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Seventh meeting of the negotiating committee  
of the regional agreement on access to information,  
participation and justice in environmental matters  
in Latin America and the Caribbean

Buenos Aires, 31 July-4 August 2017

**FUTURE REGIONAL AGREEMENT ON ACCESS TO INFORMATION, PARTICIPATION  
AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS IN LATIN AMERICA  
AND THE CARIBBEAN AND THE PROCEDURE FOR ESTABLISHING  
ITS TECHNICAL SECRETARIAT**

**Note by the Secretariat**



## INTRODUCTION

This document has been prepared by the Economic Commission for Latin America and the Caribbean (ECLAC), at the request of the countries, as input for the discussions on the procedure for implementing the future regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean and establishing its technical secretariat.

At the fifth meeting of the negotiating committee of the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean, held in Santiago from 21 to 25 November 2016, the representatives of the participating countries requested that ECLAC prepare a preliminary report assessing the different options and modalities for the establishment of the technical secretariat of the agreement.

A preliminary report was presented and discussed at the sixth meeting of the negotiating committee, held in Brasilia from 20 to 24 March 2017. In the agreements adopted at that meeting, the participating countries thanked ECLAC for its support as technical secretariat and, in particular, for the presentation of the preliminary report.

At the same meeting, the participating countries agreed to continue discussing the procedure for establishing the regional agreement, including the report that will be presented as a note by the secretariat at the seventh meeting of the negotiating committee to be held in Buenos Aires from 31 July to 4 August 2017.

This document has been prepared on the basis of the provisions of the text compiled by the Presiding Officers incorporating the language proposals received from the countries.<sup>1</sup> The lessons learned from similar processes, such as the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention), serviced by the Economic Commission for Europe, and other multilateral environmental agreements, have been taken into account.

Pursuant to the agreements adopted at the sixth meeting of the negotiating committee, the secretariat makes this document available to the countries and the public.

### **A. THE ECONOMIC COMMISSION FOR LATIN AMERICA AND THE CARIBBEAN (ECLAC) OF THE UNITED NATIONS**

ECLAC is one of the five regional commissions of the United Nations and is part of the United Nations Secretariat. Within the framework of its functions, powers and mandate, ECLAC serves as the secretariat of the Forum of the Countries of Latin America and the Caribbean on Sustainable Development,<sup>2</sup> a regional mechanism to follow up and review the implementation of the 2030 Agenda for Sustainable Development, and of nine subsidiary bodies, standing bodies of ECLAC that allow regional positions to be adopted.

The other regional commissions of the United Nations, in addition to having subsidiary bodies, serve as the technical secretariats of numerous binding legal instruments deposited with the Secretary-General of the United Nations. The Economic Commission for Europe (ECE) oversees 16 environmental treaties

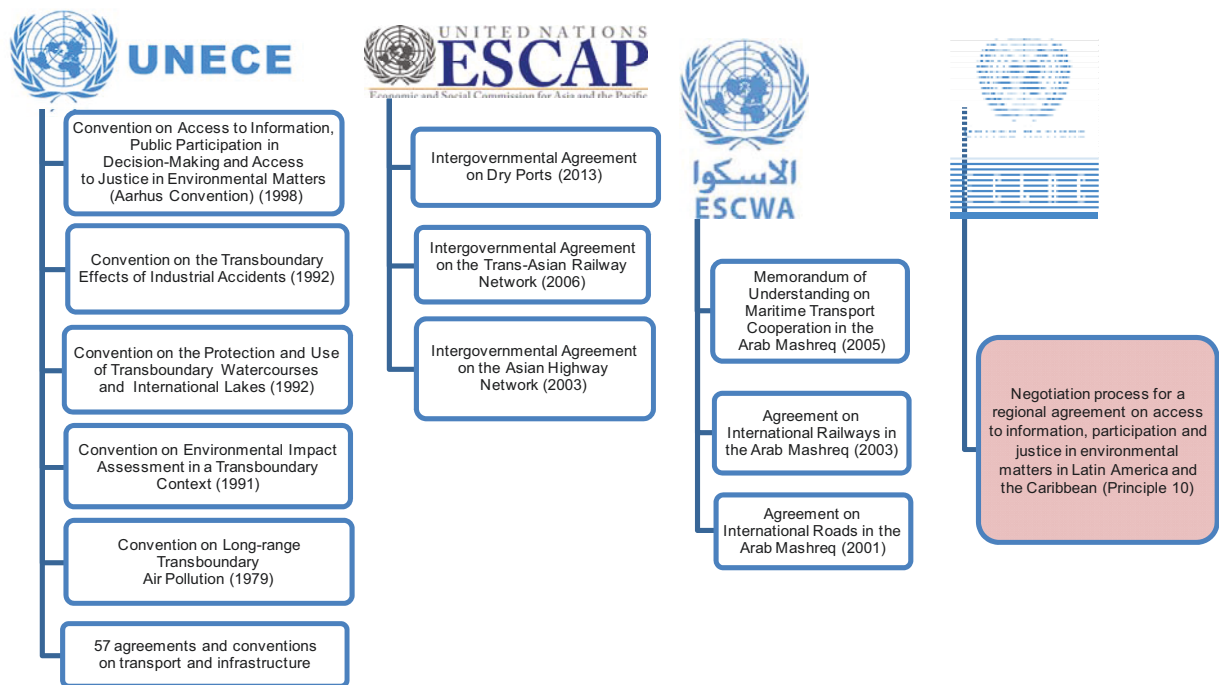
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<sup>1</sup> LC/L.4059/Rev.5.

<sup>2</sup> See resolution 700(XXXVI) of ECLAC.

(5 conventions and 11 protocols);<sup>3</sup> the Economic and Social Commission for Asia and the Pacific (ESCAP) is the secretariat for three binding legal agreements (Intergovernmental Agreement on Dry Ports,<sup>4</sup> Intergovernmental Agreement on the Asian Highway Network<sup>5</sup> and the Intergovernmental Agreement on the Trans-Asian Railway Network);<sup>6</sup> and the Economic and Social Commission for Western Asia (ESCWA) oversees another three agreements (the Agreement on International Roads in the Arab Mashreq,<sup>7</sup> the Agreement on International Railways in the Arab Mashreq<sup>8</sup> and the Memorandum of Understanding on Maritime Transport Cooperation in the Arab Mashreq)<sup>9</sup> (see diagram 1).

Diagram 1  
Examples of regional agreements serviced by the regional commissions of the United Nations



**Source:** Economic Commission for Latin America and the Caribbean (ECLAC), on the basis of United Nations Treaty Collection [online] <https://treaties.un.org/>.

<sup>3</sup> These agreements are supervised by the Environment Division. The Transport Division also manages 57 agreements and conventions. See [online] [http://www.unece.org/fileadmin/DAM/1501960\\_E\\_ECE\\_INF\\_2015\\_2\\_WEB.pdf](http://www.unece.org/fileadmin/DAM/1501960_E_ECE_INF_2015_2_WEB.pdf).

<sup>4</sup> See [online] [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XI-E-3&chapter=11&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XI-E-3&chapter=11&clang=_en).

<sup>5</sup> See [online] [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XI-B-34&chapter=11&clang=\\_en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XI-B-34&chapter=11&clang=_en).

<sup>6</sup> See [online] [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XI-C-5&chapter=11&clang=\\_en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XI-C-5&chapter=11&clang=_en).

<sup>7</sup> See [online] [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=XI-B-33&chapter=11&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XI-B-33&chapter=11&clang=_en).

<sup>8</sup> See [online] [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=XI-C-4&chapter=11&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XI-C-4&chapter=11&clang=_en).

<sup>9</sup> See [online] [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=XI-D-7&chapter=11&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XI-D-7&chapter=11&clang=_en).

## **B. THE PROGRAMME OF WORK OF ECLAC AND THE PROGRAMME BUDGET**

As part of the United Nations Secretariat, the Commission bases its procedures and practices of programme planning, the programme aspects of the budget, the monitoring of implementation and the methods of evaluation on the detailed regulations of the United Nations.<sup>10</sup>

ECLAC uses a biennial system of strategic planning, which is based fundamentally on the strategic framework. In this context, the member States of the Commission determine the programme structure and set priorities for each biennium, as well as establishing the legislative basis that underpins the institution's mandate, particularly the body of intergovernmental decisions and resolutions that are periodically issued by the United Nations General Assembly, the Social and Economic Council (to which ECLAC is directly accountable) and the member States at the session of the Commission.

The draft strategic framework is adopted by the member States at the session of ECLAC, which serves as the Commission's governing body at the regional level. It is then reviewed by the specialized intergovernmental bodies of the General Assembly, including the Committee for Programme and Coordination (CPC) and the Fifth Committee, before adoption by the General Assembly.

ECLAC usually prepares its draft programme of work for the biennium in parallel with the strategic framework, albeit with a broader and more detailed content. The draft programme of work is put before the member States of the Commission for review and adoption at the ECLAC session.

The strategic framework and the programme of work are then taken as the basis for preparing the ECLAC programme budget for the biennium. Budget preparation begins more than a year before the programme of work is due for implementation, and consists of assigning human and financial resources to the different components of the programme. The sum of the financial resources to be allocated is decided in an intergovernmental negotiating process at the General Assembly, and is expressed in an indicative budget figure.

The draft programme budget is subject to review by the specialized intergovernmental bodies of the General Assembly, including the Advisory Committee on Administrative and Budgetary Questions (ACABQ) and the Fifth Committee, before being adopted by the General Assembly.

## **C. PRINCIPLE 10 AT ECLAC**

Work on Principle 10 of the Rio Declaration on Environment and Development has been carried out by ECLAC under subprogramme 8 (sustainable development and human settlements). One of the main roles of the Sustainable Development and Human Settlements Division, which is responsible for implementing subprogramme 8, has been to support countries' efforts to follow up on international and regional sustainable development commitments, such as the Rio Declaration on Environment and Development. At the thirty-third session of ECLAC, held in Brasilia in 2010, the member States asked ECLAC to develop technical assistance activities in connection with Principle 10 of the Rio Declaration on Environment and Development and to compile good practices on the matter. At the thirty-fourth session,

<sup>10</sup> See United Nations, "Regulations and Rules Governing Programme Planning, the Programme Aspects of the Budget, the Monitoring of Implementation and the Methods of Evaluation. Secretary-General's bulletin" (ST/SGB/2016/6), 2016.

held in San Salvador in 2012, those activities were endorsed and pursued under the Programme of Work for 2014-2015 through specific references to the outcomes of the United Nations Conference on Sustainable Development (Rio+20) and the promotion of public policies and good practices in the light of the Rio Declaration on Environment and Development. Subsequent programmes of work have made increasing reference to those outcomes, which include institution-building for environmental management, implementing Principle 10 of the Rio Declaration on Environment and Development, holding regional meetings and providing secretariat services and technical cooperation.

Since the adoption of the Declaration on the application of Principle 10 in Latin America and the Caribbean at Rio+20, the Sustainable Development and Human Settlements Division of ECLAC has served as the technical secretariat in accordance with paragraph 50 of the Plan of action to 2014 for the implementation of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development in Latin America and the Caribbean and its road map<sup>11</sup>(2013) and paragraph 13 of the Organization and work plan of the negotiating committee of the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean<sup>12</sup> (2015).

The regional process has also been supported by the governing bodies of ECLAC. By virtue of resolutions 686(XXXV) and 706(XXXVI), adopted at its thirty-fifth and thirty-sixth sessions, held in 2014 and 2016, respectively, ECLAC took note of the progress made and convergence achieved at the meetings of the focal points and the negotiating committee, which are reflected in the respective reports, and commended the secretariat of the Commission on the progress made in the process. In addition, the Committee of the Whole of the Economic Commission for Latin America and the Caribbean took note of the Santiago Decision,<sup>13</sup> which set the negotiations in motion, by virtue of resolution 693(PLEN.30), adopted at its thirtieth session, held in March 2015.

Similarly, at the start of the process, appreciation was expressed at the first Summit of the Community of Latin American and Caribbean States (CELAC), held in Santiago in January 2013, for initiatives for the regional implementation of Principle 10 of the Rio Declaration, as a significant contribution to the participation of organized civil society committed to sustainable development.

The Sustainable Development and Human Settlements Division of ECLAC has been supporting the Commission's role as the technical secretariat for the regional process on Principle 10. Extrabudgetary resources were also obtained to cover the cost of holding meetings, training workshops and additional activities.

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<sup>11</sup> Adopted at the second meeting of the focal points appointed by the Governments of the signatory countries of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development in Latin America and the Caribbean, held in Guadalajara, Mexico, on 16 and 17 April 2013 (LC/L.3677).

<sup>12</sup> LC/L.4011/Rev.1.

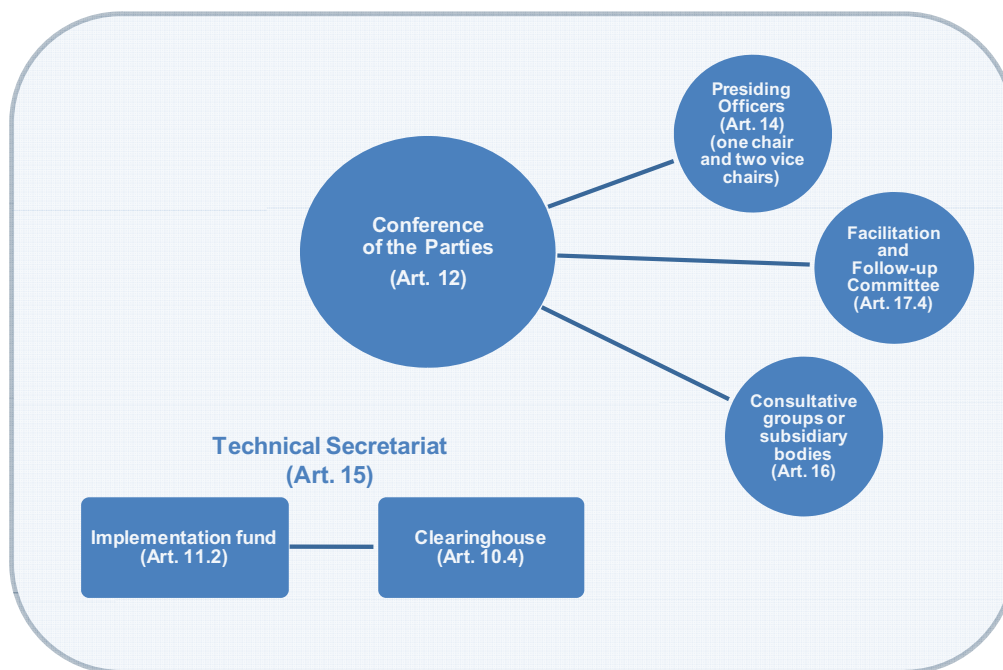
<sup>13</sup> Contained in the report of the fourth meeting of the focal points appointed by the Governments of the signatory countries of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development in Latin America and the Caribbean (LC/L.3970).

## D. STRUCTURE OF THE FUTURE REGIONAL AGREEMENT

As stated in the text compiled by the Presiding Officers of the regional agreement, the institutional architecture of the future agreement comprises the following bodies (see diagram 2):

- (a) Conference of the Parties (article 12)
- (b) Presiding Officers (article 14)
- (c) Facilitation and Follow-up Committee (article 17.4)
- (d) Consultative groups or subsidiary bodies (article 16)
- (e) Secretariat (article 15)

Diagram 2  
Proposed institutional architecture of the regional agreement on Principle 10  
in Latin America and the Caribbean



**Source:** Economic Commission for Latin America and the Caribbean (ECLAC).

The Conference of the Parties is the highest decision-making body of the agreement that brings together all the States Parties regularly. Pursuant to article 12 of the compiled text, the Conference of the Parties shall keep implementation and effectiveness of the agreement under permanent review and evaluation. To that effect, it shall:

- (a) establish such subsidiary bodies as it deems necessary for implementation of the agreement;
- (b) cooperate, as applicable, with the competent international organizations and bodies and intergovernmental and non-governmental entities;

- (c) receive communications from the Parties on the lessons learned from the conclusion and implementation of bilateral and multilateral agreements or other agreements related to the objective of the agreement to which one or several of them are party, and share these with all the Parties;
- (d) consider all recommendations made to it pursuant to article 17.4 (Facilitation and Follow-up Committee);
- (e) prepare and adopt, as applicable, protocols to the agreement;
- (f) examine and adopt proposals to amend the agreement in accordance with the provisions of article 19; and
- (g) examine and adopt any additional measures needed to achieve the objective of the agreement.

At the Conference of the Parties, the Parties shall elect Presiding Officers consisting of at least one chair and two vice chairs, one of whom will act as rapporteur. The Presiding Officers shall exercise their functions until the next meeting of the Conference of the Parties. The functions of the Presiding Officers will be:

- (a) to support implementation of the present Agreement, with the support of the secretariat;
- (b) to convene, along with the secretariat, the meeting of the Conference of the Parties;
- (c) to chair the meetings of the Conference of the Parties and ensure compliance with the rules of procedure; and
- (d) to perform other functions derived from agreements reached at the meetings of the Conference of the Parties.

The Facilitation and Follow-up Committee is established as a subsidiary body of the Conference of the Parties, to promote the application and support the Parties with implementation of the agreement based on capacity-building and cooperation. The Committee will be non-adversarial, non-judicial and of a consultative nature to review compliance of the provisions of the agreement and formulate recommendations, with special attention to the national capacities and circumstances of the Parties. The Committee will allow appropriate participation by the public and review communications from the Parties, other entities of the agreement and members of the public. It may also submit recommendations for the consideration of the Conference of the Parties.

The Conference of the Parties may create specialized technical panels or groups to advise the Parties on specific issues relevant to implementation of the agreement or other issues related to implementation of access rights.

The technical panels or groups may be composed of representatives from all the Parties. Meetings of the technical panels or groups will be open.

The technical secretariat of the future agreement is established pursuant to article 15. Its functions are described below. The secretariat would provide support to the Conference of the Parties and to the bodies created by the future agreement under the subprogramme on sustainable development and human settlements of the programme of work of ECLAC. As under other intergovernmental agreements adopted within the framework of the regional commissions of the United Nations and deposited with the Secretary-General, the Executive Secretary of ECLAC would act as the secretary of the future agreement. The chair of



the Conference of the Parties, in conjunction with the technical secretariat of the agreement, would report to the plenary decision-making bodies of the Commission (session and Committee of the Whole) on the progress made in its implementation.

### **E. FUNCTIONS OF THE TECHNICAL SECRETARIAT OF THE FUTURE AGREEMENT**

The functions of the technical secretariat are set out in article 15 of the compiled text:

- (a) convene and prepare the meetings of the Conference of the Parties and its subsidiary bodies and provide the necessary services;
- (b) implement the rules of procedure for participation by the public in meetings of the Conference of the Parties and its subsidiary bodies;
- (c) provide assistance to the Parties for capacity-building, including the sharing of experiences and exchange of information and the organization of activities in accordance with article 10; and
- (d) perform any other secretariat functions specified in the present Agreement and any other functions as determined by the Parties.

The technical secretariat would also be in charge of managing a clearinghouse, provided for in article 10.4 of the compiled text, and the implementation fund of article 11.2.

While carrying out its role as technical secretariat of the current negotiations, ECLAC has performed the secretariat functions set out in article 15 of the compiled text. Each of these functions is analysed below.

#### **(a) Convene and prepare the meetings of the Conference of the Parties and its subsidiary bodies and provide the necessary services**

The technical secretariat would be responsible for, among other things, issuing invitation letters; overseeing the registration and accreditation process and compiling the list of participants; if the meeting is held outside ECLAC headquarters, making meeting venue arrangements with the host country, in collaboration with the Office of the Secretary of the Commission; facilitating administrative matters and making the necessary logistical arrangements to ensure the smooth conduct of the meeting, such as arranging conference facilities, technical services, interpretation, security services, conference rooms, the technological resources needed for the meeting, press services and dissemination activities; and making arrangements at the local level, such as selecting suitable hotels.

At the technical level, the technical secretariat would be responsible for preparing all meeting documents and for working with the secretariat of the Commission, the Conference Services Unit and the Web Publications and Web Services Division to ensure that the documents are edited, translated and available as hard and/or electronic copies in a timely manner. With regard to the consultative groups or subsidiary bodies, the secretariat will fully support their members to allow them to carry out their functions effectively.

**(b) Implement the rules of procedure for participation by the public in meetings of the Conference of the Parties and its subsidiary bodies**

The technical secretariat will support public participation in the meetings of the future agreement's bodies and will ensure compliance with rules of procedure adopted in that regard. It will carry out the registration and accreditation process, support the dissemination of the agreement, promote public participation through the website, regular press releases and other media, and will manage the regional public mechanism.<sup>14</sup>

**(c) Provide assistance to the Parties for capacity-building, including the sharing of experiences and exchange of information and the organization of activities in accordance with article 10**

The technical secretariat will support capacity-building and cooperation in accordance with article 10 of the compiled text, by promoting the sharing of experiences, good practices and information. It would also organize at least one annual regional workshop on matters related to the agreement and may organize additional workshops, subject to budgetary availability. The technical secretariat will also provide advice and technical assistance to countries that request it.

**(d) Perform any other secretariat functions specified in the present Agreement and any other functions as determined by the Parties**

The Parties may decide that the technical secretariat should provide support in connection with other obligations. For example, in relation to generating, disseminating and making available environmental information, the Parties could ask the technical secretariat to promote the creation and development of standards in relation to environmental information systems and to suggest measures to rationalize resource use. The Parties may also seek the support of the technical secretariat, together with other international organizations, to systematize, publish and disseminate national reports on the state of the environment at the regional level. Article 17.3 of the compiled text states that the secretariat may prepare periodic implementation guidelines and good practices for promoting the exchange of experiences in fulfilment of the provisions of the agreement.

## **F. RELEVANT ASPECTS FOR THE IMPLEMENTATION OF THE AGREEMENT**

The first meeting of the Conference of the Parties is expected to be convened no later than one year after the entry into force of the future agreement. As stated in the compiled text, at its first meeting, the Conference of the Parties shall discuss and approve the rules of procedure for subsequent meetings, including the modalities for significant participation by the public, and shall discuss and approve the rules of procedure and membership of the Facilitation and Follow-up Committee, among other things. Other

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<sup>14</sup> In the Plan of action to 2014 for the implementation of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development in Latin America and the Caribbean and its road map, the signatories of the Declaration agreed to establish a regional public mechanism, to which interested parties may subscribe by completing a short form available on the ECLAC website. The main objectives of this mechanism are to keep all parties interested in the process informed and facilitate their involvement, to coordinate public participation in international meetings and to contribute to the transparency of the process. The mechanism may also serve as a complement for participation actions carried out at the national level.

subsidiary bodies may also be established. The text stipulates that ordinary meetings of the Conference of the Parties will be held at regular intervals to be decided by the Conference.

Taking into account the functions set out in article 15 of the text compiled by the Presiding Officers, the technical secretariat will undertake the substantive, administrative and financial tasks of the future agreement, including those of subsidiary bodies, and provide logistical support for meetings and activities.<sup>15</sup> These functions would operate in synergy with other activities under subprogramme 8 (Sustainable Development and Human Settlements), of which the technical secretariat would be a part.

Capacity-building in areas related to the future agreement is essential for its implementation. In that connection, an annual regional workshop, as well as subregional and national workshops, is expected to be held.

In order for ECLAC to be charged with the role of technical secretariat of the agreement and the implementation of related activities, member States must explicitly state that this is what they want in a resolution to be adopted by the member States at the ECLAC session or at the Committee of the Whole as the governing body of the Commission at the regional level. The resolution should task ECLAC with exploring possible options, in conjunction with member States, for obtaining the necessary resources to ensure the long-term sustainability of the technical secretariat of the agreement.

Different modalities may be explored to obtain resources for the work of the technical secretariat of the agreement, including the possibility of obtaining additional resources from the ECLAC regular budget, extrabudgetary resources, or a combination of both. Extrabudgetary resources could be raised either through individual donations from member States, or by establishing a joint implementation fund, or both. In the case of regular budget resources, possible budgetary implications should be submitted for consideration to the specialized intergovernmental bodies of the General Assembly, such as the Advisory Committee on Administrative and Budgetary Questions (ACABQ) and the Fifth Committee, before being adopted by the General Assembly.

Article 11.2 of the compiled text provides for the establishment of a fund, to be managed by the secretariat, to finance the implementation of the agreement, which will be defined at the Conference of the Parties in accordance with article 12. The criteria of providing predictable and stable resources, supporting the countries with the greatest needs and ensuring transparency and efficient and effective management would be applied to the management of that fund. The technical secretariat would prepare financial statements and report at each meeting of the Conference of the Parties.

The agreement proposes that States Parties' contributions should be in proportion to their economic capacity, with a mandatory minimum. Such contributions may not be earmarked for a particular purpose, as their main purpose is: (i) capacity-building and cooperation; and (ii) helping delegations from low-income countries to participate in the Conferences of the Parties.

The fund will be administered in accordance with the rules, norms and standards of the United Nations Secretariat. The management modality would be similar to that applied to other multi-donor extrabudgetary funds financed by the States and administered by the United Nations.

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<sup>15</sup> As a point of reference, the Aarhus Convention currently has two full-time Professional posts and one part-time General Service post funded from the regular budget, and four full-time Professional posts and one full-time General Service post funded from extrabudgetary resources from the Trust Fund for Local Technical Cooperation. See United Nations, "Report of the fifth session of the Meeting of the Parties. Addendum: Decisions adopted by the Meeting of the Parties" (ECE/MP.PP/2014/2/Add.1), 2014.