



global witness

Making the Forest Sector Transparent

Annual Transparency Report

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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 Legislation

 Is there Freedom of Information legislation in the public domain?

The Organic Law on Transparency and Access to Public Information (LOTAIP) is a tool for improving the quality and timeliness of public information. The Public Ombudsman (DPE) is responsible for promoting the law and ensuring that its requirements are complied with by the public institutions. The DPE is part of the Function of Transparency and Social Monitoring, the fifth power in the Ecuadorian state, which has the same hierarchical level as the other functions: Executive, Legislative, Judicial and Electoral.

Some progress has been made since the LOTAIP was approved in 2004, but the challenge is still to ensure that transparency is practised on a daily basis, with tools which promote more open public institutions. In November 2011 the government approved parameters relating to articles 7 and 12 of the LOTAIP, which deal with the minimum compulsory information and the annual reports on fulfilment of the right to access to public information. The DPE has joined with civil society to develop processes intended to make the benefits of the LOTAIP known to a wider public. Internally, it has developed a system to make it easier to deliver annual reports with all the information required in article 12 of the LOTAIP. This system was in the trial stage at the time of this assessment, and expected to begin operating by the end of 2012. Further progress recorded within the DPE is that apart from provincial delegates, they have appointed regional commissioners to facilitate contact between public institutions, citizens and the DPE at a local level.

Grupo FARO carries out four-monthly monitoring of compliance with article 7 of the LOTAIP by institutions linked to the forest sector. The monitoring carried out in April 2012 showed that they had made some improvements. It should be emphasised, however, that the LOTAIP continues to be a general law which does not take into account sectoral information parameters; it is hoped that this will improve with the process led by the Public Ombudsman.

Finally, regarding the use of the LOTAIP by forest users, a number of training sessions on LOTAIP were carried out as part of the Making the Forest Sector Transparent Project. These sessions revealed that both the population in general and public officials are still unaware of rights of access to information, how to make applications for public information, and how to respond to them. The efforts made by the DPE and other organisations to address these issues are positive.

- Title:**
- a. Organic Law on Transparency and Access to Public Information
 - b. Resolution Parameters of Application Articles 7 and 12 of the LOTAIP
- Organisation:**
- a. People's Ombudsman
 - b. People's Ombudsman
- Date:**
- a. 18 May 2004
 - b. 18 November 2012
- Source:**
- a. http://www.dpe.gob.ec/index.php?option=com_content&view=article&id=776&Itemid=113b. http://www.participacionycontrolsocial.gov.ec/c/document_library/get_file?uuid=7ff2cecf-fc22-4a1c-b450-71cc3c589d88&groupId=10136
 - b. http://www.participacionycontrolsocial.gov.ec/c/document_library/get_file?uuid=7ff2cecf-fc22-4a1c-b450-71cc3c589d88&groupId=10136

National Forest Policy

 Is there a current national forest policy in the public domain?

The 2000 strategy for sustainable forest development in Ecuador promotes actions for conservation and sustainable use of forests; however, it does not set out either explicitly or specifically what the forest sector strategies will be with regard to REDD+ (due to the fact that it was drawn up many years before a National REDD+ Strategy was conceived), nor regarding other sectors which might affect the forests. It is not known whether the updated document addresses these issues.

In 2011 the Under-Secretariat for Natural Heritage of the Ministry of Environment (MAE) published a document which explains and defines the Ecuadorian forest governance model. In 2012, the Secretariat for forest production at the Ministry of Agriculture, Livestock, Aquaculture and Fisheries has been working to create a national forestation and reforestation policy. An event was carried out in Santo Domingo de los Tsáchilas to share the themes of the policy, but details from this event are not known. The event was broadly focussed on forest owners and civil society. Two organisations closely involved in the subject of forest policy are the FAO and GIZ.

- Title:**
- a. The strategy for sustainable forest development in Ecuador (2000)
 - b. The policy for Andean ecosystems in 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. The strategy was not found in an official register. (Lexis)
 - b. 5 November 2009
 - c. 2011 (no exact date). The document was not found in an official register.
- Source:**
- a. <http://www.ambiente.gob.ec/sites/default/files/archivos/PUBLICACIONES/FORESTAL/edfsi.pdf>
 - b. <http://www.ambiente.gob.ec/sites/default/files/archivos/PUBLICACIONES/FORESTAL/ecosistemas-andinos.pdf>
 - c. <http://www.ambiente.gob.ec/sites/default/files/users/jgranda/Gobernanza%20Forestal.pdf>
-

Codified Forest Law and Supporting Norms

 Is there a codified forest law with supporting norms to fully implement it?

Prior to 2000 the regulations linked to the Law on Forests and Conservation of Natural Areas and Wildlife concentrated on a merely extractive model; however, from 2000 onwards the regulations have been modified to introduce sustainability criteria. There are numerous laws connected with the environment sector which are available for the general public on the Ministry of Environment (MAE) website. It must be emphasised that, although the regulations are available, the beneficiaries of the forests are not generally fully aware of them.

The Constitution of Ecuador 2008 set out new principles designed to improve well-being and the rights of nature. This led to consideration in July 2008 of the need for an Environmental Code in tune with these principles, which would include a new institutional structure for environmental issues. 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 Regulator. However, it is not known how much progress has been made on this subject, as there is no official version of its status either on the MAE website or that of the National Assembly.

- Title:**
- a) Law on Forests and Conservation of Natural Areas and Wildlife
 - b) Unified Text on Secondary Environmental Legislation
 - c) Regulations in the Forest Governance system
 - d) Administrative procedure regulations for authorising the use and logging of wood

- e) Regulations for use of wood in cultivated forests and wood in agroforestry systems
- f) Regulations for sustainable forest management for use of wood in rain forests
- g) Regulations for the sustainable management of Andean Forests
- h) Regulations for sustainable forest use of dry forest
- i) Regulatory procedures for the allocation of lands in the state's forest heritage, protective Forests and vegetation
- j) Special law for the province of Galápagos

Organisation: a. 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. <http://www.ambiente.gob.ec/sites/default/files/archivos/leyes/forestal-conservacion-vsilvestre.pdf>
 b. <http://www.ambiente.gob.ec/?q=node/41>
 c. <http://www.ambiente.gob.ec/sites/default/files/archivos/normativaforestal/regencia.pdf>
 d. <http://www.ambiente.gob.ec/sites/default/files/users/mponce/agreements139.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 VPAs and Other Agreements on Forest Products

 Has the country signed an international agreement(s) that relates to forest products?

Ecuador has signed a number of international agreements relating to environmental matters, including the Convention on International Trade in Endangered Species of Wild Fauna and Flora and the International Tropical Timber Agreement. In addition, the MERCOSUR countries and the countries of the Latin American Integration Association (ALADI), including Ecuador, have a number of agreements: bilateral, renegotiation, preferences awarded, economic complementation and multilateral (sectoral trade agreements). The same is true for the member countries of the Andean Community of Nations (CAN). Within MERCOSUR there is a forum on wood and furniture to facilitate an exchange between the regional players and thereby articulate actions and strategies to benefit the chain as a whole and each of its parts.

However, Ecuador has not signed international agreements which include specific clauses or annexes stipulating requirements for trade in forest products. On this point, it has not followed the example of the negotiation process for the Free Trade Treaty between the European Unión and Peru (2009), which included an “Annexe on management of the Forest sector” specifying minimum standards to contribute to transparency, the fight against corruption and the governance of the forest sector.

Ecuador, Peru and Colombia began negotiations in 2009 with the European Union (EU) on a Trade Agreement, but at the end of that year, Ecuador withdrew from the round of talks. Peru and Colombia signed a final agreement with the EU on 26 July 2012, which refers in Article 273 on trade in forest products, to a series of practices for improving the application of laws and good governance. Meanwhile, Ecuador resumed talks and hoped to reach a Trade Agreement for Development in 2012. The draft document prepared by the government explicitly mentions a commitment to sustainable development.

In addition to these trade agreements, Ecuador has embarked on other forest-related agreements. In the framework of the United Nations Conference for Sustainable Development at Rio +20, it signed a cooperation agreement with Korea on forest management, rehabilitation of forests and ecosystems. At the Río +20 summit Ecuador proposed a Universal Declaration for the Rights of Nature, and presented the Yasuní ITT initiative as a mechanism for changing development paradigms. This initiative is the country's commitment to protecting the Yasuní National Park in the Ecuadorian Amazon Region and maintaining indefinitely untouched the reserves of 846 million barrels of crude oil in the ITT field, on the condition that the international community contributes financially (more information available at <http://yasuni-itt.gob.ec/Inicio.aspx>).

Title:

- Cooperation agreement for forest management, rehabilitation of forests and ecosystems signed between Ecuador and Korea as part of the United Nations Conference for Sustainable Development Rio+20.
- Convention on International Trade in Endangered Species of Wild Fauna and Flora (ratified on 11 February 1975)
- International Tropical Timber Agreement (2006)
- Amazon Cooperation Treaty Organization (1978)
- In addition, Ecuador is a signatory to the Kyoto Protocol (signed on 15 January 1999 and ratified on 13 January 2000) and is a beneficiary country of the UN-REDD Programme (March 2011). Although these agreements are not trade agreements, their importance for the forest sector is crucial.

Organisation:

- a. Ministry of Environment
- b. Ministry of Foreign Affairs
- c. Heritage Coordination Ministry
- d. European Union -FLEGT

Date: Various, indicated in each agreement

Source:

- a. www.ambiente.gob.ec
- b. www.mmrree.gob.ec
- c. <http://ministeriopatrimonio.ezn.ec>
- d. http://www.euflegt.efi.int/files/attachments/euflegt/flegt_redd_bn_1_spanish_web.pdf

Provisions for Transparency in Forest Laws and Norms

 Are there any provisions in forest-specific laws and/or supporting norms that develop the right to access public information on the forest sector?

The Organic Law on Transparency and Access to Public Information is the general law stipulating the obligations of all public authorities; however, it should be emphasised that it does not consider sector information parameters. As far as forest regulations are concerned, the Environmental Management Law and the Forest Law state that the Ministry of Environment (MAE) will compile information of an environmental nature, and that this information will be available to the public. One important step forward is the Forest Governance Model published in 2011, which recognises transparency as one of the key elements for implementing effective forest governance. Although these provisions exist, it is quite difficult to find out what progress has been made by the MAE in forest matters, because

the dates on which the information is updated are not specified systematically on the website, except in the news section.

The MAE has created a Unified System of Environmental Information (SUIA) which seeks to integrate all the environmental information in a single location, to generate indicators and access diagnostics for the public as a whole. This system is made up of four modules: Geographical, Documentary, Statistical and Automation of institutional processes. The SUIA was implemented in February 2012.

In parallel, the MAE is implementing a new System of Forest Administration (SAF2) which will generate a national database of players linked with forest activity, and online reports of forest activities: this will include administrative processes, forest management and monitoring and commercialisation of timber and forest products in the country, including imports and exports of forest products. The MAE began implementation of the SAF2 between May and June 2012, with workshops on a local level designed to train and extend the benefits to the players involved in the wood production chain in the plantations module for 18 provinces nationwide. Apart from this, there was no new information available on the MAE website when this Bulletin was being prepared.

Title:

- a. Environmental Management Law
- b. Codification of the Forest and Conservation of Natural Areas and Wildlife Law
- c. Model of forest governance

Organisation:

- a. 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/wp-content/plugins/download-monitor/download.php?id=855&force=1>
- b. <http://www.ambiente.gob.ec/wp-content/plugins/download-monitor/download.php?id=853&force=1>
- c. <http://saf.ambiente.gob.ec/index.php/noticias/11-modelogobernanza>

Recognition of Customary Rights in Forest Laws and Norms

 Are customary and traditional rights recognised in codified forest law and supporting norms?

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 carried out in their territories. The codified forest law and the environmental management law state that indigenous, black and Afro-Ecuadorian peoples will 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 and policies for demarcation, management and administration of conservation areas and ecological reserves. The mechanisms for applying these rights are not clear. One case in 2012 for example was that there was still no consensus over oil operations in the centre-south area of the Ecuadorian Amazon Region between the State and the indigenous peoples, who argue that their rights have not been respected.

Title:

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

Organisation: a. Ministry of Environment
b. Ministry of Environment
c. Ministry of Environment
d. 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-environmental.pdf>

Formal Procedures for Consultation on New Forest Norms

 Is there a legally recognised procedure that specifies the methodology for consultation on the development of new forest-related norms?

Articles 81 and 82 of the Organic Law on Citizen Participation stipulate the right to prior, free and informed consultation. Article 157 of the Organic Law on the Legislative Function guarantees the participation of citizens in the different stages of formation of laws through a variety of mechanisms. As stipulated in the law on citizen participation, citizens can request that a consultation process be called to allow people to query any matter of interest. In addition, the same law recognises a variety of participation mechanisms, allowing citizens to become involved in the decisions taken at all levels of government, which are: hearings, popular councils, the empty chair, review boards, observatories and consultation councils. The participation processes stipulated in the law have been promoted through the website of the Citizen Participation Council, an autonomous body, created from the 2008 Constitution, article 398 of which recognises the right to consultation. The Council's function is to facilitate processes of participation, social monitoring and the fight against corruption. However, an exhaustive study is required to analyse whether the mechanisms have been effective with regard to the forest sector.

It is worth noting that, in March 2012, a multinational resistance march took place, in which participants presented a mandate for water, life and the dignity of indigenous peoples. One of the demands made of the government was to ensure compliance with the right to prior, free and informed and pre-legislative consultation, respecting the terms of Convention 169 of the International Labor Organization. The lack of pre-legislative consultation has held up important processes such as process of the draft Organic Law on Water Resources, Use and Application of Water. In May 2012, the draft law on pre-legislative consultation was announced, detailing four sections with their respective processes: preparatory acts; invitation, registration and information; execution and delivery of results; analysis of results and closure.

As far as the forest sector is concerned, the Unified Text of Secondary Legislation guarantees the participation of indigenous peoples in decision-making on activities to be carried out in their territories, and the forest law and the environmental management law stipulate that the local authorities must consult these peoples before issuing environmental policies. However, they neither detail nor establish procedures. Finally, the MAE has embarked on an official process to form the Sectoral Citizen Councils. The lines of action and the subject areas to be dealt with by these councils have been defined. This can be considered progress, without ruling out the existence of other participation processes.

It is also worth emphasising that article 22 of the same law states that, if the President of the Republic makes a request in relation to the exploitation of non-renewable resources in protected areas and areas declared intangible,

including forestry operations, the plenary session of the National Assembly, in two debates and with absolute majority of its members, may declare the President of the Republic's request to be of national interest. In this case, popular consultation depends on whether or not the Assembly considers it appropriate.

- Title:**
- a. Draft organic law on pre-legislative consultation to communes, communities, peoples and nationalities.
 - b. Organic Law on Citizen Participation
 - c. Organic Law on the Legislative Function
 - d. Unified Text of Secondary Environmental Legislation
- Organisation:**
- a. National Assembly
 - b. Council for Citizen Participation and Social Monitoring
 - c. National Assembly
 - d. MAE
- Date:**
- a. 16 May 2012
 - b. April 2010, modified May 2011
 - c. 2009
 - d. 2003
- Source:**
- a. http://www.aebe.com.ec/data/files/noticias/Noticias2012/Gral1erSem/PRY-Ley_Org_Consulta_Prelegislativa_Molina.pdf
 - b. http://www.participacionycontrolsocial.gov.ec/c/document_library/get_file?uuid=257c27f6-fd09-4f49-9d3e-482ccd20a739&groupId=10136
 - c. <http://documentacion.asambleanacional.gov.ec/alfresco/d/d/workspace/SpacesStore/c561995f-1d17-4084-8cee-7ceb590e9f2c/Ley%20Reformatoria%20a%20la%20Ley%20Org%20C3%A1nica%20de%20la%20Funci%C3%B3n%20Legislativa>
 - d. <http://www.ambiente.gob.ec/biblioteca/>
-

Legal Right to Free Prior and Informed Consent

 Is the right to free prior informed consent of indigenous peoples and forest-dependent communities recognised in forest law and supporting norms?

Ecuador has ratified the International Labour Organization convention 169, which guarantees consultation of indigenous peoples. Article 57, point 7 of the 2008 Constitution of Ecuador guarantees free, prior and informed consultation, within a reasonable period; however, this does not require consent (and is not binding). Article 81 of the Organic Law on Citizen Participation also guarantees peoples, communities and nationalities the right to prior, free and informed consultation. Article 82 refers explicitly to environmental consultation, in the case of a state decision which might affect the environment, and specifies broad and timely information for those affected. However, even if there is a majority opposing the project in question, it may still be carried out on the condition that the impact on those affected and the ecosystem is minimised (art. 83). The regulations applying to the forest sector do not develop further the right to consent.

According to Ecuadorian legislation on free, prior and informed consent (FPIC), the current regulatory framework has not developed specific mechanisms describing the procedures for application of the FPIC (1). The presence of some leaders is sufficient, without this necessarily meaning that the rest of the community is informed about the processes. In addition, it is not clear how to proceed in the case of dispute, nor to what degree the opinions of the indigenous peoples are taken into account. In fact, the implementation of public or private projects in the indigenous areas has generally been the source of conflicts. For this reason, the indigenous peoples request that consent must be a compulsory requirement, meaning that the community must agree before actions may be taken on their territory. In May 2012, the government published the bill on pre-legislative consultation with the aim of reaching agreement, which represents possible progress, provided it is implemented effectively in practice.

(1) Zambrano, S. (2010) Consentimiento Previo, Libre e Informado: Principales elementos de análisis y recomendaciones de política (Free, Prior and Informed Consent: Principal elements of analysis and policy recommendations). Grupo FARO: Ecuador. Available at <http://www.grupofaro.org/node/309>

- Title:**
- a. Constitution of Ecuador
 - b. Organic Law on Citizen Participation
 - c. Draft organic law on pre-legislative consultation of communes, communities, peoples and nationalities.
- Organisation:**
- a. Ministry of Natural and Cultural Heritage
 - b. Council for citizen participation and social monitoring
 - c. National Assembly
- Date:**
- a. October 2008
 - b. April 2010, modified May 2011
 - c. 16 May 2012
- Source:**
- a. http://ministeriopatrimonio.ezn.ec/es/biblioteca-virtual/doc_details/190-constitucion-articulos-pertinentes
 - b. http://www.participacionycontrolsocial.gov.ec/c/document_library/get_file?uuid=257c27f6-fd09-4f49-9d3e-482ccd20a739&groupId=10136
 - c. http://www.aebe.com.ec/data/files/noticias/Noticias2012/Gral1erSem/PRY-Ley_Org_Consulta_Prelegislativa_Molina.pdf
-

National Land Tenure Policy

 Is the national policy on land tenure, including forest tenure, set out in a current document?

There is no land policy document as such to orientate the actions of the relevant public institutions; there are, however legal provisions to align institutional operations. The Codified Forest Law has a number of articles dealing with forest tenure, the most important of which states that “The State guarantees the right of private ownership of forested lands and forests in the private domain, with the limitations set down in the Constitution and the laws. With regard to natural forests, in lands exclusively suitable for forest use, the owner must conserve them and manage them according to the technical requirements set out in the regulations in this Law.” Lands that form part of the national system of protected areas are dealt with by the Ministry of Environment (MAE).

As far as forest tenure is concerned, it is estimated that the indigenous peoples and Afro-Ecuadorians own seven and a half million hectares of native forests in the country, and that the State has approximately nine million hectares, including around two million hectares of Forest Heritage land (1). Forest Heritage land is classified as permanent production state forests, permanent production private forests, protective forests, and special or experimental forests and areas.

The Ministry of Agriculture, Livestock, Aquaculture and Fisheries (MAGAP) has a land under-secretariat whose aim is to take a strategic management role in the formulation, application and implementation of policies, programmes, rules of access, distribution, redistribution, re-grouping, legalisation and use of land. The responsibilities assigned by law to this under-secretariat prioritise redistribution processes. According to one of the directorates, projects dealing with title deeds intended for forest purposes are a priority; however, this prioritisation is informal in nature and not regulated.

There is a land plan which orients the processes of land redistribution, for those lands set aside for agriculture and which are outside the national system of protected areas. This group also includes lands with forest cover. To be part of this plan, it is clear that it must be with an organisation, which may be indigenous, and which must be

recognised by the MAGAP. It is worth highlighting that very few lands with this type of coverage have been part of this plan.

In 2011 and 2012, a proposal for a Land Law has been drawn up, which stipulates regulations on property which is home to fragile ecosystems and includes a prohibition on 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.

In May 2012, the National Assembly's Food Sovereignty Commission announced that a number of forums would be created involving the interested players, including groups, producers and indigenous peoples, amongst others, to incorporate their proposals in the law. The indigenous organisations which have worked on drawing up bills have highlighted the importance of including amongst the topics for debate the redistribution of lands, issuing title deeds for lands, and the creation of the National Land Fund.

(1) Añazco, M., M. Morales, W. Palacios, E. Vega, A. Cuesta (2010). Sector forestal Ecuatoriano: propuestas para una gestión forestal sostenible. (Ecuadorian forest sector: proposals for sustainable forest management). Research and Systematisation Series No. 8. Regional Programme ECOBONA-INTERCOOPERATION. Quito. Available at <http://www.bosquesandinos.info/portales.shtml?apc=Sb--Biblioteca8587Gesti%F3n%20Social%20EFAs8570xx18326xx1-&x=24929&m=Biblioteca>

Title:

- a. Codification of the Forest and Conservation of Natural Areas and Wildlife Law (R.O No. 418)
- b. Agricultural Development Law
- c. Codification of the Special Law for Allocation of Waste Lands in the Amazon Region
- d. Final proposal for a preliminary draft of the land law

Organisation:

- a. Ministry of Environment
- b. Specialised search engine
- c. Specialised search engine
- d. Specialised search engine

Date:

- a. 10 September 2004
- b. Promulgated in 1994, codified on 29 December 2010
- c. 17 February 1972 codified 16 April 2004d. -

Source:

- a. <http://www.ambiente.gob.ec/sites/default/files/archivos/leyes/forestal-conservacion-vsilvestre.pdf>
- b. Access via the pay search engine Lexis, R.O No. 315, Quito.
- c. Access is only possible via the pay search engine Lexis R.O supplement 315
- d. Via a general search engine

Consultation before Commercial Logging Allocation

 Is there a legal requirement for stakeholder consultation to take place prior to the allocation of commercial forestry operations?

In Ecuador, licences for forest operations originate in the right of the owner to use, enjoy and dispose of the elements of his/her property, including forests; if the forest is privately owned, no consultation of other players is required before allocating it to operations with commercial ends. In cases where the forest belongs to the community, the communities themselves carry out internal consultations.

The Unified Text of Secondary Environmental Legislation stipulates the participation of the population affected by a work or project, on the relevant environmental variables of the environmental impact studies and environmental management plans. However, this does not equate to a consultation process prior to the granting of rights.

Title: Unified Text of Secondary Environmental Legislation, Book VI, Art. 20

Organisation: MAE

Date: 2003

Source: <http://www.ambiente.gob.ec/wp-content/uploads/downloads/2012/09/TEXTO-UNIFICADO-LEGISLACION-SECUNDARIA-MEDIO-AMBIENTE-PARTE-I.pdf>

Regulation of Environmental Services

 Are there national laws and other norms that regulate the use of key environmental services of forests?

There is discussion in the country around article 74 of the Constitution of Ecuador, which states that: “Environmental services may not be appropriated; their production, provision, use and operation shall be regulated by the State”. Norms developed to regulate environmental services may therefore allow the State to regulate not only their use but also to manage them in a centralised manner, and thus be able to access the funds and markets for reduction of emissions and carbon storage through forests.

As can be seen in the indicator on forest tenure, in the relevant laws the State guarantees the right of private ownership of forested lands and forests in the private domain, and in reality the indigenous peoples and private owners control the majority of forest territory. So, there is a contradiction in that the forests are privately owned and the environmental services, including the regulation of greenhouse gases, the collection and retention of water and the conservation of lands, may not be appropriated and their use regulated by the State. On this point there needs to be clarity regarding the expected benefits to be obtained from mechanisms such as REDD+ and how these benefits will be distributed among the forest owners. A forest register is also required, with complete information listing forest tenure, plant coverage and environmental services.

In addition, in the country there are recognised experiences such as funds for conservation rather than payment for environmental services, as is the case of the Water Protection Fund FONAG, which co-finances activities, projects and programmes for rehabilitation, conservation and maintenance of hydrological basins (see <http://www.fonag.org.ec/portal/lang-es/el-fondo/acerca-del-fonag.html>). Experiences like this must also contribute to clarifying the relevance or not of making a change to article 74 of Ecuador’s political constitution.

Title: a. Constitution of the Republic of Ecuador 2008

Organisation: a. National Assembly

Date: a. 20 October 2008

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



Strategic Environmental Assessment



Is there a formal strategic environmental assessment and planning process to determine the priorities for land use between forests, mining, large-scale agriculture, infrastructure development and other demands?

A strategic environmental assessment guide drawn up by the Economic Commission for Latin America and the Caribbean defines it as "an instrument of support for the incorporation of the environmental dimension in strategic decision-making, for decisions usually identified with policies, strategies, plans or programmes, and as such is a procedure for improvement of these planning instruments" (1). It proposes advancing the complete development of environmental and sustainability policies from the first phases of decision-making.

In this area, Ecuador has a framework for establishing public policies and development priorities through analysis of the political, economic, social, technological, cultural and environmental context, and has regulations for carrying out impact assessments which measure the level that the objectives of a certain activity should achieve. The framework for drawing up sectoral public policies is based on the National Plan for Well-Being and specifies that these policies are complemented with inter-sectoral policies contained in the Sectoral Agendas of the policy sectoral councils and with the sectoral policies of the ministries and State secretariats carrying them out.

The National Planning Secretariat (SENPLADES) has a document specifying the procedures for carrying out impact studies for projects and programmes, another which provides information and facilitates understanding of the methodology for prioritisation of public investment projects, and recently published a guide for the formulation of sectoral public policies.

On a practical level, it is important to emphasise that the Ministry of Environment has made some progress in articulating a national agreement for economic and environmental sustainability by generating, for example, a Manual of Best Environmental Practices which has been extended to 36 ministries, and which has been used to initiate agreements with the Private Sector. It has also formed an inter-institutional committee for the calculation of the Green GDP and the Ecological Footprint, and a tool has been designed allowing companies to calculate and reduce their ecological footprint.

However, the existence of regulations does not necessarily mean that they are applied systematically in decision-making. Consequently, a more in-depth study is required, to corroborate how these policies are put into practice.

(1) Rodrigo Jiliberto Herrera and Marcela Bonilla Madriñán (2009) Guía de evaluación ambiental estratégica (Guide for strategic environmental assessment). Published by the Economic Commission for Latin America and the Caribbean: United Nations. Available at http://www.eclac.org/publicaciones/xml/7/37977/Guia_EAE.pdf

Title:

- a. Methodologies for Prioritisation of Public Investment Projects
- b. Methodology for Follow-Up and Impact Assessment
- c. Conceptual Definitions of the Sub-System for Follow-Up and Assessment
- d. National System of Investment Projects (SINAPRO)
- e. Guide for the Formulation of Sectoral Public Policies

Organisation: SENPLADES

Date:

- a. June 2009
- b. No record of document 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

Forest Ownership and Resource Use Maps

 Are there publicly available official maps showing current types of forest ownership and forest resource use?

Various maps of the National System of Protected Areas are available on the Ministry of Environment (MAE) website. In addition, some MAE publications present a list of land allocations and maps of protected forests are also available. Not all the maps are geo-referenced, and not all the monthly reports are available.

The MAE also has a 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 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 important to point out that the base line for deforestation is still not complete, as details are still lacking for territory which does not have satellite image coverage. The MAE is working on updating the rate of deforestation (<http://sociobosque.ambiente.gob.ec/?q=node/269>).

Meanwhile, the Ministry of Agriculture, Livestock, Aquaculture and Fisheries (MAGAP) has the SIGTIERRAS programme, a National System of Information on Rural Lands and Technological Infrastructure, which aims to establish a system of administration of rural land nationwide to guarantee its tenure and provide basic information for development planning and territorial planning. However, the progress made by the time of this assessment as shown on the SIGTIERRAS website covers just 9 of Ecuador's 219 cantons (this information is available on the website; however, in meetings with public officials from this directorate it is suggested that they have survey data available for 14 cantons).

As a complement to these processes, the Proforestal programme has also generated base maps of lands suitable for forest use (these maps are available through requests for information) and location maps of their projects, including a database with information on the type of project, location, species and hectares. The Proforestal programme is now coming to an end, and the intention is for the Under-Secretariat for forest production to take over various activities developed by this project.

Finally, the land under-secretariat, through different directorates such as, for example, the title deeds directorate, also has a geo-referenced survey of the title deeds issued countrywide. This demonstrates that progress is being made in the generation of geo-referenced information; however, there is no coordination between the organisations working on this subject.

Title:

- a. Maps of the State's Natural Areas Heritage
- b. Thematic maps – SIGTIERRAS
- c. Maps of forestation and reforestation projects - Proforestal
- d. Information with maps of protective forests and other details of land allocations

Organisation:

- a. d. MAE
- b. MAGAP

Date:

- a. March 2011
- b. There is no date of updating
- c. Figures updated to 30 December 2011
- d. Various dates

Source: a. <http://www.ambiente.gob.ec/?q=node/189>
b. http://www.sigtierras.gob.ec/Informacion_Digital/Informacion_Tematica.html
c. <http://www.proforestal.gob.ec/aqportal/index.php?tpy=2&apl=20&secc=7&seccionp=12&system=14&sessid=#>
d. <http://servicios.ambiente.gob.ec/saf/estadisticas/estadisticas.php>

Legal Documents for Commercial Logging Operations

 Are legal documents for commercial logging operations regularly published?

For forest use activities there are quite clear requirements for obtaining licences and transportation manuals, which are granted to landowners where the forest exists as part of their right of usufruct, but under the surveillance of the forest authority.

Article 102 of the Codification of the Law on Forests and Conservation of Natural Areas and Wildlife states the following: "Any natural person or legal entity carrying out activities provided for in this Law, such as operation, commercialisation, primary transformation, industrialisation, consulting, forest plantations and other connected activities, are obliged to register in the Forest Register, after compliance with the requirements set out for this purpose. Without this registration, such activities may not be carried out".

The Unified Text of Secondary Environmental Legislation (TULAS) gives detailed information of the requirements for registration in the Forest Register: Name, description of activities, location of work areas, technical personnel and infrastructure, investments and financing. In addition, it also states that lands including native forests, forest plantations and protected plant life in the private domain require licences to carry out forest use activities, and according to the Integrated Management Plan which must be drawn up for the land, they should also be obliged to report to the forest authority any illegal logging or destruction therein.

Copies of the licences and transportation manuals are available to the public following a request for information with the due justification. The information on the type of operations registered presented on the Forest Administration System website is the following: legal representative, trading name, province, canton, parish, sector, telephone number. However, at the time the information for this study was assembled, no further information was available.

The most notable point here is that, despite the clarity of the regulations, the percentage of illegal timber circulating in and leaving the country is still quite high, which is why there is a requirement for greater transparency on which activities have a licence, in order to promote the use of legal timber.

Title: a. Law on Forests and Conservation of Natural Areas and Wildlife (codified in 2004)
b. Book III, title VII of the TULAS

Organisation: a. Ministry of Environment
b. Ministry of Environment

Date: c. 10 September 2004
d. 31 March 2003

Source: a. <http://www.ambiente.gob.ec/sites/default/files/archivos/leyes/forestal-conservacion-vsilvestre.pdf>
b. <http://www.ambiente.gob.ec/sites/default/files/users/ngiler/LIBRO%20III%20DEL%20REGIMEN%20FORESTAL%20TITULO%20VII.pdf>

Reports on the Verification Process of Eligibility of Commercial Operators

-  Are the reports published from a formal “due diligence” process on the eligibility, suitability and capability of applicants for contracts or licences to conduct commercial forestry operations?

Before an applicant can carry out forest operations, he/she requires a forest use licence. Despite the fact that certain documentation is requested for this procedure, priority is given to documents certifying the legal tenure of the land in which the logging programme is to be carried out. A more detailed verification process is not specified.

The lack of exhaustive verification is a major weakness of the current system, which has led to the generation of inconsistencies (for example, by allowing forest offenders to access confiscated timber), and prevents the consolidation of a suitable forest management model. However, the Ministry of Environment is working on building the Forest Administration System and the Single System of Environmental Information (SUIA), which are expected to be able to help reduce the gap in information and consequently improve the verification process. It is worth emphasising that the demand for additional requirements when it comes to accessing a forest use licence must be led by the MAE.

- Title:**
- a. Unified Text on Secondary Environmental Legislation
 - b. Procedure for authorisation of the use and logging of wood
 - c. Regulations for the sustainable management of Andean forests (R.O 416)
 - d. Regulations for the sustainable forest management of dry forests (R.O 157)
 - e. Regulations for the use of wood in cultivated forests (R.O 401)
 - f. Regulations for the forest management of rain forest wood (R.O 399)
- Organisation:**
- a. Ministry of Environment
 - b. Ministry of Environment
 - c. Ministry of Environment
 - e. Ministry of Environment
 - f. Ministry of Environment
- Date:**
- a. 31 March 2003. Reformed on 17 May 2012
 - b. 5 April 2010. Reformed on 22 March 2012
 - c. 13 December 2006
 - d. 28 August 2007
 - e. 18 August 2004
 - f. 16 August 2004
- Source:**
- a. <http://www.ambiente.gob.ec/wp-content/uploads/downloads/2012/09/TEXTO-UNIFICADO-LEGISLACION-SECUNDARIA-MEDIO-AMBIENTE-PARTE-I.pdf>
 - b. <http://www.ambiente.gob.ec/sites/default/files/users/mponce/agreements139.pdf>
 - c. <http://www.ambiente.gob.ec/sites/default/files/archivos/normativaforestal/bosquesandinos.pdf>
 - d. <http://www.ambiente.gob.ec/sites/default/files/archivos/normativaforestal/bosqueseco.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>
-

Forest Management Plans

-  Are forest management plans published?

Although there are mechanisms for managing information on forest use plans, and the responsibilities between the Ministry of Environment (MAE) and the Ministry of Agriculture, Livestock, Aquaculture and Fisheries (MAGAP) relating to commercial plantations are established by executive decree, in practice it is the MAE which continues to exercise responsibility related to forest use plans inside and outside protected areas. The structure and regulatory role of MAGAP's under-secretariat for forest production is still taking shape through the generation and promotion of a policy to encourage forest production.

The MAE has developed a Forest Administration and Monitoring System (SAF) through which it monitors forest use plans and licences, and automatically grants timber transportation manuals. The management plans are available through requests for information.

There needs to be greater coordination between the institutions responsible for forest management in the country, to enable the policies to function in practice and so that the information systems can be shared between them and the population in general.

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

Organisation: MAE

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

Source: a. <http://www.ambiente.gob.ec/wp-content/uploads/downloads/2012/09/TEXTO-UNIFICADO-LEGISLACION-SECUNDARIA-MEDIO-AMBIENTE-PARTE-I.pdf> http://www.lexis.com.ec/webtools/esilecpro/FullDocumentVisualizer/FullDocumentVisualizerPDF.aspx?id=MERCANTI-REGLAMENTO_ESPECIAL_DE_TURISMO_EN_AREAS_NATURALES_PROTEGIDAS
b. <http://servicios.ambiente.gob.ec/saf/>

Reports from Independent Forest Monitoring

 Are reports by an independent forest monitor published?

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

In addition, the MAE published terms of reference for contracting a consultancy firm to implement a System of Independent Verification of Legal Origin and Forest Management Compliance in order to improve the transparency of the forest sector; this is a step forward in management. Civil society will need to track the contracting process and the implementation of this system (http://www.ambiente.gob.ec/wp-content/uploads/downloads/2012/09/TDR_gestionforestal.pdf).

Title: a. Model of Forest Governance in Ecuador 2011

Organisation: MAE

Date: 2011

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

 **Data on the Distribution of Forestry Royalties and Incentives**

 Is data regularly published on the distribution of forestry royalties and/or incentives to stakeholders?

In Ecuador there is no direct redistribution of the payments received through the “pie de monte” tax (a tax applied by the state on harvesting of timber from standing trees), which is charged on each cubic metre of timber extracted. It is not possible to determine the exact amount resulting from this tax because the regional offices of the Ministry of Environment (MAE) only sends a total value for taxes collected to the central office with no detailed breakdown. There is no relation between the amounts collected and assigned (to different activities), as the latter depends on a number of parameters such as institutional planning and budget capacity.

In Ecuador a variety of incentives are promoted for both conservation and reforestation. As far as conservation is concerned, there is the Socio Bosque programme, the objective of which is to conserve a variety of ecosystems and improve livelihoods. Current statistics for amounts invested in the programme and other details are available through the website.

With regard to reforestation, up until approximately May 2012, the country operated the Socio Árbol programme, one of the sub-components of which was an incentives programme for reforestation in which the state and the land owner formed a kind of “partnership” for the reforestation of a specific piece of land. There is also a tax on rural lands, which is imposed on the ownership or possession of rural lands with an area greater than 25 hectares, emphasising that wetlands and natural forests duly classified as such by the environmental authority are exempt from payment of this tax. Updated information on taxes collected is available on the Internal Revenue Service website.

Finally, it is worth noting that one of the directorates in the land sub-secretariat prioritises its work on giving title deeds to lands which will form part of forest projects (Socio Bosque, Socio Árbol).

Title: a. Forest Partner Programme
b. Regulation for sustainable forest use of dry forests (Official register 157).
c. Reform Law for Fair Taxation in Ecuador (Tax on rural lands) (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 in 2010.

Source: a. <http://sociobosque.ambiente.gob.ec/>
b. <http://www.ambiente.gob.ec/sites/default/files/archivos/normativaforestal/bosqueseco.pdf>
c. <http://www.sri.gob.ec/web/guest/87>

Information on Forest Law Infractions

 Is information regularly published on infractions of forest law?

The lack of publication of information on those committing forest offences is a persistent problem: the information published on the MAE website refers to the offences, but not the offenders. Although this information is important, more important still is that the list of people failing to comply with the law should be made public, and particularly that it should be shared between the institutions related to the forest sector; failure to do so could generate cases like that of offenders accessing credits for forestation or reforestation programmes, or bidding in auctions of confiscated material.

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 MAE office, as it is known that, on occasions, the same offenders are bidding in auctions of confiscated material (1).

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 civil society organisations to press for legal trade in timber by exercising greater control over bidders for public supply, and ensure that those committing infractions of the forest law do not benefit.

The Ecological Defence Foundation (FUNDECOL) in Muisne carried out an investigation to systematise the offences committed in mangrove swamps, and the principal conclusion was that many offences go unpunished, and even when a punishment is imposed, there are no mechanisms to ensure that it is carried through (2). Civil society organisations play an important role by creating review panels for these processes, but there needs to be greater clarity on mechanisms for fulfilment of the laws and penalties so that these organisations can help the authorities prevent forestry offences.

(1) Cárdenas, C., Mejorando y coordinando la aplicación de la legislación forestal ambiental, Ciudadanizando la Política Ambiental, No.1. (Improving and coordinating environmental forest legislation, Applying Environmental Policy to Citizens) Grupo FARO, Quito-Ecuador, 2010. http://www.grupofaro.org/sites/default/files/archivos/publicaciones/2011/2011-06-24/sedefa-ley_forestal5.pdf

(2) More details to be found at http://www.fundecol.org/index.php?option=com_content&view=article&id=66&Itemid=97

Title:	a. Lists of offenders on a provincial level
Organisation:	a. Ministry of Environment
Date:	a. Depends on the request
Source:	a. A list can be obtained via an application at the provincial level

Annual Forest Authority Report

 Are annual reports published by the forest authority?

Sub-paragraph m of article 7 of the LOTAIP specifies that public institutions must present “Mechanisms for accountability to citizens, such as management targets and reports and performance indicators”, and article 12 stipulates that these institutions must deliver an annual report on fulfilment of this law.

The Ministry of Environment (MAE) publishes an annual report of activities on its website. The 2011 report presents a section on Forest Governance. In addition, through the Forest Administration and Monitoring System (SAF) it publishes annual forest reports.

In its annual report of activities, the MAE presents a detailed section on forest issues. The most recent report includes information gathered corresponding to 50% of the surface area of Ecuador to draw up a map of plant coverage and land use. It states that 1,566 agreements have been signed as part of the Socio Bosque programme, bringing a total of 881,933 hectares of forests under conservation and benefiting approximately 90,255 people (forming 23,505 families). It also reported that there is coordination with the Internal Revenue Service for a monitoring process of the final destinations of timber. Spatial analyses are carried out on the processes of forest use to compare them with geographical and documentary information, the principal benefit of which will be to quantify the changes in tree coverage. By this measure, 10,000 hectares of forest have been reforested for protection and conservation purposes. More than 4,000 cubic metres of illegal wood have been intercepted by fixed forestry monitoring stations and mobile units; and 730 plans and programmes for forest use have been verified countrywide. Without doubt, this is progress in the work carried out by the forest authority.

Title: a. Accountability report 2011

Organisation: a. Ministry of Environment

Date: a. January 2012

Source: a. <http://www.ambiente.gob.ec/wp-content/uploads/downloads/2012/11/m-Indicadores-de-desempen%C3%8C%C6%92o-y-cumplimiento-de-metas11.pdf>
