Introduction to the brief
This brief was prepared by the Caribbean Natural Resources Institute (CANARI) to contribute a technical (not legal) perspective for discussions on the Second Version of the text for the “Regional Agreement on Access to Information, Participation and Justice in Environmental Matters in Latin America and the Caribbean” (Principle 10) at the negotiation session being held in Uruguay in April 2016. The brief outlines key principles that should be reflected in the Agreement, giving an explanation and making reference to relevant Articles. This technical perspective is based on CANARI’s nearly 30 years of work across the Caribbean islands to facilitate and promote participatory natural resource management (see www.canari.org for more on CANARI and its work). Concepts, principles, methods and case studies are described in CANARI’s Toolkit on Facilitating Participatory Natural Resource Management (available at http://www.canari.org/facilitating-participatory-natural-resource-management).

1. The definition of the “public” should be inclusive while recognising the need for special attention to those most vulnerable.

The Agreement should be inclusive in its definition of the public to encompass all individuals and groups with interests, rights and responsibilities. While the Agreement should include special attention to vulnerable individuals and groups and those directly affected, this should not mean exclusion of the participation of the wider public. Articles emphasising special support to vulnerable individuals and groups are useful, but articles should not restrict access to information and decision-making to only those “directly affected”.

References in the document:
- Article 8.2 on the definition of “public”, “directly affected public” and “public concerned” should include all individuals and groups with interests, rights and responsibilities.
- Article 8.17 on access to information should not be restricted to only those public directly affected.
- Article 8.18 on informing the public of decisions should not be restricted to only those public directly affected.

2. The definition of “public participation” should reflect that participation is a process that facilitates active and effective participation of all interested stakeholders and facilitates dialogue among all actors.

The definition of public participation in the Agreement should focus on the characteristics of effective participation processes, which include that they: have active, informed and equitable participation of all interested stakeholders throughout the process; provide opportunities for the diverse views and opinions of stakeholders to be presented and listened to; seek to negotiate between stakeholders to manage conflicts and build consensus; effectively communicate information to stakeholders so that they can understand the issues, form opinions, and make decisions; recognise the inequities among stakeholders and seek to find approaches that facilitate the equitable engagement of those with the least power and voice and ensure that the more powerful stakeholders do not dominate or manipulate the process; adapt the process to respond to emerging needs; and respect the process and the decisions reached.
References in the document:
• Article 2 on the definition of “public participation” should focus on describing characteristics of effective participation.

3. The definition of “decision-making in environmental matters” should reflect that decision-making includes planning, development, implementation, monitoring and evaluation.

The definition on decision-making in environmental matters should explain that the public should be involved throughout the decision-making process, to include planning, development, implementation, monitoring and evaluation stages. The definition should also clarify that environmental matters encompass policies, legislation, plans, strategies, programmes, projects and actions.

References in the document:
• Article 2 on the definition of “decision-making” should be strengthened.

4. The Agreement should specify that effective participation results in the public having a real voice in the decision-making.

The Agreement should make a clear statement on the desired process and results of public participation. Perceptions of what participation entails vary widely. One way of thinking about the effectiveness of participation is to consider the level of stakeholder involvement in decision-making as a measure of the depth of the participatory process. This can range from the top-down decision-making model, which has traditionally been the norm in the region, to complete transfer of management delegation from the government agency with formal authority for natural resources to another entity (such as a civil society organisation). Others have classified types of participation, for example using analysis of how much power is given to stakeholders (see Table 1). Ideally, participation should seek to achieve sustainability, economic equity, social justice and maintenance of cultural integrity.

References in the document:
• Article 8.2 seeks to define effectiveness of participation and Jamaica’s proposal to define results as the public influencing the outcome of the decision-making process should be supported and further strengthened.
• Article 8.7 seeks to provide for accountability in the decision-making process to reflect consideration of public input and reporting on decisions made and proposals by Antigua and Barbuda and Argentina to ensure reporting to the public (not only persons concerned) and Jamaica’s proposal to include a consultation report should be supported.

5. Public participation should ensure equitable engagement through recognising inequities and deliberately supporting the involvement of vulnerable stakeholders.

The Agreement needs to reflect an appreciation that participatory processes should give voice to stakeholders who are less powerful and may otherwise be marginalised from the process. Individuals and groups may, for example, be vulnerable because of their particular situation (e.g. geographic location), limited recognition and access to resources (e.g. informal users), or unique culture and traditions (e.g. indigenous peoples). Mobilising and validating local knowledge and skills is an important part of engaging diverse stakeholders. Removing barriers to their participation may include, for example, providing non-technical summaries, translation into local languages, capacity building, or establishing mechanisms to facilitate engagement.

References in the document:
• Article 8.2 on definitions could consider adding a definition of “vulnerable individuals and groups.”
• **Article 8.13** on recognising the need to provide support to disadvantaged / vulnerable individuals and groups should be retained and strengthened.

• **Article 8.15 ibis** on recognising rights of vulnerable groups could be included under an expanded 8.13.

**6. Building capacity of government and the public to facilitate and engage in participatory processes is essential.**

Firstly, government agencies and others with the power to control and manage natural resources, need to have the capacity to facilitate and engage in participatory approaches. Secondly, stakeholders (particularly those most marginalised) need to have the capacities to effectively engage in processes. CANARI has identified several capacity challenges that are relevant, namely:

• World view and culture: Government agencies often have a very top-down culture that does not leave room for meaningful engagement of stakeholders or sharing of power.

• Structure: Structures need to be in place to facilitate open and clear communications between government and the public and among stakeholders.

• Adaptive culture and strategies: Rigid bureaucratic systems (which are still prevalent in the Caribbean islands) hinder adaptation required as stakeholders are engaged and new management strategies are agreed.

• Linkages: Relationships among actors and multi-sectoral approaches are key in participatory approaches.

• Skills, knowledge, abilities (competencies): Technical skills are critical but also ‘softer’ competencies in facilitation, communication, negotiation and conflict management.

• Material resources: Technology, equipment, materials and finance must be in place to support effective implementation of participatory processes.

**References in the document:**

• **Article 10** on capacity-building and cooperation should be strengthened to reflect specific areas where capacity building will be needed (1) of governments to effectively facilitate public participation and (2) of the public to be able to effectively engage.

**7. Mechanisms for institutionalising participation through policies, legislation, plans, programmes and practice should be established or strengthened.**

CANARI’s work across the Caribbean islands has found that in many cases the institutional arrangements of policies, legislation, and management structures and processes do not enable effective public engagement. The Agreement should recognise that a diverse range of multi-stakeholder structures and processes, that suit the particular national and local context, should be utilised to enable the effective participation of key groups and sectors. Examples abound across the region and include processes for public input on proposed developments, inter-sectoral advisory committees, consultation processes for participatory policy development and planning, and communication channels created for public engagement.

**References in the document:**

• **Article 8.1** modification from Peru on the importance of institutionalising participation mechanisms and should be supported.

• **Article 8.12** describes the institutionalisation of participation mechanisms and should be expanded and clarified.

• **Article 8.15** describes mandatory public participation procedures and should be supported.
8. Public participation should ensure informed involvement through effectively communicating information to stakeholders so that they can understand the issues, form opinions, and make decisions.

The Agreement should recognise that the public cannot effectively participate in decision-making if they do not have access to all of the relevant information in a form and language that they can understand and analyse. Sufficient time should be given for public analysis of information. The public should also be able to input into decision making through various mechanisms (including in writing and verbally).

References in the document:

- Article 8.3 specifies what is included in relevant information and should include a non-technical summary and translation into local languages as needed.
- Article 8.4 specifies adequate time for public preparation and effective participation and should be supported.
- Article 8.5 notes that persons may submit input through various mechanisms and should be supported.
- Article 8.16 refers to informed participation and should be supported.
- Article 8.17 provides a listing of types of information to be provided and could be merged with 8.3.

Table 1: A classification of types of participation and corresponding characteristics¹

<table>
<thead>
<tr>
<th>Types of Participation</th>
<th>Characteristics</th>
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<tbody>
<tr>
<td>Manipulative participation</td>
<td>Participation is simply a pretence, with ‘people’s representatives on official boards but who are unelected and have no power</td>
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<tr>
<td>Passive participation</td>
<td>People participate by being told what has been decided or has already happened. It involves unilateral announcements by an administration or project management without any listening to people’s responses. The information being shared belongs only to external professionals</td>
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<tr>
<td>Participation by consultation</td>
<td>People participate by being consulted or answering questions. External agents define problems and information gathering processes, and so control analysis. Such a consultative process does not concede any share in decision-making, and professionals are under no obligation to take on board people’s views</td>
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<tr>
<td>Participation for material incentives</td>
<td>People participate by contributing resources, for example labour, in return for food, cash or other material incentives. [People] ... are involved in neither experimentation nor the process of learning. It is very common to see this called participation, yet people have no stake in prolonging technologies or practices when the incentives end</td>
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<tr>
<td>Functional participation</td>
<td>Participation is seen by external agencies as a means to achieve project goals, especially reduced costs. People may participate by forming groups to meet predetermined objectives related to the project. Such involvement may be interactive and involve shared decision-making, but tends to arise only after major decisions have already been made by external agents. At worst, local people may still only be co-opted to serve external goals.</td>
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<tr>
<td>Interactive participation</td>
<td>People participate in joint analysis, development of action plans and formation or strengthening of local institutions. Participation is seen as a right, not just the means to achieve project goals. The process involves interdisciplinary methodologies that seek multiple perspectives and make use of systemic and structured learning processes. As groups take control over local decisions and determine how available resources are used, so they have a stake in maintaining structures and practices</td>
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<tr>
<td>Self-mobilisation</td>
<td>People participate by taking initiatives independently of external institutions to change systems. They develop contacts with external institutions for resources and technical advice they need, but retain control over how resources are used. Self-mobilisation can spread if governments and NGOs provide an enabling framework of support. Such self-initiated mobilisation may or may not challenge existing distributions of wealth and power.</td>
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