustainable Development and Human Settlements Division
- Valeria Torres, Oficial de Asuntos Económicos, División de Desarrollo Sostenible y Asentamientos Humanos/Economic Affairs Officer, Sustainable Development and Human Settlements Division
- David Barrio, Oficial de Asuntos Políticos, División de Desarrollo Sostenible y Asentamientos Humanos/Political Affairs Officer, Sustainable Development and Human Settlements Division
- Daniel Chierighini, División de Desarrollo Sostenible Asentamientos Humanos/Sustainable Development and Human Settlements Division