CLIMATE CHANGE LEGISLATION IN

COSTA RICA

AN EXCERPT FROM

The 2015 Global Climate Legislation Study

A Review of Climate Change Legislation in 99 Countries

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Costa Rica

Legislative Process

As established by the 1949 National Constitution, legislative power in Costa Rica is unicameral. The National Assembly is constituted of 57 Members of the Parliament – MPs directly elected for a single four-year term without the possibility of direct re-election. The last elections were held in February 2014 and the next election is scheduled for 2018). The proposal of a piece of law can be initiated by the Executive, the Legislature and directly by citizens. Popular initiative requires the endorsement of a minimum of 5% of the electorate and should not address fiscal issues, taxation, loans and other administrative acts.

The law-making process entails two readings at the National Assembly, before the approved proposal is submitted for the final appraisal of the Executive.

Once passed by the National Assembly, proposed laws are revised by the Executive and require the sanction of the President of the Republic. The President has 10 days to request modifications to the text or veto the proposal. If the Assembly discusses and adopts all requirements of the Executive, the amended law is then in general sanctioned by the President. Once approved by the Assembly and sanctioned by the President, a law enters into force at the indicated date or 10 days after its publication in the Official Gazette.

Approach to Climate Change

Climate change policies are based on a broad set of strategies and plans that have set ambitious targets to combat deforestation and shift the course of economic and social development towards carbon neutrality. Initiatives have been largely developed by the Executive; policies and plans adopted at that level outnumber climate legislation adopted by the legislature. The elaboration of policies has been assisted by the Climate Change Consultative Committee (OCIC), which consists of representatives of the government sector, academia and NGOs, and helps to promote dialogue and co-ordinate activities between diverse interests involved in the climate change debate.

In 2013 a proposal for the Framework Law on Climate Change was prepared and presented to the National Assembly, passing its first reading in March 2014. The draft text is currently under the scrutiny of Parliament before the second reading and is expected to integrate important amendments before being adopted.

The proposal includes the creation of a Climate Change National Committee and a Climate Change National Council, which would share responsibility for the implementation of the National Adaptation and Mitigation Plan. The draft text also calls for the adoption of a National Climate Change Plan and the further development of climate policies oriented towards research, crisis management, GHG reporting and monitoring, as well as mitigation and adaptation.

For now, climate change policy is based on the National Climate Change Strategy (2008), provided for by the 2006-2010 National Development Plan. The plan stressed the need to promote a national response to the issue considering the importance of balancing the climate system. For this purpose, the plan places the climate change agenda as a national and international priority, calling for the development of a Climate Change National Programme. The Programme is expected to enhance infrastructure and technology to prevent natural disasters related to climate change. Additionally, it was intended to consolidate a national approach to climate change and develop institutional mechanisms to address the issues facing different sectors. The National Development Plan (2011-

2014, updated for 2015-2018 in November 2014) reaffirmed the ambitious goal to promote a carbon neutral economy by 2021 and laid out strategies to promote renewable energies, reduce GHG emissions, and consider adaptation initiatives.

Energy supply

Costa Rica has one of the cleanest energy mixes in the world, with renewables accounting for more than 90% of the national electricity supply. However, growing consumption of fossil fuels for transportation and longer dry seasons due to climate change – which have reduced hydropower production – GHG emissions from energy use have increased in recent years, as well as electricity prices. In order to meet the 2021 target of 100% share of renewables in electricity generation (including big hydro), the 2008-2021 National Energy Plan aims to diversify the energy matrix, with a sustainable transportation sector and further support of renewable energy, in particular from domestic resources. Additionally, the plan calls for the promotion of energy efficiency and reduced fossil fuel consumption. To support the development of renewables, a net-metering pilot project was launched in 2011 and the scheme was introduced at the sub-national level in 2013, allowing independent producers to bank excess power with their distributors. In addition, tax incentives are offered for investment in renewable energies.

Energy demand

Energy demand management policy is based on the Law on Rational Use of Energy (1994). Policy measures today include energy efficiency standards for electrical appliances and fuel efficiency standards, as well as an obligation for energy-intensive companies to execute energy efficiency programmes to reduce their energy use. A revision of the General Electricity Law is being discussed, with 'national electricity sector roundtables' initiated in October 2014. The proposed revision aims to increase the energy efficiency of the electricity sector (eg more efficient appliances), optimise the electricity grid (increase use of natural gas, geothermal, biomass and solar energy, as well as distribution and transportation efficiency), regulate electricity prices and access of private independent producers to the grid, and adapt the sector to the fast increase in electricity consumption, especially in the residential sector.

Transportation

Costa Rica introduced its first fuel economy standards in 1996 (Vehicle Emissions Act) and biofuel mandates in 2008 (first National Biofuels Programme: 10% bioethanol and 20% biodiesel mandates). After being temporarily removed in 2011, an update of the mandates and biofuels policy strengthening have been considered since 2013, when the Biofuels Law was proposed. The Law should promote the sustainable development of the national biofuel industry and aim at contributing to enhanced energy security and efficiency, climate change mitigation, environmental protection, agricultural land revitalisation, employment creation and local development. The law would also create the National Biofuel Programme, placing the Ministry of Environment and Energy in charge of its co-ordination. Finally, the law should confirm the minimum volume of biofuels that must be included in fossil fuels, 8% for bioethanol and 5% for biodiesel.

Carbon Pricing

Following the 2008 National Climate Change Strategy, Costa Rica developed a national carbon market as part of its initiatives to reach carbon neutrality by 2021. Adopted in 2011, the National Norm of Carbon Neutrality defines the conditions in which businesses and organisations can receive a carbon neutral certification. The norm regulates measures to reduce carbon emissions, to be complemented by other programmes under the Clean Development Mechanism (CDM), and the Verified Carbon Standard (VCS).

These initiatives fit within the 2012 Carbon Neutral Country Programme, the official programme of the Climate Change Directorate (DCC) of the Ministry of Environment and Energy (MINAE) for processes regarding GHG inventories and the C-Neutrality Norm. Activities in this area were strengthened in 2013, with the Presidential approval of the MINAE Decree creating the national

Voluntary Carbon Market. The Costa Rican Voluntary Domestic Carbon Market (not currently open to foreign traders) allows for issuance and exchange of carbon credits called Costa Rican Compensation Units (UCC). Those can be traded by companies for the right to release carbon dioxide into the air to compensate for emissions they cannot reduce. The compensation units are bound to reforestation projects and other conservation efforts aiming to sequester CO_2.

REDD+ and LULUCF

Established in 1991, the National Forestry Finance Fund (FONAFIFO) aims to: a) finance the Payments for Environmental Services – PES- Programme; and b) develop activities to strengthen the development of the forestry sector. FONAFIFO formally became one of the core elements of Costa Rica's forest policy with the regulation of its activities established in the 1996 Forest Code. The main instrument of FONAFIFO's operations is the PES Programme, which executes policies established by MINAE. The PES has been in operation for more than 17 years and serves as an example for similar programmes in other countries.

As defined in the 1996 Forest Code, the main source of funding for the PES is a fuel tax, or "ecotax" that applies to the consumption of any crude-oil derivates. Another source of financing comes from the Environmental Service Certificates, a voluntary private sector scheme. Additionally, FONAFIFO obtains payments for the protection of water resources from agreements with hydropower companies and other companies using water, as well as funds from a number of international co-operation projects.

In 1998 the government created the National System of Conservation Areas (SINAC) to administer all biodiversity. SINAC functions as a technical organisation decentralised from Ministry of the Environment and is responsible for the core guidelines for policies on sustainable use of natural resources. Together, FONAFIFO and SINAC are the two major institutions responsible for forest policy.

In 2008 the country committed to developing a REDD+ (Reduced Emissions from Deforestation and Forest Degradation) policy and developed a first REDD+ Plan in 2010. Approved by the World Bank, the Plan received funds from the organisation to prepare a REDD+ Strategy. A Second Plan was presented in 2011. In 2013 the government included a REDD+ Project in its Carbon Fund aiming to set up an agreement for trading emission reductions. The plan is to develop a monitoring and reporting system on emissions and reductions of GHG in energy, waste, and land use.

Costa Rica: Legislative portfolio

Name of law	**Forest Law (Law No.7575)**
Date	16 October 1996
Summary	The 1996 Forest Law establishes the protection, conservation and management of forest areas as a priority and central responsibility of the State. The government is in charge of regulating and supervising the use and exploitation of forest resources in a sustainable manner. In addition, the government should seek to improve living conditions for rural communities. The law forbids land cover changes in forest and calls for moderate use of natural resources. At the institutional level, the law establishes the creation of the National Forest Office, in charge of proposing policies and programmes on forest issues, as well as managing the activities of projects in place, working closely with local communities and other governmental bodies. Operating on the basis of decentralisation of policy-making, the 1996 law also supported the Regional Environmental Councils, which have played a limited role so far.

Creating the Payment for Environmental Services (PES) Programme, the law rewards landholders for their environmental services, which include:

- mitigation of GHG emissions through emissions reduction and carbon fixation, capture, storage or absorption;
- protection of water for urban, rural or hydroelectric use;
- biodiversity conservation for conservation, sustainable use, scientific investigation or genetic enhancement; and
- protection of ecosystems or scenic natural beauty for tourism or science.

In addition, Forest Conservation Certificates (CCB) are available, although less used due to their long-term nature. To be eligible for the CCB scheme, forest resources should not have been extracted in the two years previous to the application and should remain preserved for a minimum of 20 years of the validity of the Certificate. A share of 5% of the amount granted should be designated to the Forest Fund.

The Law establishes the Forest Fund aiming at: fostering capacity building and research activities on best practices in the forest sector; preventing fires and plagues in forest areas; promoting reforestation plans; protecting soil; preventing water and air contamination; promoting forest products; building institutional capacities. A third of the funds collected annually from the tax on fuels and hydrocarbons are to be dedicated to the PES Programme for GHG emissions reduction and to programmes for protection and support of biodiversity through forest protection, conservation and reforestation. The budget of the Fund is formed mainly of contributions from the Ministry of Environment and Energy, donations from international and national organisations and entities, taxes, fines and revenues associated to forest activities, and forest bonds.

Additionally, the law sets up the National Forest Financing Fund (FONAFIFO), to finance the activities of small and medium producers that relate to forestation and reforestation, restoration of degraded land, technological changes and sustainable use of forest resources. Holding legal personality, the Fund raises funds for the payment of environmental services that contribute to the development of the natural resources sector.

Name of law	**Regulations on the Efficient Use of Energy (Law No. 7447)**
Date	13 December 1994 (updated 30 June 2010)
Summary	This law consolidates the participation of the State in the promotion and gradual execution of the programme for the efficient use of energy. It also attempts to establish mechanisms to achieve energy efficiency, taking environmental protection into account. The Ministry for Natural Resources and Energy is responsible for the implementation, monitoring the "National Programme for the Rational Use of Energy". To promote this objective, the law establishes the obligation to execute energy efficiency programmes of rational use of energy in companies with high consumption levels. Companies have the legal obligation to report the precise amount of energy they use. When the amount is beyond the maximum level allowed by the Ministry, businesses are notified and have three months to submit a plan to reduce their energy consumption, within six months. The government can, in certain circumstances, provide specific technical recommendations to these companies. The Law calls for the creation of campaigns to raise public awareness on the rational use of energy, including educational programmes in schools. All products must publicly announce their level of energy consumption. Producers of machines and/or vehicles that use energy (of any source) must obtain authorisation from the Ministry relating to their energy efficiency before beginning production of these goods. The import of similar equipment (including vehicles) is conditional on the submission of energy efficiency data. The law determines that the Ministry for Natural Resources, Energy and Mining is in charge of determining limits for emissions from vehicles, to be monitored and controlled by the Ministry of Transport. Additionally, it exempts equipment used for renewable energy from import duties and provides for other tax exemptions (excise tax, ad valorem tax, general sales tax, specific customs tax). Fines and penalties apply upon breaching the law.

	Additional legislative and executive regulation specifies mechanisms of support for clean technologies and rational use of energy. Those include an Executive Decree reforming the incentives system for the use of hybrid electrical vehicles; a modification of the law to provide tax exemption for equipment and certain materials, imported as well as produced domestically that contribute to energy savings and rational use; a decree that establishes new rules of the 'Bandera Azul Ecológica' certification programme for climate-friendly communities and private housing (energy efficiency, low GHG emissions, etc.); and a directive that requires the energy and telecommunications sectors to adopt administrative, financial, legal and technical measures to ensure citizens' access to cleaner energies at the least possible cost.

Name of law	**Energy Law (Law No. 7200)**
Date	18 October 1990
Summary	This law requires MINAE to establish company-level power indices based on their level of economic activity. The law and its subsequent regulations outline the obligatory nature of executing projects that conserve electricity. They also include an incentive programme for businesses that promote the efficient use of energy.

Costa Rica: Executive portfolio

Name of policy	**Ministerial Decree No. 37296-MINAE creating the Voluntary Carbon Market**
Date	10 November 2013
Summary	The decree sets up guidelines for the generation, issuance and exchange of carbon credits, also known as Costa Rican Compensation Units (UCC). The UCCs are associated with projects developed within the country that address sustainable management of forests, energy efficiency, technological innovation directed at emission reduction, and other themes. To ensure management of the carbon market, including trade, compensation, and certification activities, the decree formalises the creation of the Carbon Board. Co-ordinated by the Climate Change Direction of the Ministry of Environment and Energy, the Board includes representatives from the public and private sector.

Name of policy	**Executive Decree No. 37352-MINAET**
Date	14 November 2012
Summary	The Decree establishes the Executive Support Agency for the Development and Implementation of the REDD+ Strategy of Costa Rica.

Name of policy	**Decree No. 36823-MINAET**
Date	25 January 2012
Summary	Creates the Interministerial Committee for Climate Change and regulates its functioning.

Name of policy	**Biofuel Regulation (Executive Decree 35091)**
Date	17 March 2009
Summary	The biofuel regulation aims to foster the development of the biofuel industry in Costa Rica. For this purpose, the decree regulates the production, transportation, storage, and trade of biofuels. It designates the Ministry of Environment, Energy and Telecommunications (MINAET) and the Ministry of Agriculture and Livestock (MAG) as the institutions in charge of promoting, implementing and managing the development of the National Biofuels Programme.

	According to the decree, prices of raw materials employed in the production of biofuels as well as the sales of biofuels to consumers and to the national oil refinery (RECOPE) are to be determined by the market. However, the prices of fossil fuels mixed with biofuels are regulated by the competent national authority. The Decree further sets up the National Research and Development Bioenergy Policy to enhance the environmental sustainability of biofuel production, increase production, and support research in new sources of biomass.

Name of policy	**National Energy Plan 2008-2021**
Date	2008
Summary	The National Energy Plan 2008-2021 focuses on enabling the biofuels market, diversifying the energy mix by introducing renewable energy targets and reducing dependency on fossil fuel, promoting a more efficient transportation system based on clean energy, installing over 1,500 PV projects and developing a national education strategy to improve energy efficiency and consumption awareness among the population. Since a 2010 amendment, the Institute of Electricity provides further incentives for companies and residences for deploying solar panels and biomass generation systems, including tax reliefs and investment support.

Name of policy	**National Climate Change Strategy (NCCS)**
Date	2008
Summary	The primary objective of the NCCS is to covert the country into a "carbon neutral" economy by 2021. It introduces a target of 100% share of renewable sources in electricity generation by 2021. Other objectives are to reduce socio-economic and environmental impact of climate change, and promote sustainable development and environmental protection through actions of mitigation and adaptation. NCCS is divided into a national and an international agenda, detailing specific areas and actions to be taken within each domain. The national agenda entails two core areas, mitigation and adaptation, as well as four transversal issues: measurement; capability development and technological transfer; public awareness, education and cultural exchange; and financing. The mitigation strategy is structured around three main action areas. The first, reduction of GHG emissions by sources, aims to identify emission sources and develop opportunities for reductions in eight sectors: energy; industry; transportation; land use change; tourism; agriculture and livestock; solid waste; and water resources. The second area of action addresses carbon sequestration in forests and reforestation. Complementing the scheme on mitigation, the third area refers to emission compensation (carbon markets) and encompasses the development of local markets; national programmes for compensation payments; voluntary markets; and participation in international schemes, such as the Clean Development Mechanism (CDM). The adaptation strategy aims to reduce sectoral and geographic vulnerability to climate change, focusing on six areas: agriculture and livestock; infrastructure; health; coastal areas and biodiversity; water resources; and fishery. The international agenda is based on strengthening the engagement of Costa Rica in the development of collective (international) actions on climate change; and attracting external funds for the implementation of national initiatives.

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