The Escazú Agreement: Overview of content, implications and future steps:

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Structure

General part
- Preamble
- Objective (art. 1)
- Definitions (art. 2)
- Principles (art. 3)

Operative part
- General provisions (art. 4)
  - First pillar: Access to environmental information (art. 5 and 6)
  - Second pillar: Public participation in the environmental decision-making process (art. 7)
  - Third pillar: Access to justice (art. 8)
  - Fourth pillar: Human rights defenders in environmental matters (art. 9)
  - Fifth pillar: Capacity-building and cooperation (art. 10-12)

Final provisions (art. 13-26)
- Institutional architecture
- Resources
- Consent to be bound and entry into force

Annex 1
Objective (art. 1)

Guarantee the full and effective implementation in Latin America and the Caribbean of environmental access rights *and* the creation and strengthening of capacities and cooperation

- Information
- Participation
- Justice
- Capacity-building Cooperation

contributing to the protection of the right of every person of *present and future generations* to live in a healthy environment *and* to sustainable development.
Underlying basis of the Escazú Agreement

Environmental issues are best handled with the active participation of all concerned.

Access to environmental information is critical for sound policy-making.

Environmental harm must be prevented and remedied.

Regional cooperation is key.
Salient features of the Escazú Agreement

- Rights-based
- People-centered
- Leave no one behind
- Capacity-building and cooperation

Environmental dimension of sustainable development

- Generation and access to environmental knowledge and information
- Meaningful engagement of all sectors of society
- Redress and remedy against environmental harm

Special consideration of Small Island Developing States

Implementation support

Progressive realization
Right-holders and principles

- **Nationals or subject to the national jurisdiction** ("the public")
- **Persons or groups in vulnerable situations**: those that face particular difficulties in fully exercising access rights, because of circumstances or conditions in each context

- Equality and non-discrimination;
- Transparency and accountability;
- Non-regression and progressive realization;
- Good faith;
- Preventive principle;
- Precautionary principle;
- Intergenerational equity;
- Maximum disclosure;
- Permanent sovereignty of States over their natural resources;
- Sovereign equality of States; and
- *Pro persona*
General provisions (art. 4)

- Right of every person to live in a healthy environment
- Adoption of all measures necessary for implementation
- Duty to guide and assist, particularly persons and groups in vulnerable situations
- Enabling environment for the work of persons, associations or groups, by recognizing and protecting them
- **No limitation or repeal of other more favourable rights and guarantees and Parties may grant broader access (a floor, not a ceiling)**
- Encourage ICTs, such as open data. Shall not constrain or result in discrimination against the public.
- Promotion in other international forums
Environmental information

- Access to information (art. 5)
  - Accessibility
    - possession, control or custody
    - no mention of interest or reasoning
    - persons and groups in vulnerable situations
  - Refusal of access
  - Conditions for delivery (format, timeframes, cost)
  - Independent review mechanisms

- Generation and dissemination of information (art. 6)
  - Environmental information systems
  - PRTRs
  - Disasters / early warning systems
  - Report on State of Environment
  - Information for consumers and users
  - Company sustainability reports
Public participation (art. 7)

- Open and inclusive participation
  - Mechanisms in project and activities with significant impact
  - Promotion in other decision-making processes
  - Early stages
  - Necessary information in a clear, timely and comprehensive manner
  - Reasonable timeframes
  - Due consideration to observations
  - Decisions shall be made public and be accessible
  - Social, economic, cultural, geographical and gender characteristics of the public
  - Special consideration of persons and groups in vulnerable situations
  - Affirmative measures for the directly affected public
  - Additional measures for the public directly affected by activities and projects

- Promotion of public participation in international forums and negotiations
Access to justice (art. 8)

- Judicial and administrative mechanisms / Due process
- Effective, timely, public, transparent and impartial procedures that are not prohibitively expensive
- Access to expertise
- Broad legal standing
- Redress / Precautionary-interim measures / Evidence
- Measures to minimize or eliminate barriers
- Publicize the right and the procedures
- Support mechanisms for persons or groups in vulnerable situations
- Alternative dispute resolution mechanisms
Environmental defenders (art. 9)

- Safe and enabling environment for persons, groups and organizations that promote and defend human rights in environmental matters
- Adequate and effective measures to recognize, protect and promote the rights of human rights defenders in environmental matters
- Appropriate, effective and timely measures to prevent, investigate and punish attacks, threats or intimidations
Capacity-building, cooperation, clearing house (art. 10-12)

- Creation and strengthening of national capacities, based on national priorities and needs
  - Training for authorities and officials (including judicial and administrative officials)
  - Awareness-raising, equipment and resources
  - Education and training, through basic educational modules at all levels of education

- Cooperation to strengthen national capacities through activities and mechanisms
  - Workshops, expert exchanges, technical assistance
  - Educational, training materials and programmes
  - Sharing good practices and standards

- Clearing house
ECLAC Observatory on Principle 10

- Treaties
- Laws
- Policy instruments
- Case law
- Resources
- Publications

https://observatoriop10.cepal.org/en
Institutional architecture and final provisions (art. 13-26)

- Voluntary Fund to support implementation
- Conference of the Parties
  - At its first COP: rules of procedure, financial provisions, structure and functions of CSIC
- Secretariat ECLAC
- Committee to Support Implementation and Compliance
  - Consultative and transparent nature, non-adversarial, non-judicial and non-punitive
  - Ensuring the significant participation of the public
  - Paying particular attention to the national capacities and circumstances of the Parties
Benefits of the Escazú Agreement

- Sustainable development and environmental stewardship but much more
  - Governance, transparency, accountability
- Equality: leave no one behind
- Recognizes and sets out content of rights (HRBA)
  - Deepens democracy
- Mainly national obligations (towards own societies) with support from the region (assistance, cooperation and capacity-building among States)
- Shared priorities, values and interests
- Sets out regional benchmark
  - Levels the playing field
- South-South cooperation
- Enhances region’s reputation
- Provides legal certainty
- Assists in garnering resources and capacity-building
- Supports implementation of international agreements
- Green/blue recovery
Website

http://www.cepal.org/en/escazuagreement
Website of the meeting

Second Meeting of the Signatory Countries to the Escazú Agreement
Saint John’s/virtual, 9 and 10 December 2020

The second meeting of the signatories to the Escazú Agreement will take place on 9 and 10 December 2020 under the auspices of the Government of Antigua and Barbuda. Discussion on the topics to be addressed at the first meeting of the Conference of the Parties will be resumed.

The meeting will be webcast live.

https://acuerdodeescazu.cepal.org/s2/en
Contact

Secretariat – Escazú Agreement
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United Nations, ECLAC

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