



United Nations Economic Commission for Latin America and the Caribbean

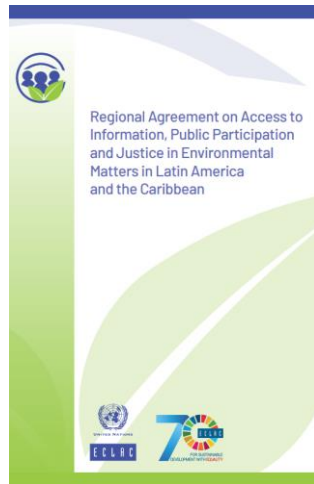


Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean
“Escazú Agreement”

Policies for Sustainable Development Unit
Sustainable Development and Human Settlements Division

April 2019

Escazú Agreement:



Adopted in Escazú (Costa Rica) on 4 March 2018
Opened for signature at UNGA on 27 September 2018

- **Only treaty stemming from the United Nations Conference on Sustainable Development (Rio+20)**
- **First regional environmental treaty** of Latin America and the Caribbean
- First treaty in the world with specific binding provisions on **environmental human rights defenders**
- First treaty concluded under the auspices of **ECLAC**

Open to the **33** countries of Latin America and the Caribbean

16 have already signed it

1 ratification

11 ratifications required to enter into force





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The road to the Escazu Agreement

June 1992	Río de Janeiro – UN Conference on Environment and Development (Principle 10 of the Declaration)
2012	Declaration on the Application of Principle 10 in Latin America and the Caribbean (in the margins of the UN Conference on Sustainable Development – Rio+20)
2012-2014	Preparatory Stage: 4 Meetings of the focal points of the Declaration, 14 meetings of the contact group established (adoption of foundational documents: Guadalajara Plan of Action, Lima Vision for the regional instrument, Contents of San Jose, Santiago Decision)
2015-2018	Negotiation of the Escazu Agreement (9 meetings of the Negotiating Committee, 6 intersessional meetings)
4 March 2018	Adoption of the Regional Agreement in Escazu, Costa Rica
27 September 2018	Opening for signature ceremony of the Escazu Agreement (in the margins of the 73 General Assembly of the United Nations)



Structure of the Escazú Agreement



First 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)

Capacity-building and cooperation (art. 10 and 11) and clearing house (art. 12)

Implementation, monitoring and evaluation

Resources

Rules of procedure

Institutional framework

Final provisions



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Principles (art. 3)

- ▶ Equality and principle of non-discrimination;
 - ▶ Transparency and principle of accountability;
 - ▶ Non-regression and principle of 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*
-



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General provisions (art. 4)

- ▶ Right of every person to live in a healthy environment and any other universally-recognized human right
- ▶ Free exercise of the rights recognized in the present Agreement
- ▶ **Adoption of legislative, regulatory, administrative or other measures necessary to guarantee implementation of the agreement**
- ▶ Provision of information to facilitate the acquisition of knowledge on access rights
- ▶ Duty to guide and assist the public, 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)**
- ▶ Most favourable interpretation for the full enjoyment of and respect for access rights
- ▶ Encourage the use of new information and communications technologies, such as open data. Shall not constrain or result in discrimination against the public.
- ▶ Promotion in other international forums



Environmental information



- ▶ **Access to environmental information (art. 5)**
 - ▶ *Accessibility of environmental information*
 - ▶ *Refusal of access to environmental information*
 - ▶ *Conditions applicable to the delivery of environmental information*
 - ▶ *Independent review mechanisms*

- ▶ **Generation and dissemination of environmental information (art. 6)**

Public participation in environmental decision-making (art. 7)



- ▶ **Ensure the public's right to participation - open and inclusive participation**
 - ▶ Mechanisms
 - ▶ Promotion
 - ▶ 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
 - ▶ Favourable conditions for public participation
 - ▶ 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**



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Access to justice in environmental matters (art. 8)



- ▶ Guarantee the right of access to justice in environmental matters in accordance with the guarantees of due process
- ▶ Access to judicial and administrative mechanisms
 - ▶ Competent State entities with access to expertise in environmental matters
 - ▶ Effective, timely, public, transparent and impartial procedures that are not prohibitively expensive
 - ▶ Broad active legal standing in defense of the environment, in accordance with domestic legislation
 - ▶ The possibility of ordering precautionary and interim measures
 - ▶ Measures to facilitate the production of evidence of environmental damage (reversal of the burden of proof / dynamic burden of proof, when appropriate and as applicable)
 - ▶ Mechanisms for redress, where applicable
 - ▶ Measures to minimize or eliminate barriers to the exercise of the right of access to justice
 - ▶ Means to publicize the right of access to justice and the procedures to ensure its effectiveness;
 - ▶ Mechanisms to systematize and disseminate judicial and administrative decisions, as appropriate; and
 - ▶ The use of interpretation or translation of languages other than the official languages when necessary
- ▶ Special consideration of persons or groups in vulnerable situations
- ▶ Judicial and administrative decisions set out in writing
- ▶ Promote, where appropriate, alternative dispute resolution mechanisms in environmental matters



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Human rights defenders in environmental matters (art. 9)



- ▶ 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.
- ▶ 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.
- ▶ 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.



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Capacity-building, cooperation and clearing house (art. 10-12)



- ▶ Creation and strengthening of national capacities, based on national priorities and needs
- ▶ Cooperation to strengthen national capacities through activities and mechanisms such as...
- ▶ Clearing house



Escazú Agreement: Next steps



27 September 2018 - 26 September 2020
Opening for signature of the 33 LAC countries at UN Headquarters in NY



Ratification or accession of the Regional Agreement



Entry into force: 90 days after the 11th instrument of ratification or accession



Implementation of the Regional Agreement



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Escazú Agreement website

The screenshot shows the website for the Escazú Agreement. At the top, there is a navigation bar with the United Nations logo and the text 'Naciones Unidas'. To the right, there is a language selection menu with options for 'Español', 'Español', and 'Português'. Below this is a secondary navigation bar with links for 'Antecedentes del Acuerdo Regional', 'Texto del Acuerdo Regional', 'Países', 'Mecanismo Público Regional', and 'Contacto'. The main header features the title 'Acuerdo Regional sobre el Acceso a la Información, la Participación Pública y el Acceso a la Justicia en Asuntos Ambientales en América Latina y el Caribe' and the CEPAL logo. A large image shows the Secretary-General of the UN, António Guterres, at a podium. Below the image is the text: 'Secretario General de la ONU celebra primer tratado de CEPAL' and a quote: 'Celebro la adopción del primer tratado concluido bajo los auspicios de esta comisión regional y felicito a todas las personas que lo hicieron posible.' To the right of the image, there are statistics: '16 Firmas' and '0 Ratificaciones'. Below the main image, there are three columns: 'Reuniones' (Meetings), 'Acuerdo Regional' (Regional Agreement), and 'Noticias' (News). The 'Reuniones' column lists several events, including a workshop for government officials in 2018 and a second workshop in 2018. The 'Acuerdo Regional' column has a link to the agreement in four languages: Inglés, Español, Portugués, and Francés. The 'Noticias' column lists news items, including a statement by Alicia Bárcena in 2018 and a news item about the agreement's importance in 2018.

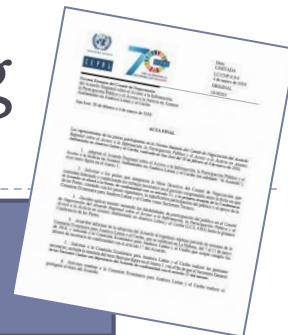
<http://www.cepal.org/en/escazuagreement>



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Final Act of 9th NC Meeting

(LC/CNP10.9/4)



Applies between the opening for signature
and the first COP

- ▶ Adopts the Escazú Agreement
- ▶ Requests Presiding Officers to continue to steer and conduct the necessary work with signatory countries, significant participation by the public and the support of ECLAC as technical secretariat
- ▶ Decides to apply *mutatis mutandis* the Modalities for participation of the public in the negotiating committee until the first COP
- ▶ Invites all Latin American and Caribbean States to sign the Agreement, and to ratify, accept, approve or accede to it, as appropriate, as soon as possible



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Technical Secretariat – Escazú Agreement
Sustainable Development and Human Settlements Division
United Nations, ECLAC

<http://www.cepal.org/en/escazuagreement>

<http://observatoriop10.cepal.org>

#AcuerdodeEscazú **#EscazúAgreement**
