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**REPORT OF THE FIFTH 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, 21-25 November 2016

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A. ATTENDANCE AND ORGANIZATION OF WORK

Place and date of the meeting

1. The fifth 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 21 to 25 November 2016.
2. The meeting was organized jointly by the Government of Chile and the Economic Commission for Latin America and the Caribbean (ECLAC), in its capacity as technical secretariat of the regional process relating to the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development.¹

Attendance²

3. Representatives of 22 of the 23 signatory countries of the Declaration participated in the meeting: Antigua and Barbuda, Argentina, Brazil, Chile, Colombia, Costa Rica, Dominica,³ Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Honduras, Jamaica, Mexico, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Trinidad and Tobago and Uruguay.
4. Nicaragua attended as an observer.
5. Representatives of the United Nations Environment Programme (UNEP), the Compliance Committee of the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters of the Economic Commission for Europe (ECE), the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations Development Programme (UNDP), the World Health Organization (WHO)-Pan American Health Organization (PAHO) and the Inter-American Development Bank (IDB) were also in attendance.
6. Also attending were international experts in access to information, participation and justice in environmental matters, elected representatives of the public and members of the public, in accordance with the Santiago Decision, the *Organization and work plan for the negotiating committee of the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean*⁴ and 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*.⁵
7. The meeting was open-ended and webcast live.

¹ See A/CONF.216.13.

² See the list of participants in annex B.

³ Dominica adhered to the Declaration at the meeting.

⁴ See LC/L.4011/Rev.1.

⁵ See LC/L.4163.

Chair

8. Chile chaired the meeting in its capacity as host country.

B. ADOPTION OF THE AGENDA

9. The following agenda was adopted:
 1. Adoption of the agenda.
 2. High-level segment.
 3. Actions taken at the national level by the signatory countries of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development and activities carried out by the secretariat.
 4. Negotiation of the regional agreement on access to information, public participation and justice in environmental matters in Latin America and the Caribbean.
 5. Way forward for the negotiations.
 6. Consideration and adoption of agreements.

C. SUMMARY OF PROCEEDINGS**Opening session**

10. At the opening session, a video message from Michelle Bachelet, President of Chile, was shown. Statements were made by Pablo Badenier, Minister of the Environment of Chile, Andrea Sanhueza and Karetta Crooks, representatives of the public, and Alicia Bárcena, Executive Secretary of the Economic Commission for Latin America and the Caribbean (ECLAC).

11. In her message, the President of Chile said that Latin America and the Caribbean had taken the necessary steps to strengthen its integration and that common objectives could only be reached through coordination that transcended borders. The region should be the protagonist of its own development, with just and tolerant societies committed to the environment. By working to strengthen democracy and environmental equity, development could be reconciled with environmental stewardship, not only producing urgent results, but also changing how citizens took part in the process, in order to ensure that their rights to justice and participation were respected. Inclusion was not a prerogative of governments, but a right of peoples and she expressed her desire to have an effective environmental democracy instrument in the short term. Lastly, she said that by joining forces, the region could put equality at the centre of sustainable development.

12. After welcoming the participants, the Minister of the Environment of Chile said that at the United Nations Conference on Sustainable Development (Rio+20) countries had expressed their wish to have a mechanism that would allow progress to be made towards more inclusive governance and environmental management systems. It had been an innovative approach, the result of a dialogue between not only government representatives, but also civil society, academia and the business sector, and establishing a new model of best practices in international negotiations. In that connection, he acknowledged the support of the public, the result of tireless work by experts from different nations. He said that Chile, like most of the countries of the region, agreed that the instrument being negotiated had to be binding with ambitious and transformative content, in order to fulfil the commitment to implement access rights fully. Lastly, he thanked ECLAC for its work and said that the process would allow decision-making mechanisms to be re-evaluated and progress made towards inclusive and sustainable development.

13. The representatives of the public noted the willingness of governments to generate open and substantive dialogue, but drew attention to citizens' lack of awareness of Principle 10 and the fact that many people were unable to exercise their access rights. In that regard, they noted that the community consultation processes were not an obstacle to investment projects, but helped to find solutions for the benefit of all. They said that public participation had become a key element in legitimizing government management and that it should be ensured in the first steps of the planning and decision-making processes in order to build trust. Active public participation had helped to reduce costs and risks and to ensure that everyone benefited from economic development. Lastly, they said that they had submitted a proposal for the wording of article 8 of the compiled text for consideration by the countries.

14. The Executive Secretary of ECLAC noted the innovative nature of the process which allowed meaningful public participation and placed democracy, good governance and the rule of law at the centre of sustainable development. Just as the 1992 Earth Summit had given rise to three environmental conventions, the region could be the protagonist of the only instrument emanating from Rio+20, a unique agreement that linked the environment to human rights and redefined traditional relations between the State, the private sector and civil society. She also welcomed the inclusion of a greater number of countries in the negotiations, particularly from the Caribbean. She said that the regional negotiation process showed that it was possible to build a different future, where countries would move forward together with their societies in solving common environmental issues. She also recalled the alarming situation that environmental advocates in the region were facing and drew attention to the need to create an enabling environment for their protection and support. Lastly, she said that the collaborative work of the States members of the negotiating committee would allow the region to adopt ambitious standards for the effective implementation of Principle 10.

New signatory to the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development

15. The representative of Dominica announced his country's adhesion to the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development, which was welcomed by those present. He said that Dominica had been an active participant in the Earth Summit, the United Nations Conference on Sustainable Development (Rio+20) and other United Nations processes and reiterated his country's commitment to sustainable development and access rights in environmental matters.

High-level segment (agenda item 2)

16. The segment was moderated by Amaro Gómez-Pablos, journalist, and the participants were Dolores María Duverges, Under-Secretary for Planning and Environmental Land Management of the Ministry of the Environment and Sustainable Development of Argentina; Marcelo Mena, Vice Minister of the Environment of Chile; Patricia Madrigal, Vice-Minister of the Environment of Costa Rica; Félix Wing, Secretary-General, Ministry of the Environment of Panama, and Eden Alistair Edwards, Permanent Secretary, Ministry of Agriculture, Human Settlements, Cooperatives and Environment of Saint Kitts and Nevis.

17. The Under-Secretary for Planning and Environmental Land Management of Argentina said that the negotiation process of the regional agreement allowed experiences to be exchanged and awareness of the different realities of each country to be raised, promoting a spirit of trust and cooperation, which would help to strengthen the region and its democracies. The process should establish common parameters and uphold the principle of progressiveness, since countries would move forward by building on their current situation. Policies' success would depend on transparent political will when allocating the necessary resources for their implementation and follow-up.

18. The Vice Minister of the Environment of Chile said that the confidence of some communities in his country had been restored through dialogue; providing information and promoting participation had reduced conflicts, increased support and reduced judicialization. He also stressed the power of information for inclusion, cohesion and change, and said that greater transparency not only resulted in fewer uncertainties, but also strengthened the effectiveness of public policies. The process of negotiating the regional agreement should seek to raise standards and go beyond existing norms. He also recalled the expectation of most countries that the agreement would be binding and reiterated his country's commitment in that regard.

19. The Vice-Minister of the Environment of Costa Rica said that the steady increase in the number of countries that were part of the negotiating committee showed that it was a successful process. Sustainable Development Goal 16 was essential to the process, since the aim of the future agreement was to promote inclusive societies and to place participation at the heart of democracy. Decision-making related to environmental rights was not only incumbent on States, but was a joint responsibility of all social actors, especially civil society.

20. The Secretary-General of the Ministry of the Environment of Panama said that his country had supported the process from the outset on the understanding that it would result in a binding agreement. He stressed the importance of establishing robust standards and said that past experiences in his country showed that transparency reduced the costs of project implementation owing to the decline in conflicts. In addition, trust was built and the authorities enjoyed greater legitimacy.

21. The Permanent Secretary, Ministry of Agriculture, Human Settlements, Cooperatives and Environment of Saint Kitts and Nevis said that his country was firmly committed to access rights and was making considerable efforts to involve the public at every decision-making stage. Thanks to the negotiation processes and discussions around Principle 10, the public had become more aware of their rights and responsibilities.

22. During the discussion, participants highlighted the need to further the implementation of access rights and the regional approach in order to advance the matter. Several senior delegates called for capacity building and cooperation to improve standards and overcome existing asymmetries. Others pointed out that responses to current challenges must be developed with the participation of everyone in order to achieve greater environmental equity in the region.

Launch of the book *Society, rights and the environment: international human rights standards applicable to access to information, public participation and access to justice*, prepared jointly by ECLAC and the Office of the United Nations High Commissioner for Human Rights (OHCHR)

23. The book *Society, rights and the environment: international human rights standards applicable to access to information, public participation and access to justice*⁶ was launched by Carlos de Miguel, Chief of the Policies for Sustainable Development Unit of the Sustainable Development and Human Settlements Division of ECLAC, and Amerigo Incalcaterra, Regional Representative for South America of the Office of the High Commissioner for Human Rights (OHCHR).

24. The Chief of the Policies for Sustainable Development Unit of the Sustainable Development and Human Settlements Division of ECLAC expressed thanks for the collaboration, full support and disposition of the Office of the High Commissioner for Human Rights in the preparation of the book and in the negotiation process. He drew attention to the centrality of human rights for sustainable development and the importance of establishing a virtuous circle between human rights, access rights and the environment in the regional process.

25. The Regional Representative for South America of OHCHR restated his Office's support for the process and recalled the main human rights applicable to the issue of access to information, participation and justice in environmental matters. He said that the book offered a highly useful tool in the negotiation process, since it would help to ensure that the future agreement would facilitate and be in keeping with the fulfilment of human rights obligations undertaken by the countries at the international level. He also linked the Principle 10 process with the main global processes under way regarding sustainable development, such as the 2030 Agenda for Sustainable Development, the United Nations Conference on Housing and Sustainable Urban Development (Habitat III) and the United Nations Framework Convention on Climate Change, underlining the fact that human rights were key to all those processes.

Actions taken at the national level by the signatory countries of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development and activities carried out by the secretariat (agenda item 3)

26. Under this agenda item, the representatives of the signatory countries of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development referred to the actions taken at the national level as part of the regional process for the effective implementation of Principle 10 in Latin America and the Caribbean, including consultations, meetings and workshops with various governmental and non-governmental stakeholders, as well as dissemination and awareness-raising activities. Statements were made by representatives of the following delegations:⁷ Antigua and Barbuda, Argentina, Chile, Peru, Colombia, Brazil, Honduras, Saint Kitts and Nevis and Saint Vincent and the Grenadines.

27. The representative of Antigua and Barbuda outlined the measures adopted by her country to establish a sustainable financing mechanism, involve the public sector in sustainable development and encourage active participation by the public in decision-making. She reported that a national technical assistance committee had been established, comprising representatives of government and civil society, to discuss all environment-related projects.

⁶ See LC/W.712.

⁷ Listed in the order of the statements given.

28. The representative of Argentina announced the creation of a Department for Environmental Information Coordination within the Ministry of Environment and Sustainable Development. Its responsibilities included the management of public information on the environment, the preparation of environmental reports, the implementation of international agreements and the creation of an oversight network. Consideration had also been given to the establishment of indicators to monitor information.

29. The representative of Chile said that more than 18 meetings had been held on Principle 10 at the national level, involving all the government ministries, in order to report on the process of negotiating the regional instrument. She also referred to a seminar on more and better environmental governance for Chile and for Latin America and the Caribbean, Chile's new action plan in the framework of the Open Government Partnership, the creation of a guide to participation standards for energy projects, and actions taken by the Ministry of the Environment in the framework of the plan for recovery of environmentally vulnerable areas, as well as public consultation processes held prior to the preparation of environmental instruments.

30. The representative of Peru referred to the establishment of the National Authority for Transparency and Access to Information, free access to the legal information system and the expansion of the system of free legal assistance for victims in vulnerable situations. She also referred to a participatory training and management programme for indigenous peoples on the process of environmental impact assessment, run by the National Environmental Certification Service for Sustainable Investment (SENACE), and to the action plan for implementation of the recommendations made by the Organization for Economic Cooperation and Development (OECD) following Peru's environmental performance review, which was aimed at improving governance in that area.

31. The representative of Colombia referred to the entry of the Environment and Sustainable Development Department to the Open Government Partnership and to the ABRELATAM and ConDatos event. That event concerned access to public information and transparency and had been spearheaded by the Ministry of Information and Communications Technologies and the Ministry of Environmental and Sustainable Development, along with civil society. He also referred to progress made on the establishment of a prior consultation observatory and a legal statistics system, as well as the creation of an intersectoral environmental democracy board, with a view to disseminating access rights and progressing with their fulfilment.

32. The representative of Brazil mentioned the conclusion of the third national plan for open government, which had been prepared with civil society. He added that the Office of the Comptroller General had published a document for municipalities and states on good practices in the application of the law on access to information. He said that Brazil continued to work on broadening the set of stakeholders participating in the discussion on Principle 10, which included 11 of the country's 24 ministries, civil society organizations and representatives of academia.

33. He also said that his country stood ready to host the sixth meeting of the negotiating committee in Brasilia in March 2017, which was welcomed by the participating countries.

34. The representative of Honduras said that national actions in her country had been directed towards dissemination of the regional instrument, which had been sent to all ministries and to private firms, civil society organizations and representatives of academia. Events had also been organized to provide information on Principle 10 and, with the collaboration of UNDP, training had been provided to develop a culture of peace and conflict resolution, aimed in particular at training mediators.

35. The representative of Saint Kitts and Nevis referred to the 12th Biennial Congress and Caribbean Youth Environmental Summit (CYEN) held in Basseterre, to which the government had given support. The government had also undertaken awareness-raising activities on the importance of Principle 10, including a workshop for civil servants. In that regard, he affirmed that the instrument now being negotiated was of vital importance and that his country was committed to see it come to fruition.

36. The representative of Saint Vincent and the Grenadines emphasized that a human-rights-based approach was key to addressing social and environmental imbalances and achieving sustainable development. In September 2016, her government had held a dialogue with civil society and agricultural organizations and was now preparing consultations to take place in early 2017, with a view to strengthening support for the Principle 10 process. Lastly, she expressed the hope that a binding agreement would be achieved and reiterated her country's commitment to strengthening human rights in relation to environmental matters.

37. The elected representatives of the public listed the actions taken by civil society at the national and regional levels. They drew attention to activities carried out in Brazil, Chile, Colombia, Peru and Saint Lucia, such as round tables, awareness-raising campaigns, training workshops and publications in newspapers. At the subregional level, presentations on Principle 10 had been given for ministerial staff at meetings held by the Organisation of Eastern Caribbean States (OECS). The representatives emphasized the need to develop creative ways to raise awareness and publicize Principle 10 and read out a statement given by the Caribbean Youth Environmental Network, in which Caribbean governments were urged to hold firm to their commitment and to negotiate an agreement with high standards that would take into account the youth of the region.

38. Next, the representative of ECLAC reported on the actions of the technical secretariat since the fourth meeting of the negotiating committee. These included capacity-building activities in Chile and Colombia, a congress in Saint Kitts and Nevis and an event in Paraguay. Among other activities were a presentation on the regional process at the Southern Cone Constituency Meeting of the Global Environment Facility (GEF) and the publication of the book *Society, rights and the environment: international human rights standards applicable to access to information, public participation and access to justice*. With regard to dissemination, a website had been created for the fifth meeting of the negotiating committee and the number of registrations with the regional public mechanism had risen significantly.

39. The secretariat then presented the Observatory on Principle 10 in Latin America and the Caribbean, which compiled laws, policies, treaties and jurisprudence from the different countries of the region on the right to information, public participation and access to justice in environmental matters. The speaker recalled that the information in the Observatory testified to significant progress in terms of legislation and policies in the region over the past few years, and encouraged the countries and the public to continue contributing information.

40. The representative of the United Nations Environment Programme (UNEP) restated the agency's support for the negotiation process and said that it had been commended in several international forums, including the Forum of Ministers of the Environment of Latin America and the Caribbean and the United Nations Environment Assembly (UNEA). She added that, although the Bali Guidelines represented a landmark in terms of environmental law, the Principle 10 process would go one step further and could offer a framework for legal certainty in this regard.

High-level round table on environmental justice and access rights for sustainable development in Latin America and the Caribbean

41. On the afternoon of Monday, 21 November the High-level round table on environmental justice and access rights for sustainable development in Latin America and the Caribbean, co-organized by ECLAC and UNEP, was held. The panel was introduced by Andrea Brusco, Regional Coordinator for Environmental Law of UNEP, on behalf of UNEP and ECLAC, and was moderated by Marcos Orellana, Director of Human Rights and Environment of the Center for International Environmental Law (CIEL). Sergio Muñoz, Minister of the Supreme Court of Chile; Winston Anderson, Judge of the Caribbean Court of Justice; Ricardo Lorenzetti, President of the Supreme Court of Justice of Argentina (video message); and Antonio Herman Benjamin, Judge of the Higher Court of Justice of Brazil (video message), participated in the round table.

42. The Minister of the Supreme Court of Chile reiterated that for the process to be successful it must go beyond programmatic declarations and take on additional legal commitments. He said that the focus must be on the agreement's beneficiaries and obligated entities, as well as compliance and implementation provisions. Conflict prevention and ongoing, bottom-up social dialogue were key to environmental sustainability. He also stressed the importance of education at all levels and the need to include all sections of society. In turn, he said that due process must be guaranteed and access to justice must be facilitated, taking environment specificities into account, such as the existence of common goods, challenges to determining liability for environmental damage and the technical nature of matters. To that end, he called for national and international legal systems to receive ongoing training and for environmental authorities to be strengthened.

43. The Judge of the Caribbean Court of Justice reflected on the concept of access to environmental justice and said that active legal standing must be broadened and clear, and that fair procedures, due process and the independence of judiciary must be ensured, all essential elements under article 9 of the compiled text. In addition to procedures, the aim of environmental legal proceedings must be borne in mind: to ensure environmental justice. He referred to Principle 1 of the Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration), which recognized the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permitted a life of dignity and well-being, and the solemn responsibility to protect and improve the environment for present and future generations. He further argued that the link between environmental justice and human rights was irrevocable and raised the centrality of the cross-border nature of environmental justice to guarantee the rights of individuals and societies.

44. The President of the Supreme Court of Justice of Argentina said in his message that the countries of the region had a great deal of experience of tackling the issues that had been addressed during the negotiations of the agreement and the process should seek to level the playing field in this area. In Argentina, the Supreme Court had a general access to justice policy that had allowed more vulnerable and remote peoples and sectors to participate. In addition, an open government programme had been launched to increase accessibility and transparency of information in the judicial sphere. He noted that in other areas it was commonly accepted that making information more widely available had reduced transaction costs and he stressed that the concept was applicable to and should be adopted with the same rigor for environmental issues.

45. The Judge of the Higher Court of Justice of Brazil said that he was confident that the process would result in a groundbreaking and useful agreement for the region. With regard to article 7 of the compiled text, information on the implementation and effectiveness of environmental protection and justice standards must be included in the national reports on the state of the environment. Regarding article 9, he stressed that recognizing access to justice was not sufficient and that viable and effective

mechanisms were needed. He also suggested that the agreement should serve to guide judges' work in determining liability and damage analysis, calling for concepts such as the principal of *in dubio pro natura* and the dynamic burden of proof to be included.

Negotiation of the regional agreement on access to information, public participation and justice in environmental matters in Latin America and the Caribbean (agenda item 4)

46. Under this agenda item, the delegations considered the document *Text compiled by the Presiding Officers incorporating the language proposals received from the countries on the preamble and articles 1 to 10 of the preliminary document on the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean. Fourth version.*⁸ The negotiation centred on articles 7, 8 and 9 of the fourth version of the text compiled by the Presiding Officers.

47. The delegations began the discussion with numeral 6 of article 7, and revised the remaining numerals of that article and considered article 8 and numeral 1 of article 9. The following numerals were agreed:⁹ 7.4, 7.10, 7.12, 7.13, 8.1, 8.6 and 8.9.

48. As agreed at previous meetings, the authorship of each country in each new or alternative proposal and, where applicable, the support of other delegations, was reflected in the numerals not agreed upon, on the understanding that those countries not mentioned were in agreement with the text originally proposed in the preliminary document prepared by ECLAC at the request of the countries. Proposals made by the public taken up by one or more delegations were incorporated into the text indicating the country or countries that had made them their own.

Way forward for the negotiations (agenda item 5)

49. Under this agenda item, and as had been agreed at its fourth meeting, the negotiating committee considered the steps to be taken to see the negotiation process of the regional agreement through to its successful conclusion.

50. The representative of Chile, in her capacity as Vice-Chair, recalled the main aspects of the draft agreements submitted by the Presiding Officers, which raised some elements to bear in mind when deciding on future steps, such as the sequential review of articles 11 to 25 after article 10 of the compiled text and the expectation that the process would be completed by December 2017, based on the proposed calendar of meetings.

51. Several delegates noted that the text as a whole must be reviewed and that the operative part of the agreement needed to be clarified further. They also agreed on the importance of maintaining the spirit of flexibility and collaboration that had allowed a consensus to be built and time to be used as efficiently as possible. To that end, some delegates suggested adopting innovative approaches to reviewing the outstanding issues.

52. The representative of Colombia raised some questions, such as whether it was appropriate to set a deadline for the negotiations and whether the future discussion of articles 11 to 25 would mean prejudging the nature of the instrument, and called for all available options to be considered.

⁸ LC/L.4059/Rev.3.

⁹ Numbering corresponds to the fifth version of the compiled text (LC/L.4059/Rev.4), which incorporates the changes made to the order of the agreed articles in the fourth version.

53. The representative of Mexico added that the text as a whole should be reviewed, which would require the structural, financial and operational implications of the future agreement to be examined in detail.

54. The representative of Costa Rica suggested that innovative approaches for reviewing the outstanding issues should be adopted, such as establishing groups to discuss those provisions that had not yet been agreed upon and to make proposals for consideration in the plenary meeting. She noted the important consensuses reached, the fruit of delegations' proactive attitude, and called for time to be used efficiently in order to conclude the agreement in the proposed time frame.

55. The representative of Peru said that, since it began, the process had strengthened national capacities and knowledge concerning access rights and had led to major policy and institutional developments. She also echoed the call for the negotiations to be moved forward as quickly as possible in order to finalize the process by December 2017.

56. The representative of Argentina said that, while it was important to review the pending issues in order to move forward, her country understood that the discussions of articles 11 to 25 did not prejudge the nature of the agreement, since it would be defined by the countries during the negotiation process. She agreed that the negotiations must be conducted efficiently, which would mean adopting innovative working methods.

57. The representative of Brazil proposed alternative working patterns and methods for the part of the text that had already been reviewed at previous meetings. However, his country was of the view that progress must be made in the discussions of articles 11 to 25 in order to have a comprehensive view of the main ideas and to reach a consensus. He suggested that the secretariat should prepare a report on the structural and operational implications of the future agreement.

58. The representative of Jamaica said that, for her delegation, discussion about the nature of the instrument was settled, as it was evident, and countries should accept that a binding agreement was being negotiated, both in form and content. Negotiating substantive aspects without knowing the nature and scope of States' legal obligations was impracticable. The nature of the agreement was also key to obtaining resources, as had been the case with the Minamata Convention on Mercury. In order to move forward in the negotiations, the most substantial differences must be identified, definitions must be agreed upon and the main issues categorized, so that the discussions could be more focused. She suggested that the host country should submit a note on what was expected of the agreement and that contact groups with the participation of the public should be established to develop consensus proposals. She called for the financial provisions of the agreement to be examined in more detail, bearing in mind that any agreement would need the support of the Parties.

59. The representative of Honduras said that significant progress had been made in the negotiations and reiterated her country's unwavering commitment to the process. She added that a binding agreement would be essential to garner resources, training and technical support. She thanked ECLAC for its constant support and expressed her hope that it would become the secretariat of the future agreement.

60. With regard to continuing discussions on articles 11 to 25 of the compiled text, the representative of Trinidad and Tobago said that his delegation supported any modality that would effectively expedite the conclusion of the negotiations, but that each article must be negotiated fully and comprehensively in a sequential order. His country firmly supported setting a deadline, which could even be before December 2017. Regarding the nature of the instrument, Trinidad and Tobago was leaning towards a legally binding agreement.

61. The elected representative of the public drew attention to the progress made in the negotiations and said that the process could be speeded up. She reiterated that the public was in favour of a binding agreement with ambitious content and recalled that most of the countries had also explicitly endorsed that view. Therefore, she once again urged the countries to recognize that they were negotiating a binding instrument. That would have a major impact not only on its content, but also on obtaining resources and financing for countries and the public, while providing more training opportunities.

Other matters

62. Several delegates congratulated ECLAC on the presentation of the Observatory on Principle 10 in Latin America and the Caribbean and agreed that it was a very useful tool that would provide greater access to information.

63. The secretariat reported that the fifth version of the compiled text resulting from the fifth meeting would be made available on the website of the sixth meeting of the negotiating committee.¹⁰

Consideration and adoption of agreements (agenda item 6)

64. The delegations then considered the agreements of the fifth meeting of the negotiating committee.

65. The delegations adopted the agreements set out in annex A by consensus.

Closing session

66. During the closing session, statements were made by the representative of Chile, in his capacity as Chair of the meeting, and by the Chief of the Policies for Sustainable Development Unit of the Sustainable Development and Human Settlements Division of ECLAC.

67. The representative of Chile, in his capacity as Chair of the meeting, welcomed the countries' willingness to move forward the negotiations on the regional agreement and congratulated Dominica on becoming a signatory to the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development.

68. The Chief of the Policies for Sustainable Development Unit of the Sustainable Development and Human Settlements Division of ECLAC thanked the Government of Chile for its efforts and excellent conduct of the meeting, and the delegations for their active participation. He also reiterated the commitment of ECLAC, in its capacity as technical secretariat, to continue to support the countries in the negotiation process.

¹⁰ See [online] <http://negociacionp10.cepal.org/6/en>.

Annex A

AGREEMENTS

The representatives of the countries participating in the fifth 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, held in Santiago from 21 to 25 November 2016,

1. *Acknowledge* the significant progress made in the negotiations on the basis of the text compiled by the Presiding Officers, which will be presented in a fifth version of that document;

2. *Also acknowledge* the progress made by signatory countries of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development¹ in their national policies for the implementation of access rights, and appreciate the establishment of the Observatory on Principle 10 in Latin America and the Caribbean in the framework of the efforts undertaken by the Economic Commission for Latin America and the Caribbean, in its capacity as technical secretariat of the process, and encourage countries and the public to continue to contribute information to the Observatory;

3. *Agree* to resume the negotiations on articles 9 to 25 of the compiled text at the sixth meeting of the negotiating committee, using the fifth version of that text, recalling that, according to the Santiago Declaration,² the nature of the regional instrument will be defined during the negotiation process;

4. *Also agree* to request the Presiding Officers, before the sixth meeting of the negotiating committee and in consultation with the signatory countries of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development, to set out flexible working modalities, including the establishment of working groups open to public participation, in order to facilitate the review of outstanding issues;

5. *Request* the Presiding Officers to steer the negotiation process, with the support of the Economic Commission for Latin America and the Caribbean as technical secretariat, with a view to completing the process by December 2017, based on the calendar of meetings attached as an annex hereto;

6. *Also request* the Economic Commission for Latin America and the Caribbean, in its capacity as technical secretariat, to prepare a preliminary report assessing the possible administrative, financial and budgetary implications of the agreement and the different options and modalities for the establishment of its secretariat;

7. *Thank* the Government of Brazil for the invitation to hold the sixth 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 in Brasilia in March 2017;

8. *Agree* to convene 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

¹ A/CONF.216/13.

² LC/L.3970, Annex A.

Caribbean at a place and on a date yet to be decided and, at the suggestion of the co-chairs, to convene another meeting of the negotiating committee if deemed appropriate;

9. *Welcome* Dominica as a signatory country of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development and recall that the invitation to join this regional process is open to all the countries of Latin America and the Caribbean;

10. *Thank* the people and the Government of Chile and the Economic Commission for Latin America and the Caribbean for their hospitality and the effort devoted to the organization of the fifth 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.

Annex 1

CALENDAR OF MEETINGS OF THE NEGOTIATING COMMITTEE OF THE REGIONAL AGREEMENT ON ACCESS TO INFORMATION, PARTICIPATION AND JUSTICE IN ENVIRONMENTAL MATTERS IN LATIN AMERICA AND THE CARIBBEAN

With a view to concluding negotiations on the agreement by December 2017, the Committee will meet periodically in both face-to-face and virtual formats, on the following dates:

- January 2017: intersessional meeting of the negotiating committee (virtual)
- March 2017: intersessional meeting of the negotiating committee (virtual)
- March 2017: sixth meeting of the negotiating committee (face-to-face) (Brazil)
- June 2017: intersessional meeting of the negotiating committee (virtual)
- July 2017: intersessional meeting of the negotiating committee (virtual)
- 2017: seventh meeting of the negotiating committee (place and date to be determined)

Annex B

LIST OF PARTICIPANTS

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

ANTIGUA Y BARBUDA/ANTIGUA AND BARBUDA

Representante/Representative:

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ARGENTINA

Representante/Representative:

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- Ayelén María Ghersi, Secretaria de Embajada y Cónsul de la Dirección General de Asuntos Ambientales del Ministerio de Relaciones Exteriores y Culto, email: ygh@mrecic.gov.ar
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EL SALVADOR

Representante/Representative:

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GRANADA/GRENADA

Representante/Representative:

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JAMAICA

Representante/Representative:

- Gillian Guthrie, Senior Director, Environment and Risk Management Division, Ministry of Economic Growth and Job Creation, email: Gillian.Guthrie@mwlecc.gov.jm

MÉXICO/MEXICO

Representante/Representative:

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Miembros de la delegación/Delegation members:

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PANAMÁ/PANAMA

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PARAGUAY

Representante/Representative:

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PERÚ/PERU

Representantes/Representatives:

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REPÚBLICA DOMINICANA/DOMINICAN REPUBLIC

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- Jean Alexis Gauge, Abogado, Ministerio de Medio Ambiente y Recursos Naturales, email: alexis.gauge@ambiente.gob.do

TRINIDAD Y TABAGO/TRINIDAD AND TOBAGO

Representante/Representative:

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SAINT KITTS Y NEVIS/SAINT KITTS AND NEVIS

Representante/Representative:

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Representante/Representative:

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URUGUAY

Representante/Representative:

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B. Países miembros de la Comisión que participan en calidad de observadores States members of the Commission participating as observers

NICARAGUA

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- Lilliam del Carmen Méndez Torres, Consejera, Embajada de Nicaragua en Chile, email: embanic2@gmail.com

C. Secretaría de las Naciones Unidas United Nations Secretariat

Comisión Económica para Europa (CEPE)/United Nations Economic Commission for Europe

- Jerzy Jendroska, member of the Aarhus Convention Compliance Committee, email: jerzy.jendroska@jjb.com.pl

D. Organismos de las Naciones Unidas United Nations bodies

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**E. Organismos especializados
Specialized agencies**

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**F. Organizaciones intergubernamentales
Intergovernmental organizations**

Banco Interamericano de Desarrollo (BID)/Inter-American Development Bank (IDB)

- Carlos Cordovez, Especialista Principal, División de Capacidad Institucional del Estado, Representación del BID en Chile, email: transparency@iadb.org

**G. Invitados especiales
Special guests**

- Winston Anderson, Judge, Caribbean Court of Justice, Trinidad and Tobago
- Silvia Cappelli, Fiscal Superior, Corte de Rio Grande do Sul, Brasil, email: silvia.cappelli@gmail.com
- Ricardo Luis Lorenzetti, Presidente, Corte Suprema de Justicia de la Nación, Argentina (por videoconferencia)
- Sergio Muñoz, Juez, Corte Suprema de Justicia, Chile
- Marcos Orellana, Profesor Adjunto, Escuela de Derecho de la Universidad George Washington, email: morellana@law.gwu.edu
- Michael Hantke Domas, Ministro Presidente, Tercer Tribunal Ambiental de Chile
- Roberto Pastén Carrasco, Ministro, Tercer Tribunal Ambiental de Chile
- Amaro Gómez-Pablo, Periodista
- Antonio Herman Benjamin, Ministro, Tribunal de Justicia del Brasil (por videoconferencia)

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