



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 legal bases which guarantee freedom of information and access to public archives are contained in articles 30 and 31 of the Political Constitution of the Republic of Guatemala, and in the Law on Access to Public Information (LAIP). The legal framework obliges the subjects covered by it to create Public Information Units (UIP), as entities responsible for complying with the stipulations of the LAIP. The Human Rights Ombudsman (PDH) has the role of regulating and guaranteeing compliance with the LAIP (Article 46), and must ensure free access to public information.

As far as fulfilment of the legal stipulations is concerned, there are still obstacles to guaranteeing full access of individuals and legal entities to public information, which include:

- Continued lack of compliance with the law by the public forest bodies, both in their annual reports and in terms of the requirement to update their websites (1).
- Official figures from the National Statistics Institute estimate that 14 out of every 100 inhabitants identify themselves with one of the 24 indigenous communities. The indices for school attendance are significantly low in this population, which affects their knowledge of the laws in their own languages. (2)
- There is a lack of funds allocated to the UIPs, which prevents them from fulfilling their functions correctly.
- There is little dissemination of the law, which does not encourage a culture of transparency.
- There is a lack of training of the responsible bodies on how to comply with the law.

There are opportunities for broadening knowledge of the LAIP through community workshops, as well as by translating it and distributing it in the local languages. Furthermore, the financial budget needs to be increased to meet the obligations on improving access to public information. In February 2012, a government agreement created the Secretariat for Monitoring and Transparency, which will strengthen freedom of access to public information; however, it now remains to be seen how this body will function and whether it will have the necessary resources and the political will to improve transparency.

1. Office of the Human Rights Ombudsman. (2011). Final Report on Supervision of Websites 2011. Executive Secretariat of the Access to Information Commission. 51 p. Available at: http://www.pdh.org.gt/accesinfo/filesmanager/secainforme_final_super_portales_2011.pdf

2. National Statistics Institute (2011). Poverty and Development: A departmental approach. National survey on living conditions 2011. 30 p. (Available at: <http://www.ine.gob.gt/np/encovi/documentos/Pobreza%20y%20Development%202011.pdf>)

Title:

- a. Law on Access to Public Information (LAIP). Legislative Decree No. 57-2008
- b. Agreement on the Creation of the Secretariat for Monitoring and Transparency. Government Agreement No. 37-2012.
- c. Political Constitution of the Republic of Guatemala 1985 (Articles 30 and 31, which refer to publicising administrative proceedings and access to state archives and records)

Organisation:

- a. Ministry of Environment and Natural Resources (MARN)
- b. Secretariat of the Office of the President of the Republic
- c. Congress of the Republic of Guatemala

Source:

- a. MARN Public Information System http://www.sip.marn.gob.gt/public/docs/decreto_57_2008.pdf o: <http://www.congreso.gob.gt/ley-de-acceso-a-la-informacion-publica.php>
- b. General Secretariat of the Office of the President of the Republic. <http://www.sgp.gob.gt/PaginaWeb/Agreements/2012/presidencia/AG-037-2012.pdf>
- c. Congress of the Republic of Guatemala: <http://www.congreso.gob.gt/manager/images/1188FE6B-B453-3B8C-0D00-549DA12F72CB.pdf>

National Forest Policy

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

Guatemala's Forest Policy (1999) forms the general framework for planning and guidance of the activities related to use, management and conservation of the country's forests. The current political, economic, social and environmental context in the country has brought to the fore a series of challenges and new opportunities for the forest sector.

In 2011, an official evaluation was carried out through regional workshops with relevant stakeholders to the forest sector on implementation of the policy. The report demonstrated that there had been no progress in some indicators related to forest conservation and management, amongst other issues (1). It is worth highlighting that the framework documents used for the updating process are not available on the websites of the National Forest Institute (INAB), and there are no translated versions.

On this point, in 2012 INAB and the Guatemala National Council for Standards in Forest Management (CONESFORGUA), with the support of the United Nations Food and Agriculture Organisation (FAO), promoted a formal and participative process to formulate a new forest policy for Guatemala. This process has used the principal findings of the evaluation as a frame of reference, of which four pressing points for the country include:

- Increasing demand from different stakeholders in the Guatemala forest sector
- The contribution of forests to the livelihoods of the population of Guatemala, especially in rural areas as a source of employment and contribution to food security
- The problems of deforestation threatening the country's environmental sustainability.
- Concerns over climate change

References:

1. Monterroso, O. (2011) Evaluación de la política forestal de Guatemala a diez años de su implementación. (Evaluation of Guatemala's Forest Policy ten years after its implementation). National Council for Standards in Sustainable Forest Management for Guatemala, National Forest Programme, National Forests Institute and the United Nations Food and Agriculture Organisation.

Title: Guatemala Forest Policy 1999

Organisation: National Forests Institute

Date: 1999

Source: http://www.segeplan.gob.gt/downloads/clearinghouse/politicas_publicas/Resources%20Naturales/Politica%20Forestal%20de%20Guatemala.pdf

Codified Forest Law and Supporting Norms

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

The current Forest Law was decreed in 1996 (the sixth forest law in Guatemala's history), and its regulation of 2005 contains the legal provisions for regulating the system of governance for the forest sector in Guatemala. To strengthen the process of regulation and governance in the forest sector, the country is generating a series of political and legal instruments to promote development of the sector. The most recent law promulgated in the country is Decree 51-2010, the law on forestry incentives for owners of small areas of land with a forest or

agricultural-forest vocation, issued on 17 November 2010. At the date of writing, no versions had been translated into indigenous languages. Some regulations have been summarised on the National Forests Institute (INAB) website. Local communities can request the information from their regional INAB office, and the latter are obliged to reply.

Despite the fact that Guatemala's current laws provide quite a complete legal framework for governance of the forest sector, there are a number of studies which confirm a deep-rooted view of forests as obstacles for development, thereby leading to their destruction and deterioration.

A study drawn up by the Institute of Agriculture, Natural Resources and the Environment in 2009 provides evidence that forest legislation is not being applied in a uniform manner throughout the country, because of a number of factors in the application of environmental justice, limiting factors in forest management, valuation of the forest resource, market aspects and monitoring of illegal practices. The legislation is particularly deficient in the area of implementation: it is estimated that 95% of forest activities are carried out illegally (1).

1. Monterroso, O. (2011) Evaluación de la política forestal de Guatemala a diez años de su implementación. (Evaluation of Guatemala's Forest Policy ten years after its implementation). National Council for Standards in Sustainable Forest Management for Guatemala, National Forest Programme, National Forests Institute and the United Nations Food and Agriculture Organisation. Available at: (<http://www.profor.info/sites/profor.info/files/publication/Guatemala-forestfees.pdf>)

Title:

- a. Forest Law (Decree 101-96)
- b. Regulation for the Forest Law contained in Ruling 4.23.2005 of the Governing Body.
- c. Decree Number 4-89 Law on Protected Areas (4-89)
- d. Law on Protection and Improvement of the Environment (Decree 68-86)

Organisation:

- a. National Forests Institute (INAB)
- b. National Council for Protected Areas (CONAP)
- c. Ministry of Environment and Natural Resources (MARN)

Date:

- a. 2 December 1996
- b. 2005
- c. 10 January 1989
- d. 5 December 1986

Source:

- a. http://186.151.231.167/Documentos/Legislacion/ley_forestal.PDF (INAB)
- b. <http://186.151.231.167/Documentos/Reglamentos/Reglamento%20de%20la%20Ley%20Forestal.pdf> (INAB)
- c. <http://www.sifgua.org.gt/Documentos/Legislacion/Areas%20Protegidas.pdf>
- d. http://www.ceur.usac.edu.gt/Biocombustibles/21_Ley_de_Proteccion_y_Mejoramiento_del_Medio_Ambiente.pdf

Signed VPAs and Other Agreements on Forest Products

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

In the last two decades, Guatemala has negotiated, signed and ratified a series of trade agreements with different countries, including: the Free Trade Agreement (FTA) with Mexico (Ratified on 15-8-2011); the FTA with the United States of America and the Dominican Republic DR-CAFTA (in force since July 2006); the FTA with Taiwan (in force since July 2006), and the FTAs with Chile and Colombia (in force since 2009). Added to this is the Association Agreement (AA) between the European Union and Central America. Guatemala is also a signatory to a number of international and regional agreements on conservation and protection of flora and fauna and natural ecosystems.

All of these agreements and conventions are on the websites of the different associated bodies, and in some cases they have summaries (for the most part in English) on a number of websites.

None of the agreements mentioned include specific clauses or annexes stipulating requirements for trade in forest products, but the AA promotes sustainable development in general, and includes a commitment between the signatories in Article 259 to apply the laws and forest governance and to promote trade in legal forest product through a number of instruments; these include the certification of sustainable products and the negotiation of Voluntary Partnership Agreements (VPAs). To date, Guatemala has not taken any concrete steps to initiate a VPA with the EU and it remains to be seen how the AA will influence trade in forest products.

As regards the negotiation and the implementation of such agreements, information on the websites of the Guatemala state bodies on the participation of communities and civil society is either poor or not available at all. The AA has guideline documents but there are no reports or other documents which support the participation of the population.

Title:	<ul style="list-style-type: none">a. Free Trade Agreement between the Dominican Republic, Central America and the United States (now in force) (CAFTA)b. Association Agreement between the European Unión and Central Americac. Convention on Nature Protection and Wildlife Preservation in the Western Hemisphered. Regional agreement for the management and conservation of natural forest ecosystems and the development of forest plantations. (Ratified on 2.2.94 by Guatemala)e. Agreement on International Trade in Endangered Species of Wildlife and Wild Flowersf. Agreement on Biological Diversity
Organisation:	<ul style="list-style-type: none">a. - b. Ministry of Economyc. - f. CONAP
Date:	<ul style="list-style-type: none">a. CAFTA 2004b. 2012c. 1940d. 1994e.f. 1992
Source:	<ul style="list-style-type: none">a. Select Foreign Trade Laws at http://www.mineco.gob.gt/Presentacion/LeyesNormas.aspxb. http://trade.ec.europa.eu/doclib/press/index.cfm?id=689 (text in English)c. http://www.conanp.gob.mx/contenido/pdf/Convencion%20para%20la%20Proteccion%20de%20la%20Flora,%20de%20la%20Fauna%20y%20de.pdfd. http://www.sirefor.go.cr/Documentos/Politicasy1997_CCAD_Agreement_Regional_Conservacion_EcNat_Plant_For.pdfe. http://www.cites.org/esp/disc/text.shtml/f. http://www.borsicca.com/downloads/gt1254756964.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?

Currently there are no regulations or norms in forest legislation, nor have they been incorporated, to promote the right to access to public information in the forest sector. These legal gaps are being filled to a certain extent by the obligations stipulated by the Law on Access to Public information (LAIP), and the creation of Public Information Units (UIP) which make it easier to provide the information required by the population; this tool has been widely used by various sectors and stakeholders associated with the forest sector.

Elsewhere, Guatemala is implementing a process of consolidation and dissemination of information on the forest sector through the National System of Statistical Forest Information for Guatemala (SIFGUA), an initiative promoted by the National Forests Institute (INAB) with the support of the International Tropical Timber Organisation. Its website is currently up and running (<http://www.sifgua.org.gt/>), providing information related to the system and information on the Guatemala forest sector. It should be emphasized that there is a constant process of updating.

The SIFGUA does not yet incorporate elements related to the LAIP by the INAB UIP and the National Council for Protected Areas, such as the compulsory production of an annual report detailing all the applications received, replied to and not replied to by the Office of the Human Rights Ombudsman (PDH); this organisation is obliged to publish an annual transparency report.

There continue to be difficulties in compliance with the legislation, as well as in the provision of documents in indigenous languages, which are systemic weaknesses in Guatemala's public sector.

Title: Law on Access to Public Information (LAIP)

Organisation: Ministry of Environment and Natural Resources

Date: 2008

Source: http://www.sip.marn.gob.gt/public/docs/decree_57_2008.pdf

Recognition of Customary Rights in Forest Laws and Norms

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

The recognition of customary and traditional laws in Guatemala is based on the following legal frameworks: the Political Constitution of Guatemala; the mandates contained in ILO Agreement 169; the Peace Accords (specifically in the Agreement on Identity and Rights of the Indigenous Peoples); the convention on biological diversity, and the ordinary legislation (Municipal Code, Law on urban and rural development councils). Despite these legal frameworks obliging the state to recognise the customary and traditional laws, there is no specific recognition of customary laws in forest laws or regulations.

A number of studies evaluating compliance with the Peace Accords in Guatemala show that there is a level of non-compliance with several agreements, including genuine recognition of the customary laws provided for in the constitution and in other laws. The report on compliance with the 2010 Peace Accords published by the Peace Secretariat (SEPAZ) (1) states that although a series of institutions has been created which, in theory, should guarantee the rights of indigenous peoples (and their customary laws), in fact there are a number of financial and legal obstacles which prevent them from being recognised in practice. The report says that the concentration and distribution of financial resources reflects the direction of state policies, where indigenous peoples and women are still not visible. As far as access to justice is concerned, the report states that this topic "has seen no progress", concluding that such failures "create a complex and adverse scenario for implementation and compliance".

(1) SEPAZ (2011) Los Acuerdos de Paz, Hoy: Informe 2010 avances sobre el cumplimiento de los Acuerdos de Paz (The Peace Accords: 2010 Report on progress in compliance with the Peace Accords). Guatemala, available at http://www.sepaz.gob.gt/index.php/acceso-informacion-publica/doc_download/25-informe-sobre-los-avances-en-el-compliance-de-los-agreements-de-paz-2010

Title:

- a. Political Constitution of the Republic of Guatemala
- b. Agreement on Identity and Rights of the Indigenous Peoples
- b. Agreement 169 on indigenous and tribal peoples in independent countries

- Organisation:**
- a. Congress of the Republic
 - b.
 - d. International Labor Organization
- Date:**
- a. 1985
 - b. 1996
 - c. 1989 (ratified by Guatemala in 1996)
- Source:**
- a. <http://www.congreso.gob.gt/manager/images/1188FE6B-B453-3B8C-0D00-549DA12F72CB.pdf>
 - b. <http://www.guatemalaun.org/bin/documents/Agreement%20Pueblos%20Ind%C3%ADgenas.pdf>
 - c. http://www.oit.org.pe/WDMS/bib/publ/libros/agreement_169_07.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?

The mechanisms for consulting communities on the development of new regulations (in general) are based on the Municipal Code, on the Law on Urban and Rural Development Councils, and on the General Decentralisation Law, although there are no specific regulations on forest issues.

Articles 63 to 66 of the Municipal Code refer to consulting indigenous residents and communities or authorities, and the form these consultations should take, whereas article 26 of the development council law refers to consultation of indigenous peoples through representatives on the development councils. On forest issues there are no specific regulations for carrying out consultations, but the System of Development Councils (SISCODE) considers formal procedures for consultation on the implementation of forest policies and law, while the National Agenda stipulates informal consultation methods to evaluate policies and laws and suggest improvements. The SISCODE should have a website with all the different reports and relevant documents from all the councils on different levels, but to date only the national tier has such information. This means that an assessment of how forest-related topics are dealt with in these councils cannot be carried out because of lack of information.

As far as citizen initiatives are concerned, there is a series of forums related to the forest sector, covered by the current legislation, which develop recognised consultation procedures on national, regional, departmental, municipal and community levels; these include the Forest Round Tables created by the National Forest Agenda. These mechanisms, both formal and informal, are designed to act as consultation processes to enable civil society to influence the laws, regulations and policies being discussed which are relevant to the forest sector. Despite the fact that these initiatives play an important role, the difficulty lies in them not having specific websites, and the fact that the documents they generate do not have versions translated into indigenous languages.

- Title:**
- a. Municipal Code (Decree 12-2002)
 - b. Law on Urban and Rural Development Councils (Decree 11-2002)
 - c. General Decentralisation Law (Decree 13-2002)
 - d. National Forest Agenda
 - e. Forests, Biodiversity and Climate Change Group
 - f. Forest Round Tables

- Organisation:**
- a. Municipal Development Institute – INFOM.
 - b. Municipal Development Institute – INFOM.
 - c. Municipal Development Institute – INFOM.
 - d. Guatemala National Forest Programme
 - e. Ministry of Environment and Natural Resources

f. National Forests Institute

Date: a. 2002
b. 2002
c. 2002
d. 2003
e.
f.

Source: a. <http://www.infom.org.gt/archivos/codigomunicipal.pdf>
b. <http://www.infom.org.gt/archivos/leyconsejodevelopment.pdf>
c. <http://www.infom.org.gt/archivos/leydescentralizacion.pdf>
d. National Forest Agenda (http://www.pfnuate.org/pages/agenda_forestal.htm)
f. Forests, Biodiversity and Climate Change Group (<http://www.forestcarbonpartnership.org/fcp/sites/forestcarbonpartnership.org/files/Documents/PDF/Aug2011/RPP%20Guatemala%20Draft%201Agosto2011.pdf>)
g. Forest Round Tables (stipulated in the National Forest Agenda - <http://www.pfnuate.org/pages/foro9.htm>)

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?

Guatemala has a national legislative framework and ratified international instruments which recognise and regulate the right of (indigenous) communities to free, prior and informed consent (FPIC) in economic development processes and with regard to the use and operation of the natural resources present in their territories. The political constitution recognises the pre-eminence of International Human Rights over domestic law, a situation which obliges the State to respect rights inherent to human beings, which includes consultation of indigenous peoples and communities, in matters “likely to affect them directly”. On a domestic level, the regulations referring to consultation and FPIC are based on article 44 and 66 of the Political Constitution of Guatemala, on the Peace Accords, on the Decentralisation Law (Article 18), Law on Urban and Rural Development Councils (Article 2) and the Municipal Code (Art.35. 65 and 93).

Non-governmental organisations responsible for ensuring respect for human rights in Guatemala have published easy-to-read books and leaflets of the international treaties related to FPIC, in some cases with versions in indigenous languages, although these are not found on internet websites.

Despite this legislative framework, one of the difficulties for effective application of the norms is the lack of appropriate and complete regulation to make it easy for the indigenous peoples to exercise their rights fully. This situation contributes to a high degree of social conflict in the country, for example in the development of infrastructure such as the construction of the Xalalá dam (1). The 2011 report by the United Nations Special Rapporteur on the rights of the indigenous peoples highlighted the fact that the “state’s duty to consult the indigenous peoples is not regulated in the Political Constitution of Guatemala, [and] the guidance in the constitution which provides for the adoption of a law regulating matters relating to the indigenous peoples has, to date, not been developed.” (2)

(1) Copenhagen Initiative for Central America and Mexico (2008) Proyecto Xalalá: ¿Desarrollo para todos? (Xalalá Project: Development for all?) CIPCA: Belgium, available at: <http://www.albedrio.org/htm/documentos/InformeCIFCAXalala.pdf>

(2) United Nations Human Rights Council (2011) Observations on the situation of the rights of indigenous peoples in relation to extraction projects and other types of projects, in their traditional territories, available at: http://www2.ohchr.org/english/issues/indigenous/rapporteur/docs/GuatemalaIP16th_AUV.pdf

- Title:**
- The Political Constitution of the Republic of Guatemala.
 - Law on Urban and Rural Development Councils
 - ILO Agreement 169
 - United Nations Declaration on the rights of indigenous peoples
 - Municipal Code
 - Decentralisation Law
 - Peace Accords (Agreement on the identity and rights of Indigenous Peoples)
- Organisation:**
- Congress of the Republic of Guatemala
 - Municipal Development Institute
 - Employment Ministry
 - Employment Ministry
 - Municipal Development Institute
 - Municipal Development Institute
- Date:**
- The Political Constitution of the Republic of Guatemala (1985)
 - Law on Urban and Rural Development Councils (2002)
 - ILO 169, ratified by the State of Guatemala in 1996
 - United Nations Declaration on the Rights of Indigenous Peoples (2007)
 - The Municipal Code (2002)
 - Decentralisation Law (2002)
 - Peace Accords (1996)
- Source:**
- <http://www.congreso.gob.gt/manager/images/1188FE6B-B453-3B8C-0D00-549DA12F72CB.pdf>
 - <http://www.infom.org.gt/index.php/archivos/leyconsejodesarrollo.pdf>
 - http://www.mintrabajo.gob.gt/index.php?option=com_content&view=article&id=114:convenios-internacionales-119-al-182&catid=56:conveniosinternacionales&Itemid=2
 - <http://www.oj.gob.gt/es/QueEsOJ/EstructuraOJ/UnidadesAdministrativas/CentroAnalisisDocumentacionJudicial/cds/CDs%20leyes/2010/pdfs/decrees/D022-2010.pdf>
 - <http://www.infom.org.gt/index.php/archivos/codigomunicipal.pdf>
 - <http://www.infom.org.gt/index.php/archivos/leydescentralizacion.pdf>
 - <http://www.guatemalaun.org/bin/documents/Acuerdo%20Pueblos%20Ind%C3%ADgenas.pdf>



National Land Tenure Policy



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

Guatemala has a National Policy for Integrated Rural Development (2009) and an Agrarian Policy (2009), designed to democratise and guarantee the legal certainty of land tenure and ownership in Guatemala. Meanwhile, there is a series of legal instruments which guarantees rights over territories and (communal) lands, such as the Political Constitution of the Republic, the Peace Accords and International Labor Organization agreement 169.

Guatemala is characterised by a high concentration of land in just a few hands. According to a UN report, 77% of small landowners have fewer than 7 hectares per person and work on just 15% of the productive land (1). The national forest inventory 2002-2003 estimates that ownership of forests in Guatemala was: 34% nationally owned, 8% municipally owned, 38% private ownership, 15% communal ownership, and 5% undetermined (2). There are no more up-to-date figures on land ownership for forests in Guatemala.

The Agrarian Policy “refers to the transformation of land ownership and tenure, promoting its democratisation and discouraging consolidation.” It contains an analysis of the effect of consolidation of land tenure on poverty levels.

One of the objectives of the National Integrated Rural Development Policy is to “Reform and democratise the system of access, use, tenure and ownership of land, discouraging its consolidation, in such a way that the subject prioritised by this Policy has access to land”. These two Policies are only in force in the short term (2009-2012 and 2009-2015 respectively).

Despite the principles of the policies, in recent years commercial pressures and capital investment have had an effect on the land and natural resources, affecting the rights of community groups, serving only to generate new waves of land hoarding and thereby deepening inequalities.

There is a national movement of peasant/indigenous organisations, called the Association for Integrated Rural Development (ADRI), which created a bill called “Law 40-84 on the National System of Integrated Rural Development”, the intention of which is to democratise and redistribute land tenure. This law was brought to the attention of Congress on 11 August 2009 and was transferred to the Agriculture, Livestock and Fisheries Commission, which gave a favourable opinion. However, the Congress agenda to discuss the law never materialised, and is currently on hold. The ADRI believes that this bill answers a need to ensure long-term development which goes beyond the existing policies on land tenure, but some members of Congress see it as a threat to private ownership.

(1) Krznaric, Roman (2005) The Limits of Pro-Poor Agricultural Trade in Guatemala: Land, Labour and Political Power. UNDP Human Development Report 2005/17. Available at: (http://hdr.undp.org/en/reports/global/hdr2005/papers/HDR2005_Krznaric_Roman_17.pdf)

2. INAB-FAO (2004). National Forest Inventory 2002-2003. Project Evaluation of forest resources. Working Document No. 92. Available at: http://www.infoiarna.org.gt/media/file/areas/bosque/documentos/nac/IFN_Guatemala_FAO-INAB.pdf

Title:

- a. Political Constitution of Guatemala
- b. Agrarian Policy 2009-2012 and
- c. National Policy for Integrated Rural Development, Government Agreement No. 169-2009

Organisation:

- a. Congress of the Republic
- b. Secretariat of Agricultural Affairs (<http://portal.saa.gob.gt/>)
- c. SEGEPLAN

Date:

- a. Political Constitution 1985
- b. Agrarian Policy 2009.
- c. National Policy for Integrated Rural Development 2009

Source:

- a. <http://www.congreso.gob.gt/manager/images/1188FE6B-B453-3B8C-0D00-549DA12F72CB.pdf>
- b. <http://portal.saa.gob.gt/images/stories/DocsPage/Politica%20Agraria.pdf>
http://portal.saa.gob.gt/index.php?option=com_content&view=article&id=129&Itemid=191
- c. http://www.segeplan.gob.gt/downloads/clearinghouse/politicas_publicas/Development%20Rural/Pol%C3%ADtica%20Development%20Rural%20Integral.pdf
<http://www.pti.org.gt/publicacion/pdf/publi8.pdf>

Consultation before Commercial Logging Allocation

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

Guatemala's forest law does not consider consultation of other interested parties when granting licences for forest use with commercial ends, and the principal requirement is to present a Management Plan, which considers a series of requirements set down in the law.

However, for operating activities in Protected Areas, the legislation requires environmental impact assessments (EIA) to be carried out, under the specifications of the Environment Ministry's Regulation on environmental evaluation, monitoring and tracking. Title VIII of the stipulated regulation is called "Public Participation", and details a series of basic requirements for public participation in all activities, works, industries or projects which might have an environmental impact.

For this purpose the MARN has a database detailing all the consultations carried out under this regulation, which can be consulted by interested parties:

<http://www.marn.gob.gt/aplicaciones/consultapub/Default.aspx>. However, a number of studies reveal that there is a degree of apathy amongst citizens regarding environmental issues, with little participation of civil society, which makes it impossible to know the position of private individuals with regard to certain projects. In addition, the consultation process for the EIA is at the discretion of the MARN, which determines public participation. Furthermore, the MARN has few resources to administer the system of EIAs, which also affects the legally required consultation process. Finally, the EIA process and the required consultations are considered time-consuming by the people legally obliged to carry them out.

Title: a. Law on Protected Areas (Decree 4-89)
b. Regulation for Evaluation, Monitoring and Environmental Tracking (Government Agreement 431-2007)

Organisation: a. National Council of Protected Areas – CONAP
b. Ministry of Environment and Natural Resources – MARN

Date: a. 7 February 1989
b. 7 September 2007

Source: a. <http://www.sifgua.org.gt/Documentos/Legislacion/Areas%20Protegidas.pdf>
b. http://www.marn.gob.gt/sub/portal_sao/documents/leyes/gub-431-2007.pdf

Regulation of Environmental Services

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

Guatemala's set of environmental laws (based on the Political Constitution of the Republic), and the environmental agreements and international treaties ratified by the country, contain the specific regulations for use, operation and management of forest environmental services, although there is no specific law for this.

Although this regulatory framework contributes to governance as far as use of and access to forest assets are concerned, there are legal gaps which generate conflict over access and use. There are initiatives to regulate the processes of mitigation and adaptation to climate change, and with regard to access to and use of water, although to date there is still no specific legislation. Other bills are working their way through congress, including a Climate Change Bill, which will define more precisely topics which will be related to REDD+ and to trade agreements and the forest sector.

Currently there are forums like the National Climate Change Committee, the Indigenous Committee for Climate Change, and the Forests, Biodiversity and Climate Change Group, with the participation of civil society. They are involved in talks on the Climate Change Law, the aim of which is to regulate carbon sequestration and sale.

The opportunities exist to ensure that the Climate Change Law serves as an instrument which can benefit the indigenous communities with communal lands, through payment for environmental services such as carbon sequestration. Advisers to the talks on the implementation of REDD+ (from the CONAP, INAB and MARN) are reaching an agreement with the Office of the Attorney General, to ensure that the distribution of payments for

environmental services is in agreement with the percentage of owned land which provides this service – there may be a tax to cover administration of state services. The talks are ongoing and thus the opportunities still exist to influence the law in the aforementioned forums – but the mere fact that 8% of agriculture and livestock producers have 78.2% of the productive land means that payments for environmental services might primarily benefit the richest; this could promote further inequality if there are no proposals for redistribution.

(1) National Statistics Institute, Guatemala (2005) National Agricultural Survey. Guatemala

Title:

- a. Forest Law and its regulations
- b. Law on Protected Areas and its regulations
- c. Law on Protection and Improvement of the Environment and Regulations
- d. The set of environmental agreements and international treaties ratified by Guatemala

Organisation:

- a. National Forests Institute INAB
- b. National Council for Protected Areas CONAP
- c. Ministry of Environment and Natural Resources MARN
- d. Ministry of Environment and Natural Resources MARN

Date:

- a. 1996
- b. 1989
- c. 1986
- d. Various dates

Source:

- a. INAB: <http://200.30.150.38/Paginas%20web/Descargas.aspx>
- b. CONAP: <http://www.sifgua.org.gt/Documentos/Legislacion/Areas%20Protegidas.pdf>
- c. http://www.marn.gob.gt/aplicaciones/Normas10g/NORMA/Todas_normas.aspx
- d. http://www.marn.gob.gt/aplicaciones/Normas10g/NORMA/Todas_normas.aspx

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?

Guatemala does not have a system of strategic environmental assessment which provides information on the impacts caused by development initiatives, or on the priorities for different uses of land and natural resources. However, the current legal framework (environmental, forest, municipal, development, urban planning, etc.) refers to promoting territorial planning which, amongst other aspects, considers studies of the capacity for land use for prioritisation. Meanwhile, there are sectoral policies referring to consideration of the potential use of land for production and economic activities.

A document drawn up by SEGEPLAN (1) states that “In Guatemala, the current political framework is made up of 43 policies of a sectoral and trans-sectoral nature, of which 23% correspond to policies whose principal purpose is the protection and management of the environment and natural resources. It is noted that the majority of these policies take environmental priorities into account for their implementation; however, only 9% of them have specific objectives related to the environment and natural resources.”

Despite these abundant and wide-ranging regulations, independent analysts and civil society have criticised the State’s approach to non-sustainable use of the land, including the increase in operating permits for large scale open-cast mining operations, the approval of licences for oil operations in protected areas, the approval for construction of large scale hydroelectric plants, the construction of long roads and the development of agrofuels (sugar cane/African palm), which affect the environment contrary to the priorities set out in the principles of the Government Plan and in other policies.

(1) Presidential Office Secretariat for Planning and Programming (2010) Tercer informe de avances en el cumplimiento de los Objetivos de desarrollo del milenio (Third report on progress in compliance with the Millennium development objectives). Guatemala: Serviprensa, available at: <http://www.segeplan.gob.gt/downloads/ODM/III%20informe/ODM7.pdf>

Title: a. "Unidad Nacional de Esperanza" (UNE) Government Plan
b. Framework and Current Map of Public Policies in Guatemala

Organisation: a. Government of the Republic of Guatemala
b. General Planning Secretariat (SEGEPLAN)

Date: a. 2007
b. 2009

Source: a. <http://www.undp.org.gt/downloads/plandegobierno.pdf>
b. http://www.segeplan.gob.gt/downloads/politicas_publicas/Marco%20y%20mapa%20de%20politicas%20mayo%2009.pdf

Forest Ownership and Resource Use Maps

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

Guatemala does not have an official map which determines tenure and use of forests in the country; however, there are a number of initiatives which have made efforts to draw up maps for specific topics. In fact, this lack of a national land register providing evidence of a record of land rights in Guatemala is one of the main causes of agricultural conflict in the country (1); according to recent figures from the Secretariat of Agricultural Affairs in the Office of the President of the Republic, there is an estimated total of 1,224 conflicts over land (2). On this point, the Land Information Register Law presents an opportunity to register ownership and property information. Article 24 defines the land register/cadastral as a basic, graphic and descriptive record of property, designed to provide certainty and legal security regarding land ownership, tenure and use (3). There is an attempt to create a national map, centralising all the details on land tenure nationwide, with the intention of clearing up existing ambiguity, and guaranteeing legal security of land.

The various initiatives in hand for drawing up maps include: efforts made jointly by academic, public and civil society organisations, and the drawing up of national mapping of communal lands (4); work related to mapping of Guatemala's Areas Protected by CONAP (5), with particular emphasis on forest licences in Petén; maps of forest coverage in Guatemala and the capacity for land use (6). Amongst other initiatives is the interactive map of permanent plots which have received incentives, and maps detailing the distribution of species, both of which are the work of the INAB (7).

The national forest inventory 2002-2003 estimates that possession of forests in Guatemala was the following: 34% national ownership, 8% municipal ownership, 38% private ownership, 15% communal ownership, and 5% undetermined. There are no updated figures on land tenure for forests in Guatemala (8).

1. López, Rosa and Monzón, Ivan. (2008). Para mediar conflictos de la tierra: Reflexiones y lecciones aprendidas en Guatemala (Mediation of land conflicts: Reflections and lessons learnt in Guatemala). Institute of Transformation of Conflicts for Building Peace in Guatemala –INTRAPAZ/URL. 84 p. Available at: http://biblio3.url.edu.gt/Libros/2011/para_mediar.pdf

2. Press Bulletin No. 9. Secretariat of Agricultural Affairs in the Office of the President of the Republic. Available at: <http://portal.saa.gob.gt/images/stories/Boletines/2012/boletin%2009%20saa.pdf>

3. Congress of the Republic of Guatemala. (2005). Land Information Register Law (Legislative Decree 41-2005). Available at: <http://www.ric.gob.gt/wordpress/wp-content/uploads/2011/10/Ley-del-RIC-versi%C3%B3n-con-portada.pdf>
4. Regional maps of communal lands can be checked on the following website: <http://www.tierrascomunales.org/index.php/publicaciones-2/mapas-2>
5. Map of the Guatemalan system of protected areas: <http://www.conap.gob.gt/quienes-somos/mapas/mapas-por-departamento-1/?searchterm=mapas>; <http://www.conap.gob.gt/quienes-somos/mapas/mapas-tematicos-1/?searchterm=mapas>.
6. The map of forest coverage can be consulted on the following page: <http://www.conap.gob.gt/Members/admin/documentos/duc/Cobertura%20Forestal%202010%20y%20Dinamica%202006-2010.pdf>
7. Consult the following page: <http://www.conap.gob.gt/quienes-somos/mapas/mapas-por-departamento-1/?searchterm=mapas>
8. INAB-FAO (2004). National Forest Inventory 2002-2003. Project for Evaluation of forest resources. Working Document No. 92. Available at: http://www.infoiarna.org.gt/media/file/areas/forest/documentos/nac/IFN_Guatemala_FAO-INAB.pdf

Title: a. Land Information Register Law (Decree 41-2005)
b. Map of coverage of forest incentives

Organisation: a. Land Information Register
b. SIFGUA

Source: a. <http://www.ric.gob.gt/wordpress/wp-content/uploads/2011/10/Ley-del-RIC-versi%C3%B3n-con-portada.pdf>
b. <http://www.sifgua.org.gt/Imagenes/Mapas/Incentivos/Incentivosanivelnacional.jpg>

Legal Documents for Commercial Logging Operations

 Are legal documents for commercial logging operations regularly published?

According to Forest Law Decree 101-96, the licence is the authorisation granted by the State to individuals or legal entities to carry out sustainable use of forest resources, including timber, seeds, resins, rubbers and other non-timber products, on privately-owned land, covered by forests, which must have a Forest Management Plan authorised by the National Forests Institute (INAB). In other words, licences are issued to authorise the implementation of the management plan (Articles 4 and 49 of Guatemala's Forest Law). Documents can be consulted by interested parties if requested in the respective directorates general of the INAB.

A study carried out by the Rafael Landívar University concludes that 95% of operations are illegal. The reasons for this include the "...high demand for forest products, procedures which do not promote incorporation into legal management and the existence of a market in illegal products. Added to this is the poor ability of the institutions to supervise legal activities and punish illicit activities...together with the high degree of impunity reflected in the few cases subject to legal action and for which a penalty is applied." (1). Furthermore, the problems are related to how to ensure forest logging complies with the law in force, which stipulates the need to draw up management plans and apply for an operating licence.

(1). Rafael Landivar University (2009) Análisis costo/beneficio de las actividades de la ilegalidad en el sector forestal y una propuesta para mejorar y fortalecer los mecanismos de gestión en el INAB en función del control forestal. (Cost/benefit analysis of illegal activities in the forest sector and a proposal to improve and strengthen the management mechanisms in the INAB depending on forest monitoring). Directorate for Research, Institute of Agriculture, Natural Resources and Environment. Available at <http://www.profor.info/sites/profor.info/files/publication/Guatemala-forestfees.pdf>

Title: Forest Law, Article 49, Forest Use Licence

Organisation: National Forests Institute (INAB)
Date: 1996
Source: http://186.151.231.167/Documentos/Legislacion/ley_forestal.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?

Licences or permits for commercialisation of timber are stipulated in the Law on Protected Areas, and in Guatemala’s Forest Law. Such licences/permits require compliance with a series of technical specifications, and processes for verification of the respective Management Plans. Before an operating licence can be issued, presentation of a Forest Management Plan is fundamental. This document must be drawn up according to a process which verifies a series of requirements, as required by Guatemalan legislation.

However, these processes do not equate to a process of "due diligence" as proposed by the international initiatives and the public institution responsible for forest management in Guatemala does not publish reports on the processes for verification ensuring compliance with the legal requirements for commercialisation and transport of forest products. To obtain licences and permits for commercialisation and transport, the only aspects reviewed are those stipulated in the existing regulations. These include:

- Forest Law Regulations, Uses of Mangrove Forests, Transport of Forest Products, Forest Register, Forest Managers
- Manual for Export of Mahogany and the Specifications on the CITES List.

Title: a. Forest Law and ruling 4.23.97
b. Regulation for National Forest Register Ruling 02.43.2005
c. Regulation for Forest Managers Ruling 01.25.2001
d. Requirements for product commercialisation licences and technical oversight procedures.

Organisation: a-c. National Forests Institute
d. National Council of Protected Areas

Source: a. http://186.151.231.167/Documentos/Legislacion/ley_forestal.PDF
b. <http://186.151.231.167/Documentos/Reglamentos/Reglamento%20de%20la%20Ley%20Forestal.pdf>
c. http://186.151.231.167/Documentos/Reglamentos/Reglamento_Regentes_Forestales.pdf
d. <http://www.sifgua.org.gt/Miembros/Tramites.aspx>; <http://www.conap.gob.gt/quienes-somos/servicios/ventanilla-unica/tramites-management-forestal/tramites-management-forestal>

Forest Management Plans

 Are forest management plans published?

The forest legislation does not establish a legal requirement for the publication of authorised Forest Management Plans. However, interested or affected parties (individuals or communities) may request them from the corresponding regional office of the National Forests Institute (INAB). They contain detailed information on the duration of the plan, the locations and the volume of planned operations.

The Forest Law establishes the Management Plan as the instrument which guides the use and sustainable management of the forest, including specific information on the area, type of forests, volumes and methods of use, as well as the techniques for forest recovery (Art. 48 of the Forest Law). Similarly, the National Forest Register Regulation sets out a requirement for all the information relevant to this topic. This means that there are formal planning processes which determine how a forest process should be completed, and which must be stipulated in the Management Plan and in the Annual Operating Plans.

In general, there is no involvement of the interested or affected parties in drawing up the management plans; this is an action carried out by the forest manager and the owners, who can only be supervised by the INAB in the process of evaluation and approval of the plans. In some cases, this aspect has generated a high degree of social conflict, given the resistance in indigenous territories and by social groups to the granting of forest operating licences, when these affect groundwater recharge or remaining forests that are essential for environmental services.

Title: a. Forest Law and its regulation
b. Regulation for the National Forest Register (Ruling 02.43.2005)

Organisation: a. National Forests Institute
b. National Forests Institute

Date: a. 1996
b. 2005

Source: a. <http://www.sifgua.org.gt/Paginasweb/Sectorforesdgua.aspx>
b. <http://www.sifgua.org.gt/Paginasweb/Sectorforesdgua.aspx>

Reports from Independent Forest Monitoring

 Are reports by an independent forest monitor published?

In the country there are a number of institutional initiatives which incorporate aspects of the forest sector in the environmental monitoring processes, with publications issued, though not on a regular basis. On the governmental level, the bodies which assess and monitor the actions of the forest sector are: the National Forest Programme and, to a lesser degree, the Office of the Human Rights Ombudsman, but these bodies do not specifically oversee governance and forest operations. The reports and publications issued by these bodies are to be found scattered around a number of internet websites, and are also physically available in institutional documentation centres, but are not disseminated widely.

The National Forest Programme (PFN) is set up as a forum to “identify, define and seek agreement on a new understanding of forest-environmental development, through a comprehensive mechanism of analysis, study, projections and proposals for action”. This has led to a number of evaluations of forest policy, identification of stakeholders and evaluation of instruments of forest policy, all tending towards the creation of a new forest policy. The other officially recognised supervisory body (the Environmental Office of the Human Rights Ombudsman) only produces an annual report with very little information on the forest sector.

Amongst the academic initiatives devoted to environmental monitoring, which includes forest aspects, there is the Rafael Landivar University and its Institute of Agriculture, Natural Resources and Environment (IARNA), which are recognised (although not officially) as one of the supervisors of the forest sector most able to monitor forest

operations and forest governance. They publish an Environmental Profile of Guatemala every year, which is highly respected, and assist the Ministry of the Environment and Natural Resources with its annual reports.

There are also other initiatives, such as the Environmental Observatory (<http://www.oag.org.gt/>), which act as a point of coordination for monitoring of the environmental and forest sector. One problem which continues to exist is finding effective mechanisms to involve the indigenous organisations and communities in these forest monitoring processes to encourage an improved forest culture.

Title: Strategy to be carried out periodically (PDH) and the Forest Action Plan (PFN)

Organisation: Office of the Human Rights Ombudsman Environmental Ombudsman (PDH) and Guatemala's National Forest Programme (PFN)

Date: a. 2010
b. n/d

Source: http://www.pdh.org.gt/index.php?option=com_content&view=category&layout=blog&id=19&Itemid=34
y
http://www.pfn.guate.org//pages/sobre_pfn.htm

Data on the Distribution of Forestry Royalties and Incentives

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

The National Forests Institute (INAB) tax system is regulated by the Regulation on the Exclusive Forest Fund, created by the Forest Law (Article 84). The Ministry of Finances has information on the income and outgoings for these taxes, while the INAB has information on the Forest Incentives Programme (PINFOR) which communities can access. On forest incentives: according to article 83 of the Forest Law, the INAB will distribute annually up to 50% of the total amount, to smallholders of areas with fewer than fifteen hectares.

The INAB Work Report of 2009 showed that only 8% of the total amount of incentives was assigned to small projects (smaller than 15 hectares), which clearly reflects inequality in the redistribution of funds. The figures do not detail the type of owners, a situation which makes it impossible to establish with certainty the real support given to small owners, especially the poorest among them. This situation shows the lack of transparency regarding the management of forest incentives from public funds.

The community forest sector fought for approval in 2010 of the Forest Incentives Programme Law for Owners of Small Areas of Land with a Forest or Agricultural-Forest Vocation (PINPEP), with which it hoped to increase the amounts allocated to small landowners, including those who do not have a title deed, thus including the participation of the poorest people.

However, there is an on-going lack of information regarding the distribution of royalties and forest incentives. The current INAB website and its reports do not provide information on the beneficiaries of PINFOR and PINPEP for 2010, 2011 and 2012 (up to the date of writing), and it is only possible to access statistics and general project records by applying for them directly from INAB offices

Title: a. Forest Law;
b. Regulation on the Exclusive Forest Fund;
c. Regulation PINFOR, Decree 51-2010 PINPEP Law

Organisation: a. Ministry of Agriculture, Livestock and Food. Ministry of Finances

Date: a. 1996
b. 1999
c. 2010

Source: <http://transparencia.minfin.gob.gt/transparencia/> y <http://faolex.fao.org/docs/pdf/gua17254.pdf>
<http://200.30.150.38/Documentos/Reglamentos/Reglamento%20PINFOR.pdf>

Information on Forest Law Infractions

 Is information regularly published on infractions of forest law?

Guatemala's Forest Legislation and its regulations, together with the law on Protected Areas and the Law on Protection and Improvement of the Environment set out the offences and infractions against forest regulations and their specific penalties. Article 89 of the forest law states that the penalties for forest offences will be applied according to Chapter II, Title VI of Book I of the Penal Code, and in accordance with the terms of the Penal Procedure Code, although this does not mean that details of the offenders and their offences must be published. However, the Ministry of the Interior is obliged by the Law on Access to Public information to publish reports, although there is no specific section for this purpose.

The Public Prosecutor for Crimes against the environment is the body responsible for implementing criminal proceedings and directing investigation into crimes of public action, while the Nature Protection Division (DIPRONA) is a unit of the National Civil Police responsible for surveillance of natural assets in national territory. As with the previous report, no information has been found on the website of the Ministry of the Interior, the Judiciary or the INAB; access can be gained, however, via applications in the framework of the Law on Access to Public information, and according to the stipulations of the Civil Code in cases currently being tried.

A study carried out by the Rafael Landívar University concluded that in Guatemala 95% of forest operations are illegal. It also states that the causes of this illegality are the "...high demand for forest products, procedures which do not promote incorporation into legal management and the existence of a market in illegal products. Added to this is the poor ability of the institutions to supervise licit activities and punish illicit activities." (1)

On this point, the Inter-Institutional Plan for the Prevention and Reduction of Illegal Logging is an initiative of the National Forests Institute (INAB) designed to reduce illegal logging. The Inter-Institutional Committee on Illegal Logging is coordinating with the Judiciary, the Public Prosecutor, DIPRONA and the Ministry of the Interior, amongst others. There are, however, considerable challenges, not least the situation of DIPRONA, which only has a presence in eleven departments in the country, out of a total of 22. This means that there is no institutional capacity to deal holistically with the problem of forest infractions.

(1) Rafael Landivar University (2009) Análisis costo/beneficio de las actividades de la ilegalidad en el sector forestal y una propuesta para mejorar y fortalecer los mecanismos de gestión en el INAB en función del control forestal. (Cost/benefit analysis of illegal activities in the forest sector and a proposal to improve and strengthen the management mechanisms in the INAB depending on forest monitoring). Directorate for Research, Institute of Agriculture, Natural Resources and Environment. Available at <http://www.profor.info/sites/profor.info/files/publication/Guatemala-forestfees.pdf>

2. INAB. 2010. Inter-Institutional Plan for the Prevention and Reduction of Illegal Logging. 46 p. Available at: <http://186.151.231.167/Paginas%20web/plandeaccion.aspx>

Title: a. Penal Code
b. Forest Law

- c. Forest Law Regulation
- d. Regulation on Movement of forest products
- e. Law on Access to Public Information

Organisation: a. Ministry of the Interior,
b. National Forests Institute
Nature Protection Division of the National Civil Police (DIPRONA), Public Prosecutor's Office

Date: a. a. 1973
b. 1996
c. 2005
d. 2004
e. 2008

Source: http://200.35.163.189/laipmingob/images/a/a4/POLICIANACIONAL_ESTRUCTURA_ORGANICA_Y_FUNCIONES.pdf
and
http://www.sip.marn.gob.gt/public/docs/decreto_57_2008.pdf y
<http://www.oj.gob.gt/es/QueEsOJ/EstructuraOJ/UnidadesAdministrativas/CentroAnalisisDocumentacionJudicial/cds/CDs%20leyes/2004/PDFs/Codigos/CODIGO%20PROCESAL%20PENAL.pdf>

Annual Forest Authority Report

 Are annual reports published by the forest authority?

The National Forests Institute (INAB) has not published a 2011 report of its activities on a general level (Report of Tasks). The last report was the Report for 2009. With the organizational restructuring of INAB and the updating of its website in 2012, neither this report nor the previous ones can be located. However, it is possible for interested parties to obtain them by requesting them from the INAB information access unit.

Article 10, heading 5 of the law on access to public information stipulates that "Parties subject to the legislation are obliged to maintain available and up to date their annual operating plan." Meanwhile, article 39 of the same law stipulates that "Parties subject to the legislation shall establish as a method of access to public information, amongst others, electronic information systems. The information published in the electronic information systems, amongst others, must coincide exactly with the financial administration, accounting and auditing systems and must be updated within the deadlines specified by this law." Given these requirements, no Annual Operating Plan for INAB has been found on its website, which indicates a degree of non-compliance with the law.
