

# CLIMATE CHANGE LEGISLATION IN

## El Salvador

*AN EXCERPT FROM*

### **The 2015 Global Climate Legislation Study** **A Review of Climate Change Legislation in 99 Countries**



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# El Salvador

## Legislative Process

The Republic of El Salvador has a legal system based in civil law. The most recent Constitution was enacted in 1983 and amended in 2009. The President, elected on a ticket with the Vice-President by popular vote for a five-year term, is both the head of state and head of the government. The most recent Presidential election was in February 2014 and the next one is scheduled for February 2019.

El Salvador has a unicameral legislative Assembly composed of 84 Deputies who are elected for three-year terms by direct and popular vote. The most recent election was in 2012 and the next election is scheduled for March 2015. As established by the Constitution, the law-making process encompasses the legislative and the executive powers, but the right to initiate a legislative process is extended to numerous actors. As a general rule, Deputies and the President (acting through the Ministries) hold the responsibility to propose legislation; however, the Supreme Court of Justice can suggest laws directly related to the field of justice. In addition, local councils have a voice in laws that would address local taxations and the Central American Parliament can propose laws regarding certain aspects of the integration process within Central America.

In all these cases, the legislative proposal must be submitted to the Assembly in the form of a Communication. The document is received by the Directive Board, which schedules a formal presentation of the project to the Legislature. The proposal is then submitted for the approval of a legislative committee. The Committee drafts a legislative proposal and submits it to the Assembly, where it is brought to a vote. If approved by a simple majority, the proposal becomes a Decree. According to the Constitution, the Decree must be presented to the President within 10 days of its approval. Sanctioned by the President, the Decree is published in the Official Diary (Gazette) and becomes law. In cases in which the President has observations or vetoes the Decree, the text is sent back to the Assembly. The Deputies then analyse the presidential comments and alter the law accordingly. In the case of presidential veto, the Deputies vote on the text again and, if approved by two-thirds of the Assembly, the law is ratified and sent back to the President for presidential sanction. In the extreme circumstance in which the President still disagrees with the ratification and questions the constitutionality of the law, he/she can ask for the Supreme Court to deliberate on the matter, having the final say on the law.

## **Approach to Climate Change**

According to the Climate Change Vulnerability Index, El Salvador was the world's most at-risk country for climate change in 2009, and the fourth most vulnerable in 2011. The country falls within the Central America Dry Corridor, so rainfall is often scarce across large swathes of the country's interior and when it occurs, coastal flooding and mountain landslides are frequent. Additionally, it lies in the path of both Atlantic and Pacific tropical cyclones that have increased in both frequency and intensity throughout the past decade.

In recent years, El Salvador has made significant progress in terms of climate related policies/legislation. Increased concern with climate change, partially spurred by vulnerability to adverse climate events, has led to the adoption of various policy instruments, with significant emphasis on adaptation and mitigation, but especially on risk management. This high vulnerability to climate variability and change led, in 2012, to the adoption of reforms to the National Environmental Law. The amendment adds a chapter on "Adaptation to Climate Change, Institutional Strengthening and Social Responsibility", addressing the need for adaptation and mitigation, and regulating the preparation of the National Climate Change Plan (NCCP). It requires that the NCCP be widely consulted and updated every 5 years. The consultation process of the First NCCP began in January 2014 and was scheduled for launch in January 2015.

In 2013, the Executive set the grounds for a National Climate Change Plan with the adoption of the National Climate Change Strategy, while the 2012 National Environmental Policy also aims "to reduce the process of environmental degradation and the vulnerability to climate change".

El Salvador has sought to streamline climate change concerns with development initiatives and two consecutive national development plans have included climate change and risk management as priorities. The 2010–2014 Five-Year Development Plan recognised the direct association between climate change and development, placing special emphasis on the negative impact of natural disasters for the economy. The Plan identified as one of its priorities the creation of an Environment and Risks Reduction Policy to efficiently manage environmental risks, prevent natural disasters through an alert system and rehabilitate infrastructure and facilities affected by past events. The Plan also calls for the adoption of a National Climate Change Plan addressing issues of adaptation and mitigation, but this Plan remains to be established.

The 2014-2019 Five-Year Development Plan enhances climate change actions and approaches by strengthening institutions and fostering co-ordination for inter-institutional arrangements. In June 2014, a Cabinet of Sustainability was created and integrated with seven Ministries, while the Civil Protection Agency

will guide and monitor the implementation of the National Climate Change Plan. The challenges and commitments associated with the new binding agreement or protocol to be adopted at COP 21 in Paris at the end of 2015 is addressed as part of this Development Plan.

The Meteorological Office of El Salvador, within the Environmental Observatory of the Ministry of Environment and Natural Resources is central to the country's climate risk reduction and disaster preparedness. The Ministry has made significant investments in natural hazard monitoring, including weather, climate, hydrology, geology and oceanography and, between 2009 and 2014, the number of weather stations increased from 98 to 232. This state-of-the-art climate information system allows the Ministry to provide key sectors, residents and farmers with real-time information via social networks, text messages, bulletin, and the observatory's website, in order to plan for and reduce the risks associated with extreme weather events.

### **Energy Supply**

El Salvador is the largest producer of geothermal energy in Central America, with 13% of installed electric generation capacity coming from geothermal, but it is heavily dependent on imported fossil fuels for its electricity supply. In 2014, 48% of its 1.56GW installed capacity came from oil- and diesel-sourced thermal generation, with 30% from large hydropower, 8% from biomass and waste.

The Electricity Generation Law (2007) aims to foster investments in renewable energy, including hydroelectric, geothermal, wind, solar and biomass via a series of fiscal incentives for the development of new electricity generation projects, including tax exemptions according to the volume of energy produced.

The 2010–2024 National Energy Policy considers the need to address climate change when defining policies. It promotes the reduction of fossil fuel use in industry, transportation and households. The policy emphasises the importance of fostering the development of unconventional renewable energy sources (such as photovoltaic, wind, and biofuels) and continuing the development of conventional renewable sources (such as hydropower and geothermal energy). The goal of the National Energy Policy's focus on renewable energy is to diversify the energy mix and reduce dependence on external energy supplies.

The National Energy Council (CNE) and the General Superintendence of Electricity and Telecommunications (SIGET) have taken two main steps to establish long-term contracts for renewable energy generation. First is to support small-scale distributed generation projects with a particular emphasis on small hydro, solar photovoltaic, and biogas technology. Second, in July 2014, an inverse auction was held for 20-year contracts for 94MW of photovoltaic solar energy capacity. The contracts will provide for electricity generation at a more competitive price than the current average prices in the wholesale market.

## **Energy Demand**

In 2006 El Salvador, in partnership with Nicaragua, Costa Rica, and Panama, developed its first energy efficiency project, funded by the Global Environment Facility (GEF) with the assistance of the Energy Network Foundation (BUN-CA). The project, completed in 2011, aimed to lower barriers to entry of energy-efficient technologies that have been historically inhibited by lack of finance, policy and awareness. The project encouraged the use of compact fluorescent lamps, efficient air conditioners, efficient electric motors, and more efficient commercial and domestic refrigerators. It formulated standards for energy efficient equipment; built institutional capacity through training and workshops; conducted energy audits and captured savings in commercial enterprises; and disseminated best practice hand-outs, bulletins, and technical manuals.

Following from the National Energy Policy and 2006 partnership, and assisted by the Inter-American Development Bank (IDB) and the GEF, the country launched two energy conservation and efficiency programmes and campaigns in 2010. These projects aimed to strengthen the state's technical capacities and reduce GHG emissions; encourage energy audits, map energy consumption, create a small trust fund to finance energy efficiency projects and introduce energy efficiency policies and measures for public buildings. A first NAMA (Nationally Appropriate Mitigation Actions) on EE is being developed.

## **REDD+ and LULUCF**

According to the World Bank, El Salvador is the second most deforested country in Latin America: nearly 85% of native forests have disappeared since 1960. The country's land area is approximately 27% forest and tree cover.

The 2011–2030 National Forest Policy Proposal acknowledges that the lack of political priority has been partially responsible for irregular deforestation practices that increased vulnerability to the impact of climate change. Addressing this gap, the Policy intends to promote the recovery of around 15% of deforested areas. In addition, the Policy aims to modernise the forest sector, maximising the sustainable production of good and services, while helping to reduce vulnerability to climate change. Complementing this Policy, in early 2012, the Ministry for Agriculture and Livestock adopted the Climate Change Mitigation and Adaptation National Strategy for Agriculture, Livestock, Aquaculture and Forest sectors. Based on this Strategy, the Ministry of Agriculture launched, in November 2014, a consultation process to formulate the Climate Change Policy for Agriculture and Livestock with the support of the CCAFS (Climate Change, Agriculture and Food Security). In response to droughts that particularly impact the east of the country, the Ministry of Agriculture is beginning a USD5m three-year project, in January 2015: "Strengthening the Family Agriculture by Employing Sustainable Technologies to Climate Change."

## **Adaptation**

El Salvador's First National Communications to the UNFCCC identifies four priority areas for adaptation: water, coasts, forests, and agriculture. The 2012 Integral Programme for Fiscal Sustainability and Climate Change Adaptation focuses on reducing the country's natural and physical vulnerability to climate change. For this reason, the Programme aims to strengthen the tools to promote effective response measures to climate events in different aspects. The Programme suggests public policies addressing development should take into account four core elements: 1) macroeconomic stability; 2) fiscal sustainability; 3) strengthening of institutional capability; and 4) resilience and adaptation.

As a long-term strategy to prepare society to deal with natural disasters, the Ministry of Education adopted the 2012–2022 Climate Change and Risk Management Educational Plan, whose main objective is to increase the focus on climate change and environmental issues of the educational system. The Plan aims to: 1) provide training on climate change related issues for educators; 2) support research on the topic; 3) develop social communications mechanisms to enhance public awareness on climate change and risk management; 4) re-model the infrastructure planning of schools to reduce their vulnerability to climate events; and 5) ensure financial support to these initiatives. The 2005 Civil Protection, Disasters Prevention and Mitigation Law provides further legal basis for initiatives on prevention and mitigation of natural disasters, creating the Civil Protection, Disasters Prevention and Mitigation National System.

In addition, focusing on adaptation, the Ministry for the Environment and Natural Resources launched the National Ecosystem and Landscape Recovery Programme in 2012. The main driver for the adoption of the instrument is the recognition that environmental degradation increases the vulnerability to climate change.

The 2011–2015 National Food and Nutrition Policy associates climate change with food security, and calls for the adoption of mitigation measures to reduce the vulnerability of food production to climate events. The document also proposes the establishment of a national system of food storage. Finally, the adaptation of agricultural practice and investments in 'climate-smart agriculture' has been and will continue to be integral to El Salvador's approach to climate change: from the adoption of no-burn agricultural practices to investments in water, capture and storage technology, and more efficient irrigation.

The 2013 National Climate Change Strategy (NCCS) also contains an adaptation axis, with priority actions including: elaboration of sectoral adaptation strategies with emphasis on agriculture, water resources, infrastructure and health; restoration of critical ecosystems and natural landscapes; and urban and coastal planning.

## ***El Salvador: Legislative Portfolio***

<b>Name of law</b>	<b>Amendment to General Education Law (Legislative Decree No.714)</b>
<b>Date</b>	9 June 2011
<b>Summary</b>	This amendment to the General Education Law requires the Ministry of Education to encourage throughout the education system: environmental sustainability, ecological risk management, and adaptation and mitigation of climate change. The amendment further requires the Ministry to adjust its educational programs consistent with this law, within 2012.

<b>Name of law</b>	<b>Amendment to the Law of Superior Education (Decree No.715)</b>
<b>Date</b>	9 June 2011
<b>Summary</b>	This Amendment to the Law of Superior Education redefines research in institutions of higher learning to include the systematic search and analysis of new knowledge to address the adverse effects of climate change. The Amendment further directs state and private universities to adjust their curriculums in accordance with this amendment.

<b>Name of law</b>	<b>Fiscal Incentives for Increased Use of Renewable Energy within the Electricity Generation Law (Law No.462)</b>
<b>Date</b>	20 December 2007
<b>Summary</b>	<p>The Law sets out to foster investments on renewable energy, including hydroelectric, geothermal, wind, solar and biomass energy. For this purpose the law conceives a series of fiscal incentives for the development of new projects of electricity generation. Tax exemption can be claimed according to the volume of energy produced, varying from 5 to 10 years, depending on the nature of the tax.</p> <p>The Law also exempts investors from any sort of tax on revenues directly generated from activities related to Emission Trading Schemes (ETS), subject to a certification issued by the government.</p> <p>One of the eligibility criteria to apply for these tax exemptions is compliance with certification and registration norms of the Clean Development Mechanism, under the framework of the Kyoto Protocol. Breaches of law are subject to penalty.</p> <p>The Law defines institutional competences over implementation and compliance.</p>

<b>Name of law</b>	<b>Civil Protection, Disasters Prevention and Mitigation Law (Decree No. 777)</b>
<b>Date</b>	31 August 2005
<b>Summary</b>	<p>The Law aims to adopt mechanisms of prevention, mitigation and immediate response to natural and anthropogenic disasters (inclusive of climate change related disasters), designating a public service of civil protection to operate in these eventualities. For this purpose, the Law creates the “Civil Protection, Disasters Prevention and Mitigation National System.”</p> <p>The System is composed of two institutional bodies: the National Commission for Civil Protection and Disaster Prevention and Mitigation and the Municipal and Community Commission for Civil Protection. In addition to ensuring the implementation of the Law, the System is charged with: (1) incorporating the prospective management of disasters into development plans; (2) mapping areas of risk; (3) raising public awareness of risks from catastrophic events; and (4) designing civil protection disaster response plans.</p>

## ***El Salvador: Executive Portfolio***

<b>Name of policy</b>	<b>The National Climate Change Strategy (NCCS)</b>
<b>Date</b>	22 April 2013
<b>Summary</b>	<p>The National Climate Change Strategy aims to enhance the financial and institutional resources to reduce economic and social impact of climate change.</p> <p>The Strategy is structured around three core areas of action. To tackle losses generated by climate change, the Strategy first proposes strong participation on international climate negotiations and financial compensation to people and businesses that suffered from climate related disasters. Second, the Strategy outlines that adaptation measures should address urban and coastal changes, the recovery of critical ecosystems and rural landscapes, as well as sectoral adaptation strategies. The third focal area of the NCCS is the development of a mitigation programme that is associated with the national agenda for social and economic development, including the development of a low-carbon economy.</p> <p>The Inter-American Development Bank is currently supporting the implementation of the NCCS.</p>

<b>Name of policy</b>	<b>National Environmental Policy</b>
<b>Date</b>	30 May 2012
<b>Summary</b>	<p>The National Environmental Policy offers an ambitious framework through which the government will respond to climate change and environmental degradation. The general objective of the Policy is to reverse environmental degradation and reduce vulnerability to climate change.</p> <p>The policy follows six lines of action that will be prioritised by the national government:</p> <ul style="list-style-type: none"><li>• Restoration of damaged ecosystems and landscapes;</li><li>• Integral environmental sanitation;</li><li>• Integrated management of water resources;</li><li>• Integration of environmental policy and priorities into the general governance of the national territory;</li><li>• Environmental responsibilities and compliance; and</li><li>• Adaptation and risk reduction in relation to climate change.</li></ul> <p>One of the major mandates of the policy is that each ministry must incorporate environmental concerns into their own policies and participate in an inter-ministerial environmental council co-ordinated by the Ministry of Environment and Natural Resources. This council will assist in the creation of an “action plan” that will lay out implementation plans for the tasks and responsibilities set out in the National Environmental Policy corresponding to each of the lines of action listed above.</p> <p>Adaptation is specifically prioritised along with reduction of environmental risks. The Policy calls for the development of a National Adaptation Plan that should include mechanisms to monitor and evaluate climate change and the risks it poses; projects to improve water management, especially in relation to flooding during the rainy season and droughts during the dry season; incorporation of adaptation into urban planning and housing designs; evaluation of epidemiological monitoring and public health systems in relation to specific health risks caused by climate change; promotion of environmental concerns and climate change within the national education curriculum; promotion of renewable energy; funding priorities and plans to take advantage of international financing schemes.</p>



<b>Name of policy</b>	<b>2010-2024 National Energy Policy</b>
<b>Date</b>	2010
<b>Summary</b>	<p>The 2010–2024 National Energy Policy promotes the reduction of the use of fossil fuels in industry, transportation and households to diversify the energy mix and reduce dependence on external energy supplies, while integrating climate change mitigation and adaptation considerations. It emphasises the importance of fostering the development of unconventional renewable energy sources (such as photovoltaic, wind, and biofuels) while continuing the development of conventional renewable sources (such as hydropower and geothermal energy).</p> <p>The Policy is organised around six main strategy directions, which highly inter-related and to be followed in consultation with key energy sector stakeholders:</p> <ol style="list-style-type: none"><li>1. Diversification of energy matrix and promotion of renewable energy sources</li><li>2. Strengthening of the energy sector institutions and consumer protection</li><li>3. Promotion of an efficiency and energy saving culture</li><li>4. Extension of energy access coverage and of preferential social rates</li><li>5. Technological innovation and development</li><li>6. Regional energy integration</li></ol>

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