



Mesoamerican Barrier Reef Legal Reports

Guatemala

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Acknowledgements



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Fish Forever is Rare’s community-led solution to revitalize coastal marine habitats, such as coral reefs, mangroves and seagrasses; protect biodiversity; and secure the livelihoods of fisher households and their communities. It uses an innovative approach to address coastal overfishing—by empowering communities through clear rights, strong governance, local leadership, and participatory management—that protects essential fish habitat and regulates fishing activities. Rare’s vision is to transform the management of coastal fisheries by pairing a proven local solution, community-based management, with a unique delivery method based on behavioral insights and social marketing principles to engage and mobilize those communities.

Mesoamerican Barrier Reef Legal Reports. Guatemala. A PDF file of this report may be obtained for no cost from the Environmental Law Institute website at www.eli.org. Please contact Xiao Recio-Blanco (recio-blanco@eli.org) for more information.

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Acronyms

ADIPI	Agreement on Identity and Rights of Indigenous Peoples
CONAP	National Council for Protected Areas,
DIPESCA	Direction on Regulations for Fishing and Aquaculture
DIPRONA	Division for the Protection of Nature
EEZ	Economic Exclusive Zone
INAB	National Institute of Forests
LGPA	General Law in Fisheries and Aquaculture
LPA	Law on Protected Areas
MAGA	Ministry of Agriculture, Livestock, and Food
MARN	Ministry of the Environment and Natural Resources
MPAs	Marine Protected Areas
MUASR	Multiple Use Area Sarstun River
NRT	Net Registered Tons
PMIZMC	Policy for the Comprehensive Management of Marine and Coastal Zones in Guatemala
RNPA	National Registry on Fishing and Aquaculture
SIGAP	Guatemalan System of Protected Areas

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1. Introduction to the Issue: Purpose of this report, key elements, and how to use the report

This report provides information regarding the structure and function of the Guatemalan government, and the institutional legal framework of the governance of small-scale fisheries and Marine Protected Areas (MPAs).¹ Specifically, this report summarizes main actors and the legal framework for artisanal/small-scale fisheries, and for management of fisheries resources and marine protected areas.

It is important to note that coastal fishing – understood as fishing within exclusive economic zones – is not specifically defined in the national legislation. For the purposes of this report, artisanal, small-scale and subsistence fisheries are considered coastal fishing activities.

Guatemala is among the most biodiverse countries in the world, being home to around 13% of the endemic species in Central America, the highest rate in the region.² Although the state of knowledge on marine biodiversity in the country is still in early stages of development, some studies report there are more than 1,012 species of fauna found along the Guatemalan Pacific Coast alone.³ In the context of the UN Convention on Biological Diversity, Guatemala is part of the Group of Like Minded Megadiverse Countries which are home to around 70% of the planet’s biodiversity and are responsible for the conservation of 89 marine ecoregions.⁴ According to the “*National Development Plan: Kátun, Our Guatemala 2032*”⁵ issued by the National Council for Urban and Rural Development in 2018, there are almost 15,000 species of flora and fauna in the country, of which more than 1,200 are under high pressure by human activities, including 259 fish species.

¹ The purpose of this report is to support work that Rare is developing in Guatemala through the Fish Forever program.

² CDB. Country Profile. Available at: <https://www.cbd.int/countries/profile/default.shtml?country=gt#facts>

³ CONAP y MARN. 2009. Biodiversidad Marina de Guatemala: Análisis de Vacíos y Estrategias para su Conservación. Consejo Nacional de Áreas Protegidas, Ministerio de Ambiente y Recursos Naturales, The Nature Conservancy. Guatemala. P. 10.

⁴ Conference of the Parties to the Convention on Biological Diversity. Thirteenth meeting Cancun, Mexico, 4-17 December 2016. Like-Minded Mega-Diverse Countries Chart to Achieve Aichi Biodiversity Target 11. Note by the Executive Secretary <https://www.cbd.int/doc/meetings/cop/cop-13/information/cop-13-inf-45-en.pdf>

⁵ Guatemala. Consejo Nacional de Desarrollo Urbano y Rural. Plan Nacional de Desarrollo K’atun: Nuestra Guatemala 2032. Guatemala: Conadur/Segeplán, 2014

Guatemala's marine area is larger than the terrestrial portion, extending over 118,999 square kilometers⁶ and, together with the coastal region, comprises terrestrial and marine ecosystems such as marsh areas, coral reefs, and wetlands, and more than 37 benthic habitats.⁷ These ecosystem services provide an estimated value of GTQ \$216 - \$314 million per year,⁸ and are essential to the direct livelihoods and economy of over 300 communities distributed along 402 kilometers of coastline, administered by 7 departments and 17 municipalities.⁹

In 2015, fish production in Guatemala was estimated at approximately 43,847 tonnes, with captures of tuna and species associated to that fishery accounting for 93% of the registered marine catch, followed by shrimp captures carried out almost exclusively by artisanal fishers along the Atlantic coast and by industrial and artisanal fishers in the Pacific, where increasing conflicts among these two sectors have been reported.¹⁰ The National Development Plan of 2018 reports the existence of approximately 12,400 artisanal fishermen as of 2009, of which 45.4% were exclusively conducting fishing activities, while 27.9% were working also on other agricultural activities. The same document states that *"fishing resources are still regarded as free access resources and enforcement of the applicable regulations is weak."*¹¹

To conserve and sustainably manage its rich biological and cultural diversity, the government of Guatemala has declared 322 terrestrial and marine protected areas nationwide, covering around 40,345.63 hectares, or more than 30% of the terrestrial surface of the country.¹² However, marine and coastal ecosystems are scarcely represented in the Guatemalan System of Protected Areas (SIGAP, for its acronym in

⁶ CONAP y MARN. 2009. Biodiversidad Marina de Guatemala: Análisis de Vacíos y Estrategias para su Conservación. Consejo Nacional de Áreas Protegidas, Ministerio de Ambiente y Recursos Naturales, The Nature Conservancy. Guatemala. P. 10.

⁷ MARN (Ministerio de Ambiente y Recursos Naturales) 2013. Informe ambiental del Estado Guatemala. 2012.

⁸ TNC (The Nature Conservancy). 2008. Importancia económica de los recursos marino costeros y su relevancia en el desarrollo de una política nacional para Guatemala. TNC y Asociación de Profesionales en Biodiversidad y Medio Ambiente. Guatemala. P. 67.

⁹ Supra note 2. P. 67.

¹⁰ FAO 2004-2019. Fishery and Aquaculture Country Profiles. Guatemala (2005). Country Profile Fact Sheets. In: FAO Fisheries and Aquaculture Department [online]. Rome. Updated 1 November 2017. <http://www.fao.org/fishery/>

¹¹ Guatemala. Consejo Nacional de Desarrollo Urbano y Rural. Plan Nacional de Desarrollo K'atun: Nuestra Guatemala 2032. Guatemala: Conadur/Segeplán, 2014. P. 261.

¹² The list of all the existing PAs in Guatemala is available at: <http://www.conap.gob.gt/AreasProtegidas.aspx>

Spanish),¹³ covering only around 6% of the total area of the country.¹⁴ Marine ecosystems are threatened in Guatemala due to the loss and degradation of biodiversity and ecosystem services caused by development projects; lack of enforcement of environmental laws and an effective policy to mainstream biodiversity conservation across sectors; and poverty and unemployment, among other factors. The National Development Plan mentions that effective management of protected areas through the SIGAP decreased between 2000 and 2010, reaching levels qualified as “slightly acceptable,”¹⁵ and serving as an indicator of the challenges faced by the national government to conserve biodiversity and promote sustainable development.

In this context, the need to increase the percentage of marine and coastal protected area has been recognized by the National Government in the National Biodiversity Strategy and Action Plan 2012-2020 as an imperative to conserve the critical diversity of species and ecosystems, and achieve international goals endorsed by the Guatemalan State, like the Aichi Biodiversity Targets. According to the Guatemalan National Biodiversity Strategy and Action Plan 2012-2022 designed to implement the Convention on Biological Diversity, by 2022 at least 10% of the marine and coastal ecosystems will be protected under a mechanism capable of ensuring their sustainable use and/or conservation.

The publication of the Policy for the Comprehensive Management of Marine and Coastal Zones in Guatemala (PMIZMC for its acronym in Spanish) in 2009 by the Ministry of the Environment and Natural Resources is an important step towards that end. The strategic goal for spatial planning and regulation (*ordenamiento territorial*) in the PMIZMC seeks to build an intersectoral framework for integrated watershed management based on marine-coastal spatial planning regulations for environmental sustainability and considering participative decision-making processes.

¹³ CONAP. 2014. V Informe Nacional de cumplimiento a los acuerdos del Convenio sobre la Diversidad Biológica. Guatemala. Documento Técnico No. 3 - 2014. P. 12

¹⁴ CONAP y MARN. 2009. Biodiversidad Marina de Guatemala: Análisis de Vacíos y Estrategias para su Conservación. Consejo Nacional de Áreas Protegidas, Ministerio de Ambiente y Recursos Naturales, The Nature Conservancy. Guatemala. P. 16

¹⁵ Pursuant to the National Development Plan, effectiveness in management of protected areas is defined as “the set of actions based on capacities, attitudes and particular skills, which allow to perform the protected area goals.” The scale of effective management is ranked as follows: non-acceptable <200; slightly acceptable 201-400; regular 401-600; acceptable 601-800 and satisfactory >800.

2. Overview of Guatemala Government Structure

This chapter provides an orientation on the structure and function of Guatemala’s government and will provide the reader with context to understand the subsequent descriptions of the institutional relationships involved in marine governance.

Guatemala’s system of government is republican, democratic, and representative.¹⁶ The President of the Guatemalan Republic is the Chief of State, and exercises the powers of the Executive Organism in coordination with the ministers and vice-ministers. Among others, the constitutional powers of the President include presenting law initiatives to the Congress; issuing regulations to provide an adequate framework to implement national laws; endorsing international treaties in representation of the Guatemalan State and enforcing the Constitution and laws in the country.¹⁷

At the central level of government, several agencies and institutions have different sectoral powers to participate in the design, implementation and enforcement of marine conservation and resource management policies and actions:

Table 1. National Authorities Responsible for Marine Governance in Guatemala		
Agency	Relevant Powers	Legal Instrument
Ministry of the Environment and Natural Resources (MARN)	<ul style="list-style-type: none"> - Design, implement and enforce policies and regulations related to environmental protection and natural resources conservation and sustainable exploitation, considering public participation and the protection of the human right to a healthy environment - Design, implement and enforce policies for the conservation and sustainable exploitation of fisheries in coordination with the Ministry of Agriculture, Livestock and Food 	<p>Law on the Protection and Enhancement of the Environment - Decree 68-86</p> <p>Law on the Executive Body – Decree 114-97</p> <p>Amendments to the Law on the</p>

¹⁶ Constitution, article 140.

¹⁷ Constitution, articles 182 and 183.

	<ul style="list-style-type: none"> - Review and authorize environmental impact assessments and oversee their compliance - Design policies related to management of watersheds, coastal zones, oceans and marine resources 	Executive Body – Decree 91-2000
National Council for Protected Areas (CONAP) ¹⁸	<ul style="list-style-type: none"> - Design policies and strategies for the conservation, protection and enhancement of the Nation’s natural heritage, via the Guatemalan System for Protected Areas (SIGAP). - Approve licenses for the exploitation and management of protected areas in the SIGAP and oversee the enforcement of applicable regulations. 	Law on Protected Areas- Decree 4-89 Regulations to the Law on Protected Areas- Governmental Agreement 759-90
Ministry of Agriculture, Livestock and Food (MAGA)	<ul style="list-style-type: none"> - Design and implement policies for fisheries management, in coordination with the Ministry of the Environment and Natural Resources - Design clear and stable regulations related to hydro-biologic resources, seeking efficiency and competitiveness in markets and considering environmental protection and conservation criteria, and oversee their compliance - Design policies related to hydro-biologic resources services and administer their implementation in a decentralized manner - Support the development of business for hydro-biological organizations to promote the productive development of the country 	General Law on Fisheries and Aquaculture – Decree 80-2002 Law on the Executive Body – Decree 114-97 Amendments to the Law on the Executive Body – Decree 91-2000

¹⁸ The CONAP reports directly to the President of Guatemala and it is legally recognized as the supreme body on issues concerning the carrying out and coordination of the SIGAP, having jurisdiction over the full extension of the national territory, including maritime coasts (Law on Protected Areas, article 59).

<p>DIPESCA¹⁹</p>	<ul style="list-style-type: none"> - Within MAGA, the Direction of Regulations for Fisheries and Aquaculture Management (DIPESCA) is legally recognized as the competent authority to administer hydro-biologic resources. Powers invested in DIPESCA by the Governmental Agreement 338-2010 include the following: <ul style="list-style-type: none"> o Administer hydro-biologic resources through plans, strategies and actions that allow their sustainable use o Surveil the effective enforcement of normative and legal hydrobiological regulations o Create and manage registries on fisheries and the use of continental and maritime hydro-biological resources o Assess and decide the feasibility to grant licenses, permits and certificates to use hydro-biological resources 	<p>General Law on Fisheries and Aquaculture- Decree 80-2002</p> <p>Governmental Agreement 338-2010</p>
<p>Ministry of National Defense</p>	<ul style="list-style-type: none"> - Design and implement regulations and procedures for maritime safety and the prevention of pollution caused by vessels, and oversee their compliance within national water bodies - Conduct the role of Flag State and Port Authority pursuant to international and national legislation - Conduct the role of Riparian State in accordance with the international law regime 	<p>Law on the Executive Body – Decree 114-97</p> <p>Amendments to the Law on the Executive Body – Decree 91-2000</p> <p>Governmental Agreement 120-2004 - Creation of the</p>

¹⁹ The General Law on Fisheries and Aquaculture (decree 80-2002) refers to the Unit for Fisheries and Aquaculture Management (UNIPESCA) as the competent authority within the Ministry of Agriculture and Livestock (MAGA) to administer hydro-biologic resources. However, in 2010, the President of Guatemala issued a Governmental Agreement (338-2010) to reorganize the MAGA, transferring the powers of UNIPESCA to the Direction of Regulations on Fisheries and Aquaculture (DIPESCA).

	- Monitor vessels in Guatemalan territory through the pertinent databases and electronic mechanisms created to that effect	Maritime Department at the Ministry of National Defense
Marine Infantry Brigade	A component of the Marine Forces at the Ministry of Defense of Guatemala, this body is responsible for, among other powers, conducting riparian, fluvial, and coastal defense operations in the Guatemalan territory.	
Caribbean Naval Command	Also a component of the Ministry of Defense, this body has jurisdiction over the Caribbean region and authority to enforce legislation to protect marine resources and biodiversity in marine and riparian areas. ²⁰	
National Civil Police	The Division for the Protection of Nature (DIPRONA, for its acronym in Spanish) is a component of the National Civil Police, with authority to prevent and investigate crimes against biodiversity and protected areas in Guatemala.	Law on the National Civil Police - Decree 11-97
National Institute of Forests (INAB)	Create and implement regulations for the protection, conservation and restoration of mangroves within the country	Forestry Law – Decree 101-96

The territory of Guatemala is divided into 22 departments and 330 municipalities headed by governors and mayors. For administrative purposes, departamentos and municipalities

²⁰ Ministerio de la Defensa Nacional, Comando Naval del Caribe, http://www.mindef.mil.gt/Organizacion/3fuerzas_aire_mar_tierra/fuerza_mar/3comando_navancaribe/3comando_navancaribe.html

are organized into geo-political regions defined in accordance with economic, social and cultural criteria to foster equal development within the country.²¹



Figure 1 Guatemala Map

Pursuant to the Constitution, municipalities are autonomous institutions invested with powers to elect their representatives; decide the allocation of their financial resources; and issue regulations and other legal provisions, including those related to territorial planning within their territorial jurisdiction.²² Municipalities are required to coordinate with national authorities for the design and implementation of sectoral policies and budget plans.²³ Municipalities are governed by a Council consisting of the mayor, *síndicos*²⁴ and councilmen elected by the public for a four-year term, subject to reelection.²⁵

The Constitution also creates different consultative bodies responsible for coordinating the work of authorities in different levels of governments and representatives from different development sectors, relevant to rural development.

Pursuant to Article 226 of the Constitution, there will be a Regional Council for Urban and Rural Development. The Law on Councils for Urban and Rural Development (Decree 11-2002) regulates the creation and functions of councils at different scales as vehicles to promote economic and administrative decentralization in Guatemala and to enhance

²¹ Constitution, art. 224. The same constitutional provision establishes the authority of the Congress to modify the administrative division of the country, without undermining municipal autonomy.

²² Constitution, arts. 253 and 255.

²³ Constitution, art.134.

²⁴ A category of public officials at the municipal level.

²⁵ Constitution, art. 254.

public participation in decision-making processes on developmental issues. The following table summarizes the structure of each type of council.

Type of Council	Structure	Powers
National Council for Urban and Rural Development	<ul style="list-style-type: none"> - President of the Republic of Guatemala (acting as Coordinator of the Council) - One mayor as the representative of municipalities from each region - The Minister of Public Finance and other ministers designated by the President - The Secretary of Planning of the Presidency (acting as Secretary of the Council) - The Secretary of Executive Coordination of the Presidency - The Coordinators of the Regional Councils for Development - Four representatives of the Mayan communities; one from the Xinca community and one from the Garifuna community - Nine representatives from social organizations (agricultural; women; workers; small industries; NGOs and universities) - One representative of the Secretary for Women at the Presidency 	<p>Among other powers, the National Council for Urban and Rural Development is responsible for the design of policies in those fields at the national level, including territorial planning, and administrative decentralization. Proposals by the National Council are submitted to the President of Guatemala to be considered for the National Development Policy.</p>
Regional Councils for Urban and Rural Development	<ul style="list-style-type: none"> - One regional coordinator, appointed by the President of Guatemala - One mayor in representation of municipalities in each Department of every region - The governors of all Departments in the region 	<p>These bodies are responsible for the administration of the System of Councils for Development in Guatemala, with particular emphasis on the urban, rural</p>

²⁶ Law on Councils for Urban and Rural Development (Decree 11-2002). Arts. 4 – 17.

	<ul style="list-style-type: none"> - The Chief of the regional office of the Secretary of Planning - One representative of each Ministry designated by the President of Guatemala - One representative of each indigenous community within the region - Ten representatives from social organizations (agricultural; women; workers; small industries; NGOs and universities) - One representative of the Secretary for Women at the Presidency 	<p>and territorial policies at the regional level.</p>
<p>Departmental Councils for Development</p>	<ul style="list-style-type: none"> - The governor of the Department - The mayors within the Department - The Chief of the Departmental office of the Secretary of Planning - One representative of each Ministry designated by the President of Guatemala - One representative of each indigenous community within the Department - Ten representatives from social organizations (agricultural; women; workers; small industries; NGOs and universities) - The general Departmental secretaries of the political parties with representation in the legislative branch 	<p>Among other powers, the Departmental Councils are responsible for the design and implementation of policies for urban and rural development, as well as territorial planning within their level of jurisdiction. These bodies are also responsible for assisting Municipal and Communal Councils in meeting their goals and developing policies for development at their jurisdictional levels.</p>
<p>Municipal Councils for Development</p>	<ul style="list-style-type: none"> - The Mayor - Municipal officials (<i>síndicos</i> and <i>concejales</i>) - Representatives of communal councils designated by their coordinators (up to 20) 	<p>Municipal Councils have ample powers to promote, facilitate and support the</p>

	<p>- Representatives of public and private entities acting within the municipal jurisdiction</p>	<p>creation and operation of Communal Councils and to make sure that needs, proposals and decisions relevant to urban and rural development, as well as territorial planning within the municipal jurisdiction are incorporated in policies and programs designed and implemented at the regional, departmental and national levels.</p>
<p>Community Councils for Development</p>	<p>- The Communal Assembly, composed of residents within the same community</p> <p>- Coordination Body, consisting of the Community Mayor and up to 12 community members elected by the Communal Assembly</p> <p>The Law on Councils for Urban and Rural Development also foresees the possibility of creating advisory indigenous councils at the community level²⁷</p>	<p>Foster coordination among community members and authorities at different sectors and levels of government; and design programs and policies for community development, to be proposed to municipal councils for their approval and implementation.</p>

In 2018, the National Council on Urban and Rural Development issued the “National Development Plan: Kátun, Our Guatemala 2032.”²⁸ This Plan establishes the national policy for development in the long term, by integrating policies, plans, programs, projects

²⁷ Law on Councils for Urban and Rural Development. Art. 23.

²⁸ Guatemala. Consejo Nacional de Desarrollo Urbano y Rural. Plan Nacional de Desarrollo K’atun: nuestra Guatemala 2032. Guatemala: Conadur/Segeplán, 2014

and budgets from all sectors and at different scales of government. The Plan is divided into five strategic axis: (i) Urban and rural Guatemala; (ii) Well-being for the people; (iii) Wealth for all; (iv) Natural resources today and for the future; and (v) The State as guarantor of human rights. Goals to implement the Plan by 2032 include the sustainable management of marine and coastal systems, Ramsar sites and continental waters.

Constitutional regime applicable to natural resources in Guatemala

The conservation, protection and enhancement of natural heritage is considered a matter of national interest in Guatemala, and the Constitution establishes the duty of all authorities and persons to contribute to social, economic and technological development in a manner that prevents environmental pollution and maintains the ecological balance. The Guatemalan State also has a constitutional obligation to promote the creation of national parks, reserves, and natural sanctuaries, which are inalienable.²⁹ In addition, reforestation and conservation of forests (including mangroves) are declared a matter of national urgency and social interest by the Constitution, and the exploitation of these resources is reserved to Guatemalan nationals. Pursuant to the Constitution, national legislation shall establish a special regime for the protection and conservation of forests and the vegetation on the banks of the rivers and lakes, and in the vicinities of the water bodies.³⁰

The Guatemalan State exercises full sovereignty over the national territory that comprises the soil, subsoil, internal waters, and the territorial sea to the extent established by the law and the airspace above it.³¹ In addition, the Constitution declares full sovereignty of the State over the zone contiguous to the adjacent sea, the territorial sea and the natural and living resources of the seabed and ocean subsoil and those existing in the waters adjacent to the coast outside of the territorial sea, in the exclusive economic zone, to the extent established by the law and in accordance with international practice.³²

Pursuant to the Constitution, the Guatemalan State exercises ownership (dominium) over a terrestrial area of three kilometers along the oceans, from the high tide line; of two hundred meters around the shores of the lakes; of one hundred meters on each bank of the navigable rivers; and of fifty meters around the sources and springs supplying water to inland populations.³³ Regulations to the Law on Protected Areas

²⁹ Constitution, Arts. 64 and 97.

³⁰ Constitution, Art. 126.

³¹ Constitution, Art. 142.

³² Constitution, Arts. 127, 128 and 142.

³³ Constitution, Art. 122. The same provision states as exception to these ownership rights by the State: (i) properties in urban areas; and (ii) any other assets registered in the Property Registry before March 1st, 1956.

define maritime coasts as *“the extension of coastline and sea correspondent to the country pursuant to the International Decree recognized by Guatemala (200 miles).”*

The Constitution establishes also a public domain regime over water resources, the terrestrial maritime zone, the continental shelf and the air space. Water resources are vested by the Constitution in the Guatemalan State to be held in trust by the national government for the people in accordance with the social interest, and their exploitation for economic activities shall contribute to the development of the national economy and be at the service of communities and not individual interests. Users of water are required to carry out the reforestation of river banks.

3. Legal Authority for Area-Based Management of Ocean and Coastal Resources

I. Ownership of ocean space. Planning authority

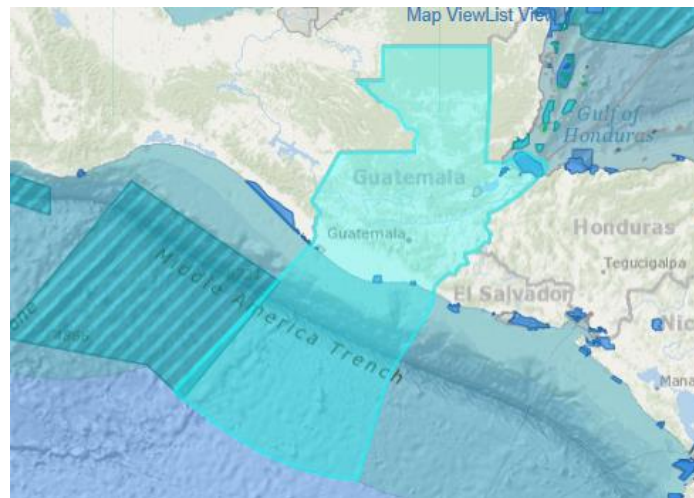


Figure 2 Guatemala Maritime Spaces

Although the Constitution regulates the ownership rights and jurisdiction of the State over the sea and continental waters, including their adjacent terrestrial areas, as stated by the Ministry of Environment and Natural Resources (MARN), the legal framework in Guatemala does not include a definition of marine and coastal zone. For practical administrative purposes, the MARN defines the marine and coastal zone as *“the area between the limits of the Exclusive Economic Zone (EEZ) under national jurisdiction and an arbitrary terrestrial limit which encompasses freshwater ecosystems influenced by tides, including three kilometers reserved by the Guatemalan State.”*³⁴ Guatemala’s marine and coastal zone comprises and is divided into the following components:

³⁴ IARN 2012 . P. 28

- **Territorial State Reserves** (*Reservas Territoriales del Estado*). A strip of 3 km from a baseline represented by the high tidal line, with an extension of 761.5 km².
- **Territorial Sea**. Surface comprised between the low tidal line (baseline) and 12 nautical miles (nm), with an area of 5,709 km².
- **Contiguous Zone** (*Zona contigua*). Comprises the area between the low tidal line (baseline) and the adjacent 24 nm, with an extension of 13,707 km².
- **Economic Exclusive Zone**. Area between the low tidal line (baseline) and 200 nm from the baseline, with an extension of 114,512 km².

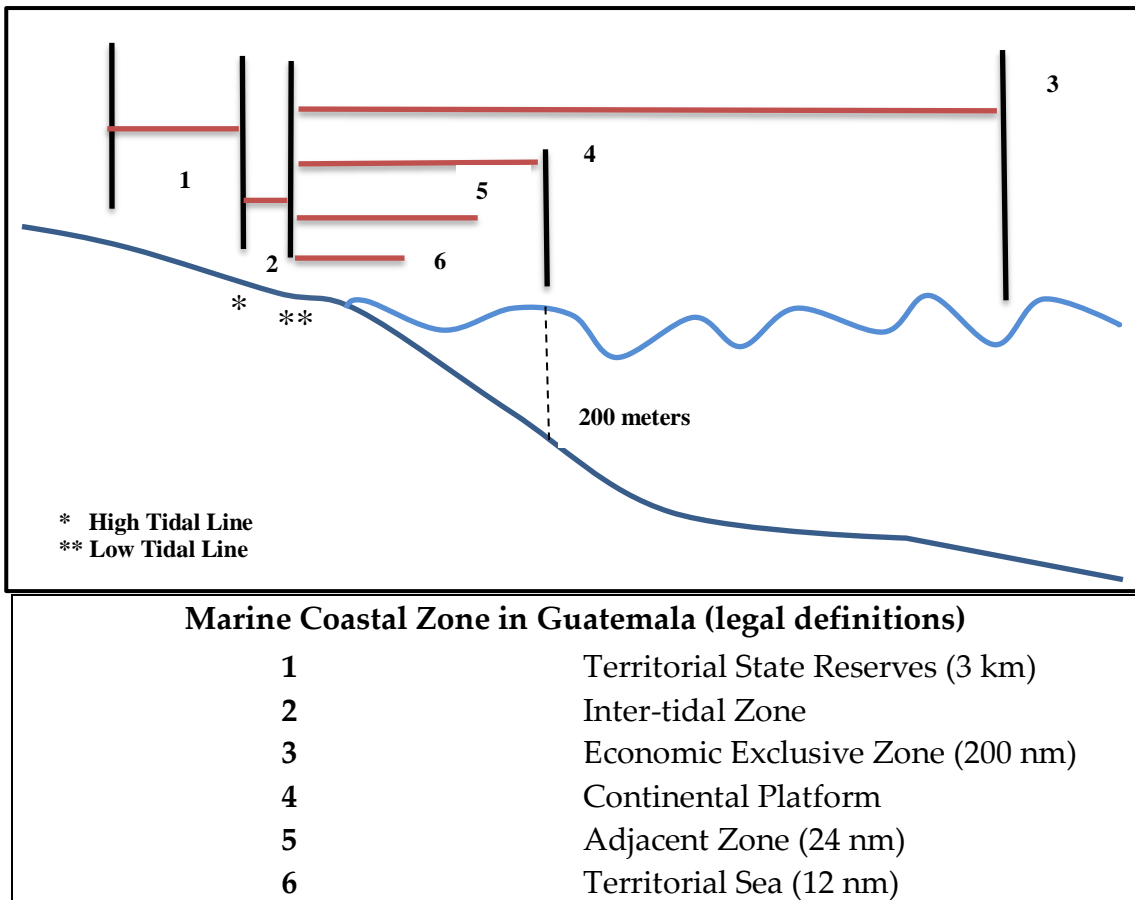


Figure 3 Maritime Zones in Guatemala

The General Law on Fisheries and Aquaculture (LGPA for its acronym in Spanish) is applicable within the national territory “in maritime waters, internal and continental, and in all places where the State exercises sovereign jurisdiction pursuant to the Political Constitution of the Republic.”³⁵ The LGPA is also applicable to foreign vessels and those flying the Guatemalan flag that carry out fishing activities in the high seas and waters under

³⁵ LGPA, Art. 1.

jurisdiction of third states under international law and treaties endorsed by the Guatemalan State.

The LGPA considers the design and implementation of a policy for the rational and sustainable use of hydro-biological resources a matter of national interest, necessity and urgency, and a responsibility of the State. National policies are required by the LGPA to consider public interest and to promote planning, regulation, development and diversification of existing and new fisheries, under a precautionary approach.³⁶

In addition, pursuant to the General Law on Fishing and Aquaculture, all wild hydro-biological resources in the territorial sea, the contiguous zone, the EEZ, and internal waters are considered national assets of public domain, administered by the State.³⁷

The Policy for the Comprehensive Management of Marine and Coastal Zones in Guatemala includes as strategic goals related to marine and coastal spatial planning (*ordenamiento territorial*) the following actions:

- Create a framework for the integrated management of watersheds
- Contribute to achieving the spatial planning of coastal marine zones, strengthening decision-making bodies to integrate the different sectors participating in marine and coastal development
- Include marine and coastal ecosystems in the national Plan for Territorial Planning to harmonize uses and activities carried out in marine and coastal areas
- Regulate, under geographic criteria, the use, management and exploitation of marine and coastal species, in accordance with environmental sustainability to create social and economic opportunities in the long term.

Although a proposal to issue a comprehensive law on territorial planning is being assessed by the Congress, currently the legal framework governing marine and coastal spatial planning and management is composed of different sectoral regulations including, among others, the Law on Protected Areas and the General Law on Fisheries and Aquaculture. In this context, one of the greatest challenges identified in the PMIZMC is to achieve coordination among the agencies at different levels of government and sectors of development to build a comprehensive policy capable of ensuring sustainability of marine-coastal resources and ecosystems.³⁸

³⁶ LGPA, Arts. 2 and 3.

³⁷ LGPA, Art. 4.

³⁸ PMIZMC. P.29.

Among the tools in place to achieve coordination among these agencies, the Policy mentions interinstitutional agreements, like the Cooperation Agreement for Hydro-Biological Resources Management between MARN, MAGA and CONAP, to work together in the design and implementation of policies for the sustainable management of coastal and marine zones and resources. However, we could not find any on fisheries policies designed under this agreement, or other institutional agreements currently in place to enhance coordination among the agencies responsible for sustainable fisheries development and conservation of biodiversity in Guatemala.

II. Establishing marine protected areas (MPAs)

i) General legal authority

The creation, conservation and management of legally declared protected areas through the SIGAP, in coordination with all national entities with authority over natural and cultural resources conservation and exploitation, is considered a matter of national interest in Guatemala.³⁹ To this end, the Councils for Rural or Urban Development and municipalities can work with CONAP in the identification, assessment and development of protected areas to be declared and managed within their jurisdictions.⁴⁰ Even though the legal framework considers this alternative, we didn't find any information concerning proposals by councils for development at any scale to create protected areas.

ii) Instruments establishing MPAs and their legal requirements

The creation of protected areas can be justified by several objectives listed in the Law on Protected Areas (LPA), including the optimal functioning of essential ecological processes and systems; conservation of national biological diversity; and achieving the capacity for a sustainable exploitation of species and ecosystems in the national territory.⁴¹

Pursuant to the LPA, protected areas in Guatemala, including their buffer zones, are aimed at *“the conservation, rational management and restoration of wildlife, its connected resources and natural and cultural interactions, which have a high relevance due to their functions or genetic, historic, scenic, recreational, archaeological and protective values, being able to preserve*

³⁹Regulations to LPA define legally protected areas as: “those areas declared as protected by means of a Decree issued by the Congress of the Republic.” LPA, Arts. 1-4.

⁴⁰ LPA, Art. 6.

⁴¹ LPA, Art. 5.

the natural state of biotic communities, unique geomorphologic phenomenon, water sources and supply in critical watersheds in rivers and areas for the protection of agricultural soils, to maintain options for a sustainable development.”⁴²

Coastal and marine ecosystems can be declared protected areas and, in addition to river banks, are regarded as a priority and shall be preferably allocated to be managed under biodiversity conservation policies.⁴³ When protected areas are created (in a voluntary manner by a legal mandate), the owners will maintain their property rights and will manage the ecosystems within them in accordance with the regulations applicable to the SIGAP.⁴⁴ However, the LPA clearly states that all persons, companies and institutions located within protected areas are required to carry out any productive activities or those associated to their livelihoods according to the PA regulations and zoning provisions and in accordance with the master plan designed and implemented for the effective management of each protected area.⁴⁵

The process to create a PA involves different stages, starting with a proposal submitted by any interested party to CONAP, or presented by that Authority. The proposal is followed by a technical assessment of the economic, environmental, social, cultural and physical situation of the area, including an evaluation on the effects of its creation for the livelihoods of local communities.⁴⁶ If the findings of the technical assessment support the creation of a new PA, CONAP can submit a proposal to the National Congress, responsible for issuing a legislative decree creating the protected area. Once a decree exists, the Executive Secretariat of CONAP has the immediate responsibility to regulate all matters related to the PA’s implementation and administration, including the elaboration of a master plan and the provision of financial resources.⁴⁷

Management of PAs can be executed directly by the CONAP, or be entrusted to other national public entities or non-profit private organizations, including municipalities, through a legal mechanism like a contract or agreement.⁴⁸

⁴² LPA, Art. 7.

⁴³ LPA, Art. 9.

⁴⁴ LPA, Arts. 10 and 14.

⁴⁵ LPA, Art. 22.

⁴⁶ Article 11 of the Regulations to LPA describe the content and scope of these technical assessments.

⁴⁷ LPA, Arts. 11 and 12. Finance for protected areas in Guatemala is provided mostly by the national government.

The amount is decided by the Ministry of Internal Revenue considering proposals and requirements from CONAP. A 2016 report by UNEP states that in most Latin American countries, including Guatemala, public finance represents around 60% of the budget for protected area management. Other sources include funds from international agencies and private sector donors. See: Flores, M., y Bovarnick, A. (2016). Guía para mejorar el presupuesto y el financiamiento de los sistemas nacionales de áreas protegidas. Lecciones aprendidas en Chile, Guatemala y Perú, julio de 2012 – abril de 2014. PNUD.

⁴⁸ Regulations to LPA, Art. 50.

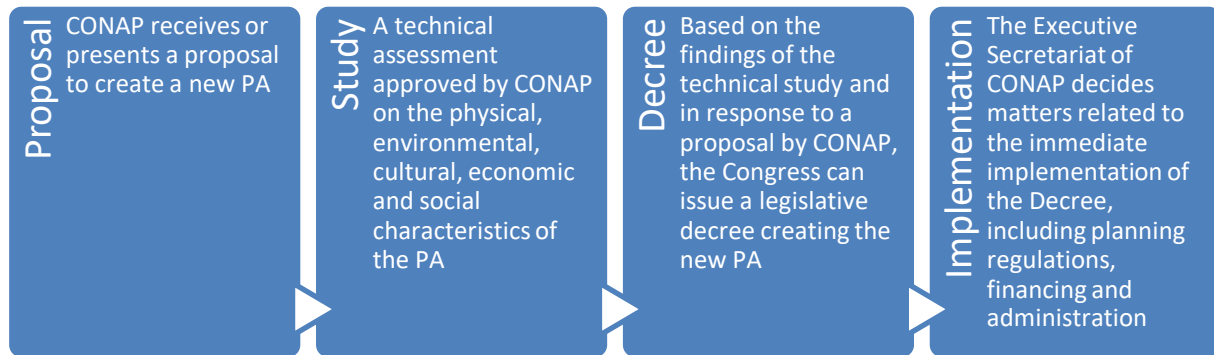


Figure 4 Process to create a PA in Guatemala

Management Categories of Protected Areas in Guatemala

The LPA recognizes 17 categories of management for PAs.⁴⁹ Depending on their characteristics, conservation goals and selection criteria, these areas are further classified into different types, as follows:

Table 3. Management Categories of Protected Areas in Guatemala

Category Type I

- National Park
- Biologic Reserve

Description Large areas, essentially unmodified by human activities and which are home to ecosystems, features or wildlife species with scientific or scenic value at the national or international level. In these areas, ecological and evolutionary processes develop spontaneously with a minimum degree

⁴⁹ LPA, Art. 8.

of anthropogenic interference. Recreational activities developed in a controlled manner are allowed⁵⁰.

It is prohibited to exploit, capture or destroy any wild flora specimen or carry out any action which could harm the life or integrity of wild fauna. The only exceptions are technical actions that are required to achieve conservation goals.

- | | |
|---------------------------|--|
| Management Goals | <ul style="list-style-type: none"> – Protection, conservation and maintenance of natural processes and biological diversity in an unaltered state. – Scientific research, education, sustainable tourism. – Conservation in perpetuity of representative samples of the natural state of natural regions, biotic communities and genetic resources. |
| Selection Criteria | <ul style="list-style-type: none"> – Relatively large terrestrial or aquatic areas which contain representative samples of the main natural regions, traits or scenarios where wild species, geomorphological sites and habitats are of special educational and recreational scientific interest. – One or several entire ecosystems, unaltered by exploitation and inhabited by humans; extremely vulnerable ecosystems; biodiversity areas relevant to conservation of genetic resources – Natural resources are managed in a natural or almost natural state. – Visitors can have access under special conditions, for educational, cultural and recreational purposes. |

Category Type II

- **Protected Biotope**
- **Natural Monument**
- **Cultural Monument**

⁵⁰ The Law on PA and its Regulations does not provide a definition of recreational activities. However, in our interpretation these activities do not include hunting and fishing, which are regulated specifically or as exploitation of wildlife.

– **Historic Park**

Description These areas protect outstanding natural features, or archaeological, historical and other traits of national or international relevance. Education, sustainable tourism and recreational activities are allowed under limited conditions.

Management Goals Protection and conservation of natural and cultural values. Recreational, educational and touristic activities are allowed if consistent with PA regulations.

Selection Criteria Areas in this management category are usually relevant for tourism and recreation. However, management of these areas shall achieve minimum impact from human activities on the environmental and natural resources.

Category Type III

- **Multiple Uses Area**
- **Springs**
- **Forest Reserve**
- **Wildlife Sanctuary**

Description The extension of these areas is usually large and covered by forests. Zoning can include portions where productive activities related to exploitation of forests and other natural resources, including wildlife, can be realized under sustainable conditions.

Management Goals Achieve the sustainable exploitation of natural resources (including fisheries) and conservation of biodiversity, taking into account economic and social needs.

Selection Criteria

- Management of these areas is oriented to sustainable exploitation and usage of natural resources in the long term.
- With exception of use and exploitation of natural resources by local and native communities, through traditional means, other

productive activities are not allowed if adequate planning and land use regulations are not in place to guarantee the sustainability of the use of resources.

Category Type IV

- **Natural Recreational Area**
- **Regional Park**
- **Scenic Routes**

Description Areas where it is necessary to implement protection measures to conserve natural features (biotic communities and wild species), prioritizing educational and recreational uses. These areas have scenic qualities and attractions for outdoor public recreation, being able to adjust to intensive uses. In most cases, the ecosystems are not very vulnerable and are easily accessible for transportation. Modification of landscapes is allowed, trying to minimize the impact on resources and the environment. Areas under this management category can be declared over public or private property. Regional Parks are usually created in lands owned by municipalities.

Management Goals

- Maintenance of routes and landscapes in a natural or semi-natural state
- Prevention of damages and degradation of natural resources.

Selection Criteria

- Maintenance of biotic communities and biological diversity
- Ecosystems relevant for environmental education and public recreation shall be preserved
- The criteria applicable to management of routes and scenic assets is generally wide in scope, due to the great variety of semi-natural and cultural landscapes present in these areas, which can be divided into the following sub-categories: (i) landscapes with special esthetic qualities as a result of interaction of people and nature; and (ii) ecosystems under intensive exploitation regimes for touristic and recreational purposes.

Category Type V

– **Natural Private Reserve**⁵¹

Description Areas voluntarily destined to biodiversity conservation purposes by private owners. State authorities will support and recognize these areas as part of the SIGAP.

Management Goals – Safeguard the conservation and ecological stability of certain plant and animal species through the protection of critical habitats and ecosystem services.

Selection Criteria – The main conservation goal of these areas is the protection of nature. In exceptional cases, exploitation of renewable natural resources can be carried out as a secondary management objective.
 – These areas can be relatively small in extension, provided they provide adequate protection of nesting sites, swamps, lakes, estuaries, forests, grasslands, fish spawning sites or grazing areas for marine mammals.

Category Type VI

– **Biosphere Reserve**

Description Biosphere Reserves are areas of global importance due to their natural or cultural resources. Extension of these areas should be large enough to achieve the creation of effective conservation units in which sustainable usage of natural resources is allowed. These areas are subject to long-term legal protection and will be also proposed for global recognition by the International Committee of the Program on Man and the Biosphere (UNESCO).

⁵¹ Modification of the scope, limits or any other feature of declared PAs, including private areas, is required to undergo the same process followed for its creation. Concerning temporal scope, Regulations to LPA establish that these areas can be created and maintained for the period of time decided by owners of the land/natural resources involved. See Art. 8 of Regulations to LPA.

Management Goals

- Provide opportunities for different modalities for sustainable land and natural resources uses, prioritizing traditional activities by local communities and conservation of core areas.
- Controlled tourism and recreational activities are allowed in these PAs.

Selection Criteria

Biosphere Reserves will be divided into zones in accordance with the following criteria:

Natural zone or core areas: The main objectives of the core areas of the Reserve include: preservation of the natural environment; conservation of biodiversity; and controlled ecotourism. In these areas, it is prohibited to hunt, capture and carry out any activity that disturbs or injures the life or integrity of wildlife. Human settlements will not be allowed, except those that are necessary for the investigation and administration of the area. The lands will be fundamentally state and/or municipal property. CONAP will give priority to the acquisition by the State or by Guatemalan non-profit organizations dedicated to the conservation of nature to those privately owned lands that may be within the core areas.

Modifiable areas: Modification of the natural environment is allowed only for scientific or educational purposes.

Areas of multiple or sustainable uses, and recovery and cultural uses. These areas serve as buffer to core zones within Biosphere Reserves. The sustainable use of natural resources, and “stable, sustainable human activities” are allowed, without negatively and permanently affecting ecosystems.

With exception of traditional activities carried out by native communities for the satisfaction of basic needs, all uses of natural resources are prohibited until master plans of the PA are in place.

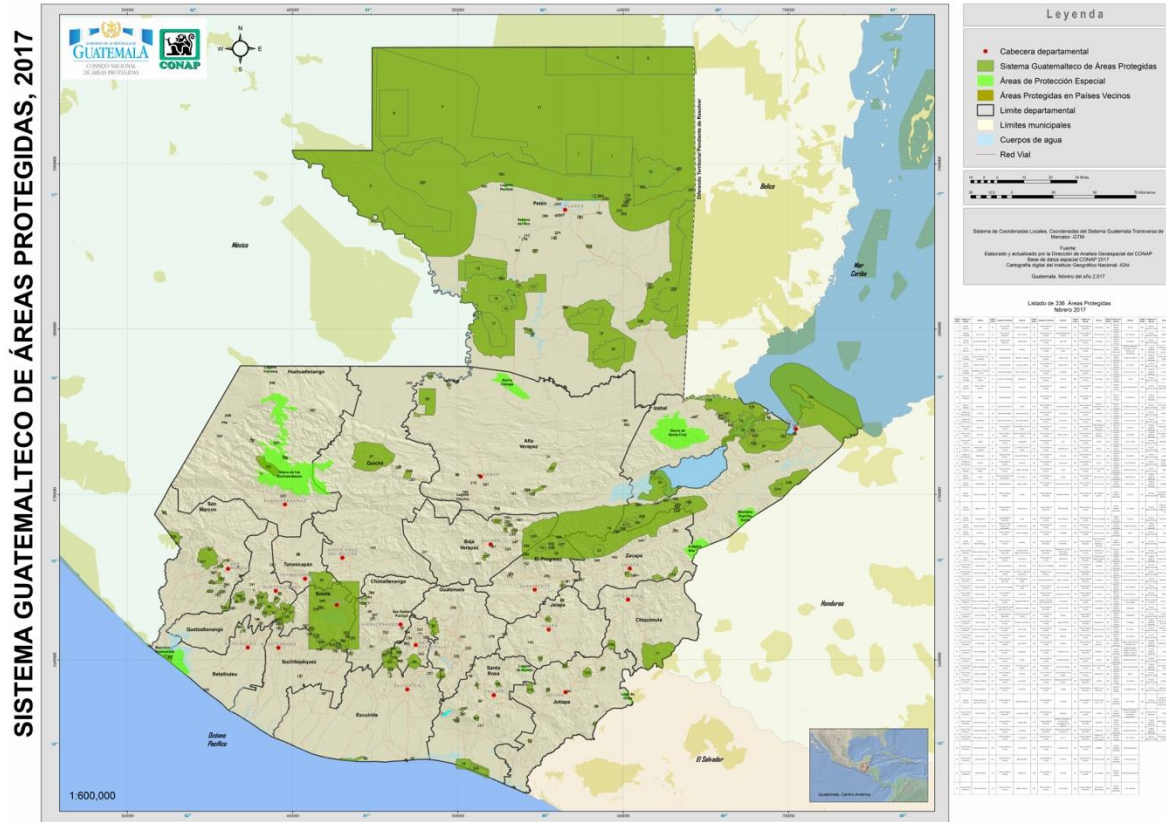


Figure 5 Guatemala National Protected Area System

Although the LPA also includes marine parks among the categories of protected areas that be created in Guatemala, the Regulations don't specify the type of PA where they belong, so it is not possible to determine the management goals or selection criteria applicable to these protected spaces. Protected Areas regulated under Category III, like Multiple Uses Areas and Wildlife Sanctuaries, provide the best opportunities for coastal fisheries management and area-based management of fishing and marine conservation, as their main goal is to achieve sustainable exploitation of natural resources and conservation of biodiversity, taking into account the economic and social needs of local communities.

Master Plans for Protected Areas

Protected areas are regulated in detail through master plans developed by the entity responsible for the PA administration and approved by CONAP. These plans are translated into annual operative plans designed by the entity or person responsible for the PA management and approved by CONAP.⁵² The master plans shall be developed

⁵² LPA, Art. 18 and Regulations to LPA, Arts. 22 and 23.

within a year following the PA's creation and updated every five years by the area manager.

PAs can be divided into zones to determine specific provisions on the permitted, prohibited and restricted uses, depending on their management categories.⁵³ Master plans determine the allowed and prohibited land uses and activities in accordance with each category of management and the specific conservation goals.

Master plans for PA management can be effective tools to propose strategies for marine resources conservation and sustainable use, such as no-take zones; restrictions on the use of certain fishing gears; carrying capacity for vessels in fragile areas; or closures. For example, the Master Plan for the National Park Rio Dulce establishes a prohibition to carry out any fishing or hunting activities at all times, with exception of activities developed by local communities for subsistence purposes.

Concessions for the exploitation of natural resources in PA

Exploitation of natural resources within protected areas can be carried out through a concession or lease granted by CONAP, provided the specific activities are allowed by master plans.⁵⁴ Any individuals, as well as private or public entities carrying out activities (fishing included) within the perimeter of the protected areas, are required to sign a contract with CONAP to agree on the terms and conditions under which those activities will be developed, in accordance with a previous environmental impact study and provided they are compatible with the uses foreseen in the master plan of the PA.⁵⁵ All extractive exploitations of natural resources in National Parks, Biotopes, Biological Reserves and core zones in Biosphere Reserves are prohibited.⁵⁶

iii) Key elements of MPA implementation included in legal instruments (if any):

(1) Location of MPAs

There are three MPAs and one Marine Managed Area (MMA) in Guatemala.⁵⁷

⁵³ Regulations to LPA, Art. 7.

⁵⁴ LPA, Art. 19.

⁵⁵ LPA, Art. 20.

⁵⁶ Regulations to LPA, Art. 50.

⁵⁷ Atlas of Marine Protection, <http://www.mpatlas.org/region/country/GTM/>. The Atlas of Marine Protection lists 3 MPAs, (i) the Hawaii Multiple Use Area on the Pacific coast next to the Monterrico Multiple Use Area, (ii) the Punta de Manabique Wildlife Refuge, and (iii) the Monterrico Multiple Use Area. In addition, it lists the Punta de Manabique Ramsar Site as an MMA. It should be noted that although the Atlas lists the Hawaii Multiple Use Area as an MPA, its data records indicate that 0 km² are marine area.

- The three MPAs are:
 - Bahía de Santo Tomás (permanent no-take zone established by presidential decree)⁵⁸ (Gulf side);
 - Monterrico Multiple Use Area (Zona de Uso Multiple) (Category III) (Pacific Side); and
 - Punta de Manabique Wildlife Refuge (Refugio de Vida Silvestre) (Category III) (Gulf side).
- There is one MMA (internationally recognized protected area):
 - Punta de Manabique Wetlands of International Importance (Ramsar) (Gulf Side)

(2) Authorized enforcement authorities

The LPA defines unauthorized exploitation activities, as well as characteristics of non-compliance with the conditions under which activities in PA can be carried out, classified in two main types of infractions: attacks against the natural and cultural heritage and usurpation of protected areas.⁵⁹ Likewise, it mandates CONAP to carry out all enforcement actions related to protected areas in Guatemala.⁶⁰

III. Fisheries management no-take zones

The regulatory framework for fisheries management does not provide a specific legal instrument for the creation of no-take zones.

IV. Other legal instruments for establishing fisheries management areas

i) General legal authority

Management authority for marine spatial planning and regulation for the sustainable use and conservation of marine resources, fisheries and aquaculture in Guatemala is bestowed by the LGPA on the Ministry of Agriculture and Livestock (MAGA).⁶¹ Within the MAGA, the competent authority to decide matters related to administration of hydro-

⁵⁸ The Bahía de Santo Tomás Permanent Closure Zone is an area in which a Presidential Agreement of 1956, GU 1b.1., prohibits all exploitation of marine resources. CONAP manages the area.

⁵⁹ Regulations to LPA, Arts. 81-84.

⁶⁰ LPA, Arts. 18; 69 and 70.

⁶¹ LGPA, Arts, 12 and 13.

biologic resources and enforce the LGPA is DIPESCA.⁶² Pursuant to the LGPA, the legal instruments applicable to marine spatial planning and regulation are: (i) limits on fishing effort; (ii) limits on capture of fish; and (iii) other technical tools including regulation of fishing gear and closed seasons.⁶³

v) Other instruments establishing other management areas. Legal requirements of each.

The Framework Law to Regulate the Mandatory Reduction of Vulnerability and Adaptation to Climate Change and Mitigation of Greenhouse Gases (Decree 7-2013), establishes strategic plans to be implemented by MARN, MAGA, CONAP and the Ministry of National Defense in marine-coastal zones to reduce vulnerability to impacts caused by climate change and promote adaptation in the rural sector. Plans for adaptation to climate change include the creation of biological corridors in protected areas, managed concurrently by authorities at the national and regional levels of government, to enhance resilience of ecosystems and the protection of ecosystem services key to the livelihoods of local communities.⁶⁴

4. Fisheries Governance

I. Authorities, institutions, and management bodies at the national level

i. Legal authority

In Guatemala, wild hydro-biological resources in the sea, the contiguous zone, the territorial sea, the EEZ, and internal waters, are considered national assets of public domain, subject to regulations by the State to decide matters related to rights for their rational exploitation and administration. All persons in the Guatemalan territory have the right to realize – through a concession – fishing activities to exploit hydro-biological resources, which cannot be monopolized by any individual or entity.⁶⁵

⁶² LGPA, Arts. 6; 8.46;

⁶³ Regulations to LPA, Arts. 81 and 82.

⁶⁴ Framework Law on to Regulate the Mandatory Reduction of Vulnerability and Adaptation to Climate Change and Mitigation of Green House Gases, Art.15.

⁶⁵ LGPA, Arts. 4 and 5.

In addition to concessions – granted by the MAGA through licenses or permits for fishing and aquaculture – the LGPA regulates different types of measures to be implemented by DIPESCA to achieve the sustainable management of fisheries, including:⁶⁶

- Restrictions on fishing effort;⁶⁷
- Catch limits; and
- Technical measures, including regulation of fishing gears and closed seasons.

DIPESCA will monitor and periodically review the effectiveness of measures for fisheries management, based on any new scientific information available.

Pursuant to the LGPA, policies, regulations and administrative measures to promote the sustainability of fisheries in Guatemala shall be based either on the best available scientific and technical evidence, or in lieu of this data, in the wide implementation of the precautionary approach defined in the LGPA as:

“Principle in the Code of Conduct for Responsible Fisheries by FAO, which indicates that the absence of adequate scientific information should not be used as a reason for postponing or failing to take measures to conserve fishing target species.”⁶⁸

Fishing is regulated in accordance with two main categories:⁶⁹

- **Marine Fishing:** activities are carried out in the sea, estuaries and bays.
- **Continental Fishing:** activities are developed in internal waters, like rivers or lakes. Continental fisheries are reserved for subsistence, artisanal and small-scale activities and include all fish, crustacean and mollusks in continental waters as target species.⁷⁰

In addition, fishing is regulated by the LGPA according to the purpose for which it is carried out.

⁶⁶ Regulations to LGPA, Arts. 81 and 82.

⁶⁷ Fishing effort is defined in the LGPA as:

Fishing effort: Action developed by a fishing unit during a specific period of time over a specific hydrobiological resource. (Article 8.21)

DIPESCA is responsible for determining the net fishing effort for fisheries as part of the measures to regulate sustainable fishing, considering the best available scientific information (LGPA, article 57).

⁶⁸ LGPA, Art. 8.20.

⁶⁹ LGPA, Arts. 8 and 16.

⁷⁰ Regulations to LGPA, Arts. 47 and 48.

Artisanal and small-scale fishing, classified as commercial fishing and reserved to Guatemalan nationals, are defined in the LGPA as follows:⁷¹

Artisanal Fishing: Activities carried out without vessels or through vessels between 0.46 and 0.99 net registered tons (NRT) in size. These activities can be carried out in estuaries, lakes, lagoons, rivers and the sea.

Small-Scale Fishing: Activities carried out with vessels with between 1 and 1.99 NRT in size.

The next table summarizes the types of fisheries recognized in the Guatemalan legal framework.⁷²

Table 4. Different types of fisheries in Guatemala		
Type	Purpose	Modalities
Commercial	Economic gains	Artisanal Small-Scale Medium-Scale Large-Scale Tuna Fisheries
Sports	Recreation. No commercial purposes.	With or without vessels.
Scientific	Scientific research	Reserved to State authorities. Individuals or entities, either national or international, can realize fishing for scientific research if allowed by the State.

⁷¹ LGPA, Art. 8.27; 8.33; 17; 18; and 20.

⁷² LGPA, Arts. 8 and 17.

Subsistence	Not for profit Fisheries for direct consumption of families	Can be carried out with vessels weighing less than 0.45 NRT in size, or without vessels in estuaries, lakes, lagoons, rivers and the sea.

II. Legal provisions enabling co-management of ocean resources by associations and/or municipalities

i. Coastal planning

No relevant legal instruments for coastal planning currently enable co-management procedures or institutions. Congress is discussing a Law on Territorial Planning which could create opportunities for municipalities to participate in planning.⁷³

ii. Protected areas

Pursuant to LPA Regulations, management of legally declared protected areas can be carried out by non-profit organizations through a contractual agreement with CONAP, or other legal mechanism approved by the same Authority.⁷⁴

As an example of this tool for co-management, the “Multiple Use Area Sarstun River” (MUASR), located on the border between Guatemala and Belize, is managed by the Consortium for the Co-Administration, Conservation and Integrated Development of the Indigenous Peoples composed of 18 Q’eqchi communities and the NGO Fundaeco.⁷⁵

The MUASR was created in 2005 by the Law which Declares the Creation of the Multiple Use Area Sarstun River (Decree 12-2005) to, among other objectives: conserve biodiversity and native ecosystems; foster sustainable communal rural development; and establish a framework for the sustainable management of natural resources for the benefit of local communities and with their participation.⁷⁶ Pursuant to the decree for the creation of the MUASR, its administration is the responsibility of CONAP and can be delegated

⁷³ Comision de Vivienda, Acta 12-2015, available at <https://old.congreso.gob.gt/manager/images/95EB0C69-F8D8-61AC-396A-DFBEFB898F4D.pdf>

⁷⁴ Regulations to LPA, Art. 17.

⁷⁵ Master Plan for the MUASR 2010-2014. P. 41.

⁷⁶ Decree 12-2005, Art. 3.

to another entity through a public application process.⁷⁷ In addition, Decree 12-2005 established an Executive Local Council to assist in the PA's administration, composed of the following members:

- Representative from CONAP (appointed as Chief of the Council)
- PA's Executive Secretary (organization in charge of the PA's co-management)
- Representative from the Livingston Municipality
- Representative from the private sector (elected among owners of lands in the PA)
- Three representatives from communities located within the PA (elected by the Assembly of Presidents for Communal Committees on Development)
- Representative from the Fund for Lands (Fontierra)
- Representative from the Guatemalan Institute for Tourism
- Representative from MAGA
- Representative from groups of fishers (elected by the Associations of Fishers in the Atlantic)
- Representative from the Public Prosecutor's Office
- Other entities that may provide assistance and advice for the PA's effective management (can participate in meetings with voice, but no right to vote).

According to the Master Plan for the MUASR, the Sarstun River PA is home to 21 indigenous communities dependent on its natural resources and ecosystem services for their livelihoods, oriented mostly towards agricultural activities and coastal fishing. The PA management is based on two main sets of conservation objectives and regulations to orient the sustainability of the primary productive activities carried out by local communities.

⁷⁷ The Master Plan for the MUASR 2010-2014 states the need to renew the contract for co-management between the Consortium and CONAP through a public bidding process to observe the provision in Decree 12-2005 Art. 18.

Table 5. Master Plan for the Multiple Use Area Sarstun River: Conservation Objects and Productive Activities		
Natural Conservation Objects	Cultural and Social Conservation Objects	Productive Activities
High Tropical Forest (Niink k'iche')	Q'eqchi Sacred Places	Artisanal Fisheries
Jaguar (Bal am)	Garifuna Sacred Places	Sustainable Tourism
Danto (Tixl)	Q'eqchi and Garifuna Sustainable Traditional Management of Natural Resources	Sustainable Livestock
Hydric System (Rivers and lagoons)	Mayan Legal System	Commercial and Subsistence Agriculture
Coral Reefs	Legal Certainty to Land Tenure for Q'eqchi' Communities	Forest Management
Endangered Fish	Communal Unity and Gender Equality	
Mangroves	Access to Basic Services	
Manatee		
Coastal Systems		

iii. Fisheries

No relevant legal instruments for fishing enable co-management procedures or institutions.

III. Legal provisions enabling co-management of ocean resources by indigenous communities

The Guatemalan Constitution recognizes and protects livelihoods and traditional forms of social organization of different ethnic groups, including indigenous communities from

Mayan ancestry.⁷⁸ In particular, the constitutional regime applicable to indigenous lands and indigenous agrarian cooperatives, to be further detailed by national legislation, is regulated as follows:

Article 67.- Protection of lands and indigenous agrarian cooperatives. Lands of cooperatives, indigenous communities or any other form of communal or collective tenure of agrarian property, family assets and housing, shall be specially protected by the State (...).

*Indigenous communities and other communities in possession of lands they historically own and have been subject to their traditional administration, shall keep these systems.*⁷⁹

Guatemala is a party to the ILO 169 Convention (the ILO Convention) on Indigenous and Tribal Peoples, which is self-executing under national law. Pursuant to this international treaty, the definition of “lands” includes “*the concept of territories, which covers the total environment of the areas which the peoples concerned occupy or otherwise use.*”⁸⁰ The same international convention establishes that rights of indigenous peoples to the natural resources pertaining to their lands shall be specially safeguarded, including their rights to participate in the use, management and conservation of those resources.^{81 82}

The Agreement on Identity and Rights of Indigenous Peoples (ADIPI, for its acronym in Spanish) signed in 1995 between the Government of the Guatemalan Republic and the National Revolutionary Unit of Guatemala as part of negotiations to end armed conflict in the country includes a series of actions for the protection of cultural identity of indigenous peoples, including respect of their traditional livelihoods (which could include artisanal and small-scale fishing) and their economic and social rights. Among other clauses relevant for co-management of ocean resources by indigenous communities, the ADIPI describe the rights of indigenous peoples pertaining to lands as follows:

Rights of indigenous peoples pertaining to lands. Rights pertaining to lands of indigenous peoples include communal or collective possession, as well as individual, property and other entitlements, as well as the use of natural resources in benefit of the

⁷⁸ Constitution, Arts. 66, 68, 69 and 70.

⁷⁹ Constitution, Art. 67.

⁸⁰ ILO 169 Convention, Art. 13.1.

⁸¹ ILO 169 Convention, Art. 15.

⁸² The ILO 169 Convention does not mention waters specifically. We are interpreting here that “total environment” includes water bodies.

*communities, without harming their habitat. It is necessary to develop legislative and administrative measures for the recognition, titling, protection, vindication, restitution and compensation of these rights.*⁸³

In addition, the ADIPI contains several provisions concerning the development of mechanisms to achieve wide participation of indigenous communities in decisions affecting their livelihoods or the territories they inhabit and occupy, including the following:

Land Tenure and use/administration of natural resources. The Government will design and implement measures to:

I) Recognize and guarantee the right of access to lands and resources that are not exclusively occupied by the communities, but to which they have traditionally had access for their traditional livelihoods and subsistence activities (servitudes, such as passage, logging, access to springs, etc., and use of natural resources), as well as for their spiritual activities;

II) Recognize and guarantee the right of communities to participate in the use, administration and conservation of the natural resources existing on their lands;

III) Obtain the favorable opinion of the indigenous communities prior to carrying out any project of exploitation of natural resources that may affect their subsistence or livelihoods. Affected communities should receive fair compensation for any damage they may suffer as a result of these activities; and

*IV) Implement, in coordination with the communities, the necessary measures to protect and preserve the environment.*⁸⁴

However, these provisions are not translated into national legislation as specific measures to promote access of indigenous communities to natural resources (including marine resources). Moreover, the official response from national authorities to the latest report by the Inter-American Commission on Human Rights (IACHR) on the situation of indigenous peoples in Guatemala affirmed that natural resources are property of the State and cannot be owned by any individuals or communities or consider subject to rights of preferential access by indigenous groups.⁸⁵

⁸³ ADIPI, Art. 4.F.1.

⁸⁴ ADIPI, Art. 4.F.6.

⁸⁵ IACHR. 2015. Situación de los derechos humanos en Guatemala: Diversidad, desigualdad y exclusión. Informe de País. P. 42. Available at: <http://www.cidh.org/countryrep/guatemala01sp/cap.11.htm>

In addition, as noted by the IAHRIC in the same report, there are no laws which contain any affirmative mentions or provisions to regulate the scope and content of the rights bestowed to indigenous peoples in the Constitution, including regulations on environmental protection and fisheries management. The existing legal framework does not establish any mechanisms to promote access to information or participation in decision-making processes for indigenous communities.

i. Coastal planning

No relevant legal instruments for coastal planning enable co-management procedures or institutions.

ii. Protected areas

As explained in subsection II. b) above, indigenous communities can participate in the co-management of PA through agreements signed with CONAP or other legal mechanisms.

iii. Fisheries/aquaculture management

According to a FAO report in 2000, artisanal fishing in Guatemala has grown exponentially in the last 40 years, without effective controls and institutional presence. The government led an organizational process with 8 of the 46 communities located in the Pacific Ocean and 10 of 23 communities in the Atlantic Coast.⁸⁶ FAO has also stated that, in spite of their critical role for the livelihoods of coastal communities, artisanal fisheries in Guatemala have been regarded as a marginal priority in the governmental programs and budgets, due in part to their meager contribution to the national GDP (0.03%).⁸⁷ No relevant legal instruments for co-management procedures or institutions were found.

5. Fisheries Management

I. Coastal Fisheries

⁸⁶ FAO, Información sobre la ordenación pesquera en Guatemala (2000), <http://www.fao.org/fi/oldsite/FCP/es/GTM/body.htm>

⁸⁷ FAO, Guatemala Fishery Country Profile (2005), <http://www.fao.org/fi/oldsite/FCP/es/GTM/profile.htm>

Coastal fishing – understood as fishing within exclusive economic zones – specifically is not defined in the LGPA.⁸⁸

i. Definition/s

As stated above, artisanal and small-scale fishing are classified as commercial fishing and reserved to Guatemalan nationals. Coastal fishing can also be carried out with no commercial goals. The right to capture fish, mollusks and crustaceans by Guatemalan nationals for subsistence purposes is protected by the law and shall be guaranteed by the State.⁸⁹ The LGPA defines this type of fisheries as follows:

Subsistence Fishing: Non-profit activities carried out in the sea, estuaries, lakes, lagoons or rivers, without vessels or with vessels not exceeding 0.45 NRT, with the sole purpose of obtaining products for direct consumption of the fisherman and his family.⁹⁰

The LGPA establish as general criteria to inform policies and decisions concerning exploitation of marine resources in commercial fisheries, that all activities shall be carried out under an integral approach, using systems and methods to protect accompanying fishing.⁹¹

ii. Management and Enforcement Authority

Pursuant to LGPA, State authorities are responsible for the design and implementation of national policies for the sustainable and rational exploitation of hydro-biological resources through fishing and aquaculture and the conservation of aquatic ecosystems.⁹²

The LGPA defines concessions as an “*authorization by the State for a person to exercise the right to carry out fishing or aquaculture activities by granting a license or a permit, in accordance with provisions stated by this Law or its regulations.*”⁹³ The Ministry of Agriculture and Livestock has authority under LGPA and its Regulations to grant concessions for fishing and aquaculture.⁹⁴

⁸⁸ Global Environment Facility, Coastal Fisheries Initiative, <https://www.thegef.org/topics/coastal-fisheries-initiative>

⁸⁹ LGPA, Art. 34.

⁹⁰ LGPA, Art. 8.36.

⁹¹ LGPA, Art. 14.

⁹² LGPA, Arts. 2 and 3.

⁹³ LGPA, Art. 8.18.

⁹⁴ LGPA, Arts. 49 and 52.

Within the MAGA, DIPESCA is the competent authority to implement policies and regulations to achieve the sustainable exploitation of marine resources, in coordination with representatives from different sectoral groups.⁹⁵ In particular, DIPESCA is the competent authority to:

- Assess in a periodical manner the state of conservation of marine resources and establish regulations, policies and technical measures for their sustainable exploitation;
- Provide technical opinions on the feasibility to grant new concessions for fishing, or to renew the existing ones;
- Specify the characteristics of fishing gear for the different types of fishing allowed by the national legislation, implementing policies and incentives to phase out gear, methods and practices non-compatible with standards on responsible fishing; and
- Design and implement enforcement strategies, including inspection and surveillance of exploitation of marine resources.

iii. Requirements for the issuing of licenses

Artisanal and small-scale fishing are reserved to Guatemalan nationals⁹⁶ and require a concession, granted by MAGA through a license or permit, provided there is a prior favorable technical opinion from DIPESCA.⁹⁷ Artisanal and small-scale fishers can apply for a permit or license, although the LGPA and its Regulations do not specify the benefits or disadvantages of choosing one over the other. As described below, requirements to obtain a permit for artisanal or small-scale fishing are less extensive than those required for a license. Permits are granted through certificates, whereas licenses have an administrative contract attached to fully describe the authorized activities.

The LGPA requires that all concessions for commercial activities (including artisanal and small-scale fisheries) be based on technical assessments conducted by DIPESCA, considering the best available scientific information, or, in lieu of scientific information, a precautionary approach. The technical opinion from DISPESCA shall include the following information:⁹⁸

⁹⁵ LGPA, Arts. 6, 8, 46, 10, 24, 31, 79, 80. Regulations to LGPA, Arts. 38, 39.

⁹⁶ LGPA, Art. 20.

⁹⁷ LGPA Arts. 8, 68, 69, 70. Regulations to LGPA, Arts. 3, 4, 5, 6.

⁹⁸ Regulations to LGPA, Art. 13.

- Scientific evidence on the state of conservation and exploitation of the species and resources and valid indicators on abundance
- Actual fishing effort
- Annual landings in the last four years
- Arguments to prove the concession will not endanger sustainability and profitability of the resources to be exploited

(1) License for Artisanal and Small-Scale Fisheries

To obtain a license, individuals or legal entities are required to demonstrate their technical and financial capacity to carry out the activities stated in their application; elaborate a program of activities to implement under the concession; and, where appropriate, submit the by-laws of the companies responsible for the exploitation of marine resources. Licenses are personal and non-transferrable.⁹⁹

Table 6. Specific Regulations Applicable to Licenses for Artisanal and Small-Scale Fisheries	
Requirements to Obtain a License¹⁰⁰	<p>Pursuant to the LGPA, DIPESCA will determine the total fishing effort by the fishery and carrying capacity on the basis of the best available scientific information, and establish adequate regulations to achieve a sustainable and long-term exploitation of marine resources, avoiding their depletion. In lieu of scientific information, decisions concerning fishing licenses shall consider a precautionary approach.</p> <p>New fishing licenses will be granted on the basis of technical and scientific evidence demonstrating that fisheries are not depleted or in a state near depletion. Each license is referred to a vessel or effort unit for each fishery.</p> <p>Requirements to obtain a license for artisanal and small-scale activities are:</p>

⁹⁹ LGPA, Arts. 50, 55, 56.

¹⁰⁰ LGPA, Arts. 57-67.

	<ul style="list-style-type: none"> – Submission of form with general data of the applicant, the vessel, fishing gears, the tools and the target species – Legalized copy of the vicinity card from the applicants or their legal representatives – Documentation to authenticate powers for legal representation, if applicable – Legalized copy of by-laws pertaining to the applicable organization, if applicable – Legalized copy of the Business and Trade Patent of Enterprises, if applicable – Proof of inscription in the Unified Fiscal Registry <p>Once a request for a fishing license is received, if the technical assessment by DIPESCA is favorable, MAGA will issue a Ministerial Resolution authorizing the license in a term no longer than 60 days. The same administrative act will approve the contract signed between fishers and DIPESCA. The license and the contract will be published in the Official Registry by the applicants in the following 60 days to start validity of the concessions. License holders are required to start operations within the next twelve months. Non-compliance with this provision will be sanctioned with cancellation of the license.</p>
<p>Authorized Fishing Gear</p>	<p>Gillnet</p> <p>Trap</p> <p>Hook and line</p>
<p>Administrative Contracts¹⁰¹</p>	<p>Administrative contracts shall include the following information:</p> <ul style="list-style-type: none"> – Identification number – Data to identify ministerial resolutions authorizing licenses – General data of the concession holder and vicinity card number – Target fishery – Type and division of fisheries – Classification of fishing and determination of geographic fishing area – Vessel features

¹⁰¹ Regulations to LGPA, Art. 12.

	<ul style="list-style-type: none"> – Term of the concession – Authorized fishing gears – Fee for Right of Access to Fishing
Requirements to Obtain an Extension ¹⁰²	The validity of licenses for artisanal and small-scale fisheries will be stipulated in the administrative contracts referred to in the previous section, and can be extended for the same period of time. Extensions of the licenses have to be requested two months prior to expiration, and MAGA will issue a decision on the request during the next 60 days. If a decision is not notified to the applicants within this term, it should be understood the extension was granted. License holders have the right to continue fishing under conditions established in the permits, considering their performance and levels of compliance with applicable regulations.

(2) Permits for Artisanal and Small-Scale Fisheries

Artisanal and small-scale fishing can be also carried out through a permit, granted by MAGA through a certificate, provided there is a favorable opinion by DIPESCA.¹⁰³

Table 7. Permits for Artisanal and Small-Scale Fisheries	
Requirements to Obtain a Permit ¹⁰⁴	<ul style="list-style-type: none"> – Submission of form with general data of the applicant, the vessel, the tools and the target species – Copy of the vicinity card from the applicants or their legal representatives – Documentation to authenticate powers for legal representation – Legal proof of ownership or lease of vessels, if applicable
Information on the Certificate ¹⁰⁵	<ul style="list-style-type: none"> – Identity number of certificate – Name of permit holder and number of vicinity card – Target fisheries – Type and division of fisheries covered by the permit

¹⁰² LGPA, Arts. 62; 66 and 67.

¹⁰³ LGPE, Art. 68.

¹⁰⁴ Regulations to LGPA, Art. 4

¹⁰⁵ Regulations to LGPA, Art. 7

	<ul style="list-style-type: none"> – Geographic area where the activities can be carried out – Description of vessel features, if applicable – Authorized fishing gears – Applicable fees (<i>Derecho de Acceso a la Pesca</i>), if required
<p>Requirements to Obtain an Extension¹⁰⁶</p>	<p>Permits for artisanal and small-scale fisheries can be granted for a term of five years, which can be renewed for the same period of time. Extension of the permits have to be requested two months prior to expiration, and MAGA will issue a decision on the request during the next 60 days. If a decision is not notified to the applicants within this term, it should be understood the extension was granted. Permit holders have the right to continue fishing under conditions established in the permits, considering their performance and levels of compliance with applicable regulations.</p> <p>Requirements to request the extension of a permit are:</p> <ul style="list-style-type: none"> – Submission of form with general data of the applicant, the vessel, the tools and the target species – Copy of the vicinity card from the applicants or their legal representatives – Documentation to authenticate powers for legal representation – Legal proof of ownership or lease of vessels, if applicable – Last receipt of payment of applicable fees (<i>Derecho de Acceso a la Pesca</i>) – Copy of the certificate with the permit for artisanal or small-scale fisheries – License plate of the vessels and navigation license granted by the Port Authority (<i>Capitanía de Puerto</i>)

Subsistence fisheries are not subject to administrative requirements to obtain a license or a permit, or to the payment of fees for the exploitation of marine resources.¹⁰⁷

(3) Authorized Fishing Gear for Artisanal, Small-Scale and Subsistence Fisheries

¹⁰⁶ LGPA, Arts. 69-71 and Regulations to LGPA, Arts. 3-7.

¹⁰⁷ LGPA, Arts. 34 and 52.

The MAGA is the competent authority to establish the requirements regarding authorized gear for each type of fishing regulated by the LGPA and defined in detail by its Regulations.¹⁰⁸ Any fishing gear not regulated by these provisions can be used if authorized by MAGA, provided there is a previous assessment and favorable technical opinion issued by UNIPESCA.¹⁰⁹ Table 6 specifies the authorized gear for the different types of coastal fisheries.

Table 8: Authorized Fishing Gear for Artisanal, Small-Scale and Subsistence Fisheries

Artisanal fisheries

Spanish	English
Atarraya	Cast net
Red agallera	Gillnet
Chinchorro	Seine
Trampa o nasa	Trap (see, in particular, Fyke nets)
Línea de cordel individual con anzuelo	Hook and line (specifically monofilament)

Small-scale fisheries

Spanish	English
Red agallera	Gillnet
Palangre	Longline
Chinchorro	Seine
Trampa o nasa	Trap (see, in particular, Fyke nets)
Línea de cordel individual con anzuelo	Hook and line (specifically monofilament)

Subsistence fisheries

Spanish	English
Línea de cordel individual con anzuelo	Hook and line (specifically monofilament)
Atarraya	Cast net

¹⁰⁸ LGPA, Arts. 24 and 37 – 39. Regulations to LGPA, Art. 33.

¹⁰⁹ LGPA, Art. 41.

Trampas o nasas	Trap (see, in particular, Fyke nets)
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(4) Fees for Rights of Access to Fishing¹¹⁰

Concession holders for commercial fishing are required to cover fees named “Rights of Access to Fishing” (*Derechos de Acceso a la Pesca*), which will be determined considering the type of fishery and the vessel’s net registered tonnage. Fees are a requirement to grant the concession holder the right to access the resources covered by the license or permit. Monthly fees are defined in Regulations to LGPA as: *“an amount calculated by month to be paid to competent authorities at the end of each quarter. This amount will be calculated for commercial fishing considering the net registered tonnage of each vessel, whether fishing was realized or not.”*¹¹¹

Concession holders’ failure to pay fees carries as a penalty a fine of an equal amount of the non-covered fee. Financial resources collected from fines will be invested in a special account managed by DIPESCA to support administrative expenses, research and development of the fisheries and aquaculture sectors (75%) and to enhance riparian fishing conditions in coastal municipalities (25%).¹¹²

(5) Closed Seasons¹¹³

Closed seasons are regulated in the LGPA and its Regulations as one of the technical mechanisms to be used in Guatemala for the adequate planning and management of fishing activities.¹¹⁴ Closed seasons are defined in the LGPA as: *“the temporary cancellation of a species fishing in a particular space and time.”*¹¹⁵ The MAGA – based on the best available technical and scientific evidence or applying a precautionary approach – may establish closed seasons to avoid fishing of specific hydrobiological resources in marine or continental waters, to pursue their sustainable use and conservation. Closed seasons can be: (i) partial or total; or (ii) by species.

¹¹⁰ LGPA, Arts. 74-77.

¹¹¹ LGPA, Art. 75.

¹¹² LGPA, Arts. 76 and 77.

¹¹³ LGPA, Arts. 78 and 79.

¹¹⁴ Regulations to LGPA, Art. 81.

¹¹⁵ LGPA, Art. 8.47.

The period of time and extension of closed seasons will be determined on the basis of the available scientific evidence directly related to the biological conditions of the resource and its habitat. Decisions to decree closed seasons must be notified to interested parties by the MAGA and published in the Official Register 30 days prior to entering into force. Ministerial Agreements establishing closed seasons include the following data:¹¹⁶

- Type of closed season
- Target species
- Technical reasons to justify the closed season
- Period of validity
- Geographical area

In cases of national emergency, the Ministry is allowed to suspend fishing activities immediately.

iv. Vessel/fisher registration requirements

Although fishing resources are regarded as national heritage and thus, their exploitation is subject to public access, the LGPA establishes that DIPESCA is required to limit the number of concessions on the basis of the best available scientific data or applying widely the precautionary approach, to avoid the overuse of those resources, caused by an oversized fleet.¹¹⁷ Vessels owners and operators (*armadores*) in the national fleet are required to observe regulations provided by fishing and navigation laws and regulations on construction, preventive maintenance and operation.

To prove the legal right to operate the vessel, license and permit holders are required to carry on board at all times the logbook of each fishing trip and the technical card issued by DIPESCA.¹¹⁸ In addition, vessels are required to obtain a registration and a record plate,¹¹⁹ and to bear a Guatemalan or international flag.¹²⁰

The LGPA creates the National Registry on Fishing and Aquaculture (RNPA for its acronym in Spanish) as a public and binding clearinghouse mechanism to keep record of, among other data:¹²¹

- Fishing vessels, including flag and number of registration

¹¹⁶ Regulations to LGPA, Art. 97.

¹¹⁷ LGPA, Arts. 35 and 36. Regulations to LGPA, Art. 84.

¹¹⁸ LGPA, Art. 87.

¹¹⁹ Art. 89 of the LGPA states that record plates are binding and unique for each vessel in every commercial scale to register before port authorities.

¹²⁰ LGPA, Arts. 88 and 89.

¹²¹ LGPA, Arts. 84, 86.

- Individuals or entities carrying out fishing or aquaculture in Guatemalan territory or under its jurisdiction
- Technical cards on concessions granted through licenses and permits.

6. Other Relevant Area-Based Legal Instruments

Exploitation of wildlife is defined in the LPA as *“any action involving the search for or collection, extraction, reproduction, capture or killing of wild plants or animals.”*¹²² All actions related to exploitation of wildlife require a license issued by CONAP and in case their development is planned within protected areas, it is also necessary to obtain the favorable opinion from the PA administrator and be consistent with the applicable master and operational plans.¹²³ Requirements to obtain a license are:¹²⁴

- Certificate issued by Registry of Property or other documentation approved by CONAP to prove right ownership, possession or usufruct of the land or territory in which the exploitation will take place
- Proof of explicit consent of all individuals or legal entities whose ownership rights could be affected by any reason by the exploitation
- Inventory of target species to be exploited
- Management Plan by a technical expert and approved by CONAP
- Proposal of technical expert to be in charge of the management plan’s implementation
- Bond to cover any environmental damages caused to species identified by CONAP as subject to this requirement

Pursuant to the Law on Protected Areas, CONAP will elaborate annually a list of endangered and endemic wildlife species, including those listed in Appendixes I and II of CITES, as well as other those species that require an authorization to be exploited and commercialized. Species listed as endangered by CONAP cannot be fished, hunted or exploited by any means.¹²⁵

Closed Seasons

The LPA also establish the possibility of declaring closed seasons in any space within the Guatemalan territory, in accordance with the calendars elaborated each year by CONAP

¹²² LPA, Arts. 33 and 34.

¹²³ LPA, Art. 34. Regulations to LPA, Art. 47.

¹²⁴ Regulations to LPA, Arts. 48 and 49.

¹²⁵ LPA, Arts. 24, 25 and 27.

considering the reproductive cycles, populations and distribution of species.¹²⁶ CONAP can also establish closed seasons.

Other legal instruments establishing different protection measures for ocean resources in Guatemala are:

- **Agreement to Prohibit Fishing Dolphins for Commercial or Sustenance Purposes (1973).** This Decree establishes a closed season applicable in all the national territory where dolphins exist.¹²⁷
- **Ministerial Agreement 039-96.** All shrimp fishing vessels must have a turtle exclusion device (TED in English) installed.¹²⁸
- **Regulations for the exploitation of tuna moving around the Territorial Sea and the Guatemalan EEZ (1994).** This provision establishes an area-based restriction for tuna fishery which can be carried out only beyond 50 nautical miles of the low tidal line to protect artisanal fisheries.¹²⁹
- **Mexico and Guatemala Agreement for Environmental Protection of Border Area**
 - The parties agree to coordinate their efforts in conformity with their own national legislation and with international agreements in force on the matter to address problems of air, land, and water pollution and other problems of common concern (Article 3).
 - The parties take whatever action is necessary for conservation of protected natural zones, promote and take necessary measures for the protection of threatened or endangered species, and coordinate efforts to their respective governmental bodies and the cooperation of local communities to prevent illicit trade of threated or endangered organisms (Article 4).
- **Convention to Establish the Caribbean Sustainable Tourism Zone** (*Note: Honduras, Guatemala, Belize, and Mexico are all part of this convention*) International dialogue establishing standard tourism zone focused on:
 - Developing projects for the preservation of culture and identity
 - Encouraging community participation

¹²⁶ LPA, Art. 28. Regulations to LPA, Art. 57.

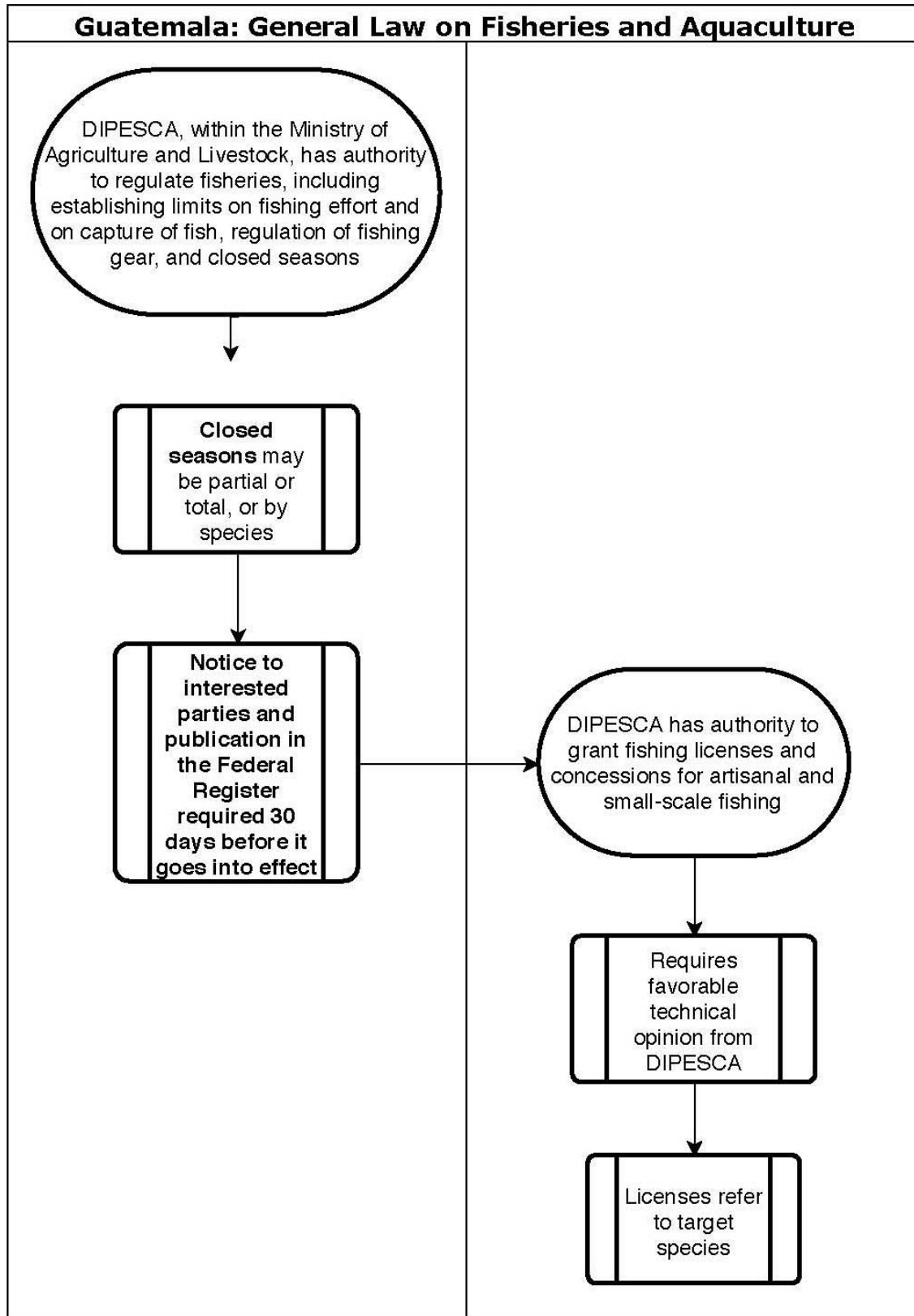
¹²⁷ Acuerdo que prohíbe la pesca con fines comerciales y de sustento del delfín, available at <https://www.ecolex.org/details/legislation/acuerdo-que-prohíbe-la-pesca-con-fines-comerciales-y-de-sustento-del-delfin-lex-faoc060564/>

¹²⁸ Acuerdo Ministerial 039-96, available at <http://extwprlegs1.fao.org/docs/pdf/gua67175.pdf>

¹²⁹ Acuerdo N° 784/94 - Reglamento para el aprovechamiento de los túnidos que se desplazan por el Mar Territorial y Zona Económica Exclusiva de Guatemala, available at <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC093608/>

- Achieving environmental preservation
- Utilizing technology for sustainability
- Promoting economic policy and instrument creation
- Promoting strategies to enable development of tourism
- Developing education on sustainable tourism
- Preparing and ratifying legal and regulatory frameworks allowing for consolidation of the Sustainable Tourism Zone of the Caribbean
- Encouraging sustainability indicators allowing customers to have a guarantee of environmental quality in the medium and long term
- Promoting transportation systems for tourists
- Coordinating planning of development with the private sector
- Promoting formation of information centers on sustainable tourism development.

Appendix I. Guatemala Flowcharts



Guatemala: Law on Protected Areas

