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Making the Forest Sector Transparent

Annual Transparency Report

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Partner: Grupo FARO - Fundación para el Avance de las Reformas y las Oportunidades

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Making the Forest Sector Transparent

Making the Forest Sector Transparent is a four-year programme supporting civil society groups in forest-rich countries to advocate for greater transparency and good governance. An important part of the programme is the production of annual report cards by independent NGO partners to monitor the forest sector in their countries. The number of NGO partners has increased year-on-year, starting in Cameroon, Ghana, Liberia and Peru in 2009, to including Ecuador in 2010 and Guatemala and the Democratic Republic of Congo (DRC) in 2011.

The 2011 Report Card consists of 20 key indicators on important provisions of the legal and regulatory framework that applies to the forest sector governance. The partners collected data between July 2011 and August 2011. Each indicator includes an 'objective' assessment of whether clear provisions exist and information on them is publicly available, resulting in a 'yes', 'partial', or 'no' overall. This is combined with a more 'subjective' assessment of whether there is evidence of change in the last year (where a report card was produced in 2010) and analysis of whether the provision enables transparent access to information and/or decision-making. Data collection was largely carried out through office-based research, for example by searching the websites of government institutions and other official sources of information, supplemented where appropriate by contacting key informants and requesting specific information. The data presented on each indicator is organised as shown in the Table below.

Indicator assessment

Does it exist?	Is it available?	Indicator	
Yes – specific provision in current laws and norms that have been passed by state and applies to the forest sector	Yes – available to public from official sources (websites, publications, media)	Yes	
	Partial – some information provided but not complete (e.g. only parts of manuals)	Partial	
	No – although evidence that exists, it is not available (includes when only unofficial sources)	No	
Partial – process underway to develop it, but not yet established in law; or limited provision or relevance to forest sector	Partial – some information provided but not complete (e.g. only parts of manuals)	Yes	
	Partial – some information provided but not complete (e.g. only parts of manuals)	Partial	
	No – although evidence that exists, it is not available (includes when only unofficial sources)	No	
No – no current provision or plans to establish (even though needed)		No	
Not applicable - not relevant to the country-specific context		N/A	

Specific questions guided the determination of the existence and availability of the provisions for each indicator. In order to receive a 'yes', the provision needed to both exist in the legal and regulatory framework and information needs to be publicly available on it, whereas a 'partial' or 'no' indicator reflected that either one or the other criteria (or both) was partially or not met.

The change in the last year was assessed against the following scale:

-  Significantly Improved - major development such as new law or information system
-  Improved - steps forward such as initiatives with potential to improve transparency
-  No Change - no evidence of major change in the conditions for transparency
-  Worsened - steps backward such as activities taking place without transparent processes
-  Significantly Worsened - major deterioration such as termination of laws or systems

Specific information was provided on the full titles of the applicable laws or other norms, the names of the authorities or institutions responsible for them, the dates when they were passed, and the website or other official sources where they can be accessed.

For further information please go to www.foresttransparency.info.

Freedom of Information Law



Is there a Freedom of Information Act, which has been passed by the government and established in law?
Is the Act publically available in full from official sources (websites and/or offices)?

The Organic Law of Transparency and Access to Public Information (LOTAIP) is a tool for dealing with poor transparency, and improving the quality and timeliness of public information. The public institutions have a specific link on their websites in which they publish the required information, and the law enables citizens to request information and receive a reply within 15 working days. The People's Ombudsman has specified minimum standards of obligatory information (see http://www.dpe.gob.ec/portal/index.php?option=com_content&view=article&id=105&Itemid=71), the formal process for delivering the confidential information, and the provision of a printed version of the information when it is not available on the website. The State Function of Transparency and Social Accountability (see www.transparencia.gob.ec), created by the 2008 Constitution, promotes monitoring of the public institutions and the private sector which provide services or develop activities of public interest so that they comply with the principles of transparency.

Despite this legal framework, it is still a challenge to move towards daily practice with tools that promote more open public institutions. There is a lack of political will, organisational culture, technological infrastructure, budgetary resources and reinforced penalties, as well as that citizens' demands for public information have not increased. The law has not been translated into other indigenous languages, nor has it been summarised to make it easier to understand. Although the law has facilitated public access to information, it is difficult to analyse its impact on the forest sector. There is no way of knowing what type of information citizens have requested on forest issues and no way of evaluating the compliance of the public institutions in providing that information.

The area of Environment and Society within Grupo FARO sent eight information requests to different public institutions between September 2011 and January 2012. Only one reply was received with complete information and on time.

Title:

- a. Organic Law of Transparency and Access to Public Information
- b. Resolution on the Parameters for Application of Articles 7 and 12 of the Organic Law of Transparency and Access to Information

Organisation:

- a. The People's Ombudsman
- b. The People's Ombudsman

Date:

- a. 18 May 2004
- b. 7 May 2010

Source:

- a. <http://www.dpe.gob.ec/dpe/images/descargas/lotaip.pdf>
- b. http://www.dpe.gob.ec/dpe/index.php?option=com_content&Itemid=141

National Forest Policy



Is there an explicit current document described as the national forest policy? Is the policy document available in full to the public from official sources (websites and/or offices)?

The Strategy for Sustainable Forest Development in Ecuador was designed in 2000, which is a document that cannot be found in any official register. The Ministry of Environment evaluated and updated this document in 2004, which is now freely available on the website in a user-friendly format. The strategy was drawn up after the Law on

Forests and Conservation of Natural Areas and Forest Life (1982), which means that it might contain elements which are legally binding (FAO 2010). Although the strategy promotes actions related to the conservation and sustainable use of forests, it is worth emphasising that it does not state explicitly or specifically what will be the strategies of the forest sector with regard to REDD+, nor regarding other sectors which might affect forests. Within strategy 3: strengthening of the participation and management of civil society, point d) refers to the need to create consultative committees on the use of forest resources, recognising the interests and rights of the sectors involved. In addition, there is a Policy for Andean Ecosystems in Ecuador (2009), which includes a section on dry forests. Furthermore, in 2011 the Under-Secretariat for Natural Heritage published a document which explains and defines the model for forest governance in Ecuador (with no official register). Currently, the Ministry of Environment is working on the development of national forest policy, for which it should initiate broad participative processes and, once the policy has been defined, elaborate information campaigns on this policy to avoid repeating past mistakes such as lack of knowledge of this instrument within the Ministry as well. (NFP Facility Partnership, 2004).

Title:

- a. Strategy for Sustainable Forest Development of Ecuador (2000)
- b. Policy for Andean Ecosystems of Ecuador (2009)
- c. Forest Governance in Ecuador (2011)

Organisation:

- a. Ministry of Environment
- b. Ministry of Environment
- c. Ministry of Environment

Date:

- a. June 2000. It is not found in an official register (lexis)
- b. 5 November 2009
- c. 2011.

Source:

- a. <http://www.ambiente.gob.ec/sites/default/files/archivos/PUBLICACIONES/FORESTAL/edfsi.pdf> -
- b. The document is divided in two parts: <http://www.ambiente.gob.ec/sites/default/files/archivos/normativaforestal/peae1.pdf>
<http://www.ambiente.gob.ec/sites/default/files/archivos/normativaforestal/peae2.pdf>
- c. http://www.ambiente.gob.ec/sites/default/files/users/jgranda/La%20Gobernanza%20Forestal%20en%20el%20Ecuador_0.pdf

Codified Forest Laws and Norms

 Is there a codified forest law and lower level norms (regulations, procedures, decrees, technical directives etc) that make the forest laws operative? Are the law and supporting norms available in full to the public from official sources (websites and/or offices)?

The law and the different regulations are publicly available in Spanish. Prior to 2000, the regulations linked to the Law on Forests and Conservation of Natural Areas and Wildlife were concentrated into a merely extractive model; however, from 2000 onwards, the regulations were modified, introducing sustainability criteria. In addition, the Constitution of Ecuador (2008) set out new principles designed to improve well-being and rights of nature. From this, in July 2008 arose the need for an Environmental Code (referred to in the National Joint Plan for REDD+ Ecuador) (see <http://www.ambiente.gob.ec/sites/default/files/users/dhermida/PNC.pdf>), which is in line with these principles and sets out a new environmental institution structure of the State. However, to date there has been no opening for the participation of civil society in drawing up this document. This framework also provides for the creation of an Environmental Directorate. It must be emphasised that, although the regulations are available, the beneficiaries of the forests are generally not aware of them.

Title:

- a) Law of Forest and Conservation of Natural Areas and Wildlife (codified in 2004)
- b) Unified Text of Secondary Environmental Legislation (2003)

- c) Norms of the System of Forest Regulation (2004)
- d) Regulations of Administrative Procedures for Autorizing the Timber Use and Logging (2010)
- e) Regulations for the Use of Timber in Cultivated Forests and Timber in Agroforestry Systems (2004)
- f) Regulations for Sustainable Forest Management for the Use of Rainforest Timber (2004)
- g) Regulation for Sustainable Management of Andean Forests (2006)
- h) Regulation for Sustainable Forestry Use of Dry Forest (2007)
- i) Regulation of Procedure for Land Adjudication of Forest Heritage of the State, Forests and Protected Vegetation (2007)
- j) Special Law for the Province of Galapagos (1998)

Organisation: a.-j.) All Ministry of Environment

Date: a) 10 September 2004
 b) 31 March 2003
 c) 2 August 2004
 d) 5 April 2010
 e) 18 August 2004
 f) 16 August 2004
 g) 18 October 2006
 h) 28 August 2007
 i) 11 February 2008
 j) 18 March 1998

Source: a) b) y c) <http://www.ambiente.gov.ec/>
 • List of laws available under “normativa”
 d) <http://www.ambiente.gob.ec/sites/default/files/users/mponce/acuerdos139.pdf>
 e) <http://www.ambiente.gob.ec/sites/default/files/archivos/normativaforestal/plantaciones.pdf>
 f) <http://www.ambiente.gob.ec/sites/default/files/archivos/normativaforestal/bhumedo.pdf>
 g) <http://www.ambiente.gob.ec/sites/default/files/archivos/normativaforestal/bosquesandinos.pdf>
 h) <http://www.ambiente.gob.ec/sites/default/files/archivos/normativaforestal/bosqueseco.pdf>
 i) <http://www.ambiente.gob.ec/sites/default/files/archivos/normativaforestal/adjudicacion.pdf>
 j) <http://www.ambiente.gob.ec/proyectos/userfiles/51/file/turismo/ley%20galapagos.pdf>

Signed International Trade Agreements on Forests

 Has the country signed an international trade agreement that relates to forest products (logging and other products)? Are the agreements, including official discussions on their content, available in full to the public from official sources (websites and/or offices)?

Ecuador is a signatory to various international agreements related to forests. Amongst them, it is part of the International Tropical Timber Organisation and thus a signatory to the International Tropical Timber Agreement. In addition, the MERCOSUR countries and the countries of the Latin American Integration Association (including Ecuador) have a number of bilateral, multilateral, economic cooperation and negotiation agreements (sectoral trade agreements) http://www.puce.edu.ec/documentos/perfil_de_maderas_y_elaborados_2009.pdf. The same is true for the member countries of the Andean Community of Nations.

In February 2009 Ecuador, Peru and Colombia began negotiations to sign a Free Trade Agreement (FTA) with the European Union. Ecuador withdrew from the talks in November 2009. The FTA between Colombia, Peru and the EU was finally signed in April 2011. This treaty includes a section on trade and sustainable development which refers to forest products. Ecuador resumed negotiations and hopes to complete a Development Trade Agreement (ACD in Spanish) by 2012. At the moment the outcome of these new

talks is uncertain, and it is not clear whether they will refer to the forest market; what is specified is that an ACD as opposed to an FTA does not necessarily cover all the areas for negotiation, but agrees them on a case by case basis. The Ministry for Coordination of Production, Employment and Competition (see http://www.mcpec.gob.ec/index.php?option=com_content&view=article&id=1059:viceministro-pena-se-reunio-con-representates-de-camaras-y-asociaciones-de-la-produccion-para-analizar-acuerdos-comerciales-y-reforma-tributaria&catid=1:noticias&Itemid=57&Itemid=57) is responsible for these negotiations and keeps citizens informed through press conferences and meetings with representatives of chambers of commerce and production associations, in which the points of the ACD are analysed.

On this point, it would be important for Ecuador to learn from the negotiation process for the FTA between the USA and Peru (2009), which included an “Annexe on the management of the Forest Sector” (see <http://ictsd.org/i/news/puentesquincenal/105170/>) which specified minimum standards to contribute to transparency, the fight against corruption and the governance of the forest sector.

Title: Ecuador is part of the

- International Labour Organisation (member since 1934 that has ratified 35 conventions – the last one in 2000- and has 46 possible one for ratification)
- Convention on International Trade of Endangered Species of Wild Flora and Fauna (ratified 11 February 1975)
- International Tropical Timber Agreement (2006)
- Additionally, Ecuador is part of the Kyoto Protocol (signed 15 January 1999 and ratified 13 January 2000) and beneficiary country in UN-REDD (March 2011). Although those are not commercial agreements, they have a crucial importance for forest governance.

It is not part of:

- Forest Carbon Partnership Facility
- Copenhagen Agreement
- Forest Investment Programme

Organisation: Ministry of Environment

Date: Various dates

Source: www.ambiente.gob.ec

Provisions for Transparency in Forest Laws



Are there any forest-specific written laws and regulations that develop the right to access public information on the sector? Are the provisions in laws and regulations available to the public through official websites and other sources?

The law on Environmental Management and the Forest Law establish that the Ministry of Environment will compile information on environmental issues, including a register of the forestry industry, and make this information public. However, information on the forest sector is still poor and particularly dispersed across several public institutions.

An important advance was the Forest Governance Model published in 2011, which recognises transparency as one of the key elements for implementing effective forest governance.

In addition, the Ministry of Environment is implementing a new System of Administration and Forest Monitoring (see <http://www.ambiente.gob.ec/?q=node/595>), one of the components of which is a National System of Forest Information, which will generate a national database of actors connected with forest activity. It will also generate online reports of forest activities, including administrative processes, forest management and monitoring, and

commercialisation of timber and forest products in the country, including imports and exports of forest products. An important point to consider would be whether the Ministry tracks illegal trade and contrasts it with the information from the SAF, and whether all this information is available to the public and is easily accessible.

Finally, it must not be forgotten that transparency not only takes the form of information, but also the creation of spaces for participation and construction of programmes and policies.

Title:

- a. Law on Environmental Management
- b. Codification of the Law of Forests and Conservation of Natural Areas and Wildlife
- c. Forest Governance Model

Organisation: Ministry of Environment

Date:

- a. 10 September 2004 - R. O. No. 418
- b. 10 September 2004 - R. O. No. 418
- c. 2011

Source:

- a. <http://www.ambiente.gob.ec/sites/default/files/archivos/leyes/gesion-ambiental.pdf>
- b. <http://www.ambiente.gob.ec/sites/default/files/archivos/leyes/forestal-conservacion-vsilvestre.pdf>
- c. http://www.ambiente.gob.ec/sites/default/files/users/jgranda/La%20Gobernanza%20Forestal%20en%20el%20Ecuador_0.pdf

Legal Recognition of Customary and Traditional Rights

 Are customary and traditional rights recognised in codified forest law and norms? Are the provisions in the law and norms available in full to the public from official sources (websites and/or offices)?

The Constitution of Ecuador (2008) and the Unified Text of Secondary Environmental Legislation (TULAS, 2003), guarantee the participation of indigenous peoples and communities in decision-making on activities to be developed in its territories. The text of the TULAS may change, but it is not known whether the new text will refer to customary laws. According to information published in the SIGOB, the environment minister will present proposals for changes in the TULAS. The text of the proposal and the guidelines for possible changes are not available.

The codified forest law and the environmental management law state that indigenous peoples, black or Afro-Ecuadorian peoples shall have priority in the use of community lands and forest products, and that the local authorities must consult with these peoples before issuing environmental policies on and for demarcation, management and administration of conservation areas and ecological reserves. The mechanisms for applying these laws are not clear.

Title:

- a. Constitution of the Republic of Ecuador
- b. Unified Text of Secondary Environmental Legislation
- c. Codification of the Law of Forests, Conservation of Natural Areas and Wildlife
- d. Law of Environmental Management

Organisation: Ministry of Environment

Date:

- a. 2008
- b. 2003
- c. 2004
- d. 2004

Source: a. http://www.ambiente.gob.ec/sites/default/files/archivos/normativa/constitucion_de_bolsillo.pdf
b. <http://www.ambiente.gob.ec/?q=node/41>
c. <http://www.ambiente.gob.ec/sites/default/files/archivos/leyes/forestal-conservacion-vsilvestre.pdf>
d. <http://www.ambiente.gob.ec/sites/default/files/archivos/leyes/gesion-ambiental.pdf>

Legally Recognised Procedure for Consultation on New Forest-Related Norms

 Are there any documented procedures (in the form of regulations, official guidance etc) that lay out the methodology for consultations that should take place regarding new forest-related policies, laws, regulations etc (for example on REDD)? Are the reports from consultation processes available?

The Council of Citizen's Participation (CPC) is an autonomous body, created by the Constitution (2008), which recognises the right to consultation in its article 398. The role of the CPC is to facilitate processes between the state and civil society for participation, social monitoring and the fight against corruption. It forms part of one of the functions of the state of Transparency and Social Monitoring.

A variety of mechanisms are recognised for citizens' participation initiatives, including citizen review boards, observatories, popular councils and citizens' networks. In addition, the Law on Citizens' Participation (art. 77) stipulates the Principle of the "Empty Chair", which grants citizens the right to participate with voting rights in the sessions of autonomous governments. The National Assembly of Ecuador promotes the "Mobile Assembly bus", which travels around the country and is a mechanism allowing citizens to consult, give an opinion or send proposals for laws, reforms and oversight directly to a specific member of the Assembly.

Finally, the law on environmental management sets out the principles and guidelines for environmental policy; it determines the obligations, responsibilities, levels of participation of the public and private sectors in environmental management and indicates the allowable limits, controls and penalties applied in these matters (Codified Environmental Management Law, 2004). This law has a "regulation on participation established for environmental management law" (http://www.lexis.com.ec/webtools/esilecpro/FullDocumentVisualizer/FullDocumentVisualizer.aspx?id=AMBIENTE-REGLAMENTO_DE_PARTICIPACION_ESTABLECIDOS_EN_LEY_DE_GESTION_AMBIENTAL) which, amongst other aspects, stipulates the scope of the participation, the time period, the mechanisms, the necessary information and origin of the participation, the receipt of criteria, how they are systematised, etc.

With regard to REDD + processes, the Under-Secretary of Climate Change has set up two bodies for participation of civil society and indigenous peoples and nationalities: the Monitoring Committee of UN REDD + and the National Committee of Social and Environmental Standards for REDD +. These two bodies are made up of representatives of civil society groups. The final report of those processes is expected to give an account of how the committee members have disseminated the information with their constituents and how the committee has collected and incorporated their opinions. Currently, the Undersecretary of Climate Change is working on a proposal for the creation of a single and formal platform of participation, dialogue and involvement for all processes related to REDD +. In addition, Ecuador is a pilot country for the implementation of Participatory Governance Assessment (PGA) which is an initiative of the UN-REDD programme to assess issues related to participation and effective involvement of all stakeholders

Title: a) Constitution of the Republic of Ecuador 2008
b) Organic Law of Citizens' Participation
c) Organic Law of Council of Citizens' Participation and Social Accountability
d) Rules of Participation established in the Law of Environmental Management

Organisation: National Assembly of Ecuador

Date: a) 20 October 2008
b) 20 April 2010
c) 9 September 2009
d) 8 May 2008

Source: a) http://www.asambleanacional.gov.ec/documentos/constitucion_de_bolsillo.pdf
b) <http://documentacion.asambleanacional.gov.ec/alfresco/d/d/workspace/SpacesStore/9c662c3c-7ef6-46f3-bc69-8e55f4f92820/Registro%20Oficial%20Ley%20Org%C3%A1nica%20de%20Participaci%C3%B3n%20Ciudadana.pdf>
c) <http://documentacion.asambleanacional.gov.ec/alfresco/d/d/workspace/SpacesStore/a2d4b94e-7c8f-473a-8055-641b5b0c2a4d/Ley%20Organica%20del%20Consejo%20de%20Participaci%C3%B3n%20Ciudadana%20y%20control%20Social.pdf>
d) Through a general search engine

Law Recognising Right to Free Prior Informed Consent

 Is there any law that recognises the right to consent of indigenous peoples and communities on forest uses? Is the law available in full to the public from official sources (websites and/or offices)?

The Constitution of Ecuador 2008 guarantees free, prior informed consultation. In addition, Convention 169 of the ILO on indigenous and tribal peoples sets out parameters for the process of consultation of affected peoples. However, despite the fact the indigenous communities and peoples have the right to be consulted, their prior informed consent is not required (it is not binding). The fact that this right has been incorporated into the Constitution does not mean that the regulation is genuinely enforced, and in fact the implementation of public or private projects in indigenous areas in general has been a source of conflicts. The indigenous peoples have requested that their consent be made compulsory, which involves the community agreeing with actions being taken within its territory.

According to Ecuadorian law, the existing regulatory framework has not developed specific mechanisms to delineate the procedures for the implementation of free, prior and informed consent (FPIC) (Zambrano S, 2010 - see <http://www.grupofaro.org/publicaciones.php?id=80>). The FPIC process only relies on the presence of some leaders, without this necessarily meaning that the rest of the community is informed. In addition, it is not clear how to proceed in the case of disagreements or to what extent the views expressed by indigenous peoples are considered. Recently in Quinsacocha (Azuay, Ecuador), two communities that will be affected by mining unilaterally organized a consultation process based on the provisions of the Citizen Participation Act (2010) (see <http://www.noalamina.org/mineria-latinoamerica/mineria-ecuador/poblacion-de-quimsacocha-rechazo-la-mineria>). This is an example of the weaknesses in the legislation, which does not provide institutional mechanisms to resolve conflicts that eventuate between the parties.

Title: Constitution of the Republic of Ecuador 2008

Organisation: National Assembly

Date: 20 October 2008

Source: http://www.asambleanacional.gov.ec/documentos/constitucion_de_bolsillo.pdf

National Land Tenure Policy



Is there an explicit current document that sets out the national policy on land tenure, including forest tenure? Is the policy document available in full to the public from official sources (websites and/or offices)?

There are several bodies of legislation dealing directly or indirectly with the policy of forest tenure, such as the Law on Agricultural Development (2004) and the Special Law for Allocation of Vacant Lands in the Amazon (1974); there is, however, no document dealing exclusively with the policy on land tenure. A draft Land Law is currently under discussion. The National Institute for Agricultural Development (INDA), which traditionally deals with these issues, has been cancelled and replaced with a ministerial under-secretariat (Land Secretariat) which will manage the topic of land tenure, particularly in rural areas.

The Codified Forest Law has several articles dealing with forests, the most important of which states that "The State guarantees the right of private ownership of forest lands and private domain forests, with the limitations set out in the Constitution and the Legislation. On the question of natural forests, in lands exclusively set aside for forestry, the owner must preserve them and manage them according to the technical requirements set out in the regulations of this Law." Something similar is mentioned in the draft Land Law, where there are stipulations concerning the regulations on property which is home to fragile ecosystems, and on the prohibition of land planning expansion which encroaches on agricultural, livestock and ecological spaces, respectively.

It is important to emphasise that the land law should guarantee tenure and offer legal security for forest owners, bearing in mind that, as an economic activity, forest use is a long-term activity. In addition, the law should contain a section which simplifies the procedures for allocation of lands. Added to this is the fact that putting into practice a process of land regularisation involves high costs, which may complicate the application of a policy of this type.

Title:

- a. Codification of the Laws of Forests, Conservation of Natural Areas and Wildlife
- b. Law of Agrarian Development
- c. Special Law for the allocation of vacant lands in the Amazon
- d. Final proposal of the bill for the Land Law

Organisation: Ministry of Environment

Date:

- a. 10 September 2004
- b. Promulgated in 1994, codified 16 April 2004
- c. 17 February 1972

Source:

- a. <http://www.ambiente.gov.ec/> R.O No 418, Quito.
- b. Access through pay for search engine Lexis, R.O No 315, Quito.
- c. It is only possible to access through the pay for search engine Lexis R.O No 2.
- d. Through the pay for search engine Lexis.



Land Ownership and Forest Use Maps



Are there official maps showing current forest ownership by title and/or forest areas where concessions, permits and other authorisations have been granted? Are the maps available in full to the public from official sources (websites and/or offices)?

Various maps of the National System of Protected Areas are available on the Ministry of Environment's (MAE) website. Some MAE publications (forest information bulletins) (see <http://servicios.ambiente.gob.ec/saf/estadisticas/estadisticas.php>) also present a list of land allocations and maps of forest reserves. Not all of the maps are geo-referenced, and not all the monthly reports are available. Some municipalities also have a land register which is an approximation to land tenure issues, but the land registers are not very precise.

The Ministry of Agriculture, Livestock, Aquaculture and Fisheries (MAGAP) has the SIGTIERRAS (see http://www.sigtierras.gob.ec/index.php?option=com_content&view=article&id=36&Itemid=50) programme, a National System of Information on Rural Lands and Technological Infrastructure which aims to establish a system of rural land management at the national level to secure property rights and provide basic information for planning and land development.

Important progress has been made by the MAE, through the generation of the base line for deforestation, which has allowed the creation of maps of forest coverage in the country for the periods 1990, 2000 and 2008. Comparisons made between these maps have made it possible to determine the types of conversion which have taken place, the rate of deforestation country-wide, and the identification of critical areas of deforestation in the country. It is noteworthy that the baseline of deforestation is not yet complete, because some data is missing from the territory for which there is no coverage of satellite imagery (http://www.ambiente.gob.ec/sites/default/files/users/mponce/TasasDeforestacionEcuador.Ver_.03.05.11.pdf).

Title: 1. Maps of the Patrimony of Natural Areas of the State
2. Forest Information Bulletin Octubre-Noviembre 2010

Organisation: Ministry of Environment

Date: 1. March 2011
2. October-November 2010

Source: 1. <http://www.ambiente.gob.ec/?q=node/189>
2. http://servicios.ambiente.gob.ec/saf/estadisticas/Informativo_oct_nov_2010.pdf

Regulated Permit System for Commercial Logging Operations

 Is there a formally regulated system of permits for commercial logging operations? Are the contracts/permits granted under the system publically available from official sources (websites and/or offices)?

In Ecuador the allocation of licences or permits for forest operations originate in the right of the owner to use, enjoy and dispose of the elements of his/her property, including forests. The form of forestry concession or allocation of forestry permits does not apply to forest operations in the country. The operating licences and respective transportation guidelines are granted to the owners of the land in which the forest exists as part of his/her right of usufruct, but under the surveillance of the forest authority and after presentation and acceptance of a management plan. Meanwhile, the form of environmental services is being developed in Ecuadorian legislation, but as yet there has been no definition of the steps or processes for allocation of rights. It is also worthwhile noting that there are no permits for many non-timber forest products.

For conservation, there are no permits per se, but for an area to be declared a protected public space (which will be part of the State Natural Areas Heritage) certain procedures are established: the management alternatives study involves evaluation and registration by the Ministry of Environment. In the case of private protected areas, to be recognised as part of the National System of Protected Areas there are certain procedures to be complied with (similar studies to those for the heritage areas).

It is emphasised that, for lands to be allocated under the state forest heritage system, the lands must be subjected to the technical norms on sustainable forest use regulated by the ministry.

Title: a) Procedures for authorizing the exploitation and felling of timber
b) Instructive Allocation of land of the forest heritage of Ecuador

Organisation: Ministry of Environment

Date: 5 April 2010

Source: Available from pay for search engine Lexis
a) http://www.lexis.com.ec/webtools/esilecpro/DocumentVisualizer/DocumentVisualizer.aspx?id=AMBIENTE-PROCEDIMIENTOS_PARA_AUTORIZAR_EL_APROVECHAMIENTO_Y_CORTA_DE_MADERA&query=%20de%20madera#art_1
b) http://www.lexis.com.ec/webtools/esilecpro/DocumentVisualizer/DocumentVisualizer.aspx?id=AMBIENTE-INSTRUCTIVO_ADJUDICACION_TIERRAS_DEL_PATRIMONIO_FORESTAL_DEL_ESTADO&query=bosque+protector#art_1

Legal Requirement for Stakeholder Consultation before Allocation of Commercial Logging Permits

 Is there a requirement in the forest law and norms for stakeholder consultation prior to the allocation of commercial logging permits? Are the reports from consultation processes available?

The allocation of licences or permits for forest operations originate in the right of the owner to use, enjoy and dispose of the elements of his/her property, including forests, except in cases where the forest is community-owned, in which case the communities carry out internal consultations.

Under Ministerial Agreement 139, procedures were issued to authorise the use and logging of timber. The operating licences and the respective transportation guides are granted to the owners of the land in which the forest exists as part of his/her right of usufruct, but under the surveillance of the forest authority. If the forest is privately-owned, no consultation is required before logging.

Verification Process (Due Diligence) of the Eligibility of Permit Applicants

 Prior to the allocation of permits for logging or other extractive use (e.g. mining) of forest land, is there a formal process in the regulations for independent “due diligence” checks to verify the eligibility, suitability and capability (technical and financial) of applicants? Are the findings and conclusions of the verification process made available to the public?

The allocation of licences or permits for forest operations originate in the right of the owner to use, enjoy and dispose of the elements of his/her property.

Under Ministerial Agreement 139, procedures were issued to authorise the use and logging of timber. The Ministry of Environment applies a deadline of sixty days from the date of presentation of the application with all the requirements to grant this licence, after which time it will be tacitly understood to have been granted. The requirements are as follows:

- Correctly completed and signed application.
- Integrated management plan.
- Technical inspection report
- Certificate of compliance with obligations taken on previously (for those who are or have been beneficiaries of a Forestry Licence)

These requirements will ensure that there is due diligence. The licences for forest use are available after a request for information.

Title: a. Procedures for autorizing the use and felling of timber

Organisation: a. Ministry of Environment

Date: a. 5 April 2010

Source: <http://www.ambiente.gob.ec/?q=node/1799&page=0,1>, Acuerdo Ministerial No. 139.



Forest Management Plans



Once a permit or concession has been issued, is there a formal requirement for the completion of forest management plans on the operations? Are the forest management plans available to the public from official sources (websites and/or offices)?

According to Art. 29 of Book VI on Environmental Quality, Title I of the Unified Text of Secondary Environmental Legislation (TULAS), the register of files and environmental licences granted by the environmental authorities is public and any person may, at his/her own expense, access the information contained in any of the technical studies which were used as a basis for the issuing of the environmental licence.

Art. 100 of Book III on the Forest System, Title VIII of TULAS states that the use of non-timber forest products must have a licence based on an operating plan. However, there is no online register of these plans.

The Ministry of Environment (MAE) recognises that the decision-making to establish good forest governance depends on the generation of appropriate, timely and reliable information. To this end it has developed the Forest Administration and Monitoring System (SAF), through which the MAE monitors plans and operating licences, and automatically grants timber transportation guides. Work is currently taking place to implement SAF2, which includes in one of its components a National Forest Information System. This system will generate a national database of stakeholders connected with forest activity, and will generate online reports of forestry activities, including administrative processes, forest management, and monitoring and commercialisation of timber and forest products in the country, including imports and exports.

These systems must also include information and coordinate activities with other government agencies responsible for the management of forests, such as SENAGUA and MAGAP.

Title: a. Unified Text of Secondary Environmental Legislation
b. Special Rules of Tourism in Protected Areas
c. Forest Administration and Monitoring System

Organisation: Ministry of Environment

Date: a. 31 March 2003
b. 3 September 2007
c. 2008

Source: a. http://www.ambiente.gob.ec/sites/default/files/archivos/normativa/libro6_t1.pdf
b. http://www.lexis.com.ec/webtools/esilecpro/FullDocumentVisualizer/FullDocumentVisualizerPDF.aspx?id=MERCANTI-REGLAMENTO_ESPECIAL_DE_TURISMO_EN_AREAS_NATURALES_PROTEGIDAS

Regulation of Environmental Services

-  Is there a formally agreed system for the regulation of environmental services, such as water, carbon and biodiversity, as it affects forests? Are the regulations for the system available to the public from official sources (websites and/or offices)?

There is discussion in the country around article 74 of the Ecuadorian Constitution, which states that: "Environmental services may not be appropriated; their production, provision, use and operation shall be regulated by the State". In practice the regulation is being developed with a view to the State not only regulating operations, but also managing such services directly as the owner, and thus accessing the funds and markets for reduced emissions and carbon capture through forests.

Meanwhile, payment schemes for environmental services continue to operate, principally in local governments, and the population has not been widely informed of these. This is the case of FONAG – the Quito Water Fund - where payment for the environmental service is part of the charge for consumption of drinking water paid by every inhabitant of the Metropolitan District of Quito. These experiences will be important in the final delimitation drawn up by the state for the management of environmental services.

Finally, it is important to mention that a number of the local experiences are recognised more as funds for conservation than as Payment for Environmental Services as such.

Title: Constitution of the Republic of Ecuador 2008

Organisation: National Assembly

Date: 20 October 2008

Source: http://www.asambleanacional.gov.ec/documentos/constitucion_de_bolsillo.pdf

Strategic Environmental Assessment of Development Priorities

-  Is there a formal strategic process set out in policy to determine the priorities for land use between forests, mining, large-scale agriculture, infrastructure development and other demands? Is the policy available in full to the public from official sources (websites and/or offices)?

The National Planning Secretariat (SENPLADES) has designed a methodology to track and assess the impact of the programmes and projects carried out by the different institutions which form part of the State, and determine the changes in the well-being of the population as a result of public investment.

Complementary to this, SENPLADES states in its objective 4 that it seeks to "Guarantee the rights of nature and promote a healthy and sustainable environment"; the diagnostic carried out as part of this objective takes into account topics related to changes in land use. In addition, a body called the National Institute of Pre-Investment has been created, in an attempt to support national development by promoting and assessing the viability of pre-investment processes and studies in strategic sectors, in accordance with the National Development Plan. It also has a Sub-system for Tracking and Evaluation, the aim of which is to provide support to meet the objectives of the

National Plan through its development targets and public policies. One of the basic principles governing this sub-system is participation, where it stipulates that the opinion of citizens must be included.

The forest sector is not considered one of Ecuador's strategic sectors, which is why the Council for Strategic Sectoral Policies was not attended by either the Ministry of Environment or the Ministry for Coordination of Heritage (http://www.sectoresestrategicos.gob.ec/portal/en/c/document_library/get_file?uuid=f38baf59-d23d-4329-845f-07d0707a7c5f&groupId=10321). The sectors which the government has identified as strategic are electricity, water, oil, gas and mining, telecommunications and the information society. It is stressed that there are consultation processes in place for crude oil, mining and hydroelectric power. The Mining Law of 2009 stipulates that consultation is compulsory prior to mining operations, and these articles also state that there must be access to information and participation throughout the process.

Title:

- a. Methodologies of Prioritisation of Public Investment Projects
- b. Methodology of Impact Evaluation and Tracking
- c. Definition of Concepts of the Sub-System of Tracking and Evaluation
- d. National System of Investment Projects
- e. Guidance for the Formulation of Public Sector Policies

Organisation: SENPLADES

Date:

- a. June 2009
- b. No publication date
- c. 2008
- d. 2007
- e. 2011

Source:

- a. http://www.senplades.gob.ec/c/document_library/get_file?uuid=49e6798c-1474-4aac-b34c-3ff596090cec&groupId=18607
- b. <http://www.senplades.gob.ec/web/senplades-portal/metodologia-para-evaluacion-de-impacto-at>
- c. <http://www.senplades.gob.ec/web/senplades-portal/col-toolkit-notas-para-la-discusion>
- d. <http://sinapro.senplades.gov.ec/>
- e. http://www.senplades.gob.ec/c/document_library/get_file?uuid=c21a6b50-8dd5-4292-aaf5-14d70d60650b&groupId=18607

Independent Monitoring of Forest Governance and Operations

 Is there an independent monitor, auditor, ombudsman or any other body with an officially recognised role to scrutinise forest governance and operations? Are reports by the independent body available to the public?

Although the country does not currently have an independent forest monitor, the model of forest governance being implemented by the Ministry of Environment recognises evaluation and monitoring of forest management as a key element for the implementation of effective forest governance.

Title: a. Model of Forest Governance in Ecuador 2011

Organisation: MAE

Date: a. 2011

Source: a. <http://www.ambiente.gob.ec/?q=node/25&page=0,1>

Forestry Tax Collection and Funding Systems

 Is there a regulated fiscal system to collect taxes and redistribute royalties from forest operations, or provide subsidies and funding to support forest operations? Are figures on the amounts collected and distributed available to the public from official sources?

There is a no taxation system other than the payment of the “Pie de Monte”, which is a tax that is paid for harvested timber. The closest thing to a system of redistribution is the Socio Bosque Program, which provides an incentive to landowners to conserve forests.

As far as the availability of data about the amounts collected and distributed is concerned, it is important to emphasise that information on the Programa Socio Bosque is easily accessible, as they publish statistical information on the website. Any additional details can be obtained easily with a request for information to the responsible authority; for the “Pie de Monte” tax, however, there is no specific information. This is because the regional offices of the Ministry of Environment send a single figure for collections (e.g. payment for environmental licences) to a central office, with no detailed breakdown of this account.

There is also a tax on rural lands, which is imposed on the ownership or possession of lands with an area greater than 25 hectares in the rural sector. It is emphasised that wetlands and natural forests duly classified as such by the environmental authority are exempt from payment of this tax (<http://www.sri.gov.ec/web/guest/tierras-rurales>). Information on the amounts collected under this tax is available on the Internal Revenue Service website, since 2010 when this tax came into force. Another way to pay for this tax is through the implementation of forestry programs within the premises of the owner of the land.

Title:

- a) Programa Socio Bosque
- b) Norm for Sustainable Forest Management of Dry Forests (Ministerial Agreement 244, Official Register 157)
- c) Reform Law for Tax Equity in Ecuador (rural land tax) (Official Register 242)

Organisation:

- a) Ministry of Environment
- b) Ministry of Environment
- c) Internal Revenue Service

Date:

- a) 5 December 2008
- b) 28 August 2007
- c) 29 December 2007, came into force starting from 2010.

Source:

- a) <http://sociobosque.ambiente.gob.ec/sociobosque/files/images/articulos/archivos/acuerdo169.pdf>
- b) <http://www.ambiente.gob.ec/sites/default/files/archivos/normativaforestal/bosqueseco.pdf>
- c) <http://www.sri.gov.ec/web/guest/246@public>

Forest Infractions

 Is the Forest Authority obliged under the norms to collect information on any infractors of the forest law? Are lists of infractors available to the public from official sources?

By sending a request for information on a provincial level, it was possible to obtain a list of offenders. However, it would be useful if these lists were available directly on the website of the central Ministry of Environment office, because it is known that, on occasions, the same offenders (see <http://www.grupofaro.org/archivos/2010/publicaciones/sedefa-ley%20forestal5.pdf>) are bidding in auctions of confiscated material. This occurs principally because there is no database shared between the sectors.

Having access to the lists of offenders and the territories in which these infractions have not been punished might help to put pressure on the judicial authorities responsible for applying the regulations or, failing that, might allow citizens to identify the offenders and demand that the authorities enforce the law. These lists would also help organisations in civil society to press for legal bidding for timber by exercising greater control over bidders for public demand, and ensure that those committing infractions of the forest law do not benefit.

Title: a) Article 7 of the Organic Law of Transparency and Access to Public Information
b) Lists of infractions at the provincial level

Organisation: a) Public Ombudsman
b) Ministry of Environment

Date: a) 18 May 2004
b) Depends on the request

Source: a) <http://www.dpe.gob.ec/dpe/images/descargas/lotaip.pdf>
b) It can be obtained through a request at the provincial level

Annual Forest Authority Report



Is there a requirement set out in the norms for the Forest Authority to produce an annual summary of its activities? Is the report available in full to the public from official sources (websites and/or offices)?

A sub-paragraph of article 7 of the Organic Law of Transparency and Access to Public Information (LOTAIP) specifies that public institutions must present “accountability mechanisms to citizens, such as management targets and reports and performance indicators”, and article 12 stipulates that these institutions must deliver an annual report on compliance with this law.

The Ministry of Environment (MAE) publishes an annual report on activities. The 2011 report presents a section on forest governance, which refers basically to the Programa Socio Bosque and does not cover all the activities carried out by the forest authority. In addition, through the Forest Administration and Monitoring System (SAF), the MAE publishes forest reports with information related to forest use. SENAGUA also has a report with indicators which reflect the scheduled percentage and the actual percentage carried out in its forestation and reforestation programme. The Ministry of Agriculture, Livestock, Aquaculture and Fisheries and the Ministry for Coordination of Heritage present their performance reports as required by the LOTAIP; there is, however, no specification regarding the forest sector.

Title: 1. Statement of Accounts by the Minister of Environment
2. Graphs of Planned and Implemented National Projects in 2011
3. Forest Information Bulletin 2011

Organisation:

1. Ministry of Environment
2. SENAGUA
3. Ministry of Environment

Date:

1. 7 October 2010
2. 2011
3. 2011

Source:

1. <http://www.ambiente.gob.ec/sites/default/files/users/lianeth/informe10-11.pdf>
2. <http://www.senagua.gob.ec/files/transparencia/6InfoPlanificacion/M.%20Indicadores%20desempeno%20Informes%20Gestion%20Cumplimiento%20Metas.pdf>
3. http://servicios.ambiente.gob.ec/saf/estadisticas/informativo_forestal_2011.pdf
