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Second 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

Virtual meeting, 9–10 December 2020

**PROPOSED 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**

The secretariat has the honour to submit the proposed 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 Escazú Agreement, contained in the annex to the present note, to the second 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 for consideration.

Annex 1**PROPOSED 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****I. Purpose and nature**

- (a) Subsidiary body of the Conference of the Parties.
- (b) Consultative, transparent, non-adversarial, non-judicial and non-punitive.
- (c) The Committee shall formulate its working modalities in accordance with the rules relating to the structure and functions of the Committee adopted by the Conference of the Parties.

II. Structure and composition

- (a) Number of members
 - (i) Five, may be increased to seven.
- (b) Term of office
 - (i) Members shall serve in their personal capacity.
 - (ii) Each Committee member must take a solemn declaration on assumption of their duties.
 - (iii) The term of office of Committee members shall be four (4) years, renewable once.
 - (iv) Of the members elected at the first election, three shall be chosen by lot to serve a term of six (6) years (thus ensuring continuity of knowledge and staggered replacement).
- (c) Criteria for the selection of Committee members
 - (i) Nationals or residents of the countries in annex 1 to the Agreement.
 - (ii) Regional and gender balance.
 - (iii) Knowledge of application of access rights, particularly legal expertise.
- (d) Election of Committee members
 - (i) Any person may nominate him or herself.
 - (ii) The secretariat shall prepare a roster of proposed candidates based on the criteria set out under paragraph (c).
 - (iii) Election shall be by consensus of the Conference of the Parties. If all efforts to reach consensus have been exhausted and no agreement has been reached, elections shall be decided by a simple majority of the Parties present and voting by secret ballot.
 - (iv) A Committee member's term of office shall begin at the conclusion of the meeting of the Conference of the Parties at which he or she is elected.
 - (v) No more than two Committee members may be of the same nationality.

- (e) Vacancies
 - (i) The Presiding Officers of the Agreement shall elect alternates to fill any vacancies, by consensus, from the roster proposed prior to the Conference of the Parties. If there is no consensus, alternate members shall be elected by a majority of the Presiding Officers present and voting, by secret ballot.
- (f) Incompatible activities
 - (i) Members must be independent of the executive branch of Parties.
 - (ii) Members must perform their duties in such a manner as to preserve the dignity of the office.
 - (iii) The Committee shall prepare guidelines on conflicts of interest in its working procedures.
- (g) Privileges and immunities
 - (i) Committee members shall enjoy the privileges and immunities accorded to experts on mission for the United Nations under the Convention on the Privileges and Immunities of the United Nations of 1946.
- (h) Committee officers
 - (i) The Committee shall elect one (1) Chair and two (2) Vice-Chairs to serve as officers of the Committee.
 - (ii) The officers of the Committee shall organize the work of the Committee, in accordance with the working modalities adopted by the Committee.
- (i) Remuneration
 - (i) Committee members shall serve *ad honorem*.
 - (ii) Travel expenses for Committee members' participation in Committee meetings or official missions shall be covered by the secretariat, in accordance with United Nations rules.

III. Meetings and working methods of the Committee

- (a) The Committee may meet with a quorum of the majority of its members.
- (b) The Committee shall hold in-person meetings at least once a year and virtual meetings with the frequency defined in its working modalities.
- (c) Meetings of the Committee shall be held at the location decided by the Committee, in consultation with the Presiding Officers and the secretariat.
- (d) The meetings of the Committee shall be open to the public, except during deliberations on cases of non-compliance and the adoption of the Committee's observations on such cases.
- (e) At its meetings, the Committee may hold an open dialogue with members of the public.
- (f) Working languages
 - (i) Authentic texts of the Agreement: Spanish and English.
 - (ii) Where appropriate, and in consultation with the secretariat, arrangements may be made for translation or interpretation to facilitate the participation of vulnerable persons who have submitted communications.

- (g) Decision-making
 - (i) Decisions of the Committee shall be made by consensus. If all efforts to reach consensus have been exhausted and no agreement has been reached, decisions must be approved by a majority of the members present and voting.
 - (ii) The Committee may take decisions virtually or electronically, using appropriate technologies, with the support of the secretariat.

IV. Functions

- (a) Reporting to the Conference of the Parties on its activities.
- (b) Providing support to the Conference of the Parties on implementation of and compliance with the Agreement.
 - (i) The Committee shall periodically submit a systemic report to the Conference of the Parties on implementation of and compliance with the Agreement.
 - (1) The Committee shall decide on the periodicity of its systemic report.
 - (ii) The Conference of the Parties may request the Committee to prepare a report on any aspect of implementation of and compliance with the Agreement.
- (c) Providing advice and support to the Parties on implementation of and compliance with the Agreement.
 - (i) Engage in dialogue with each of the Parties
 - (1) Open dialogue during Committee meetings.
 - (2) Open dialogue during visits by the Committee to the territory of a Party.
 - (3) Members of the public shall have the right to participate in open dialogues between the Committee and a Party, in accordance with the working modalities of the Committee.
 - (4) The periodicity of the dialogue with each Party shall be established by the Committee in its working modalities.
 - (ii) Formulate general comments on interpretation of the Agreement.
 - (iii) Respond to queries on interpretation of the Agreement made by a Party or elected representatives of the public.
- (d) Examining cases of allegations of non-compliance
 - (i) Means of opening cases
 - (1) Communications from the Party concerned, another Party, or a member of the public.
 - (2) Measures to protect members of the public who submit a communication.
 - (ii) Processing of cases
 - (1) Cases are opened through a communication.
 - (2) The officers of the Committee, with the support of the secretariat, shall enter the case into the register, unless:
 - (a) The communication does not contain the requirements stipulated by the Committee in its working modalities.

- (3) Cases are entered into the register.
- (4) The Committee shall consider the merits of each registered case, unless it declares it inadmissible.
 - (a) Both the Party concerned and the author of the communication shall have the right to request a hearing before the Committee on the admissibility of a communication.
 - (b) The Committee shall decide whether to address the question of admissibility with or without a hearing.
 - (c) Criteria for determining the inadmissibility of a case:
 - (i) The communication does not include information on the steps taken by the Party concerned to resolve the case.
 - (ii) The case is being heard or has been ruled on through another international procedure.
 - (iii) The communication is anonymous, trivial, abusive, or does not include sufficient corroborative information.
- (5) Written submissions on the merits of the case:
 - (a) Opportunity for the Party concerned to respond in writing within four (4) months.
 - (b) Opportunity for other Parties to respond in writing.
 - (c) Opportunity for members of the public to respond in writing.
- (6) Public hearings on the merits of the case:
 - (a) Both the Party concerned and the author of the communication shall have the right to request a hearing before the Committee on the merits of the case.
 - (b) The Committee shall decide whether to address the merits of the case with or without a hearing.
 - (c) The Committee may revise its decision on the admissibility of the case, if the background so warrants, up to the time of the public hearing on the merits.
- (7) Committee deliberations on allegations of non-compliance
- (8) Preliminary observations
 - (a) If the Committee concludes that the Party concerned is in breach of the Agreement, the preliminary observations of the Committee may include specific recommendations for the Party concerned.
 - (b) The Committee shall transmit its preliminary observations to the Party concerned and to the author of the communication.
 - (c) The Committee shall invite the Party concerned and the author of the communication to submit written comments on its preliminary observations.
- (9) Adoption of the Committee's observations on a case.
- (iii) Follow-up by the Committee on implementation of its observations by the Party concerned.
- (iv) Report to the Conference of the Parties in the event that the Party concerned fails to implement the Committee's observations.

V. Significant participation of the public in the functions of the Committee

- (a) Support to the Conference of the Parties
 - (i) Right to provide information for the preparation of the systemic report.
 - (ii) Right to provide information for preparation of a report on any aspect of implementation of and compliance with the Agreement.
- (b) Advice and assistance to the Parties
 - (i) Right to participate in dialogues between the Committee and a Party.
 - (ii) Right to provide written information on application of the Agreement by a Party.
 - (iii) Right to provide information and perspectives on interpretation of the Agreement.
- (c) Cases of non-compliance
 - (i) Right to file a communication.
 - (ii) Right to submit written information to the Committee on factual or legal aspects of a case.
 - (iii) Right to participate in any public hearings on a case during both the examination of admissibility and the examination on the merits.
 - (iv) Right to participate in the follow-up to implementation of the Committee's observations to the Party concerned.

VI. Information and confidentiality

- (a) Information sources
 - (i) The Committee may use any source of information it deems relevant.
 - (ii) The Committee may call upon technical or legal experts, including academic centres or non-governmental bodies, at its discretion.
 - (iii) The Committee may request information on issues under its consideration.
 - (iv) The Committee may, with the consent of the Party concerned, collect information through a mission to the territory of a Party.
 - (v) The Committee may draw on information compiled by the clearing house provided for in article 12 of the Agreement.
- (b) Disclosure of information
 - (i) Information held by the Committee shall not be confidential, unless the Committee so decides, in accordance with the objectives of the Agreement and the rights of individuals, including, in particular:
 - (1) The identity of persons who may suffer reprisals or persecution.
 - (2) Individual privacy.
 - (3) Protection of the environment and its components.

VII. Measures by the Committee and the Conference of the Parties

- (a) In adopting measures, the Committee shall consider the national capacities and circumstances of the Parties.
- (b) In adopting measures, the Conference shall consider the cause, type, severity, and frequency of non-compliance, as well as the national capacities and circumstances of the Parties.
- (c) The Committee may take such measures as it deems necessary to facilitate a Party's implementation of and compliance with the Agreement, including:
 - (i) Formulating observations on cases submitted to it, including declarations of non-compliance.
 - (ii) Providing the Party concerned with specific recommendations to strengthen its laws, measures and practices.
 - (iii) Requesting that the Party concerned prepare an action plan to ensure full implementation of the Agreement.
 - (iv) Requesting that the Party concerned report on progress with implementation of the Committee's observations.
 - (v) Providing advice and support to a Party in the implementation of and compliance with the Agreement.
- (d) The Conference of the Parties may take such measures as it deems necessary to facilitate a Party's implementation of and compliance with the Agreement, including:
 - (i) Formulating declarations of non-compliance by a Party.
 - (ii) Facilitating support for compliance.
 - (iii) Issuing cautions.
 - (iv) Suspending the rights and privileges of a Party, including its voting rights.

VIII. Synergies with other multilateral agreements and processes

- (a) The Committee may enter into dialogue and consultations with other multilateral agreements and processes, at the global or regional level, to seek synergies for the full implementation of access rights and other matters covered by the Agreement.

IX. Institutional arrangements

- (a) Register of cases
 - (i) The secretariat shall maintain a register of cases, with documents and substantive correspondence on cases submitted to the Committee, including:
 - (1) Information on cases received.
 - (2) Documents submitted to the Committee relating to cases.
 - (3) Substantive correspondence between the secretariat, the Party concerned and the author of a communication.

- (4) Substantive correspondence between the secretariat and those concerned by a case.
 - (5) The Committee's observations and follow-up on cases.
 - (6) Decisions by the Conference of the Parties with regard to a case.
- (b) Role of the secretariat
- (i) Provide the services required for the work of the Committee.
 - (ii) Maintain a register of cases.
- (c) Transitional provisions
- (i) The Committee may not receive communications on the compliance of a Party before the second meeting of the Conference of the Parties.
 - (ii) The Committee may not receive communications on a Party's compliance until one year after the entry into force of the Agreement for that Party.