



Public Participation and Access information in Environmental Impact Assessment Systems (EIAS) in LA Countries

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Objective

Analyze the level of legal recognition and treatment of the rights to information and public participation in the EIA systems in 17 Latin American countries in order to look how these countries are for the process for a Principle 10 Regional Convention

Methodology

- ❑ Review of General Environmental Laws and EIAS Regulations: 17 Latin American countries

- ❑ The paper does not:
 - Review sub national legislation
 - Assess the level of implementation of the provisions

Access to information: time, understandability, suitable means

Public Participation: public hearing versus submitting written comments/observations

Which countries do we look?



- ❑ Central America (Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama)
- ❑ Andean region (Bolivia, Ecuador, Peru, Venezuela, Colombia)
- ❑ Southern cone countries (Argentina, Brazil, Chile, Paraguay, Uruguay)

Why is important to look EIAS in LAC countries as environmental management tools? (1)

- ❑ EIAS are the most used preventive-instrument for environmental protection across LAC countries
- ❑ Since its first introduction in 1969 by the United States through its National Environmental Protection Act (NEPA), several international and national instruments have started to recognize this tool
- ❑ Principle 17 of the 1992 Rio Declaration on Environment and Development
- ❑ The level of the incorporation of EIA varies from country to country in LAC

Why is important to look EIAs in LAC countries as environmental management tools? (2)

- ❑ Despite that EIA highlighted environmental concerns onto the public agenda during the past decade it has showed its unskillfulness to deal with social demands
- ❑ A big challenge today in environmental democracy is how to substantively involve those communities that share the territory with projects that have to be assessed under the EIA generating impacts
- ❑ EIA are saturated and over-demand due to the lack of other mechanisms that integrate social concerns such as biodiversity conservation, pollution control or effective land use planning (among others)
- ❑ EIA become “de facto” on a regulatory substitute

The importance of Access Rights

Principle 10: access to information, participation and justice on environmental matters

First Earth Summit: 1992, Brazil

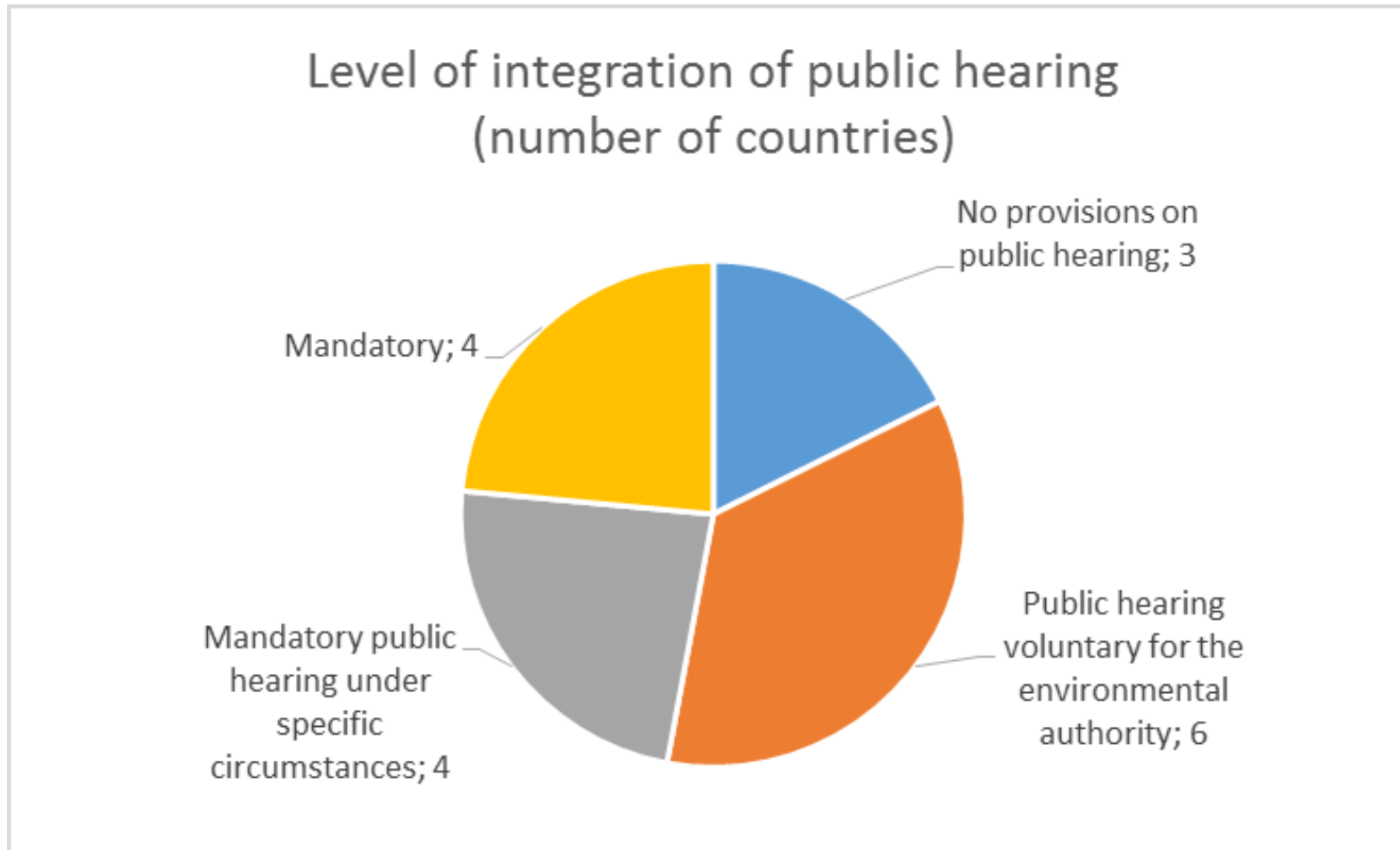
Key to sustainable development and environmental democracy

Today 22 LAC countries are negotiating a Convention on Principle 10. Negotiations will finish in December 2017. The process has the active participation of the public

Results: Public Participation (1)

<u>Provisions</u>	<u>Countries</u>	<u>Number of countries</u>	<u>%</u>
No provisions on public hearing	Chile, Venezuela and Nicaragua	3	17
Public hearing voluntary for the environmental authority	Brazil, Colombia, Costa Rica, Guatemala, Mexico and Paraguay	6	35
Mandatory public hearing under specific circumstances	Argentina, Honduras, El Salvador and Uruguay	4	24
Mandatory	Bolivia, Ecuador, Panama and Peru	4	24

Results: Public Participation (1)



Results: Public Participation (2)

- ❑ Only Bolivia, Ecuador, Panama and Peru has mandatory public hearings at any event for projects under the EIAS
- ❑ 4 countries has a mandatory public hearing when the Project has negative impacts in the environment and human health (Argentina, Honduras, El Salvador and Uruguay).
- ❑ In 6 countries the environmental authority can decide or not to have a public hearing
- ❑ The legislations of Brazil, Colombia, Costa Rica, Guatemala, Paraguay and Mexico establishes that citizens and/or organizations can request a public hearing to the authority, where the authority can accept or deny the request
- ❑ The countries with the weakest provisions on public participation are Chile, Venezuela and Nicaragua because the public hearing does not exist in their legislation

Results: Public Participation (3)

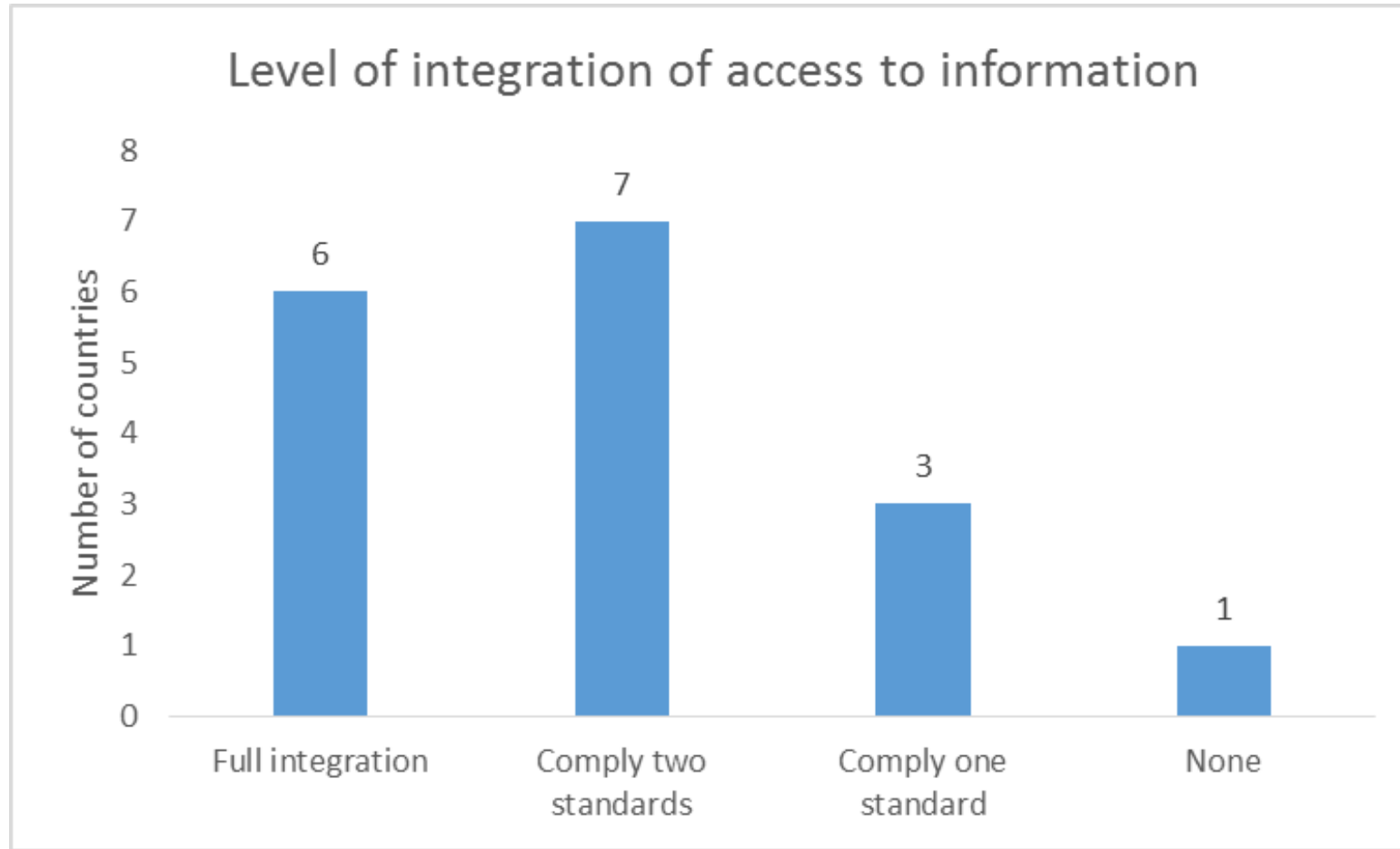
- 8 countries out of the 17, the provisions includes the possibility that a public hearing can be requested by third parties, such as a legal or natural person

Country	<u>A public hearing can be requested by:</u>
Brazil	non for profit organization, 50 citizens and/or the Ministerio Público
Colombia	Governors, Mayors or at least one 100 (hundred) people or 3 (three) non-profit entities
Costa Rica	Any natural or legal person
Mexico	Any natural or legal person
Honduras	Public, NGOs or the Secretary of State at the Environment Office (SEDA in Spanish). In this case is to submit the results of the EIA, which means the public hearing is after the EIA is done
Panama	Communities located within the project influence area (signed by at least 2% of citizens residing in the project influence area)
Paraguay	Neighbors or the ones directly affected
Uruguay	Civil entity, the Public Prosecutor or 50 citizens

Results: Access to information (1)

Country	Access to information Criteria			Total Score
	Time	Understandability	Suitable means	
Chile	1	1	1	3
Colombia	1	1	1	3
Ecuador	1	1	1	3
El Salvador	1	1	1	3
Peru	1	1	1	3
Uruguay	1	1	1	3
Brazil	0	1	1	2
Costa Rica	1	0	1	2
Guatemala	0	1	1	2
Honduras	1	0	1	2
Mexico	1	0	1	2
Panama	1	0	1	2
Paraguay	1	0	1	2
Bolivia	0	1	0	1
Nicaragua	0	1	0	1
Venezuela	0	0	1	1
Argentina	0	0	0	0

Results: Access to information (1)



Results: Access to information (2)

- ❑ 35 % of the LAC countries has a full integration of access to information, indicating a specific time, understandability and suitable means for its deliver. Colombia, Chile, Ecuador, El Salvador, Peru, Uruguay
- ❑ 41 % of the LAC countries comply with two standards. In fact, while Brazil and Guatemala integrate the understandability and suitable means in the delivery of information, Costa Rica, Honduras, Mexico, Panama y Paraguay established specific times and suitable means, but did not say anything about understandability
- ❑ 18 % of the LAC countries integrate only one of these criteria in their EIA legal framework. Specifically, while Bolivia and Nicaragua established only understandability of access to information, Venezuela only integrates a provision related to suitable means
- ❑ The worst country in matter of access to information is Argentina due it national environmental law do not integrate none of the above standards

Results: information and participation

Information:

- 13 (76%) of the 17 countries fulfill 2 or 3 of the standards.
- The most provisions are on “suitable means” followed by “time”.

Participation:

- 8 (47%) of the 17 countries has mandatory or mandatory public hearings under specific circumstances.
- 17 latin american countries: Access to information provisions are stronger than those on public participation.**

THANKS!

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