

ESCAZU AGREEMENT

REGIONAL AGREEMENT ON ACCESS TO INFORMATION,
PUBLIC PARTICIPATION AND JUSTICE IN ENVIRONMENTAL
MATTERS IN LATIN AMERICA AND THE CARIBBEAN



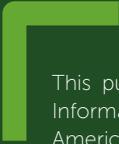
COORDINADORA DE LAS ORGANIZACIONES
INDÍGENAS DE LA CUENCA AMAZÓNICA



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MATTERS IN LATIN AMERICA AND THE CARIBBEAN





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On the website <http://www.cepal.org/principio10> you can consult updated information on the Regional Agreement and related activities.

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Presentation

The Coordinator of Indigenous Organizations of the Amazon Basin (COICA) is the body that represents the indigenous peoples of the nine countries of the Amazon Basin, for the defense of the rights and territories of the 505 Indigenous Peoples, and more than 66 Peoples in Voluntary Isolation and Initial Contact, which survive in thousands of ancestral communities in the Amazon, with a unique cultural diversity, based on a holistic relationship with their territory.

It is precisely this territory that is the most important component for the exercise of the fundamental collective and individual rights of indigenous peoples and nationalities, since this depends on their connection with their environment, which in turn is a necessary condition for maintaining their culture, forms of traditional organization, spirituality, health, recreation, knowledge, integrity and life itself. In that sense, defending the territory is defending life.

At present, the political context of the countries that share the Amazon Basin is a threat to indigenous peoples and nationalities, with governments with extreme ideologies and extractive policies that consider the Amazon an inexhaustible source of natural resources without appreciating the importance of conservation of its natural and cultural wealth, not only for the region but for the entire planet. At the IV Amazon Summit, it was reported that about 400 indigenous leaders have been killed in the Amazon basin in 2017.

In addition to this violence, we have weak institutional justice frameworks in Latin America and the Caribbean that are politically influenced or suffer from structural and budgetary problems, which causes judicial or administrative processes without transparency or prosecutions with unjustified grounds of indigenous leaders. Policies that instead of guaranteeing human rights, align themselves to make socio-environmental standards more flexible in order to promote investments for projects of a development model that does not take into consideration the respect for our territories and the environment.

International law reaffirms that environmental and land rights are interrelated, cannot be separated or analyzed without linking the impact they have on each other when one of them is violated. For example, access to timely and complete environmental information on



environmental impacts is essential to ensure the participation and efficient consultation of peoples. Similarly, the rights of participation and access to information are very important to ensure efficient justice. Therefore, our indigenous brothers and sisters, who are in permanent resistance and struggle for the protection of the environment, the land and the territory, as well as for the defense of their rights, are **LAND, TERRITORY AND ENVIRONMENTAL DEFENDERS.**

For indigenous organizations, the protection of indigenous defenders, who are in a situation of high vulnerability, is essential and cannot be delayed. Therefore, from COICA, we are promoting the consolidation of the Indigenous Defenders Program with the precise aim of developing mechanisms for the immediate and effective attention of Amazonian indigenous defenders who are under threat, violence, criminalization and persecution, in a scenario of violation of their rights and their territories. We promote the implementation of this program, from an indigenous perspective, with a view on gender, preventive and collective perspective.

In line with our commitment, the Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement) adopted in March 2018 in Costa Rica, represents a key tool for public decision making, policy formulation, implementation of investment projects and the reduction of socio-environmental conflicts. Therefore, we welcome its opening to the signing and ratification of the 33 Latin America and the Caribbean countries in September 2018 in New York.

We call on the countries of the region to join the process of ratification of the Escazú Agreement, since at least 11 ratifying countries are required for this instrument to enter into force. This is necessary, as it is the world's first treaty that includes provisions on human rights defenders in environmental matters and that can strengthen access to environmental justice, that justice that has often been perceived as distant for indigenous defenders.

The Escazú Agreement represents a new hope for indigenous defenders, as it also recognizes the importance of the work and the fundamental contributions of environmental defenders in strengthening democracy, access rights and sustainable development; demanding that countries guarantee a safe and conducive environment in which people, groups and organizations that promote and defend human rights in environmental matters can act without threats, restrictions and insecurity.



Likewise, in the region, socio-environmental conflicts are unnerved due to the lack of information, regulation and environmental management, which prevent the construction of an empathic development model with the indigenous population, which also violates our right to persist in autonomous healthy territories. The Escazú Agreement, in that sense, would also allow for improved decision-making to face environmental challenges of all kinds, such as climate change, desertification or loss of biodiversity, making it more participatory.

COICA's Indigenous Defenders Program, makes copies available of the Escazú Agreement, so that more brothers and sisters can learn about this new instrument so that we can promote together, in an organized way, strengthening the access to environmental justice and the defense of our collective and territorial rights. Likewise, we present a minimum criteria and necessary conditions for the ratification and implementation processes of the Escazú Agreement in our countries, as part of a roadmap and methodology to include the indigenous vision within these processes and strengthen environmental justice (see end of document).

For those indigenous defenders who are not in our company. In their honor, we defend land, territory and environment!

José Gregorio Díaz Mirabal
General Coordinator



Coordinadora de Organizaciones Indígenas de la Cuenca Amazónica
COICA

Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean

Adopted at Escazú, Costa Rica, on 4 March 2018.

Opening for signature at United Nations Headquarters in New York on 27 September 2018

The Parties to the present Agreement,

Recalling the adoption, at the United Nations Conference on Sustainable Development, held in Rio de Janeiro, Brazil, in 2012, of the Declaration on the application of Principle 10 of the Rio Declaration, reaffirming the commitment to the rights of access to information, participation and justice regarding environmental issues, recognizing the need to make commitments to ensure proper fulfilment of those rights and declaring a willingness to launch a process for exploring the feasibility of adopting a regional instrument,

Reaffirming Principle 10 of the 1992 Rio Declaration on Environment and Development, which establishes the following: “Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided”,

Emphasizing that access rights are interrelated and interdependent, and so each and every one of them should be promoted and implemented in an integrated and balanced manner,



Convinced that access rights contribute to the strengthening of, inter alia, democracy, sustainable development and human rights,

Reaffirming the importance of the Universal Declaration of Human Rights and recalling other international human rights instruments that underscore that all States have the responsibility to respect, protect and promote human rights and fundamental freedoms for all, without distinction of any kind, including those related to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Reaffirming also all the principles of the 1972 Declaration of the United Nations Conference on the Human Environment and of the 1992 Rio Declaration on Environment and Development,

Recalling the Declaration of the United Nations Conference on the Human Environment, Agenda 21, the Programme for the Further Implementation of Agenda 21, the Declaration of Barbados and the Programme of Action for the Sustainable Development of Small Island Developing States, the Mauritius Declaration and the Mauritius Strategy for the Further Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States, the Johannesburg Declaration on Sustainable Development, the Plan of Implementation of the World Summit on Sustainable Development and the SIDS Accelerated Modalities of Action (SAMOA) Pathway,

Recalling also that, in the outcome document of the United Nations Conference on Sustainable Development, held in Rio de Janeiro, Brazil, in 2012, entitled "The future we want", among the many provisions referring to Principle 10 of the Rio Declaration, the Heads of State and Government and high-level representatives acknowledged that democracy, good governance and the rule of law, at the national and international levels, as well as an enabling environment, were essential for sustainable development, including sustained and inclusive economic growth, social development, environmental protection and eradication of poverty and hunger; underscored that broad public participation and access to information and judicial and administrative proceedings were essential to the promotion of sustainable development; and encouraged action at the regional, national, subnational and local levels to promote access to environmental information, public participation in the environmental decision-making process and access to justice in environmental matters, as appropriate,



Considering United Nations General Assembly resolution 70/1 of 25 September 2015, entitled “Transforming our world: the 2030 Agenda for Sustainable Development”, by which it adopted a comprehensive, far-reaching and people-centred set of universal and transformative Sustainable Development Goals and targets, and reaffirmed its commitment to achieving sustainable development in its three dimensions —economic, social and environmental— in a balanced and integrated manner,

Recognizing the multiculturalism of Latin America and the Caribbean and of their peoples,

Recognizing also the important work of the public and of human rights defenders in environmental matters for strengthening democracy, access rights and sustainable development and their fundamental contributions in this regard,

Aware of the progress made in international and regional agreements, in domestic legislation and practice on rights of access to environmental information, public participation in the environmental decision-making process and access to justice in environmental matters,

Convinced of the need to promote and strengthen dialogue, cooperation, technical assistance, education and awareness-raising as well as capacity-building for the full exercise of access rights at the international, regional, national, subnational and local levels,

Resolved to achieve the full implementation of the access rights provided for under the present Agreement, as well as the creation and strengthening of capacities and cooperation,

Have agreed as follows:

ARTICLE 1

Objective

The objective of the present Agreement is to guarantee the full and effective implementation in Latin America and the Caribbean of the rights of access to environmental information, public participation in the environmental decision-making process and access to justice in environmental matters, and the creation and strengthening of capacities and 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.

ARTICLE 2

Definitions

For the purposes of the present Agreement:

- a. "Access rights" means the right of access to environmental information, the right of public participation in the environmental decision-making process and the right of access to justice in environmental matters;
- b. "Competent authority" means, for the purposes of articles 5 and 6 of the present Agreement, any public body that exercises the powers, authority and functions for access to information, including independent and autonomous bodies, organizations or entities owned or controlled by the government, whether by virtue of powers granted by the constitution or other laws, and, when appropriate, private organizations that receive public funds or benefits (directly or indirectly) or that perform public functions and services, but only with respect to the public funds or benefits received or to the public functions and services performed;
- c. "Environmental information" means any information that is written, visual, audio, and electronic, or recorded in any other format, regarding the environment and its elements and natural resources, including information related to environmental risks, and any possible adverse impacts affecting or likely to affect the environment and health, as well as to environmental protection and management;
- d. "Public" means one or more natural or legal persons and the associations, organizations or groups established by those persons, that are nationals or that are subject to the national jurisdiction of the State Party;
- e. "Persons or groups in vulnerable situations" means those persons or groups that face particular difficulties in fully exercising the access rights recognized in the present Agreement, because of circumstances or conditions identified within each Party's national context and in accordance with its international obligations.



ARTICLE 3

Principles

Each Party shall be guided by the following principles in implementing the present Agreement:

- a. Principle of equality and principle of non-discrimination;
- b. Principle of transparency and principle of accountability;
- c. Principle of non-regression and principle of progressive realization;
- d. Principle of good faith;
- e. Preventive principle;
- f. Precautionary principle;
- g. Principle of intergenerational equity;
- h. Principle of maximum disclosure;
- i. Principle of permanent sovereignty of States over their natural resources;
- j. Principle of sovereign equality of States; and
- k. Principle of *pro persona*.

ARTICLE 4

General provisions

1. Each Party shall guarantee the right of every person to live in a healthy environment and any other universally-recognized human right related to the present Agreement.
2. Each Party shall ensure that the rights recognized in the present Agreement are freely exercised.
3. Each Party shall adopt the necessary measures, of a legislative, regulatory, administrative or any other nature, in the framework of its domestic provisions, to guarantee the implementation of the provisions of the present Agreement.
4. With the aim of contributing to the effective application of the present Agreement, each Party shall provide the public with



information to facilitate the acquisition of knowledge on access rights.

5. Each Party shall ensure that guidance and assistance is provided to the public –particularly those persons or groups in vulnerable situations– in order to facilitate the exercise of their access rights.
6. Each Party shall guarantee an enabling environment for the work of persons, associations, organizations or groups that promote environmental protection, by recognizing and protecting them.
7. No provision in the present Agreement shall limit or repeal other more favourable rights and guarantees set forth, at present or in the future, in the legislation of a State Party or in any other international agreement to which a State is party, or prevent a State Party from granting broader access to environmental information, public participation in the environmental decision- making process and justice in environmental matters.
8. Each Party shall seek to adopt the most favourable interpretation for the full enjoyment of and respect for the access rights when implementing the present Agreement.
9. For the implementation of the present Agreement, each Party shall encourage the use of new information and communications technologies, such as open data, in the different languages used in the country, as appropriate. In no circumstances shall the use of electronic media constrain or result in discrimination against the public.
10. The Parties may promote knowledge of the provisions of the present Agreement in other international forums related to environmental matters, in accordance with the rules of each forum.

ARTICLE 5

Access to environmental information

Accessibility of environmental information

1. Each Party shall ensure the public's right of access to environmental information in its possession, control or custody, in accordance with the principle of maximum disclosure.



2. The exercise of the right of access to environmental information includes:
 - a. requesting and receiving information from competent authorities without mentioning any special interest or explaining the reasons for the request;
 - b. being informed promptly whether the requested information is in possession or not of the competent authority receiving the request; and
 - c. being informed of the right to challenge and appeal when information is not delivered, and of the requirements for exercising this right.
3. Each Party shall facilitate access to environmental information for persons or groups in vulnerable situations, establishing procedures for the provision of assistance, from the formulation of requests through to the delivery of the information, taking into account their conditions and specificities, for the purpose of promoting access and participation under equal conditions.
4. Each Party shall guarantee that the above-mentioned persons or groups in vulnerable situations, including indigenous peoples and ethnic groups, receive assistance in preparing their requests and obtain a response.

Refusal of access to environmental information

5. If the requested information or part thereof is not delivered to the applicant because it falls under the domestic legal regime of exceptions, the competent authority shall communicate its refusal in writing, including the legal provisions and the reasons justifying the decision in each case, and inform the applicant of the right to challenge and appeal.
6. Access to information may be refused in accordance with domestic legislation. In cases where a Party does not have a domestic legal regime of exceptions, that Party may apply the following exceptions:
 - a. when disclosure would put at risk the life, safety or health of individuals;
 - b. when disclosure would adversely affect national security, public safety or national defence;



- c. when disclosure would adversely affect the protection of the environment, including any endangered or threatened species; or
 - d. when disclosure would create a clear, probable and specific risk of substantial harm to law enforcement, prevention, investigation and prosecution of crime.
7. The exception regimes shall take into account each Party's human rights obligations. Each Party shall encourage the adoption of exception regimes that favour the disclosure of information.
8. The reasons for refusal shall be legally established in advance and be clearly defined and regulated, taking into account the public interest, and shall thus be interpreted restrictively. The burden of proof will lie with the competent authority.
9. When applying the public interest test, the competent authorities shall weigh the interest of withholding the information against the public benefit of disclosing it, based on suitability, need and proportionality.
10. Where not all the information contained in a document is exempt under paragraph 6 of the present article, the non-exempt information shall be provided to the applicant.

Conditions applicable to the delivery of environmental information

11. The competent authorities shall guarantee that the environmental information is provided in the format requested by the applicant, if available. If such a format is not available, the environmental information shall be provided in the available format.
12. The competent authorities shall respond to requests for environmental information as quickly as possible and within a period not longer than 30 business days from the date of receipt of the request, or less if so stipulated in domestic legislation.
13. Where, in exceptional circumstances and in accordance with domestic legislation, the competent authority requires more time to respond to the request, it shall notify the applicant in writing of the justification for the extension prior to the expiration of the period established in paragraph 12 of the present article. Such an extension will not exceed 10 business days.



14. In the event that the competent authority does not respond within the periods established in paragraphs 12 and 13 of the present article, paragraph 2 of article 8 shall apply.
15. When the competent authority receiving the request does not have the requested information, it shall notify the applicant as quickly as possible, indicating, if it can determine it, which authority may be in possession of the information. The request shall be forwarded to the relevant authority, and the applicant so informed.
16. When the requested information does not exist or has not yet been generated, the applicant shall be so informed, with explanation, within the periods established in paragraphs 12 and 13 of the present article.
17. Environmental information shall be disclosed at no cost, insofar as its reproduction or delivery is not required. Reproduction and delivery costs shall be applied in accordance with the procedures established by the competent authority. Such costs shall be reasonable and made known in advance, and payment can be waived in the event that the applicant is deemed to be in a vulnerable situation or to have special circumstances warranting such a waiver.

Independent oversight mechanisms

18. Each Party shall establish or designate one or more impartial entities or institutions with autonomy and independence to promote transparency in access to environmental information, to oversee compliance with rules, and monitor, report on and guarantee the right of access to information. Each Party may consider including or strengthening, as appropriate, sanctioning powers within the scope of the responsibilities of the aforementioned entities or institutions.

ARTICLE 6

Generation and dissemination of environmental information

1. Each Party shall guarantee, to the extent possible within available resources, that the competent authorities generate, collect, publicize and disseminate environmental information relevant to their functions in a systematic, proactive, timely, regular, accessible and comprehensible manner, and periodically update this



information and encourage the disaggregation and decentralization of environmental information at the subnational and local levels. Each Party shall strengthen coordination between the different authorities of the State.

2. The competent authorities shall endeavour to ensure, to the extent possible, that environmental information is reusable, processable and available in formats that are accessible, and that no restrictions are placed on its reproduction or use, in accordance with domestic legislation.
3. Each Party shall have in place one or more up-to-date environmental information systems, which may include, inter alia:
 - a. the texts of treaties and international agreements, as well as environmental laws, regulations and administrative acts;
 - b. reports on the state of the environment;
 - c. a list of public entities competent in environmental matters and, where possible, their respective areas of operation;
 - d. a list of polluted areas, by type of pollutant and location;
 - e. information on the use and conservation of natural resources and ecosystem services;
 - f. scientific, technical or technological reports, studies and information on environmental matters produced by academic and research institutions, whether public or private, national or foreign;
 - g. climate change sources aimed at building national capacities;
 - h. information on environmental impact assessment processes and on other environmental management instruments, where applicable, and environmental licenses or permits granted by the public authorities;
 - i. an estimated list of waste by type and, when possible, by volume, location and year; and
 - j. information on the imposition of administrative sanctions in environmental matters.

Each Party shall guarantee that environmental information systems are duly organized, accessible to all persons and made progressively



available through information technology and georeferenced media, where appropriate.

4. Each Party shall take steps to establish a pollutant release and transfer register covering air, water, soil and subsoil pollutants, as well as materials and waste in its jurisdiction. This register will be established progressively and updated periodically.
5. Each Party shall guarantee that in the case of an imminent threat to public health or the environment, the relevant competent authority shall immediately disclose and disseminate through the most effective means all pertinent information in its possession that could help the public take measures to prevent or limit potential damage. Each Party shall develop and implement an early warning system using available mechanisms.
6. In order to facilitate access by persons or groups in vulnerable situations to information that particularly affects them, each Party shall endeavour, where applicable, to ensure that the competent authorities disseminate environmental information in the various languages used in the country, and prepare alternative formats that are comprehensible to those groups, using suitable channels of communication.
7. Each Party shall use its best endeavours to publish and disseminate at regular intervals, not exceeding five years, a national report on the state of the environment, which may contain:
 - a. information on the state of the environment and natural resources, including quantitative data, where possible;
 - b. national actions to fulfil environmental legal obligations;
 - c. advances in the implementation of the access rights; and
 - d. collaboration agreements among public, social and private sectors.

Such reports shall be drafted in an easily comprehensible manner and accessible to the public in different formats and disseminated through appropriate means, taking into account cultural realities. Each Party may invite the public to make contributions to these reports.

8. Each Party shall encourage independent environmental performance reviews that take into account nationally or internationally agreed criteria and guides and common indicators,



with a view to evaluating the efficacy, effectiveness and progress of its national environmental policies in fulfilment of their national and international commitments. The reviews shall include participation by the various stakeholders.

9. Each Party shall promote access to environmental information contained in concessions, contracts, agreements or authorizations granted, which involve the use of public goods, services or resources, in accordance with domestic legislation.
10. Each Party shall ensure that consumers and users have official, relevant and clear information on the environmental qualities of goods and services and their effects on health, favouring sustainable production and consumption patterns.
11. Each Party shall create and keep regularly updated its archiving and document management systems in environmental matters in accordance with its applicable rules with the aim of facilitating access to information at all times.
12. Each Party shall take the necessary measures, through legal or administrative frameworks, among others, to promote access to environmental information in the possession of private entities, in particular information on their operations and the possible risks and effects on human health and the environment.
13. In accordance with its capacities, each Party shall encourage public and private companies, particularly large companies, to prepare sustainability reports that reflect their social and environmental performance.

ARTICLE 7

Public participation in the environmental decision-making process

1. Each Party shall ensure the public's right to participation and, for that purpose, commits to implement open and inclusive participation in environmental decision-making processes based on domestic and international normative frameworks.
2. Each Party shall guarantee mechanisms for the participation of the public in decision-making processes, revisions, re-examinations or updates with respect to projects and activities, and in other



processes for granting environmental permits that have or may have a significant impact on the environment, including when they may affect health.

3. Each Party shall promote the participation of the public in decision-making processes, revisions, re-examinations or updates other than those referred to in paragraph 2 of the present article with respect to environmental matters of public interest, such as land-use planning, policies, strategies, plans, programmes, rules and regulations, which have or may have a significant impact on the environment.
4. Each Party shall adopt measures to ensure that the public can participate in the decision-making process from the early stages, so that due consideration can be given to the observations of the public, thus contributing to the process. To that effect, each Party shall provide the public with the necessary information in a clear, timely and comprehensive manner, to give effect to its right to participate in the decision-making process.
5. The public participation procedure will provide for reasonable timeframes that allow sufficient time to inform the public and for its effective participation.
6. The public shall be informed, through appropriate means, such as in writing, electronically, orally and by customary methods, and in an effective, comprehensible and timely manner, as a minimum, of the following:
 - a. the type or nature of the environmental decision under consideration and, where appropriate, in non-technical language;
 - b. the authority responsible for making the decision and other authorities and bodies involved;
 - c. the procedure foreseen for the participation of the public, including the date on which the procedure will begin and end, mechanisms for participation and, where applicable, the date and place of any public consultation or hearing; and
 - d. the public authorities involved from which additional information on the environmental decision under consideration can be requested and the procedure for requesting information.



7. The public's right to participate in environmental decision-making processes shall include the opportunity to present observations through appropriate means available, according to the circumstances of the process. Before adopting the decision, the relevant public authority shall give due consideration to the outcome of the participation process.
8. Each Party shall ensure that, once a decision has been made, the public is informed in a timely manner thereof and of the grounds and reasons underlying the decision, including how the observations of the public have been taken into consideration. The decision and its basis shall be made public and be accessible.
9. The dissemination of the decisions resulting from environmental impact assessments and other environmental decision-making processes in which the public has participated shall be carried out through appropriate means, which may include written, electronic or oral means and customary methods, in an effective and prompt manner. The information disseminated shall include the established procedure to allow the public to take the relevant administrative and judicial actions.
10. Each Party shall establish conditions that are favourable to public participation in environmental decision-making processes and that are adapted to the social, economic, cultural, geographical and gender characteristics of the public.
11. When the primary language of the directly affected public is different to the official languages, the public authority shall ensure that means are provided to facilitate their understanding and participation.
12. Each Party shall promote, where appropriate and in accordance with domestic legislation, public participation in international forums and negotiations on environmental matters or with an environmental impact, in accordance with the procedural rules on participation of each forum. The participation of the public at the national level on matters of international environmental forums shall also be promoted, where appropriate.
13. Each Party shall encourage the establishment of appropriate spaces for consultation on environmental matters or the use of those that are already in existence in which various groups and sectors are able to participate. Each Party shall promote regard for local



knowledge, dialogue and interaction of different views and knowledge, where appropriate.

14. The public authorities shall make efforts to identify and support persons or groups in vulnerable situations in order to engage them in an active, timely and effective manner in participation mechanisms. For these purposes, appropriate means and formats will be considered, in order to eliminate barriers to participation.
15. In the implementation of the present Agreement, each Party shall guarantee that its domestic legislation and international obligations in relation to the rights of indigenous peoples and local communities are observed.
16. The public authority shall make efforts to identify the public directly affected by the projects or activities that have or may have a significant impact on the environment and shall promote specific actions to facilitate their participation.
17. With respect to the environmental decision-making processes referred to in paragraph 2 of the present article, as a minimum, the following information shall be made public:
 - a. a description of the area of influence and physical and technical characteristics of the proposed project or activity;
 - b. a description of the main environmental impacts of the project or activity and, as appropriate, the cumulative environmental impact;
 - c. a description of the measures foreseen with respect to those impacts;
 - d. a summary of (a), (b) and (c) of the present paragraph in comprehensible, non-technical language;
 - e. the public reports and opinions of the involved entities addressed to the public authority related to the project or activity under consideration;
 - f. a description of the available technologies to be used and alternative locations for executing the project or activity subject to assessment, when the information is available; and
 - g. actions taken to monitor the implementation and results of environmental impact assessment measures.



The aforementioned information shall be made available free of charge to the public in accordance with paragraph 17 of article 5 of the present Agreement.

ARTICLE 8

Access to justice in environmental matters

1. Each Party shall guarantee the right of access to justice in environmental matters in accordance with the guarantees of due process.
2. Each Party shall ensure, in the framework of its domestic legislation, access to judicial and administrative mechanisms to challenge and appeal, with respect to substance and procedure:
 - a. any decision, action or omission related to the access to environmental information;
 - b. any decision, action or omission related to public participation in the decision-making process regarding environmental matters; and
 - c. any other decision, action or omission that affects or could affect the environment adversely or violate laws and regulations related to the environment.
3. To guarantee the right of access to justice in environmental matters, each Party shall have, considering its circumstances:
 - a. competent State entities with access to expertise in environmental matters;
 - b. effective, timely, public, transparent and impartial procedures that are not prohibitively expensive;
 - c. broad active legal standing in defence of the environment, in accordance with domestic legislation;
 - d. the possibility of ordering precautionary and interim measures, inter alia, to prevent, halt, mitigate or rehabilitate damage to the environment;
 - e. measures to facilitate the production of evidence of environmental damage, when appropriate and as applicable, such as the reversal of the burden of proof and the dynamic burden of proof;



- f. mechanisms to execute and enforce judicial and administrative decisions in a timely manner; and
 - g. mechanisms for redress, where applicable, such as restitution to the condition prior to the damage, restoration, compensation or payment of a financial penalty, satisfaction, guarantees of non-repetition, assistance for affected persons and financial instruments to support redress.
4. To facilitate access to justice in environmental matters for the public, each Party shall establish:
 - a. measures to minimize or eliminate barriers to the exercise of the right of access to justice;
 - b. means to publicize the right of access to justice and the procedures to ensure its effectiveness;
 - c. mechanisms to systematize and disseminate judicial and administrative decisions, as appropriate; and
 - d. the use of interpretation or translation of languages other than the official languages when necessary for the exercise of that right.
5. In order to give effect to the right of access to justice, each Party shall meet the needs of persons or groups in vulnerable situations by establishing support mechanisms, including, as appropriate, free technical and legal assistance.
6. Each Party shall ensure that the judicial and administrative decisions adopted in environmental matters and their legal grounds are set out in writing.
7. Each Party shall promote, where appropriate, alternative dispute resolution mechanisms in environmental matters, such as mediation, conciliation or other means that allow such disputes to be prevented or resolved.

ARTICLE 9

Human rights defenders in environmental matters

1. Each Party shall guarantee a safe and enabling environment for persons, groups and organizations that promote and defend human



rights in environmental matters, so that they are able to act free from threat, restriction and insecurity.

2. Each Party shall take adequate and effective measures to recognize, protect and promote all the rights of human rights defenders in environmental matters, including their right to life, personal integrity, freedom of opinion and expression, peaceful assembly and association, and free movement, as well as their ability to exercise their access rights, taking into account its international obligations in the field of human rights, its constitutional principles and the basic concepts of its legal system.
3. Each Party shall also take appropriate, effective and timely measures to prevent, investigate and punish attacks, threats or intimidations that human rights defenders in environmental matters may suffer while exercising the rights set out in the present Agreement.

ARTICLE 10

Capacity-building

1. In order to contribute to the implementation of the provisions of the present Agreement, each Party undertakes to create and strengthen national capacities, based on its priorities and needs.
2. Each Party, in line with its capacities, may take, inter alia, the following measures:
 - a. train authorities and civil servants on environmental access rights;
 - b. develop and strengthen environmental law and access rights awareness-raising and capacity-building programmes for, inter alia, the public, judicial and administrative officials, national human rights institutions and jurists;
 - c. provide the competent institutions and entities with adequate equipment and resources;
 - d. promote education and training on, and raise public awareness of, environmental matters, through, inter alia, basic educational modules on access rights for students at all levels of education;



- e. develop specific measures for persons or groups in vulnerable situations, such as providing interpreters or translators in languages other than official languages when necessary;
- f. acknowledge the importance of associations, organizations or groups that train the public on or raise public awareness of access rights; and
- g. strengthen capabilities to collect, retain and evaluate environmental information.

ARTICLE 11

Cooperation

1. The Parties shall cooperate to strengthen their national capacities with the aim of implementing the present Agreement in an effective manner.
2. The Parties shall give particular consideration to least developed countries, landlocked developing countries and small island developing States from Latin America and the Caribbean.
3. For the purposes of implementing paragraph 2 of the present article, the Parties shall promote activities and mechanisms, such as:
 - a. discussions, workshops, expert exchanges, technical assistance, education and observatories;
 - b. developing, sharing and implementing educational, training and awareness-raising materials and programmes;
 - c. sharing experiences of voluntary codes of conduct, guidelines, good practices and standards; and
 - d. committees, councils and forums of multisectoral development stakeholders to address cooperation priorities and activities.
4. The Parties shall encourage partnerships with States from other regions, intergovernmental, non-governmental, academic and private organizations, as well as civil society organizations and other relevant stakeholders to implement the present Agreement.



5. The Parties recognize that regional cooperation and information-sharing shall be promoted in relation to all aspects of illicit activities against the environment.

ARTICLE 12

Clearing house

The Parties shall have a virtual and universally accessible clearing house on access rights. The clearing house will be operated by the Economic Commission for Latin America and the Caribbean, in its capacity as Secretariat, and may include, inter alia, legislative, administrative and policy measures, codes of conduct and good practices.

ARTICLE 13

National implementation

Each Party, to the extent of its ability and in accordance with its national priorities, commits to provide the resources for national activities that are needed to fulfil the obligations derived from the present Agreement.

ARTICLE 14

Voluntary Fund

1. A Voluntary Fund is hereby established to support the financing of the implementation of the present Agreement, the functioning of which shall be defined by the Conference of the Parties.
2. Parties may make voluntary contributions to support the implementation of the present Agreement.
3. The Conference of the Parties may seek, in accordance with paragraph 5(g) of article 15 of the present Agreement, to obtain funds from other sources to support the implementation of the present Agreement.



ARTICLE 15

Conference of the Parties

1. A Conference of the Parties is hereby established.
2. The Executive Secretary of the Economic Commission for Latin America and the Caribbean shall convene the first meeting of the Conference of the Parties no later than one year after the entry into force of the present Agreement. Subsequently, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be decided by the Conference.
3. Extraordinary meetings of the Conference of the Parties shall be held when the Conference deems necessary.
4. At its first meeting, the Conference of the Parties shall:
 - a. discuss and adopt by consensus its rules of procedure, including the modalities for significant participation by the public; and
 - b. discuss and adopt by consensus the financial provisions that are necessary for the functioning and implementation of the present Agreement.
5. The Conference of the Parties shall examine and promote the implementation and effectiveness of the present Agreement. To that end:
 - a. it shall establish by consensus such subsidiary bodies as it deems necessary for the implementation of the present Agreement;
 - b. it shall receive and consider reports and recommendations from subsidiary bodies;
 - c. it shall be informed by the Parties of the measures adopted to implement the present Agreement;
 - d. it may formulate recommendations to the Parties on the implementation of the present Agreement;
 - e. it shall prepare and adopt, as applicable, protocols to the present Agreement for its subsequent signature, ratification, acceptance, approval and accession;



- f. it shall examine and adopt proposals to amend the present Agreement in accordance with the provisions of article 20 of the present Agreement;
- g. it shall establish guidelines and modalities for mobilizing financial and non-financial resources from various sources to facilitate the implementation of the present Agreement;
- h. it shall examine and adopt any additional measures needed to achieve the objective of the present Agreement; and
- i. it shall perform any other function assigned to it by the present Agreement.

ARTICLE 16

Right to vote

Each Party to the present Agreement shall have one vote.

ARTICLE 17

Secretariat

1. The Executive Secretary of the Economic Commission for Latin America and the Caribbean shall carry out the secretariat functions of the present Agreement.
2. The functions of the Secretariat shall be as follows:
 - a. to convene and organize the meetings of the Conference of the Parties and its subsidiary bodies and provide the necessary services;
 - b. to provide assistance to the Parties upon their request for capacity-building, including the sharing of experiences and information and the organization of activities in accordance with articles 10, 11 and 12 of the present Agreement;
 - c. to determine, under the general guidance of the Conference of the Parties, the administrative and contractual arrangements needed to carry out its functions effectively; and



- d. to perform any other secretariat functions specified in the present Agreement and any other functions as determined by the Conference of the Parties.

ARTICLE 18

Committee to Support Implementation and Compliance

1. A Committee to Support Implementation and Compliance is hereby established as a subsidiary body of the Conference of the Parties to promote the implementation of the present Agreement and to support the Parties in that regard. The rules relating to its structure and functions shall be determined by the Conference of the Parties at its first meeting.
2. The Committee shall be of a consultative and transparent nature, non-adversarial, non-judicial and non-punitive and shall review compliance of the provisions of the present Agreement and formulate recommendations, in accordance with the rules of procedure established by the Conference of the Parties, ensuring the significant participation of the public and paying particular attention to the national capacities and circumstances of the Parties.

ARTICLE 19

Settlement of disputes

1. If a dispute arises between two or more Parties about the interpretation or application of the present Agreement, they shall seek a solution by negotiation or by any other means of dispute settlement acceptable to the parties to the dispute.
2. When signing, ratifying, accepting, approving or acceding to the present Agreement, or at any time thereafter, a Party may declare in writing to the Depositary that, for a dispute not resolved in accordance with paragraph 1 of the present article, it accepts one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:
 - a. submission of the dispute to the International Court of Justice;



- b. arbitration in accordance with the procedures that the Conference of the Parties will establish.
3. If the parties to the dispute have accepted both means of dispute settlement referred to in paragraph 2 of the present article, the dispute may be submitted only to the International Court of Justice, unless the parties agree otherwise.

ARTICLE 20

Amendments

1. Amendments to the present Agreement may be proposed by any Party.
2. Amendments to the present Agreement shall be adopted at a meeting of the Conference of the Parties. The text of any proposed amendment shall be communicated to the Parties by the Secretariat at least six months before the meeting at which it is proposed for adoption. The Secretariat shall also communicate the proposed amendment to the signatories to the present Agreement and, for information, to the Depositary.
3. The Parties shall make every effort to reach a consensus on any proposed amendment to the present Agreement. In the event that the efforts to reach a consensus fail, as a last resort, the amendment shall be adopted by a three-fourths majority vote of the Parties present and voting at the meeting.
4. An adopted amendment shall be communicated by the Depositary to all Parties for ratification, acceptance or approval.
5. Ratification, acceptance or approval of an amendment shall be notified to the Depositary in writing. An amendment adopted in accordance with paragraph 3 of the present article shall enter into force for the Parties having consented to be bound by it on the ninetieth day after the date of deposit of the instruments of ratification, acceptance or approval by at least half of the number of Parties to the present Agreement at the time the amendment was adopted. Thereafter, the amendment shall enter into force for any other Party that consents to be bound by it on the ninetieth day after the date of deposit of its instrument of ratification, acceptance or approval of the amendment.



ARTICLE 21

Signature, ratification, acceptance, approval and accession

1. The present Agreement shall be open for signature by any of the countries of Latin America and the Caribbean included in annex 1 at United Nations Headquarters in New York from 27 September 2018 to 26 September 2020.
2. The present Agreement shall be subject to the ratification, acceptance or approval of the States that have signed it. It shall be open to accession by any country in Latin America and the Caribbean included in annex 1 that has not signed it from the day after the date on which it is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

ARTICLE 22

Entry into force

1. The present Agreement shall enter into force on the ninetieth day after the date of deposit of the eleventh instrument of ratification, acceptance, approval or accession.
2. For each State that ratifies, accepts or approves the present Agreement or accedes thereto after the deposit of the eleventh instrument of ratification, acceptance, approval or accession, the present Agreement shall enter into effect on the ninetieth day after the date of deposit by such State of its instrument of ratification, acceptance, approval or accession.

ARTICLE 23

Reservations

No reservations may be made to the present Agreement.



ARTICLE 24

Withdrawal

1. At any time after three years from the date on which the present Agreement has entered into force for a Party, that Party may withdraw from the present Agreement by giving written notification to the Depositary.
2. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.

ARTICLE 25

Depositary

The Secretary-General of the United Nations shall be the Depositary for the present Agreement.

ARTICLE 26

Authentic texts

The original of the present Agreement, the Spanish and English texts of which are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed the present Agreement.

DONE at Escazú, Costa Rica, on this fourth day of March, two thousand and eighteen.



Annex 1

- Antigua and Barbuda
- Argentina
- Bahamas
- Barbados
- Belize
- Bolivia (Plurinational State of)
- Brazil
- Chile
- Colombia
- Costa Rica
- Cuba
- Dominica
- Dominican Republic
- Ecuador
- El Salvador
- Grenada
- Guatemala
- Guyana
- Haiti
- Honduras
- Jamaica
- Mexico
- Nicaragua
- Panama
- Paraguay
- Peru
- Saint Kitts and Nevis
- Saint Vincent and the Grenadines
- Saint Lucia
- Suriname
- Trinidad and Tobago
- Uruguay
- Venezuela (Bolivarian Republic of)



Guidelines of indigenous work and principles for the strengthening of environmental justice and the defense of indigenous defenders

Aligned with the Program for the Defense of Indigenous Defenders, specific actions have been identified to strengthen access to environmental justice:

1. Participation in spaces for dialogue and coordination that promote the Environment, Justice and Human Rights sectors
 - a. The creation of a high-level table between indigenous organizations, State and other actors is necessary, in order to design an effective strategy for the signature / ratification and implementation of the Escazú Agreement. Coordination meetings should contemplate adequate communication channels, considering the cultural relevance from the call, during the session and the follow-up to it.
 - b. Participate in the implementation of networks and watchdogs for the strengthening of environmental justice and the dissemination of actions for this.
 - c. Participate in the construction of instruments for the protection of environmental defenders and tools for the prevention of situations of vulnerability of these.
2. Capacity building
 - a. Establish a training calendar on the content of the Escazú Agreement and its implications at the territorial base level, which includes not only the participation of leaders but also members of the communities.



Principles

It has been determined that the participation of Indigenous Peoples should be carried out, in every process, for the elaboration of plans, policies and programs, based on the following principles:

- **Effective participation:** Collective right of Indigenous Peoples to participate before (formulation or planning), during (application and management) and after (evaluation or control and reformulation) of policies, plans and programs.
- **Access to Information and transparency:** It is sustained in the previous, simultaneous and subsequent exercise in the participation spaces to incorporate the right to timely (prior, on time), complete and reliable (relevant), and adequate (intercultural) information and the maximum transparency and publicity of information, decisions and processes in order to guarantee an effective participation process.
- **Intercultural:** Poses the respectful and empowered exchange of knowledge and experiences between different cultures, and leads to sustainable processes of dialogue and transformation of inequality, exclusion and socio-cultural discrimination. This allows the use of mechanisms appropriate to both geography and the material limitations that exist.
- **Governance:** as the possibility of including social actors within government tasks, that is to say within the decision-making space, also including their needs, risks and concerns about impacts, threats, as well as their solutions through public politics. Likewise, with a governance focused on a participation that is measured in terms of autonomy in the control of the life universes of indigenous peoples and with it also the control of the effects that occur on their territory by the decisions taken. These two processes framed in an exchange sustained by conditions of: planning, coordination, participation, transparency, accountability, capacity development and capital.
- **Gender approach:** Social construction in conditions of equity, equality and justice of relations and stereotypes between actors who are conceived as men and / or women (or others).
- **Territory:** Referred to the special bond that indigenous peoples have with their territories, which is based on a multidimensional relationship (economic, political, social and spiritual), ancestral



(based on traditional and historical use and significance) and autonomous (self-determination and with it strengthen the control of the multidimensional conditions and effects of the territory).

- **Flexibility:** Adaptation to multiple contexts of knowledge from the beginning of intercultural, horizontal relationships and experiences. This takes into account that there are no hierarchies around oral, written, technical or visual knowledge and the value and relevance of the experience and practical knowledge of the different subjects is considered.
- **Trust and good faith:** In other words, both parties act without creating distrust among themselves, having as a motive for such a process the fact of guaranteeing a true inclusion of indigenous peoples when trying to promote a space of horizontal relations in which the different actors recognize as necessary and important for the development and consolidation of the processes of dialogue and participation.
- **Indigenous representation and institution:** The importance of indigenous autonomous institution is recognized. In this way, the political and social representation of the peoples is taken into account internally, as well as the informal institution that allows the full development of the indigenous experience and knowledge.
- **Promotion of dialogue:** For this it is necessary to stimulate conditions for dialogue, such as respect between the parties, empathic ability, recognition of differences, listening skills, proactive behaviors, among the main ones.



PROGRAM FOR THE DEFENSE OF INDIGENOUS DEFENDERS

DEFENDING LAND, TERRITORY AND ENVIRONMENT



COORDINADORA DE LAS ORGANIZACIONES
INDÍGENAS DE LA CUENCA AMAZÓNICA

Members of the COICA:



AIDESEP



APA



OPIAC



ORPIA

Supported by:



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Por la transparencia y la participación



DERECHO
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