

EIGHTH NEGOTIATION COMMITTEE MEETING

THE REGIONAL AGREEMENT ON ACCESS TO INFORMATION, PARTICIPATION AND JUSTICE IN ENVIRONMENTAL MATTERS

OPENING REMARKS

Danielle Andrade-Goffe on behalf of the Elected Representatives of the Public

Minister of the Environment of Chile, Director of the Sustainable Development and Human Settlements Division of ECLAC, Delegates, civil society organizations and the representatives and members of the public, Buenos Dias. I bring greetings from the warm sunny island in the Caribbean: Jamaica.

Thank you to ECLAC and the Government of Chile for organising this eighth negotiation meeting for the regional agreement on access rights and for this opportunity to make opening remarks.

As my colleague stated, we are disappointed with the lack of a clear minimum standard for what types of information governments can legally refuse to provide when requested by the public.

We have come to express hope that as we embark on negotiations for the other articles that countries seek to strive for a result that sets a common ground and a clear minimum standard. We know that we are eager to complete the negotiations but we need to ensure that we have strong and clear provisions that countries are not only able to easily interpret and implement but can be proud of. In particular in article 9, countries have the potential to set a regional standard to remove barriers on access to justice. This is meant to be where the rubber hits the road, where the buck stops. We can have the most progressive laws giving rights of access to information and participation in environmental matters but if people do not have the means to enforce these rights, then the effectiveness of those laws are seriously undermined and the rights are rendered futile.

We as members of the public believe that to achieve this goal:

1. We need to establish a clearer standard in relation to the obligation to remove or eliminate costs of procedures and interim measures. Currently justice may be blind but she isn't cheap. She comes at a cost. A cost that many people cannot afford. If a member of the public is deeply affected by an act or omission that endangers their environment with potential consequences for their right to health or property, shouldn't they be able to seek redress through all means provided by their State without the barrier of costs?

2. We need to ensure broad legal standing and to clarify the class of persons and entities to whom the requirement of broad standing relates, especially to NGOs. Oftentimes when an individual or a group of people are affected by some act that affects their right to information, participation and justice, they lack the means to enforce these rights. NGOs or groups that share a common interest in protecting the environment and access rights have the capacity and can lend support to these people by bringing these cases on their behalf.

3. We need mechanisms to facilitate the production of evidence of environmental damage, references to evolving legal principles and the requirement to establish specialised entities on environmental matters to be maintained and strengthened. Environmental law is one of those ever evolving areas of law. With fast paced technological advancements we have a greater ability to prove evidence of damage to the environment in ways that previously we could not do before. We need legal principles that recognise that there is a public interest in protecting the environment and to ensure that evidence is properly brought before the court.

5. We need measures for redress, including restoration, compensation and assistance for affected persons or groups should be maintained.

6. And finally we need to include 'timely and effective' mechanisms to execute and enforce rulings and decisions, to achieve real environmental justice.

The importance of achieving meaningful access to justice is underscored by events taking place around the world. The last two times I had the opportunity to give opening remarks, I gave statistics about the escalating social conflicts, in particular, a report by Global Witness in 2017 entitled 'Defenders of the Earth – Global Killings of Land and Environmental Defenders' about 200 environmental defenders being killed in one year and 60% of those who were murdered were from Latin America. I would like us to have a moment of silence to recognize and honour them.

[Powerpoint slideshow]

These are 200 reasons for us to not waste the opportunity provided in article 9 to take the road less travelled, to do what has never been done before to have a clear obligation for LAC countries to support and protect environmental defenders from victimization. In the words of Bob Marley - You can't find the right road when the streets are paved. By now we imagine that all countries have considered whether they are open to having a legally binding agreement. For those who feel that they do not wish to see a legally binding agreement- There is a well known saying- Man who says it cannot be done should not interrupt man doing it. The public stands ready to support and collaborate positively with the representatives of government who are committing to achieving a legally binding agreement.

Thank you.