



Organización de los Estados Americanos
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Organisation des États Américains
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RIO+20
United Nations Conference
on Sustainable Development

DIALOGUE SERIES IN THE FRAMEWORK OF RIO+20

GOVERNANCE, PUBLIC PARTICIPATION, AND GENDER MAINSTREAMING IN SUSTAINABLE DEVELOPMENT DECISION-MAKING

DEPARTMENT OF SUSTAINABLE DEVELOPMENT

Background

Good environmental governance covers a range of issues, including supporting participatory and accountable decision-making, and ensuring open access to environmental information, the political process, and the judicial system. Good governance¹ means that this process is participatory, consensus oriented, accountable, transparent, effective, and efficient, and follows the rule of law to ensure minimal corruption and the inclusion of minorities and vulnerable groups in decision-making, and support meaningful public participation.

Public participation refers to the involvement of civil society in the design, implementation, and evaluation of government policies, projects, and programs. This participation could be either direct, or through legitimate intermediate institutions or representatives, and needs to be informed and organized. This means freedom of association and expression on the one hand, and an organized civil society on the other.² Public participation is a key component of good governance.

The Organization of American States (OAS) through its Department of Sustainable Development (DSD) supports its member states in designing and implementing policies, strategies, programs and projects oriented around integrating environmental sustainability with poverty alleviation and economic development. This support translates sustainable development and environmental protection goals into concrete actions that have impact at the national level.

The Department also supports transparency and public participation, as practical ingredients of good governance, and is responsible for various tasks and initiatives in the area of environmental law and governance aimed at supporting countries in making fundamental decisions which engage all stakeholders, and encourage accountability and respect for sustainable development principles and institutions. These initiatives are influenced by various mandates of OAS political organs and the Summits of the Americas process, including the 1996 Summit of the Americas on Sustainable Development in Santa Cruz de la Sierra, Bolivia, where member states established institutional arrangements and the Inter-American Forum on Environmental Law (FIDA).

The DSD has approached environmental governance as a process that harmonizes policies, institutions, procedures, tools, and information, facilitates decision making with a wide array of stakeholders (public and private sector, civil society organizations, local communities), and promotes conflict resolution by seeking points of consensus and ensuring accountability. It is

¹ Major donors and international financial institutions issue aid and loans on the condition that countries undertake reforms that ensure “good governance.”

² United Nations Human Settlements: <http://www.unescap.org/huset/gg/governance.htm>

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based on clear sectorial responsibilities, respect for and compliance with the laws, and local empowerment.

Consistent with the roles that it played in previous global conferences on environment and development dating back to Founex and Stockholm, the Department has prepared a *Roadmap to Rio+20* and is playing a key role on the High Level International Advisory Committee for the World Congress on Justice, Governance and Law for Environmental Sustainability (World Congress), which is being co-sponsored by the OAS and which will be held on 1-3 June 2012, also in Rio de Janeiro. The World Congress is aimed at supporting the Rio+20 process by promoting global consensus among relevant stakeholders and outlining the future actions required to promote the pursuit of sustainable development in the 21st century founded on the rule of law and governance.

In addition to its support for the World Congress, the General Secretariat of the OAS is organizing a series of hemispheric dialogues in a variety of sustainable development themes, such as Energy and Climate Change, Integrated Water Resources Management, Biodiversity and Sustainable Land Management, Risk Management and Environmental Law, Policy and Governance. The results of these dialogues will feed into the Conference process through means such as policy papers and recommendations.

This second dialogue in the series will focus on institutional structures, policies, and procedures to facilitate public participation in sustainable development initiatives. Participants will deliberate on ways to strengthen these institutions and will be called upon to outline recommendations on the implementation of basic governance principles and improving relationships among stakeholders.

Context

The Rio Declaration on Environment and Development was adopted by 178 Governments at the United Nations Conference on Environment and Development (UNCED) held in Rio de Janeiro in 1992. Principle 10 of this Declaration states that “environmental issues are best handled with the participation of all concerned citizens at the relevant level.” In Agenda 21, a comprehensive plan of action also revealed at the UNCED, governments pledged to pursue broader public participation in decision-making processes and policy formulation for sustainable development. Furthermore, Principle 10 of the Rio Declaration calls to strengthen access to information, public participation, and justice in environmental matters.

Access to Information	Access to and exchange of accurate, relevant, timely information, including scientific and traditional knowledge, is fundamental to assuring that civil society and government have the means and ability to participate meaningfully and responsibly in sustainable development decisions.
Access to Participation	The opportunity for general public to provide timely and informed input and influence decisions on general policies, strategies, and plans at different levels as well as individual projects that may have an impact on the environment.
Access to Justice	It provides the opportunity for citizens to turn to impartial arbiters to resolve disputes over access to information and participation in decision making on environmental matters. In addition, access to justice is an important component toward providing the public with opportunities to “participate” in the enforcement of procedural and substantive

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environmental issues.

Consistent with Principle 10, a growing number of multi-lateral environmental agreements and other international instruments have promoted stakeholder participation in environmental decision-making. The hemisphere of the Americas, in particular, has taken a leadership role in supporting good governance norms and soft-law principles. In 2001, the OAS member countries adopted the *Inter-American Democratic Charter* which, in its commitment to support democratic governance, recognizes the importance of “citizens” awareness concerning their own countries and thereby achieve meaningful participation in the decision-making process.” The Charter commits all countries in the region to support innovative and creative ways to advance democratic governance, in support of good governance and participation of civil society (Art. 27), institutional transparency (Art. 4), public participation (Art. 6), integral development (Art. 12) as well as the full participation of women (Art. 28).

Complementing the Charter, the Inter-American Strategy for the Promotion of Public Participation in Decision-Making for Sustainable Development (ISP)³, adopted by the OAS member countries in 2000, sets out far-reaching and innovative principles specifically intended to support public participation, and the dissemination of relevant information for decision-making⁴. The core of ISP is the Policy Framework, which contains the basic principles, goals, and policy recommendations aimed at achieving greater involvement of all sectors of society in decision-making for sustainable development. In addition to this Framework, the Strategy provides Recommendations for Action, which are intended for consideration by both government and civil society actors. Overall, the ISP principles highlight several key conditions that are necessary to promoting the success of policies and practices of public participation, which require firm, ongoing commitment from government and civil society. Recommended mechanisms for public participation include consultations, partnerships, seminars, workshops, working groups, working meetings, modern communication media (e.g. email, virtual consultation forums), interviews, surveys, and meetings with institutions, among others.

Among the soft-law principles set out in the ISP are commitments by all OAS member countries to proactivity⁵, inclusiveness, openness throughout the process⁶ and transparency⁷. The principle related to inclusiveness brings to the table the issue of **gender mainstreaming** in environmental

³ ISP basic principles for public participation are: 1) proactivity; 2) inclusiveness; 3) shared responsibility; 4) openness throughout the process; 5) access; 6) transparency; and 7) respect for public input. See http://www.oas.org/dsd/PDF_files/ispenglish.pdf for further information on each principle.

⁴ The principles and recommendations of the ISP have been formed by concrete experiences taking place in the countries of the Americas and have undergone extensive consultations among governments and civil society throughout the region.

⁵ Public Participation requires that governments and civil society take initiatives, in accordance with their respective roles, to develop their maximum potential and enrich the process of decision-making for sustainable development.

⁶ Inclusive and continuous participation throughout the process of design, implementation, and evaluation of projects, policies, or programs inspires new ideas and expertise, legitimizes decisions, and enriches outcomes. A decision-making process that is open to input at all phases can benefit from adjustments wherever they are needed to respond to new information or circumstances.

⁷ Productive relationships between civil society and government require that both be more accountable and transparent. Transparency on the part of all concerned parties in a decision-making process facilitates more meaningful participation by ensuring that all motivations and objectives are explicit and that all information vital to the decision is reliable and available in a timely manner.

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governance. This principle states that “full participation by all those interested in and/or affected by sustainable development issues is essential to achievement of durable solutions. Special efforts should be made to include the participation of the private sector, and to create equal opportunities for women and vulnerable groups such as indigenous populations, youth, disadvantaged racial and ethnic minorities (including disadvantaged populations of African descent), and other traditionally marginalized groups.”

The ISP establishes a link between sustainable development and public participation highlighting that decision-making and implementation should be granted to all who are interested or affected by those decisions, regardless of their race, ethnicity, culture or gender.

Gender Mainstreaming

Gender mainstreaming implies a process of determining the implications for women and men of any planned action, including legislation, policies and programs in all areas and at all levels. In determining these implications, the process must consider relationships (socially constructed), hierarchies (power relations), changes (changes over time), context (varies with class, culture, age) and institutional structures (supported by values, legislation, religion, among others). To engender an environmental gender perspective requires analyzing and understanding intricacies of the above, in order to address the distinct roles, responsibilities, and needs of women and men, as well as their respective levels of participation and influence in decision-making. It goes beyond mere recognition of differences towards building more equitable relations between women and men.⁸

At the international level, gender issues have been raised in a number of global sustainable development agreements such as Chapter 24 of Agenda 21, which calls upon governments to make the necessary constitutional, legal, administrative, cultural, social and economic changes in order to eliminate all obstacles to women’s full involvement in sustainable development and in public life. Furthermore, the World Summit on Sustainable Development (WSSD) Plan of Implementation 2002 adopted in Johannesburg, South Africa promotes women’s equal access to full participation in decision making at all levels, on the basis of equality with men. In this regard, the Rio Conventions related to climate change, biodiversity and desertification were critical in the establishment of a link between the environment, gender equality and social participation.

Through the Summits of the Americas process, the Western Hemisphere countries have committed to strengthening their efforts to mainstream gender in national and hemispheric policies, as evident in the Port-of-Spain (2009), Mar de Plata (2005), Quebec City (2001), Santiago (1998), and Miami (1994) Declarations. In addition, in 2000 OAS member states approved the Inter-American Program on the Promotion of Women's Human Rights and Gender Equity and Equality.

Further to these commitments, at the First Inter-American Ministerial Meeting of Sustainable Development in 2006, the Ministries and High Level Authorities adopted the Declaration of Santa Cruz, through which OAS member states reaffirm their “commitment to promote and strengthen policies, laws and regional cooperation and integration mechanisms that advance public

⁸ Training Manual on gender and Climate Change: http://www.generoyambiente.org/archivos-de-usuario/File/ecosistemas_especificos.pdf

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participation and democratic governance as important elements of sustainable development.” The Declaration also calls for the promotion of institutional transparency, gender equity, and equal opportunities for all vulnerable groups. Furthermore, it includes, in priorities for action in the Inter-American Program for Sustainable Development, a specific call to “promote the strengthening of early warning systems that are people-centered, in particular, systems whose warnings are timely and understandable to those at risk, which take into account demographic, gender, cultural, and livelihood characteristics.” The Declaration of Santo Domingo, adopted in the Second Ministerial Meeting of Sustainable Development (2010), calls for the mainstreaming of respect for cultural values, gender equality and equity, and commitment to the Millennium Development Goals in projects and programs for sustainable development in the Hemisphere.

The Department of Sustainable Development is working diligently in engaging women in decision-making processes in sustainable development initiatives, trainings, and public fora. Furthermore, these regional capacity-building initiatives are promoting gender equality, diversity, and inclusion. All DSD policy recommendations issued will also be responsive to issues of gender linked to sustainable development.

Regional Progress toward Rio + 20

Countries of the Americas have consistently committed to strengthening their efforts to carry out development policies and programs with the active participation of all sectors of society. In keeping to this commitment, the countries, civil society and the international community have taken concrete actions to incorporate public participation and principles of good governance into institutions and governing processes. However, despite these efforts, there still remain deficiencies and challenges to fulfill Principle 10 of the Rio Declaration.

Following requests from governments in the Central American region, in 2008 the United Nations Institute for Training and Research (UNITAR) developed National Profiles and Action Plans to strengthen and measure the implementation of the three pillars of Principle 10. The respective Profiles and Plans sought to identify potential gaps and opportunities for capacity development, with the objective of strengthening capacities for participatory environmental governance through a multilateral approach. In general, these Profiles concluded that Central American countries are lacking the legal framework for the procedural rights to access information. This deficiency is a result of confidentiality of proceedings, technical design aspects, and the prejudice and manipulation of officials against public participation, among others. In many cases the legislation fails to explain the mechanisms which would allow people to access that information. This is problematic given that the procedures of the referenced laws themselves are not adequate. Public pressure will be critical to addressing these issues in resolving major environmental conflicts and ensuring compliance. With respect to access to justice, judicial officers lack the institutional capacity to enforce these laws, and funding to support investigative processes (e.g. analysis of pollution) is limited or non-existent. .

The Mercosur region has also worked in the promotion of Principle 10. For instance, in 2001 Mercosur adopted a Framework Agreement on the Environment which provides for social participation. In addition, a roundtable dialogue was organized between governments and civil society organizations on Preparing a National Profile for Implementation of Principle 10 into the Mercosur environmental agenda in 2004.

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Various free trade agreements have been established with linkages to Principle 10. In the context of the Dominican Republic-Central American-United States Free Trade Agreement (CAFTA-DR), the Environmental Cooperation Program (ECP) for instance, has been supporting the countries in the improvement of their administrative procedures, with a focus on incorporating public participation through the submission of environmental complaints. The US-Peru Free Trade Agreement along with the North American Free Trade Agreement (NAFTA) also include independent citizen submission processes.

Furthermore, efforts have been developed from civil society organizations such as The Access Initiative (TAI), a coalition of civil society organizations from different countries which promote implementation of Principle 10. Particularly, in 2005, ten Latin American countries⁹ carried out local studies with common methodology in order to evaluate the state of access to information, participation, justice, and capacity building. The studies concluded that *access to information* is the most developed of the four. However, while the study recognized advances of environmental legislation and specific laws on access to information, it also revealed a need to develop instruments that guarantee use of laws, strategies for diffusion, and socialization of existing tools for access to information. With regard to *participation*, the legal framework contemplates the right of access to mechanisms of participation in the environmental decision-making process. Nevertheless, it is necessary to reinforce, broaden the scope, and consolidate the mechanisms that can bring these participation spaces to healthy completion. Finally, in *access to justice* the majority of the countries reported a strong governmental performance in offering access to the mechanisms of justice, it is important to note that the tribunals or forums commonly used are not adequate spaces, due to that they respond to a judicial logic that is usually administrative, civil, or penal, but not environmental.¹⁰ A number of civil society initiatives also aimed at promoting Principle 10 such as the Center for Human Rights and Environment, in United States, and the Fundación Ambiente y Recursos Naturales in Argentina. As part of the preparatory process for Rio + 20, the TAI network launched a campaign to encourage governments to develop specific recommendations around Principle 10 of the Rio Declaration. The campaign is entitled Three Demands (3Ds) Campaign.

The path to the involvement of all stakeholders in the environmental decision-making process remains an enormous challenge. Each country committed to implementing Principle 10 needs to have consensus and encourage the proper conditions and opportunities to allow the decision-making process to flourish. A lucid understanding of the existing national instruments and mechanisms related to public participation is a critical first step to any national program. This will ensure not only that Principle 10 concepts are translated into national frameworks, but into outlines for regional and international agendas, and Rio + 20 themes toward strengthening the institutional framework for sustainable development.

⁹ Bolivia, Costa Rica, Chile, Ecuador, El Salvador, Mexico, Peru, Brazil, Colombia and Venezuela

¹⁰ <http://www.accessinitiative.org/sites/default/files/Situation%20of%20Access%20-%20English.pdf>

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PRELIMINARY PROGRAM*
COLON ROOM
3:00 to 5:00 pm

Thursday, October 27th, 2011

2:45 – 3:00 pm	Registration & Coffee
3:00 – 3:15 pm	Welcome remarks, <i>Irene Klinger, Director, Department of International Affairs Secretariat for External Relations, OAS</i>
3:15 – 4:30 pm	<u>Davos-Style Panel Discussion¹¹: Governance, Public Participation, and Gender Mainstreaming in Sustainable Development Decision-Making</u> <i>Chair: Claudia de Windt, Senior Legal Specialist, Chief Environmental Law, Policy and Good Governance, Department of Sustainable Development, OAS.</i> <i>Panelists:</i> 1) <i>Jake Werksman, Program Director, Institutions and Governance Program, World Resources Institute</i> 2) <i>Rob Wing, Chief, Environment and Trade Division, Office of Environmental Policy, Oceans, Environment, and Science Bureau, U.S. Department of State</i> 3) <i>Gustavo Alanis, President, Mexican Center of Environmental Law (CEMDA)</i> 4) <i>Carmen Moreno Toscano, Executive Secretary, Inter-American Commission of Women</i>
4:30 – 5:00 pm	Open discussion and recommendations
5:00 pm	Closing

¹¹ The 'Davos-style' panel discussion will emphasize discussion and interaction among the experts on Governance, Public Participation, and Gender Mainstreaming in Sustainable Development Decision-Making. After opening remarks and introduction of the panelists, the Moderator will pose questions and facilitate a discussion. The Moderator will provide a brief summary of comments and thoughts at the end of the discussion.

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