REPORT OF THE PREPARATORY MEETING FOR THE FIRST MEETING OF THE CONFERENCE OF THE PARTIES TO THE REGIONAL AGREEMENT ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION AND JUSTICE IN ENVIRONMENTAL MATTERS IN LATIN AMERICA AND THE CARIBBEAN

Virtual meeting, 4 March 2022
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A. ATTENDANCE AND ORGANIZATION OF WORK

Place and date of the meeting

1. The preparatory meeting for the first meeting of the Conference of the Parties to the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Esaczú Agreement) was held in virtual format on 4 March 2022.

2. The meeting was organized by the Economic Commission for Latin America and the Caribbean (ECLAC), in its capacity as secretariat of the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean.

Attendance

3. The meeting participants included representatives of the following States parties to the Escazú Agreement: Antigua and Barbuda, Argentina, Ecuador, Mexico, Nicaragua, Panama, the Plurinational State of Bolivia, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines and Uruguay.

4. Representatives from the following countries signatory to the Escazú Agreement also participated: Brazil, Costa Rica, Dominican Republic and Peru.

5. Participants from the United Nations Secretariat included representatives of the Office of the High Commissioner for Human Rights (OHCHR) and, as a special guest, the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes.

6. Also in attendance were international experts on access to information, participation and justice in environmental matters, elected representatives of the public and members of the public, as well as other special guests included in the list of participants.

7. The meeting was webcast live.

Chair

8. The meeting was chaired by Costa Rica, in its capacity as Chair of the Presiding Officers.

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1 See the list of participants in annex 1.
2 See the recording at [online] https://acuerdodeescazu.cepal.org/cop1/en/precop.
B. AGENDA

9. The following agenda was adopted:

1. Adoption of the agenda.
2. Discussion of the matters to be addressed at the first meeting of the Conference of the Parties to the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean.

C. SUMMARY OF PROCEEDINGS

10. At the opening session, statements were made by Christian Guillermet-Fernández, Deputy Minister for Multilateral Affairs in the Ministry of Foreign Affairs and Worship of Costa Rica, in his capacity as Chair of the Presiding Officers; Natalia Gómez, alternate elected representative of the public; Marcelo Cousillas, Head of the Legal Department of the Ministry of the Environment of Uruguay; Marcos Orellana, Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes; Nafesha Richardson, Escazú Youth Champion, and Joseluis Samaniego, Chief of the Sustainable Development and Human Settlements Division of ECLAC.

11. After welcoming the participants, the Deputy Minister for Multilateral Affairs in the Ministry of Foreign Affairs and Worship of Costa Rica, in his capacity as Chair of the Presiding Officers, recalled the ninth meeting of the negotiating committee of the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, held four years ago, at which the Escazú Agreement had been adopted, and highlighted the work of all the countries, the public and stakeholders that had made the treaty possible. He stressed that the Escazú Agreement was a very useful platform for addressing the major environmental challenges facing humanity, such as climate change and the protection of biodiversity, as well as for defending the people who cared for the environment. He also reiterated the commitment of the Government of Costa Rica to the prompt ratification of the Agreement.

12. The alternate elected representative of the public said that it was necessary to accelerate action on the implementation of the Escazú Agreement in view of the upcoming meeting of the Conference of the Parties. In the first year since the Agreement entered into force several advances had been made in the region and she called for the Agreement to become an effective tool to protect the environment and people in Latin America and the Caribbean. To that end, she invited signatory and non-signatory countries to ratify or accede to the Agreement promptly.

13. Next, the Head of the Legal Department of the Ministry of the Environment of Uruguay recalled his experience as chair of the legal group for the technical review of the text prior to its adoption at the ninth meeting of the negotiating committee. He highlighted the role played by the countries, the public, the secretariat and various experts who had participated in the group, including representatives of the Treaty Section of the Office of Legal Affairs of the United Nations Secretariat and the United Nations International Law Commission. He also underscored the thoroughness and consistency achieved and stressed the fact that the Agreement was an accomplishment of the region for the region, aimed at strengthening environmental management and addressing the most important environmental challenges.
14. The Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes gave an account of the road to the adoption of the Escazú Agreement, from his perspective as an expert who had accompanied the process from its inception. He said that the Agreement was closely linked to the commitments made by countries on human rights and in the main multilateral environmental agreements. He underscored the importance of the countries' leadership, the active participation of the public and the coordinating role of ECLAC, and expressed his satisfaction with the early and successful entry into force of the Agreement, which strengthened the legal tools needed to move towards a democratic culture of respect and inclusion. He was also pleased about the upcoming first meeting of the Conference of the Parties, as a moment of hope in the process of enriching environmental democracy in the region.

15. The Escazú Youth Champion invited young people to lead the implementation of the Escazú Agreement, which she said was very important because it gave people a leading role in environmental discussions and strengthened environmental protection. For Caribbean small island developing States, like her country, so affected by climate change and disasters, there was a pressing need to move towards the full implementation of access rights. The preparatory meeting and the first meeting of the Conference of the Parties were opportunities to renew the commitment to the Escazú Agreement to ensure it was truly successful.

16. Lastly, the Chief of the Sustainable Development and Human Settlements Division of ECLAC recalled that 2022 would mark 50 years since the United Nations Conference on the Human Environment, 30 years since the United Nations Conference on Environment and Development (Earth Summit) and four years since the adoption of the Escazú Agreement. In addition, eight years remained before the deadline for achieving the Sustainable Development Goals. Therefore, he urged the acceleration of the pace of processes aimed at sustainable development and called for a low-carbon, more efficient and equitable post-COVID-19 recovery. The pandemic offered an opportunity to move towards a development model that would contribute to well-being, placing human rights at the centre of public discussions as a way to ensure that all people, of present and future generations, could live in a healthy and sustainable environment.

Discussion of the matters to be addressed at the first meeting of the Conference of the Parties to the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (agenda item 2)

17. Under this agenda item, the representatives of the countries of Latin America and the Caribbean reviewed the topics to be addressed at the first meeting of the Conference of the Parties, as provided in articles 15.4(a) 15.4(b) and 18.1 of the Agreement.3

18. Before beginning the discussion of the issues to be addressed, the secretariat representative made some remarks about the process that had led to the adoption of the Agreement and about participation in the first meeting of the Conference of the Parties. The process had been open and participatory from the outset and had benefited from significant public participation. Therefore, it was essential for the secretariat to maintain the highest possible participation in the first meeting of the Conference of the Parties, while complying with the existing health requirements in Chile and the maximum permitted capacities owing to the coronavirus disease (COVID-19) pandemic. Avenues for remote participation were being explored and the meeting would be broadcast live. It was reiterated that the elected representatives of the public were a suitable and effective means of channelling public input. To become more actively involved, everyone was invited to register with the regional public mechanism and to visit the web pages of the Escazú Agreement and the first meeting of the Conference of the Parties to the Escazú Agreement.

3 All presented documents may be found on the official meeting website: https://acuerdodeescazu.cepal.org/cop1/en/precop.
Item 1: The rules of procedure of the Conference of the Parties, including the modalities for significant participation by the public (article 15.4(a))

19. The representative of Costa Rica presented the new proposed rules of procedure of the Conference of the Parties to the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, which included significant participation by the public. He said that the topic had already been discussed extensively, at the first meeting of the countries signatory to the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, held in 2019 and hosted by Costa Rica, and during two online meetings on those rules held on 15 April and 25 June 2020. In addition, the Presiding Officers had asked the secretariat to prepare proposed rules of procedure for the Conference of the Parties to the Agreement, which had been presented and discussed at the second meeting of the countries signatory to the Agreement, held under the auspices of the Government of Antigua and Barbuda in December 2020. At that time, a period of three months had been given for countries and the public to submit their comments, which had been given due consideration. As agreed at the second meeting of the countries signatory to the Agreement, the Chair had prepared a new version, incorporating the comments received. The main proposed changes aimed to provide for the possibility of holding online meetings and for the power of the parties to request inclusion of additional agenda items, as well as strengthening the presence in the meeting room and the role of the elected representatives of the public.

20. The representative of Argentina said that her country had championed the Agreement, had worked very actively to promote it and attached great importance to it. Regarding the proposed paragraph on online meetings, having only online meetings of the Conference of the Parties could make it difficult to discuss complex issues. She understood that this would be the option under special circumstances, but in the case of online meetings the agenda should be limited to administrative, logistical or budgetary issues.

21. The representative of Mexico stated that it was important to maintain the possibility of meeting virtually. It was possible to take advantage of the countries of the region having similar time zones, and online meetings enabled more people to participate, both from delegations and the public. She acknowledged that online negotiations posed some challenges, but the pandemic had demonstrated that online meetings were possible. She therefore requested that the proposal for online meetings be maintained for exceptional circumstances.

22. The representative of Costa Rica said that in the revised version of the proposal, face-to-face attendance was maintained as the standard format and online meetings were only foreseen as an exceptional measure in case of force majeure. In his country’s opinion, given that other international forums had found it difficult to migrate to online meetings in the context of the pandemic as they were not provided for, it was advisable to mention the possibility in the rules. He agreed that not all topics should be dealt with in online meetings, so the agenda would have to be adjusted on a case-by-case basis. However, it was not advisable to exclude topics to be addressed in the rules of procedure of the Conference of the Parties, and was preferable to do so when preparing the provisional agenda.

23. The alternate elected representative of the public welcomed the proposals presented and the opportunity to comment on them. With regard to public participation, he proposed replacing the Spanish expression “contará con” with “estará integrada por” in section VII, paragraph 7. Likewise, in paragraph 6 of the “Statements” subsection of section X, he suggested adding the public, given that proposals and amendments to proposals should not only be made known to the delegations.

4 LC/RPCOP-EZ.1/DDR/1.
24. The representative of the Plurinational State of Bolivia, referring to section III, paragraph 5, proposed that reference be made to “half of the Parties” when mentioning the support required to hold an extraordinary meeting of the Conference of the Parties when requested by any of the Parties. Regarding section IV, paragraph 2, he requested further details on electronic notifications, to clarify whether this referred to e-mail or to the availability of information on a website. In section VII, paragraph 3, he recommended deleting the word “normally”.

25. In concluding the discussion of item 1, the secretariat mentioned the Observatory on Principle 10 in Latin America and the Caribbean and thanked those who had contributed to it. The secretariat also welcomed the comments on the rules of procedure of the Conference of the Parties and said that note had been taken of all the statements.

Item 2: rules relating to the structure and functions of the Committee to Support Implementation and Compliance (article 18.1)

26. The representative of Saint Lucia, on behalf of the working group, presented the proposal of Costa Rica, Panama, Saint Lucia and Uruguay on the rules relating to the structure and functions of the Committee to Support Implementation and Compliance, a revised proposal that took into account the comments received to date. She said that the issue had been discussed at length over the past three years. At the first meeting of the countries signatory to the Agreement, various models and practices of multilateral environmental agreements and the human rights system had been presented, as well as the experience of the Compliance Committee of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention). In 2020, two online meetings had been held to address the issue, on 29 April and 23 June. At the second meeting of the countries signatory to the Agreement, in December 2020, a proposal had been put forward of core elements for consideration in the preparation of rules relating to the structure and functions of the Committee to Support Implementation and Compliance of the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, a working group led by Saint Lucia, Panama and Uruguay had been created, and a three-month deadline for comments had been given. The working group coordinators had subsequently developed these core elements and drafted the presented proposed rules, which had been discussed at a working meeting on 21 October 2021, when an additional month was given for comments.

27. The representative of Argentina said that, in relation to the procedure for filling a vacancy on the Committee, he did not consider it advisable to eliminate the reference to the possibility of renewing the term of office of the member elected to fill the vacancy, since this could be a disincentive and make the Committee’s work more difficult. In addition, he requested a correction to the conjugation of the Spanish verb “dispondrán” in paragraph 24.

28. The representative of Uruguay stated that the Committee would not have a judicial or jurisdictional function, since it would not rule directly on the conduct of States, but would monitor implementation of and compliance with the Agreement. Accordingly, it would make recommendations and support the work of the countries in implementing the Agreement, as reflected in the proposal presented by Saint Lucia.

6 LC/RPCOP-EZ.1/DDR/2.
29. The Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes welcomed the proposal, which he said struck a balance between general and specific principles. It also reflected the good practices of other multilateral environmental agreements with respect to treaty bodies, while reflecting the particularities of the Escazú Agreement. He suggested considering four specific points: (i) moving the reference to the direct relationship between the Committee and the “Party concerned” from paragraph 21 to paragraph 31 or 32; (ii) avoiding use of the term “observations” in paragraph 32, since it was not defined and doubts remained as to their scope; (iii) including the word “recommendations” in different paragraphs, such as paragraphs 40(d) and 43(d), in the interest of greater harmony and consistency; and (iv) in paragraph 23, to add in whose judgement the mentioned protection measures would be appropriate; As a result, there would be greater clarity as to whose responsibility it would be to assess the available information and determine whether it revealed situations of risk, in order to be able to take action.

30. The elected representative of the public expressed thanks for the consideration of the comments from the public. She suggested including the term “shall ensure” in paragraph 2, in line with the wording of article 18.2 of the Escazú Agreement. She also proposed maintaining the reference to the renewal of alternates in the event of vacancies.

31. The representative of the Plurinational State of Bolivia suggested clarifying whether the independence from the powers of government mentioned in paragraph 4 referred to the time of election or whether it should be maintained until the end of the term of office. Regarding paragraph 17(c), on closed sessions, he raised doubts about the wording, given that the environment could not make requests. In the interest of greater transparency, he suggested that the conclusions of closed sessions be published as soon as possible. Regarding paragraph 19, he raised the question of what was understood by majority (simple, absolute or qualified), and suggested that such majority should be two thirds.

Item 3: Financial provisions for the functioning and implementation of the Agreement (Articles 14 and 15.4b) and other matters

32. Regarding financial provisions, the Chair of the Presiding Officers recalled that Article 14 of the Escazú Agreement established a Voluntary Fund to support the financing of the implementation of the Agreement, the operation of which would be determined by the Conference of the Parties. The second paragraph of the article stated that the parties could make voluntary contributions to support the implementation of the Agreement. The third paragraph added that the Conference of the Parties could seek funds from other sources to support the implementation of the Agreement. Article 15, meanwhile, which stated that a Conference of the Parties was established, affirmed, in paragraph 4(b), that at its first meeting the Conference of the Parties would discuss and adopt by consensus the financial provisions that were necessary for the functioning and implementation of the Agreement.

33. The Chair of the Presiding Officers said that the topic had been discussed previously. At the first meeting of the countries signatory to the Agreement, in 2019, information had been given on other examples of financial arrangements, such as those under the Minamata Convention on Mercury and the Aarhus Convention, as well as the rules applicable to trust funds under the United Nations. An online meeting had been held on the subject on 25 August 2020 and a session had been dedicated to the subject at the second meeting of the countries signatory. In addition, a working group had been established, led by Antigua and Barbuda, Argentina and Mexico. Progress had also been made in the United Nations Economic and Social Council on recognition of the Agreement and some financing channels.
34. The representative of Mexico said that several countries had sponsored a resolution, which had been adopted by the Economic and Social Council, requesting the provision of predictable and stable resources and thanked the region for its support in achieving that goal. She noted the importance of working on a draft decision on financial arrangements at the Conference of the Parties, as it was necessary to refine some details, such as the terms of reference and the priorities of the Voluntary Fund, and to continue to seek resources. She also invited countries to reach out to the development cooperation agencies operating at country level to request funding to support the implementation of the Agreement.

35. The secretariat said that it was trying to secure, in cooperation with the working group, the minimum level of predictable and stable resources needed for the functioning and implementation of the Agreement. While the funding obtained as a result of the resolution adopted by the Economic and Social Council was vital, it was also temporary, so countries should continue to seek additional resources. The importance of mobilizing voluntary contributions to the Fund was underlined, as was the need for criteria governing the use of resources and for understanding countries' priorities. Thanks to bilateral efforts with some donor countries, like France and Germany, and development banks, concrete support was already being provided to some countries. The secretariat noted, however, that some donors had difficulty contributing to the Voluntary Fund and preferred to provide direct funding to countries for specific programmes. National implementation plans for the Agreement could be very useful in that regard.

36. The representative of Argentina agreed that a decision on the matter was necessary and underlined that it was important for the secretariat to have sufficient budgetary resources to implement the programme of work relating to the Agreement.

37. The alternate elected representative of the public underscored the importance of having adequate financial resources for the effective implementation and operationalization of the Voluntary Fund, which should be open to countries and to other sources of funding. It would be very useful to conduct a study on sources of financing, which would help to give the parties clarity in that regard. Financial resources must also be used to support effective public participation in meetings relating to the Agreement. That had been the case throughout the negotiation process and should continue.

38. The participants thanked the coordinators of the working group for the support it had mobilized, particularly in the Economic and Social Council. In light of the discussions, it was agreed that a draft decision on financial arrangements would be prepared and that those parties in a position to do so would be invited to make contributions to the Voluntary Fund, with a view to making it operational and encouraging further contributions.

**Other matters:**

39. Following the review of the topics to be addressed at the first meeting of the Conference of the Parties, the floor was opened for participants to discuss other matters.

40. The representative of Antigua and Barbuda highlighted the importance of carrying out programmes to educate and raise awareness on the Escazú Agreement in order to build networks and empower the public. That meant translating the content of the Agreement into everyday life so that it could have a real impact. The representative of Costa Rica agreed that such initiatives were important and invited participants to explore ways to share good practices for bringing the Escazú Agreement closer to the people and learning about community empowerment experiences.

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7 See Economic and Social Council resolution 2021/31, para. 3.
41. The elected representative of the public, Andrea Sanhueza, said that new representatives would be elected after the first meeting of the Conference of the Parties and that work was under way on the rules of procedure for elections. With regard to other matters to be discussed at the meeting of the Conference of the Parties, she suggested that a political declaration should be drafted, reflecting the main challenges faced by the Parties as well as the ambitions and agreements reached concerning the implementation of the Agreement. It would be essential to address in that declaration issues such as the dire situation of environmental defenders and the barriers and obstacles to the full exercise of access rights in environmental matters.

42. The secretariat said that new Presiding Officers would have to be elected, as set forth in the Final Act of the ninth meeting of the negotiating committee of the Regional Agreement. Furthermore, it was critical to prepare a plan of work covering the period up to the second meeting of the Conference of the Parties and put into action some of the issues addressed at the first meeting. Subsequently, the proposed organization of work for 20-22 April was presented.

43. The representative of Mexico said that many expressions of interest had been received from civil society to participate in the first meeting of the Conference of the Parties. She suggested that a briefing session on how to participate could be conducted for civil society stakeholders and that the meetings of the Presiding Officers to be held on 19 April should be included in the organization of work of the first meeting of the Conference of the Parties.

44. The representative of Uruguay said that the proposed organization of work followed those of the meetings of the negotiating committee but should rather reflect the logic and expected outcomes of a meeting of a Conference of the Parties. For example, it should not refer to agreements, but decisions. He added that there should be a space at the start of the meeting for the election of the new Presiding Officers and suggested that time should be allocated for reporting on the status of ratification of the Agreement.

45. The Regional Representative for South America of the Office of the United Nations High Commissioner for Human Rights (OHCHR) said that the Office had identified the protection of the rights of human rights defenders in environmental matters as one of its regional priorities. He recalled that environmental defenders played a fundamental role in society, but they were exposed to risks and their rights violated because of their work. In that regard, the Escazú Agreement constituted a milestone, as it placed the protection of environmental defenders at the centre. He commended all States that had ratified the Agreement, showing regional leadership, and urged them to move forward with its implementation. Lastly, he reaffirmed OHCHR commitment to supporting all efforts to protect the planet and adopt measures to make the world a safe place for human rights and environmental defenders.

46. The representative of the Coordinating Body for the Indigenous Peoples’ Organizations of the Amazon (COICA), speaking on behalf of the indigenous peoples comprising that body, said that the Escazú Agreement represented hope for indigenous peoples and for defenders of the environment and territory. He drew attention to the biodiversity conservation work carried out by indigenous peoples, which had unfortunately resulted in persecution, threats and killings. The Conference of the Parties to the Escazú Agreement must establish its own preparatory mechanism for the participation of indigenous peoples. Lastly, he said that his organization had prepared a document with proposals that would be submitted to the secretariat and he requested that a space be given to discuss them during the first meeting of the Conference of the Parties.

47. The representative of Saint Lucia reiterated that the first meeting of the Conference of the Parties should address the protection and promotion of the rights of environmental defenders, including indigenous peoples, noting that it was a matter of urgency and an essential element of the Agreement.
48. In closing, the secretariat provided information on logistic matters regarding the first meeting of the Conference of the Parties. In light of the health restrictions in force and the maximum capacities imposed owing to the COVID-19 pandemic, a limited number of participants would be allowed in the room. However, there would be many other ways to participate. Remote participation would be facilitated and the meeting would be live-streamed. In addition, elected representatives would be present and spaces for virtual side events would be available.

**Closing session**

49. At the closing session, statements were made by Tomás Severino, alternate elected representative of the public, and Carlos de Miguel, Chief of the Policies for Sustainable Development Unit of the Sustainable Development and Human Settlements Division of ECLAC.

50. The alternate elected representative welcomed the proposals that had been prepared and the incorporation of comments from the public. He said that the situation in the region had worsened over the past four years, particularly for environmental defenders. He also argued that the standards set in terms of participation during the negotiation process must be maintained at the first meeting of the Conference of the Parties. He called once more for more countries to ratify or adhere to the Agreement. He also underlined the importance of the Conference of the Parties providing the public with a space in which to address the problems facing various social stakeholders.

51. The Chief of the Policies for Sustainable Development Unit of the Sustainable Development and Human Settlements Division of ECLAC said that the process leading to the adoption of the Escazú Agreement had been open and inclusive, bringing together many actors and countries that believed in the contents of the Agreement and wanted to address the needs of the region. He stressed that it was a cooperation agreement, so the involvement of all the countries of the region was important. Lastly, he called for sustained progress in the implementation of the Agreement, building on the gains made and in accordance with national realities.

52. The Chair of the Presiding Officers then thanked all delegations and the public for their participation and contributions. Significant progress had been made at the meeting and that would lay the groundwork for reaching the consensus required at the first meeting of the Conference of the Parties. He reaffirmed that it was an enormous responsibility to implement the mandates of the Agreement and the eyes of the region and the world would be on the Conference of the Parties. In closing, he underlined the importance of incorporating the comments received in the revised proposals and exploring alternatives to move forward on the other issues raised.
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1 Los datos de esta lista son los suministrados por los participantes en el registro correspondiente que se habilitó para la reunión.
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B. Países signatarios del Acuerdo de Escazú/
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E. Invitados especiales/
Special guests

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