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Working Group on access rights
and the regional instrument

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DRAFT REPORT FROM THE WORKING GROUP ON ACCESS RIGHTS AND THE REGIONAL INSTRUMENT TO BE PRESENTED AT THE THIRD MEETING OF 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

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 in April 2013) established two Working Groups in order to advance in the achievement of a regional instrument:

- i) Working group on capacity-building and cooperation;
- ii) Working group on access rights and the regional instrument.

The Plan of Action mentions that all signatory countries may participate in the working groups, in which they may be represented by their focal points or by a representative appointed by them. Non-signatory countries of the region may participate as observers in these meetings of groups formed by signatory countries. Each group will elect at least one coordinator and an alternate from among the government representatives and stakeholders that will participate according to modalities set forth in the Plan of Action.

In the Second meeting of focal points of the Declaration, held in Guadalajara in April 2013, Brazil and Costa Rica assumed the coordination of the working group on rights of access and regional instrument. The objective of the group defined in the Plan of Action is to deepen knowledge on access rights with the outlook of proposing the nature and contents of a regional instrument.

2. ACTIVITIES TO DATE

Since the establishment of the Working Group **two virtual meetings** have been organized. The first virtual meeting of the working group on capacity-building and cooperation was held the 6th of August 2013 (35 participants) and the second virtual meeting the 8th of October 2013 (39 participants). The minutes of these meetings and the list of participants can be found at the webpage: www.cepal.org/rio20/principio10.

At the first virtual meeting of this group, held in August 2013, it was agreed to request ECLAC to hire an international consultancy in order to produce a document to feed the process. This report would include the existing instruments in international law, especially regarding their nature, capacity-building and compliance mechanisms. At the same time, the consultancy should review the international and regional legal framework that ensures the rights of access. The first draft of the report was presented and discussed at the second virtual meeting of the Working Group. The presentation and the draft report (soon to be released) will be available at the webpage: www.cepal.org/rio20/principio10. At the third meeting of the Working Group a revised version of the document will be presented and discussed. The document will later be published as a working document to support the process. It is noted that the document is descriptive and not evaluative.

It was also agreed in the first meeting that the coordinators, with the support of the Presiding Officers and the Technical Secretariat would work on a proposal on the common view to inspire a regional instrument. It was also agreed that this proposal would be available for the participants of the group and on the webpage of the Declaration two weeks prior to the meeting and that would be discussed at the third meeting of the Working Group to be held prior to the Third Meeting of the Focal Points.

Additionally, and in order to facilitate the coordination and the tasks of the working group a wiki has been created (using **Quickr**). The tool enables participants to share documents and contact information, generate discussion forums and visualize a calendar of activities.

1. PRIORITIES FOR 2014 AND PROPOSALS TO BE SUBMITTED FOR CONSIDERATION IN THE THIRD SESSION OF THE FOCAL POINTS

1. According to the Action Plan until 2014, during the rest of this year and the next, the Working Group will continue to discuss and develop proposals on the nature and content of a regional instrument, which will be presented to the Focal Points for consideration and decision.
2. The Working Group proposes that at the Third Meeting of the Focal Points, the signatory countries adopt common vision which should inspire the instrument and which is contained in the Annex of this report. It is without prejudice that the abovementioned vision is to be enriched under the work performed until 2014 in the framework of the Action Plan. It is stated that in the development of this proposal, particular consideration be given to the documents already adopted in this process as well as to global and regional forums on the

subject. Also, note has been taken of those inputs that contribute to the content of the instrument and that they be considered in the future work of the group.

Group coordinators welcome the active participation of both focal points and other government representatives and members of the public, noting that their contributions have advanced the fulfillment the given mandate.

Annex

Common Vision for a Regional Instrument

In the roadmap we decided to reach a common vision on the importance and benefit of rights of access to information, participation and justice in environmental matters contained in Principle 10, the values and principles underlying these and its proper application and considering further the Declaration on the implementation of Principle 10 of the Rio Declaration on Environment and Development and its Plan of Action, the countries of Latin America and the Caribbean, as signatories of the Declaration, *recognize*:

That every person has the right to a healthy environment;

That a healthy environment is essential for the development of the human beings;

That democracy contributes to the achievement of sustainable development, poverty eradication, preservation and stewardship of the environment for the benefit of present and future generations;

That the effective enjoyment of human rights requires a healthy environment;

That the exercise of accessing rights leads to better protection of the environment and thus to greater protection of human rights;

That States have the obligation to protect, preserve and improve the environment for present and future generations, and every person has the duty to contribute to that purpose;

That Principle 10 provides rights of access to information, participation and justice in environmental matters, and that while development of each is seen differently they are interrelated, and should be promoted and implemented progressively and balanced as to strive for full implementation of Principle 10;

There exists considerable progress in the region, but we all face challenges to the full implementation of access rights, the process of creating an instrument on the implementation of Principle 10 of the Rio Declaration of 1992, is open to all Latin America and the Caribbean;

That it is essential to promote participation of all sectors of society in the development of those issues that constitute the environmental agenda in the region, as it is a relevant factor in the process of construction and creation of a collective awareness of the natural and cultural heritage of our people, in order to eradicate poverty, inequality and restore balance and health and integrity of our planet;

That the role of the public must be strengthened at all levels through freedom of access to environmental information, the broad participation in environmental decision-making and access to justice regarding environmental issues. Governments must create conditions to facilitate the ability of all parts of society to have a voice and an active role in promoting sustainable development;

That participation is essential to give legitimacy to the process of creating a regional instrument, especially if it is one that regulates the rights of information, participation and access to justice set out in Principle 10. Furthermore, participation is key to increasing the experience and knowledge of access rights;

That cooperation and political coordination through effective mechanisms are essential to address the gaps in implementation of Principle 10;

That it is necessary to promote awareness and education of both government officials and the public, in order to contribute to the effective implementation of rights of access to information, participation and environmental justice, and provide people with knowledge, skills and understanding to participate in environmental decision making, and

That along with the measures that signatory countries agreed upon to strengthen the full implementation of the access rights, nothing shall preclude that they can take measures to ensure even broader access to information, participation and justice in environmental matters.

Importance and benefits of access rights

Recognizing that the rights of access to information, participation and justice in environmental matters are essential to the promotion of sustainable development, democracy and a healthy environment, *we value*:

That they are an important contribution to the formulation and implementation of measures and policies which are informed, transparent and adequate and foster greater welfare for the population;

That they contribute to public awareness and allow them to express concerns about the environmental problems and challenges; which can resonate with the authorities, generating greater public involvement and support for the decisions taken;

That they facilitate the adoption and strengthening of best practices and transparency in public administration contributing to accountability and effective rule of law;

That adequate access to these rights is essential for the governance of natural resources in the region and contributes to the promotion of dialogue between authorities and citizens in natural resource management.

That the adoption of a regional instrument will contribute to progress towards the full implementation of these rights, to:

- Facilitate concerted actions and strategies that better address common challenges facing the region.
- Promote and strengthen dialogue, cooperation, technical assistance and capacity-building.
- Strengthen the implementation of access rights at the national level, and stimulating cooperation mechanisms between countries.
- Encourage the development of a regional agenda on access rights that have a conceptual basis in sustainability and equality.

Values and principles

Emphasizing the importance and benefits of access rights, we highlight the following *fundamental values and principles* of the instrument to be adopted:

- **Equality.** Everyone should be able to exercise their access rights without discrimination, based on social status, gender, age, nationality, race or religion.
- **Inclusion.** Special efforts should be made to involve various sectors and to create equal opportunities for women and vulnerable groups.
- **Transparency.** The transparency of all parties is central to ensuring that the motivation and objectives are explicit and that all necessary information is reliable and timely available.
- **Proactivity.** Governments and the public should take initiatives consistent with their respective roles, exercised responsibly, to develop their full potential and enrich the decision-making process. In turn, governments should assume a leadership role in the formulation of inclusive and transparent policies and strategies, in accordance with the rules of international law, the States shall be subject to the rights and obligations forthcoming regional instrument.
- **Collaboration:** Collaborative efforts between the various actors are essential because they facilitate the achievement of common objectives, strengthen and improve the quality of dialogue between them and enable the exchange of experiences and knowledge.
- **Progressivity.** That the national circumstances of each country concerning access rights are recognized, however, this recognition should not prejudice against progressive advances towards its full implementation.
- **No Regression.** The instrument must build on the agreements reached in the region and aim to strengthen national laws and/or international agreements for the full implementation of the access rights, consistent with the purpose of the Declaration.