

Annex 2

Analisis Institucional

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Noviembre 2007

I. Environmental Policies Of Honduras

In order to lend impetus to the country's sustainable development, the Honduran government approved the Honduras Environmental Policy (PAHs). This policy was formalized by Executive Agreement 361-2005, and enumerates its vision under the following precept:

“A society that governs itself according to the principles of sustainable development does so by promoting civic participation in the creation of an environmental culture through the generation of an environmentally balanced economy that focuses on protection and conservation. The Honduras Environmental Policy established the goal and the expectation that the country shall have institutional leadership capable of governing and administering policies for the management of the environment and natural resources, in order to ensure and improve the quality of life of the current people of Honduras, as well as future generations.”

The essential elements of the Honduras Environmental Policy are divided into four chapters that describe:

- The policy's political-legal framework
- The statement of eight basic principles
- A declaration of intentions
- The presentation of eight policy guidelines (That coincide with the basic principles)

The Honduras Environmental Policy does not include the definition of specific goals and targets, nor does it identify individual interventions or priority tasks. In short the Honduras Environmental Policy illustrates the overall objectives of the Honduran government with regard to the environment, but does not prescribe or identify an intended course of action.

In spite of the fact that the country's laws mandate the creation of a comprehensive institutional framework (described later in this report), that framework is not mentioned in the Honduras Environmental Policy, and the delegation of responsibilities demonstrates a breakdown of basic requirements and resources.

For this reason, the Honduras Environmental Policy fails to achieve all of its intended purpose. While it provides a guideline towards an environmentally responsible institutional approach, it does not create an explicit framework from which the Honduran state can undertake the systematic process of intervention necessary to the realization of its vision.

II. Legal Framework

In the Honduran Constitution, article 7 of the Law on Administrative Procedures, as well as article 66 of the Municipalities Act, establish a hierarchy that regulates the country's legal system, and granting recognition to the clear preeminence in the rule of law.

The legal framework for environmental management within Honduras derives directly from this legal hierarchy, and therefore, assumes the following precedence:

- (i) Constitutional Standards
- (ii) Treaties and Agreements
- (iii) General Laws
- (iv) Special Laws
- (v) Legislative Agreements or regulations
- (vi) Technical Standards, Resolutions and Administrative Provisions of Nature.

Recent studies¹ have identified at least 19 constitutional articles that relate to the management of natural resources and to the regulation of the human environment. These items are:

- Numbers 106, 107, 341 and 349, which relate to restrictions on the use of property
- Numbers 128, 132 and 145, which relate to human environments under labor-management relations
- Numbers 146 and 147 that regulate the production of food, chemical, pharmaceutical, and biological products
- Numbers 172 and 354, which establish and confirm the competence of the state to designate sites of natural beauty, monuments, and areas of reservation, and declare that the state reserves the power to establish or modify the demarcation of the areas of control and protection of natural resources throughout the nation's territory
- Number 179, which defines the state's responsibilities in regards to housing problems
- Number 274, which notes the role of the Armed Forces in areas of national life, including the conservation of natural resources
- Numbers 301 and 306, which relate to the payment of taxes as well as to development investment for the exploitation of natural resources
- Number 340 declares a public need for the technical and rational exploitation of the nation's natural resources
- Number 345, which recognizes that agrarian reform is an essential part of the nation's development strategy

¹ Vallejo Larios / Martinez Melgar / Matamoros Arias / Elvir Ortega

- Number 346, which establishes the state’s obligation to protect the interests of indigenous peoples
- Number 347, which declares that agricultural land should be primarily used to ensure a safe supply of food

The second level of the legal hierarchy includes 49 treaties, international conventions and protocols that relate to the environment, and are still fully valid in the country:

Table 1: Environmental Treaties, Conventions, and Protocols

Item Number	Name of Treaty, Convention, or Protocol
1	Convention establishing the Central American Commission on Environment and Development (CCAD)
2	Constituent Convention for the Environmental Protection
3	Central American Convention on Climate Change
4	Tuxtla Gutierrez Convention II
5	Vienna Convention for the Protection of the Ozone Layer
6	Climate Change Framework Convention of the United Nations UNFCCC
7	Convention Concerning Wetlands of International Importance
8	Convention on Biological Diversity
9	Convention on the International Trade of Species and Wild Fauna and Flora (CITES)
10	Regional Convention on Climate Change
11	United Nations Convention to Combat Desertification and Drought
12	Basel Convention on the Control of the Trans-border Movement of Hazardous Wastes and Their Disposal
13	London Convention on the Dumping of Wastes at Sea
14	Stockholm Convention on Persistent Organic Pollutants
15	Convention for the Protection and Development of the Marine Environment in the Wider Caribbean Region
16	Convention for the Preservation of the Biosphere regarding the Protection of Priority Central American Wildlife Areas
17	Convention for the Protection of the Cultural and Natural World
18	Inter-American Convention for the Protection and Conservation of Sea Turtles
19	International Convention for the Prevention of Pollution by Ships
20	The Convention Establishing the Association of Caribbean States
21	Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological Weapons (biological and toxic, and Regarding Their Destruction)
22	Convention 169 on Indigenous and Tribal Peoples in Independent Countries
23	Regional Convention for the Management and Conservation of Natural Forest Ecosystems and Forest Plantation Development. (Central American Convention on Forests)
24	Joint Central America/United States Declaration of common cause

25	The Trifinio Plan, the Treaty between the republics of Guatemala, Honduras and El Salvador for a solution to Managing the Water Resources of the Upper Lempa
26	The Declaration of Guadalajara
27	The Declaration of Uruguay or The Presidential Reunion of Uruguay
28	Joint Statement between the presidents of Honduras and Chile
29	Rome Declaration on the Relationship between the Rio Group and the European Economic Community
30	The International Convention on Tropical Timber
31	Funding Convention between the European Community and the Central American Commission on Environment and Development (CCAD)
32	Lima Convention, signed by the government of the Republic of Honduras and the Latin American Energy Organization (OLADE)
33	Resolution of the Central American presidents in the context of the nineteenth Summit, related to the Mesoamerican Biological Corridor
34	Regional Project for the Establishment of a Program for the Consolidation of the Mesoamerican Biological Corridor (MBC)
35	World Conference on Sustainable Development (WSSD) Rio +10
36	World Renewable Energy Summit
37	Constitutive Act of the Action Committee on the Protection of the Sea and Freshwater
38	Convention on the Program for International Dolphin Conservation
39	Regional Convention on the Trans-border Movement of Hazardous Wastes
40	Central American Alliance for Sustainable Development (ALIDES)
41	Basic Convention supplementary to the Convention for Scientific and Technical Cooperation between the Governments of Spain and Honduras on Nature Conservation, Forestry Development and Derivative Industries
42	Convention for the Permanent Establishment of the Latin American Forestry Research and Training Institute, under the auspice of the FAO
43	The Montreal Protocol on Substances that Deplete the Ozone Layer
44	Kyoto Protocol to the United Nations Convention on Climate Change
45	Cartagena Protocol on Biosafety
46	Supplementary Protocol to the Inter-American Convention for the Protection and Conservation of Sea Turtles
47	Protocol to the Convention Establishing the Central American Commission on Environment and Development (CCAD)
48	Protocol on Cooperation for Combating Oil spills in the Wider Caribbean Region
49	North American Free Trade Convention DR-CAFTA

Source: Unit of Management Planning and Evaluation (UPEG-SERNA)

One important thing to note is that Honduras has a very limited capacity to internalize, implement, and complement the commitments arising from the signing and ratification of international treaties and conventions. Assimilating these obligations into national legislation in a timely fashion is often virtually impossible.

For this reason, legal inconsistencies and conflicts tend to persist in Honduran law for an extended period of time. Even though most of these are ultimately resolved through the legal process, while they remain they make it possible for (and sometimes actually generate) internal conflicts between competing interest groups.

In terms of the National Legislation Act (General and Special Laws), the following laws form the backbone of the Honduran legal framework for the management of natural resources and the environment:

- The General Law of the Environment (Legislative Decree 104-93) and its changes to general regulation through amendments to the Law on Civil Service (Decree no. 218-96)
- The 2002 Law on Financial Balance and Welfare
- The 2003 Law of Administrative Simplification

The Municipalities Law (Decree 134-90) and its Reforms (Decree 48-91), contain provisions related to environmental protection, income generation arising from the use of natural resources, and reinvestment in protecting the municipal ecological environment on a preferential basis.

The legal framework for the management of land resources is defined by:

- The law of Land Management
- Property Law
- The Law on Land Reform
- The Modernization Act
- The Agricultural Sector Development and Mining Act

The water resource is governed by the Framework Law Sector Water and Sanitation (2003). However, there are specific provisions regarding the management of waters in the Law of Protected Forest Areas and Wildlife (2007), the Law Framework the Sub-Sector Electric (1997), the Law on National Autonomous Service of Water Supply and Sewerage (1961), and even in the Law on National Water (in force since 1927). A new Water Act is currently under consideration in the National Congress. Regulation of forest resources was recently addressed by the Law of Protected Forest Areas and Wildlife. There is no specific legislation in force relating to the atmosphere and biodiversity resources.

The Criminal Code enacted in 1984 (and its 1996 amendments) establishes the offense of arson and other ravages and its sanctions. It adds these reforms under the heading of environmental crime, as exemplified by decree 323-98 (approved after Hurricane Mitch in Honduras).

The following table identifies the most important regulations relating to environmental management; these constitute the fourth level in the hierarchy of the Honduran environmental legal framework:

Table 2: Binding Environmental Management Regulations

Regulation Subject	Current Regulatory Status
Control of Chemicals and Hazardous Wastes	Not currently addressed
Transport of Chemicals, goods and waste by the CA5	Third (final) draft in review
Control of Atmospheric emissions by stationary sources	Preliminary draft in review (sponsored CIDA)
Environmental Audits	No existing regulation
Registration of Environmental Service Providers	Regulation in place
System Inquiry complaints	No existing regulation
Regulatory downloads and reuse wastewater	Preliminary draft in review
Solid waste	Regulation in place

Source: General Structure for Regulatory Prioritization (USAID / MIRA)

Finally, here are the existing technical environmental rules, which represent the 5th hierarchical level:

Table 3: Existing Technical Provisions

INSTRUMENT	CHARACTER
Technical Standards for the Discharge of Wastewater, receiving bodies, Sewer Sanitation. ^a	Issued by the Ministry of Public Health. Specifies the maximum allowable limits of contaminants that can be downloaded into water or sewage.
Guides for technical standards for the management of protected areas in Honduras and for the Management and Development of Wildlife. ^b	Broadcast by the Honduran Forest Development Corporation. By way of regulation specifies procedures for handling authorizations and / or utilization of wildlife (eg zoos and private collections, research, development programs and tourism, etc.).
Regulations for the Control of Emissions of Toxic Gases, Exhaust gas and dust of Motor Vehicles. ^c	Issued as regulation by the Executive, Article 15 specifies the maximum allowable limits of contaminants that can be emitted into the atmosphere by vehicle type.
^a To Agreement No. 058, Tegucigalpa, M. C., April 9, 1996	
^b B Resolution No. 138-2, Tegucigalpa, M. C., January 26, 1994	
^c As in the year 1997	

Evaluación de Impacto Ambiental en Honduras (Gabriel Quadri – Banco Mundial)

Despite the seeming extent of the environmental legal framework, it is clear that the vast majority of the laws that make it up have been enacted over the past 15 years, and have resulted in the creation of many unintended contradictions. One example of this is the definition of institutional powers created by the Law on Land Management, which is delegated to the Ministry of Justice, and the formulation of a National Plan of Land Management. This same designation remains in effect within the General Law on the

Environment (Article 11, paragraph c) where it is defined as a function of the Ministry of Natural Resources and Environment (SERNA).

In addition to the foregoing, it should be reiterated that many of the egregious inconsistencies between existing environmental legislation and treaties, agreements and protocols signed by Honduras only persist due to the very minimal national efforts to introduce additional measures in domestic legislation, in order to harmonize both legal contexts.

Over the past 10 years, however, there have been remarkable efforts on the part of the executive branch to formulate official regulations to accompany the general and special laws. Thus far in the environmental field, however, this is only represented by the pending regulations derived from the newly approved Forestry Act for Protected Areas and Wildlife.

III. Policy Instruments

Article 11, paragraph (f) of the General Law of the Environment establishes that it is the responsibility of the Ministry of Natural Resources and Environment (SERNA) to “develop and coordinate a national system of environmental information to be kept constantly updated.” The first indications of the development of this system (SINIA) occurred in the years 1999 and 2000 when, through the Draft for the Environmental Development of Honduras (PRODESAMH, funded by the World Bank), contracts the design of SINIA. Since 2002, however, the Honduran government has established new priorities in terms of information systems, and has focused their attention on software tools defined by the Law on Land Management and Property Law. These systems are the National Information System Planning (SINIT) and the National System of Property Administration (SINAP).

Given the rapid development of SINIT, and considering both its scope and the fact that many of its services overlap with the module DIME, the development of SINIA has been unfortunately left in abeyance. Even so, SERNA participated in the initiatives for the development of SIAM (Environmental Information System Mesoamerican), and decided to adjust the conceptual design of SINIA in response to standards agreed upon by the Central American countries. This, however, could not resolve or even address the unavailability of financing.

In spite of the fact that advances in development have been extremely limited, however, calendar year 2007 saw the achievement of concrete preparations for the Base Line Environmental Indicators, essential to the evolution of technical solutions.

Table 4: Structure of Honduran Environmental Indicators

Area	Indicators	
Water	Water level	
	Basins under management	
	Water use by activity	
	Continental Water Quality	PH
		Total nitrogen
		Total phosphorus
		Biochemical oxygen demand
		Dissolved oxygen
		Solid in suspension
	Fecal coliform levels	
	Continental water critical index	
	Percentage of variation in the demand for water contracts	
	Average monthly demand for water contracts	
	Variation of permits for feasibility studies processed	
	Average of permits for feasibility studies processed	
Volume of treated wastewater	Chemical demand for oxygen	
	Total dissolved solids	
	Fecal coliform levels	
Air	CO ₂ emissions from mobile sources	
	SO ₂ emissions from mobile sources	
Domestic Waste	Estimated domestic solid waste generation	

	Final disposal of registered domestic solid waste
Energy Balance	Generation of energy from renewable sources
	Fuel consumption by sector
	National energy balance
	Energy efficiency : energy Intensity
Land and Soil	Agricultural coverage
	Percentage of forested arable land
Political Settlements	Percentage of municipalities with municipal environmental plans
	Percentage of municipalities with municipal land use plans
	Percentage of environmental impact assessments that include risk analyses
Protected Areas	Surface area protected in order to maintain biological diversity
	Annual variation of protected surface area
Licensing	Average processing of environmental permits
	Percentage variation in the processing of environmental permits
	Average demand for environmental permits
	Percentage variation in demand for environmental permits

This first step, however, remains an isolated and ineffective response to meet the demand for environmental information. It does not represent a specific plan of action for defining priorities and courses of action for SERNA and other institutions involved in managing natural resources and the environment.

SINIA service is limited to the registration of geographic information (which served as one of the primary inputs for the report of the State and Environment Outlook GEO Honduras 2005), the registration of basic information on the processes of environmental licensing, and registration of Honduras' baseline environmental indicators. However, there are software management tools that can extend these services into dynamic applications, supporting planning, prioritization, environmental licensing, supervision and control, management reports, communication, awareness, advocacy, and environmental education.

The Honduran state has taken important steps to promote civic participation in public policy decision-making and follow-up, especially with regard to public investment. The strategy for poverty reduction, for example, has a strong component of social participation.

The General Law on the Environment (1993) states that "community involvement is essential to ensure the protection, conservation, and rational use of the natural wealth of the country and of the environment in general." In this regard, Article 9 defines the promotion of public participation as one of the specific objectives of the Act, delegating the responsibility for coordinating this activity to the Ministry of Natural Resources and Environment. Section 102 describes public interest involving private organizations in the conservation of the environment and natural resources.

Thus far, however, the adoption of environmental laws and regulations have not achieved the implementation of a participatory mechanism that ensures a legitimate representation of the segments of the population directly affected by the issue. Nor is there any specific regulation that defines the forms and spaces for participation. Consultation at the municipal and/or regional level is not mandatory, and therefore the agendas of socialization and consultation become an exercise in institutional participation, rather than civic involvement. It is the various non-governmental organizations (NGOs) that assume the role that most closely approximates "social representation."

The regulations of the National Environmental Impact Evaluation System (SINEIA), said make it compulsory to hold public hearings at the beginning of an environmental impact assessment process. The hearings are publicized in print advertisements (1/8th page or larger) in the national newspapers, and through radio advertisements broadcast over a national network, as well as a local presence in the municipality planned for the project. Moreover, Articles 60 and 61 of SINEIA regulations make it mandatory to publish the results of the Environmental Impact Assessment. This is accomplished by exposing the documents at the request of an interested party, by holding workshops, public forums and/or town meetings where the project developer presents the results of the EIA. In addition, SERNA requires that in the case of category 3 projects, Contract Compliance Mitigation Measures must be published in newspapers with a nationwide circulation.

The regulation does not, however, provide mechanisms of relief and forms of action to be employed when the required social participation demonstrates a clear opposition to the project. It is not clear, for example, if the relevance of the technical study on the prevailing opinion of the community should register as part of the documentation process. As such, it is not clear how unfavorable public opinion may be taken into account.

These gaps in both regulation and conflict resolution mechanisms are stimulating a growing unrest that stems from disagreements between project developers and nearby communities materially affected by the projects themselves. Most notable among these are current conflicts related to mining, forestry, construction of infrastructure (roads, airports, dams), and the development of projects for renewable electricity generation (especially water).

Article 10 of the Environment Act provides for the operation of a National Advisory Council for the Environment (COCONA), while Article 14 creates the Technical Advisory Committee (the technical and scientific expertise comprising representatives from public and private sectors). Neither of the two has functioned since the adoption of the Law in 1993. The COCONA has held only one meeting, in the year 2007 (14 years after the adoption of the Law) and the Technical Advisory Committee has never been implemented. The law does not provide for the COCONA to have any local or regional presence; it is instead represented as an advisory body to the Secretary of State of SERNA.

Communication, Awareness, and Environmental Education has developed a strategy for communication and environmental education. This strategy, however, has not reached its full implementation. Even so, there is clear recognition that a civic environmental culture exists, and that it looks favorably upon different institutional efforts (governmental and non-governmental organizations, mainly derived from projects funded by external resources) that have had a positive impact on society, as regards conservation and environmental protection. It is important to mention that in the domestic private sector, environmental management has begun to be perceived as an issue directly linked to competitiveness and opportunities for growth in the short and medium term, especially under the framework of the new commercial treaties ratified over the past two years.

In relation to the training of Environmental Professionals, it should be mentioned that there is growth in the availability of specialized training by several private universities. It

is also worth mentioning the efforts promoted by Project FOCUS (Integrated Management of Environmental Resources) from USAID to support the development and operation of the "Inter-Agency Committee on Environmental Sciences," which consists of eight universities (public and private). This committee has as one of its purposes to promote the conditions for the mainstreaming of environmental issues as part of the academic content of higher education in Honduras.

A National Strategy for Environmental Goods and Services has been formulated and adopted. However, there has not yet been any real implementation of this strategy in Honduras.

The National Strategy for Sustainable Tourism (ENTS) was approved in calendar year 2005, and acts as a guide for development of the tourism sector in Honduras. This agency is responsible for the Honduran Institute of Tourism (IHT).

IV. Regulatory Instruments

“They are considered regulatory instruments that represent those restrictions that are explicit and predetermined those property rights or limitations that the State imposes on the conduct of individuals or companies acting as consumers, users, owners, producers, builders, and investors. These instruments are clearly coercive and compulsory, and non-compliance would result in sanctions by the State.”

The study on Environmental Impact Assessment in Honduras (Gabriel Quadri de la Torre at the request of the World Bank) establishes the application of EIA almost exclusively as a regulatory defensive tool for environmental management. The reflections of this study indicate that “In Honduras, the EIA is subsumed within a complex apparatus of environmental licensing, which includes all types of projects and activities in different scales (categories 1,2,3). The EIA, as a tool applicable to very specific projects truly significant in scale and potential environmental impacts, lacks a clear organizational identity. This, in a context of very scarce institutional and human resources, and a very limited development of other policy instruments, inevitably leads to an administrative overload that is scarcely justifiable, which translates into high costs and bottlenecks that impede the realization of both public and private investment. Moreover, the environmental effectiveness of the instrument cannot be assured, given the inability to monitor and follow up to a suitable volume growing large projects and activities that require environmental licensing. Conditions are not suitable for decentralization to the municipalities, environmental justice, and insufficient deterrents (such as fines or court proceedings) to avoid failure.”

The foregoing fairly reflects property developments in Honduras that have resulted in a state of permanent questioning of the performance of the institutional and DECA SERNA by the plaintiffs services. Nevertheless, we must recognize the effort made by SERNA (with the support of the project Honduras Competes) over the past four years. It has achieved a significant reduction in arrears and re-engineering processes that, little by little , has had a positive impact on performance levels.

The following graphics illustrate the historical behavior of demand and an increasing progression in the same:

Table 5: New Licensing Applications by Year

Year	License Applications	Percentage change from previous year
2002	349	
2003	548	57%
2004	616	12%
2005	742	20%
2006	863	16%

Table 6: Applications for Service Addressed by SERNA

Type of Application	2005			2006			2007 ^a		
	Applications Presented	Applications Resolved	Effective	Applications Presented	Applications Resolved	Effective	Applications Presented	Applications Resolved	Effective
Environmental Licences	561	350	62%	863	699	81%	434	393	91%
Environmental Complaints	69	18	26%	89	25	28%	36	4	11%
Electrical Generation Feasibility Studies Permits	65	60	92%	66	59	89%	9	4	44%
Environmental Audits	179	73	41%	50	93	186%	6	29	483%
National Water Usage	22	31	141%	28	34	121%	22	8	36%
Administrative Claims	8	6	75%	21	26	124%	2	2	100%
Total	921	538	58%	1145	946	83%	523	441	84%

^a Data from 2007 relate to the first half of the year.

In spite of the fact that there is a legal and institutional framework to support their use, other regulatory instruments are seldom and poorly exploited in Honduras. The delimitation and administration of Natural Protected Areas is probably the policy instrument that has seen the highest level of implementation in Honduras. There are 107 protected areas representing approximately 27% of the country's territory.

Land management, on the other hand, offers potential opportunities to create what the World Bank study (EIA in Honduras) has described as a regulatory second floor.

It is projected that the zoning of agro-ecological territory defines rules of land use that could serve as the initial level of analysis about the relevance of a project. This could thus provide a first step based on technical-scientific elements. The Strategic Environmental Assessment is another tool that could potentially serve the country, and that could be especially effective with regard to economic sectors and regions of the country that show a high growth potential (eg is expected to develop 200 thousand hectares of crops bioenergy as the African palm and sugarcane in the next 5 years).

To improve the efficiency and effectiveness of the environmental licensing process, Honduras must also work to implement decentralization and the devolution of powers. We will address this issue in the section about institutionalization.

Regarding the issue of technical regulations, it should be noted that both the Honduran Normalization Agency (OHN) and the Honduran Accreditation Agency (OHA) have been created under the auspices of the Honduran Council of Science and Technology (COHCIT). In spite of the fact that these institutions were only created very recently, and have not yet achieved full operational status, it is clear that there is a well-defined national vision. This vision will, however, require institutional support in the short term due to the early completion of Project Competes Honduras, which has financed its installation and operation thus far.

V. Measures For the Promotion and Implementation of Compliance

Legislation gives powers to both the DECA and municipalities in the development of tools for Supervision and Control, acknowledging the role of research and denunciation by the Crown Office and the Special Prosecutor for the Environment. According to a report from SERNA, the level of unmet demand in the area of supervision and control is 100%. There are no standardized criteria for evaluating compliance, which translates into a high discretion of the officials responsible for this activity. There is a limited coordination between the authorities of the judiciary environmental effects of implementing the mandates of complaint, investigation and trial on Administrative and environmental crimes.

In the absence of direct interventions aimed at ensuring compliance with legislation and environmental commitments, the country runs the risk of distorting the process of environmental licensing, creating a bad perception about its legitimacy. Moreover, the lack of compliance will prevent the materialization of proactive management for the protection and preservation of environmental quality.

The General Law on the Environment, Chapter II, article 16, establishes the Procurator of Environment as a unit of the Attorney General. This unit is tasked to represent administrative and judicial interests of the state in environmental matters. The Procurator of the Environment is appointed by the National Congress, and serves for a period of 5 years. Moreover, the prosecutor has an SPO of the Environment who has been granted powers relating to the receipt and investigation of complaints of misconduct for administrative and environmental crimes.

Table 7: Institutional powers of the Environmental Attorney General

Environmental Attorney General	Environmental Prosecutor
The law of the Environment establishes the Environmental Attorney General, a subordinate of the Attorney General, who has the responsibility to represent the State's administrative and judicial interests in environmental matters	Exercises all powers relating to the defense of the ecosystem, the environment, consumer and ethnic groups, national assets, and items of national heritage including archaeological, cultural, and other places of social and public interest. Acts on cases brought directly by the attorney general, through administrative units, or through the actions of special officials designated for that role.
All civil and criminal actions for environmental matters will be prosecuted directly by the Environment Counsel's office	The Environmental Prosecutor's Office will work with prosecutors in the exercise of judicial actions to achieve the necessary unity of action and proper coordination to safeguard the interests of society.
The environmental prosecutor has the powers of an Executor General in the manner set forth in article 19 of the first rule of the Organic Law of the Attorney General. To fulfill their duties have at the national level with the obligatory assistance of the prosecutors of all courts and tribunals. All	

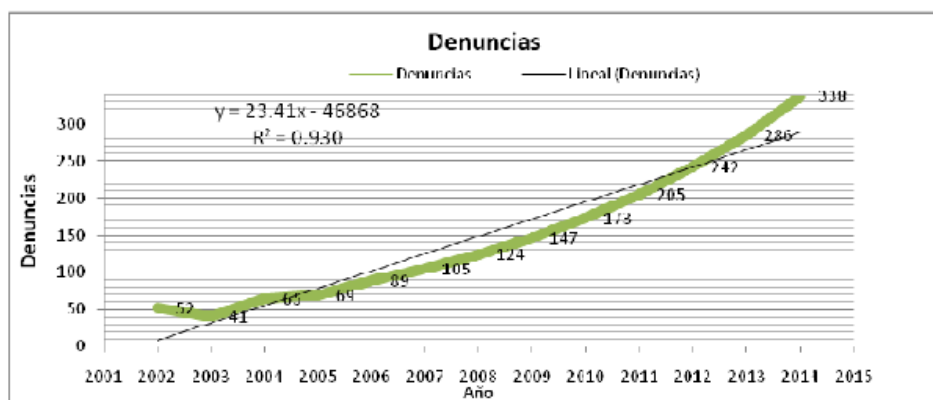
units of the state and individuals are obliged to comply with the requirements for the performance of their duties received from the Office.

To assist him in achieving his tasks, the Environmental Attorney General has a staff of 30 professionals (25 technicians and 5 administrative), divided into three regional offices located in Tegucigalpa, San Pedro Sula, and La Paz.

The Environmental Prosecutor has 9 regional offices located in Tegucigalpa, San Pedro Sula, La Ceiba, Santa Barbara, Juticalpa, Catacamas, Choluteca, Comayagua, and Bay Islands. Each regional office has a staff of 4 officials (lawyers and technicians) with the exception of Tegucigalpa which is a central plant with a staff of 32 people.

According to Article 128 of the Rules of the General Law of the Environment, any citizen may complain to the competent authorities regarding any act or omission that constitutes a crime or administrative violation. The graph shown below shows the actual and.

Figure 1: Projected Citizen Environmental Complaints (2001-2015).



Source: Analysis of the Demand for Services and Installed Capacity (SERNA 2007)

Work has begun on the formulation of the National Policy on Cleaner Production (P & L) which he hoped could lead to the signing of a voluntary Framework Agreement between the Secretariat of Natural Resources and Environment (SERNA) and the Honduran Council of Private Enterprise (COHEP).

1. Institutional Framework

The Honduran Institutional Framework for environmental management is composed of institutions with administrative, legislative, judicial, and police powers:

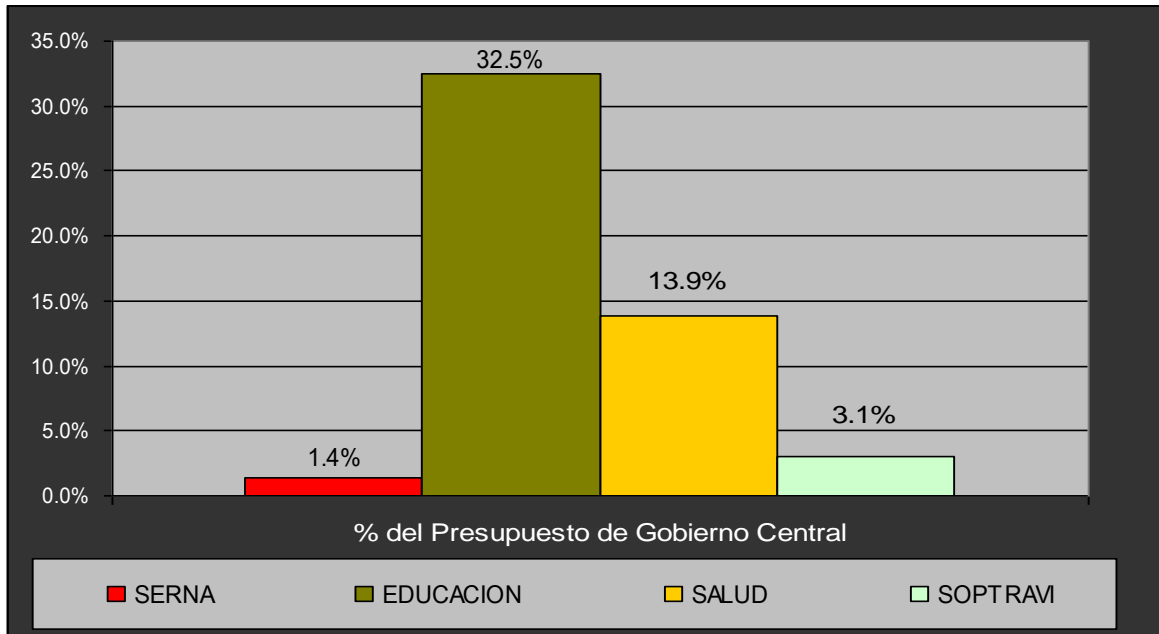
Table 8: Powers of the Honduran Institutional Framework

INSTITUTION	POWERS
Ministry of Natural Resources and Environment	Administrative
Ministry of Agriculture and Livestock	Administrative
Ministry of Public Health	Administrative
Ministry of Education	Administrative
Ministry of Tourism	Administrative
Ministry of Industry and Trade	Administrative
Honduran Forest Development Corporation	Administrative
Honduran Institute of Tourism	Administrative
Honduran Institute of Coffee	Administrative
National Vocational Training Institute (INFOP)	Administrative
National Congress	Legislative
Municipalities	Judicial
Judiciary	Judicial
Counsel for the Environment	Police
SPO Environment	Police
Ministry of National Defense	Police

Reference: USAID/MIRA – Proposal for a national strategy to implement environmental laws in the framework of a free trade agreement (CAFTA-DR)

The chart below shows the total budget allocation received by the Ministry of Natural Resources and Environment (SERNA), and develops a comparison of its representativeness against priority sectors such as education, health and infrastructure.

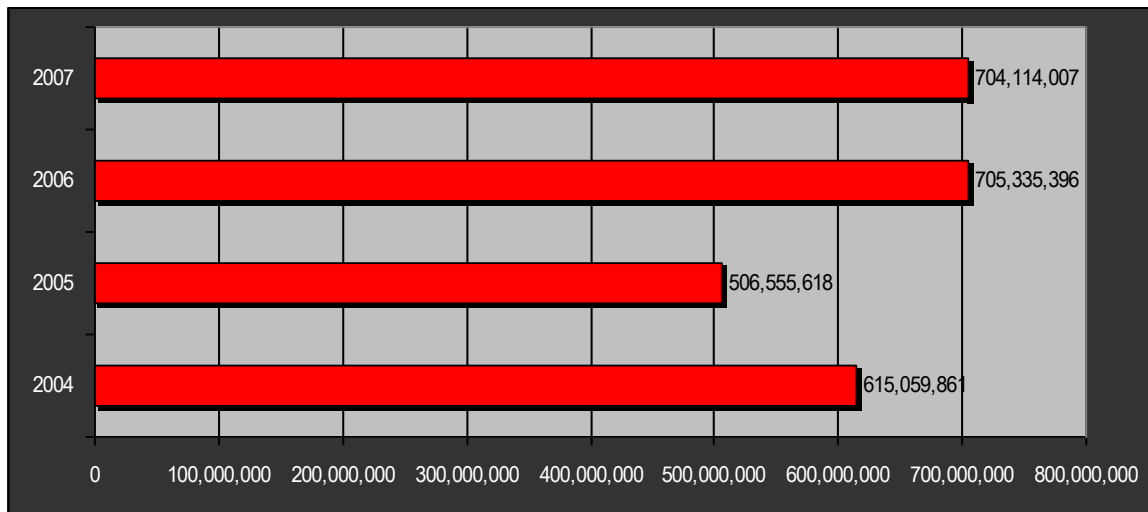
Figure 2: Ministry of Natural Resources and Environment Budget Allocation.



Note: Only 10.5% of the SERNA budgetary allocation represents effective remedies for its operation. The remainder (89.5%) are allocations and transfers to other institutions. Therefore, the value (1.4%) shown in the graph does not necessarily represent the actual weight of the environmental sector.

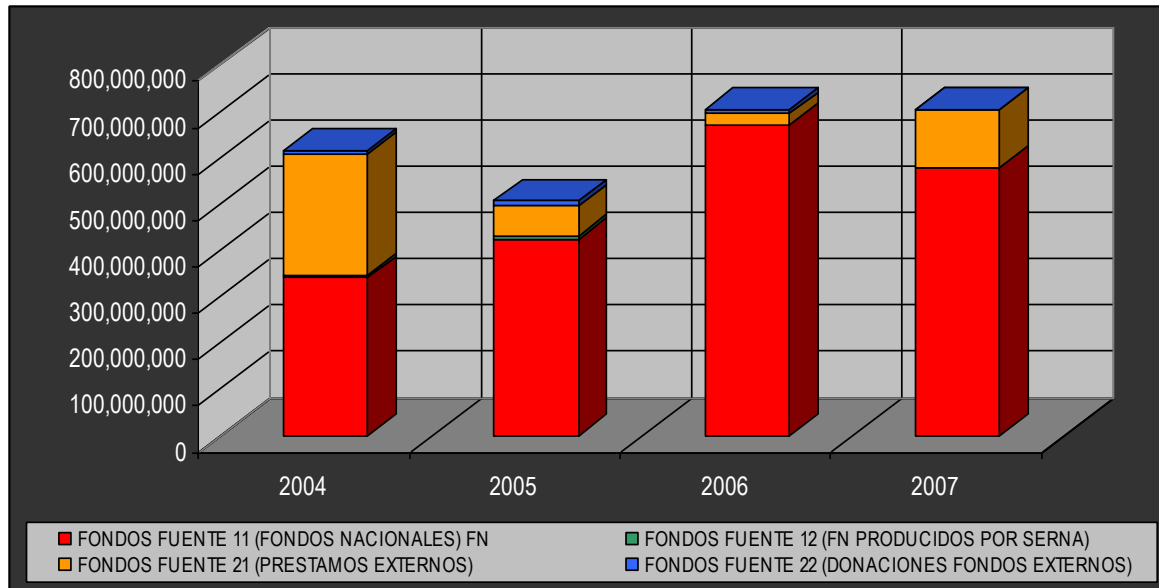
As shown below, the budget allocation has been relatively constant over the past four years.

Figure 3: Ministry of Natural Resources and Environment Budget Allocation (2004-2007).



In terms of funding participation by source, the following figure illustrates a greater contribution of funds from the central government since the year 2006 and a significant decline in the share of external cooperation, as compared with the year 2004.

Figure 4: Ministry of Natural Resources and Environment Budget Allocation by Funding Source (2004-2007).



According to information submitted by SERNA, the following findings illustrate the relationship between capacity and demand for services:

- Of the total budget allocated, only 10.5% is for expenses of the Secretariat (more than 80% of the budget is related to transfers, 96% of which are made to the National Electricity Company. Around 10% is designated for project execution.
- Budget for the issuance of environmental licenses: L.6, 873, 831.00
- Cost of 1 environmental license of L.22, 137.50
- The current budget can accommodate only 310 applications (30% of filings per year).
- 586 employees with a salary of L.5, 968.68.
- 55% of staff are not hired on a permanent basis.
- 28% of SERNA staff have higher education, 30% have high school and 42% have primary level or none.

Current logistical and budgetary constraints have prevented the fulfillment of:

- 50% of requested environmental permits
- 23% of requested feasibility studies
- 100% of requested compliance certifications

The General Law on the Environment and its amendments (Public Service Law Decree no. 218-96 Act, Financial Balance and Welfare 2002 and Law on Administrative Simplification 2003) create legal spaces for the development of the processes of decentralization and devolution as regards environmental management in Honduras. Despite the fact that both circumstances (decentralization and devolution) are opportunities to promote environmental management in the country, progress is only now emerging, even considering the limitations arising from the regulation SINEIA (Article 18 restricts power licensing environmental alone field of SERNA).

Even so, considering the fact that there is a large concentration of demand for services (environmental permits, authorizations for feasibility studies for projects in power generation from renewable sources, applications for use of use of national waters, monitoring and control) in a few regions of the country, this is a situation that can be harnessed for the development of a focused and progressive process of decentralization to municipalities. In addition, some of these municipalities have a substantial installed capacity (MDC, San Pedro Sula, Puerto Cortes, Choloma, Tela, La Ceiba, Tocoa, Juticalpa, Choluteca, Santa Rosa de Copan).

It is expected that the country will soon consider consolidating a decentralization package that transcends the Environmental Impact Assessment and endows municipalities as the Environmental Units with the responsibilities for supervision and control, restoration and improvement of environmental quality, risk management, and land use. Decentralization, in any case, must be accompanied by a process of strengthening the regulatory role of SERNA, and a training and certification program directed to the municipalities.

Finally, it is necessary to point out the absence of working instances of institutional coordination within the State, and the lack of an established methodology within COCONA (National Environmental Advisory Council) to generate a space for dialogue and agreements between the government and Civil Society.

VI. SUMMARY OF STRENGTHS AND WEAKNESSES

Honduras faces tremendous challenges in terms of development, economic growth, and social development; many of these challenges are directly related to the nation's capability to find rational and sustainable ways to exploit the country's natural resources. In response, it is extremely important to recognize the most important strengths and weaknesses of environmental management in Honduras, as a prelude to outlining a proposal for integrating the scope of these purposes.

Item	STRENGTHS
1	The country has an environmental policy that, despite its limitations, enunciates principles, policy guidelines, and instruments that define a vision for the country regarding its natural resources and the environment.
2	A General Law on the Environment which has been adjusted over time in a process of modernization that denotes the quest for continuous improvement.
3	The country has modern environmental legislation in terms of land use (Law of Land Management, 2003), water (Water Act (under discussion) Framework Act and the Water and Sanitation Sector, 2003), development and forest conservation (Forestry Act, the Protected Areas and Wildlife 2007).
4	Legislation has created Honduran policy instruments that are essential for the management of the environment: The National Environmental Information System (SINIA) and the National System of Evaluation of Environmental Impact.
5	The state has clearly demonstrated a commitment to citizen participation, having initiated important processes including the decentralized implementation of the resources of the Strategy for Poverty Reduction (ERP).
6	An already solid experience in the field of environmental licensing.
7	A private sector that is aware of the relationship between sound environmental practices and market competitiveness.
8	Well-organized environmental NGOs.
9	A serious government commitment to compliance from the commercial sector, and thereby a mandate to implement environmental commitments included under its framework.
10	A suitable institutional framework in terms of design.

Perceived weaknesses are as follows:

Item	Weaknesses
1	A Legal Framework with apparent inconsistencies in terms of legislation and in terms of internal correlation with international treaties and conventions ratified by the State.

2	Gaps in terms of formalizing Environmental Technical Regulations and Standards to promote conservation and environmental protection, especially those associated with resource management air (atmosphere) and Biodiversity.
3	An undeveloped National Environmental Information System (SINIA), without funding and resources, and without a comprehensive action plan for the short and medium term.
4	Despite the space provided for citizen participation, there are no regulations requiring particular forms of participation, nor are there meaningful conflict resolution mechanisms.
5	A defensive environmental management system based almost exclusively on the use of the Environmental Impact Assessment as a regulatory tool.
6	Great financial gaps between the demand for services provided to SERNA and the allocation of budgetary resources allocated by the State.
7	A process of decentralization and devolution that is very nascent and restricted by provisions of the statutory rate (regulation SINEIA).
8	Total failure to develop processes for the promotion and implementation of compliance.
9	A system of complaints, research and advocacy trials with financial, technical, and logistical constraints.
10	No provision for inter-agency coordination that allows the integration of environmental considerations into the country's sector affairs, as well as the conclusion of agreements between the government and Civil Society

VII. Proposals

After discussion of the diagnostic elements presented here in response to the strengths and weaknesses identified above, the primary conclusion is a need to generate a “Proposal for a Comprehensive Environmental Policy Methodology in Honduras.” This proposal is projected to be a process with multiple goals and multiple parallel channels. These channels will collectively promote various initiatives to identify the most relevant aspects of Honduran Environmental Policy. The basic elements of this project are projected to be:



The project is structured with three integrated components that collectively aim to strengthen specific interventions that might result in:

- (i) The maintenance and modernization of the legal and institutional framework
- (ii) Strengthening the regulatory framework for environmental management
- (iii) Consolidation the actual capacity of compliance of environmental institutions in the country.

The breakdown of each component is presented below:

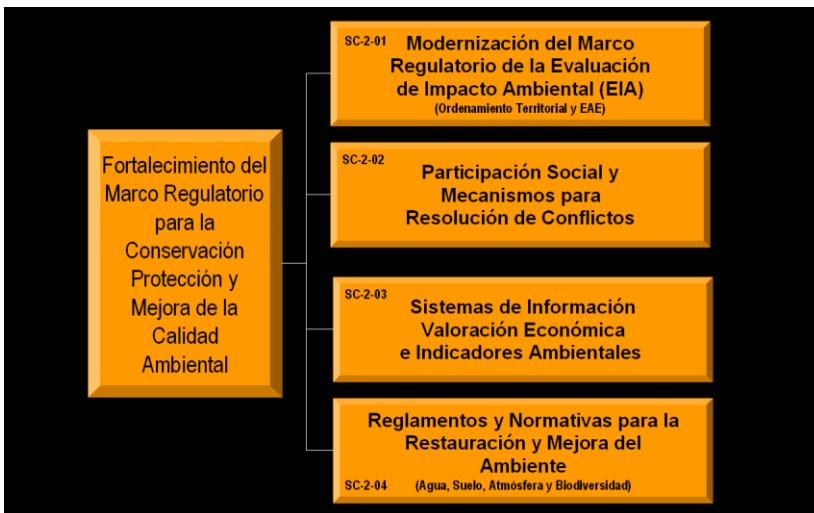
Component 1:



The objective of this component and its subcomponents is to resolve inconsistencies in the country's environmental legal framework. It also seeks to formulate the design of policies and regulations that will achieve decentralized environmental management in Honduras. This will require the organization of:

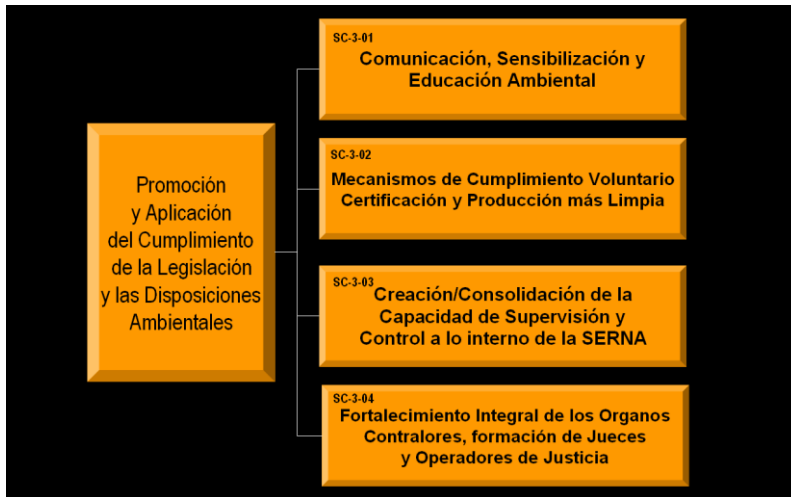
- (i) A program to institutionally strengthen SERNA's regulatory and supervisory role.
- (ii) A program to train and certify environmental decentralized units.

Component 2:



The component aims to strengthen the regulatory framework for environmental management in Honduras, seeking not only efficiency in the processes of environmental licensing, but also the development of initiatives leading to civic participation, governance, and sustainability of the nation's environmental heritage.

Component 3:



The urgent need to promote compliance, enhance supervision and control, and strengthen those institutional bodies with police and judicial functions to manage the environment, lend credence to Component 3 and its respective subsidiaries. The comprehensiveness of vision around the draft makes this component is fully complementary with Components 1 and 2.

VIII. Prioritization of Intervention

Component	Subcomponent	Description
1	1	<p>Legal analysis and the formulation of proposals for reform are vital, not only as a means to resolve inconsistencies, but also as a requirement arising from the introduction of changes to the regulatory framework and enforcement actions related to compliance. The following actions have the highest priority:</p> <ul style="list-style-type: none"> ▪ Reconcile the objectives and scope of institutional competence between the Environmental Law, the Law on Land Management, the Water Act (discussed in the National Congress) and the Forestry Law, the Protected Areas and Wildlife. ▪ Incorporate and reconcile within the Law of the Environment and the Forestry Law, the definition of objectives and competencies that are complementary to the conventions and protocols signed by Honduras in the topic of Climate Change and their economic instruments (the clean development mechanism CDM). ▪ Change the Rules of the National System of Evaluation of Environmental Impact (SINEIA), to incorporate the reforms related to the process of decentralization and devolution of environmental licensing, as well as with regard to use of land management and strategic environmental assessment and regulatory instruments. ▪ Complete the development and formalization of the critical regulations included in Table No. 2 of this document relevant to the issues of climate and biodiversity. ▪ By executive order of SERNA, raise the profile of the Supervision and Monitoring Unit that is currently attached to DECA, establishing it as an independent department under SERNA.

1	3	<p>Decentralization and devolution of responsibilities is one of the most important challenges facing SERNA in the coming years. This involves strengthening its own organization, developing a process that will bring progress to one of the most important topics on the agenda of the country and is expected to generate a positive impact on the conservation and protection of natural resources and environment. The items that need to be addressed on a priority basis are:</p> <ul style="list-style-type: none"> ▪ (i) To design a decentralized model of environmental management, including the definition of a system for the training and certification of Environmental Units. ▪ (ii) To formulate the policy framework for environmental management for a decentralized and devolved Honduras. ▪ Develop a strategy to decentralize powers through a gradual process of training and certification to enable the first stage of full decentralization in the municipalities of the Central District, San Pedro Sula, El Progreso, La Ceiba, Trujillo, Choluteca , Comayagua, Juticalpa and Santa Rosa de Copan. ▪ Develop a strategy for devolution of powers through a gradual process of training and certification to enable the first stage of full devolution in the Environmental Unit of the Ministry of Public Works, Transport and Housing (SOPTRAVI) The Honduran Social Investment Fund (FHIS), the Executive Directorate of Mining Promotion (DEFOMIN), the Secretariat of Agriculture and Livestock (SAG), the Ministry of Education, the Ministry of Health and the Institutes of Forecast Social (INJUPEMP and IMPREMA).
2	1	<p>The modernization of the environmental licensing process is also a priority issue, considering the growing demand for applications and the expected growth of productive sectors linked to the environment (eg crops and bioenergy power generation from renewable sources). The design and regulation of a licensing model using agro-ecological zoning (derived from processes of land use) and/or the Strategic Environmental Assessment as a "second-tier regulatory instruments" is the focal point of this recommendation.</p>

2	2	<p>Honduras must consolidate the process of public participation in environmental management under a more regulated and informed consent. It is expected that citizen participation is conducive to the rational and sustainable use of natural resources. This recommendation is based on:</p> <ul style="list-style-type: none"> ▪ Design and regulate a model of civic participation that defines the forms of community representation that must be included in the management of the country's environmental and natural resources. In this respect it should be recognized that the Act of Forestry, Protected Areas and Wildlife provides for the operation of Advisory Councils (National, Regional, Municipal and Community) that delegates powers to clear them. They are, however, limited to territorial spaces defined in the law as "Forest Areas." It is necessary to extend the subject areas and establish broader territorial criteria for the participation of citizens in managing the environment. ▪ To regulate civic participation by establishing mechanisms such as the public display (applications for licensing, feasibility studies of power generation from renewable sources, water nationals, filed with the SERNA), and Community Consultation through meetings and open forums. ▪ To regulate the instruments to registrar qualified opinions of community representatives, as well as the manner in which these instruments should be placed in the records (physical and digital) managed by SERNA ▪ Establish an order of precedence for the institutions of the country that act as a counterpart to citizen participation (including Municipalities, SERNA, the Counsel for the Environment, the Attorney-General of the Environment and the bodies of Power Judiciary). ▪ Establish a accreditation mechanism organized groups that represent a community in dialogues and consultations to allow citizens to be heard regarding natural resources and the environment. ▪ Create knowledge transfer mechanisms to foster more informed community representatives in the available means of participation and consultation for environmental management. ▪ To establish and regulate bodies to resolve the conflicts that may arise between communities and project developers, providing the means through which SERNA and municipalities can act agents of conciliation and opinion. This regulation should also define the procedures to be followed in the case of irreconcilable differences between the parties, delegating to the executive or judicial branches in the final resolution of the problem. ▪ Design a model for the management of environmental complaints, clearly establishing the investigative function of the Solicitor of the Environment, The SPO Environment, the role of municipalities and SERNA. This should result in the development of an information system to be managed as a module of the National Environmental Information System (SINIA)
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2	3	<p>Advancing SINIA development is a priority, especially for its role in licensing, economic valuation of Honduras' environmental heritage and the ability to monitor environmental indicators. In order to achieve these goals, it will be necessary to renovate SINIA's original design, and enhance it with a new vision of services that are consistent with the modern approaches presented in this paper. In particular, this will require the development of dynamic new modules:</p> <ul style="list-style-type: none"> ▪ Environmental release (under a new management approach decentralized and devolved) ▪ Monitoring and control ▪ Care and management of complaints ▪ Monitoring environmental indicators ▪ Economic valuation of environmental heritage. <p>Prior to this, it is important that, the Executive Committee of Land Management (CEOT) defines the relationship between SINIA and the National Information System Planning (SINIT) to prevent the creation of unproductive policy overlap. Significant investment in investments in IT and telecommunications infrastructure should be considered, under the auspices of SINIT and SINAP (National System of Property Administration). This can become a platform that also provides services to SINIA. SINIA must be established as a directorate of SERNA, funded directly from the national budget. Finally, in order to ensure the rapid development of SINIA, it is also necessary to provide external financing as a matter of priority. It should be emphasized that the SINIA needs to be the technological core of environmental management in Honduras.</p>
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3	3	<p>The promotion and implementation of compliance is not just supplementary to the work of environmental licensing. Instead, mandatory compliance is methodology that will ensure a legitimate impact that is integral to the process. In line with this, we recommend:</p> <ul style="list-style-type: none"> ▪ The design of a decentralized system of supervision and control based on a statistical model for the selection of samples with a thematic approach and territorial and a record of "results of inspection" to be translated into environmental compliance indicators (which are guides for the refinement of the statistical model). ▪ The creation of effective regulatory monitoring and control systems. ▪ Development of a pilot project in an area of specific territorial high demand (e.g. the Sula Valley Metropolitan Zone) ▪ Establishment of a financial mechanism for the sustainability of the new Directorate General of Supervision and Environmental Control to internal SERNA, which, however, must be consistent with a budgetary allocation of General Budget the Republic. <p>We believe that these financial mechanisms (generator sustainability) should be linked with the rapid growth of productive sectors linked to the environment (eg electricity generation from renewable sources, crops bioenergetics, etc.) which makes even more evident the need for progress on the issue economic valuation of our environmental heritage and the definition of forms of local economy to pay for environmental services.</p>
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