



# Mesoamerican Barrier Reef Legal Reports

## Summary and Regional Comparison

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This document was prepared by the Environmental Law Institute (ELI) in partnership with Rare. The primary drafters were Greta Swanson and Xiao Recio-Blanco with substantial input from Sierra Killian. The drafters wish to express their gratitude to Anna-Marie Laura, Diana Vasquez, Gabriela Polo, Shirin Wertime, and Ulises Mendez. Funding was generously provided by Rare.

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Rare’s vision is to transform the management of coastal fisheries by pairing a proven local solution, community-based management, with a unique delivery method based on behavioral insights and social marketing principles to engage and mobilize those communities.

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*Mesoamerican Barrier Reef Legal Reports. Summary and Regional Comparison.*

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### Acronyms

- CONANP** Mexican National Commission on Protected Areas
- CONAP** National Council for Protected Areas of Guatemala
- FAO** Food and Agriculture Organization
- ICF** Honduras National Institute for Forest Conservation and Development, Protected Areas, and Wildlife
- INAPESCA** Mexican National Institute on Fishing and Aquaculture
- IUU** Illegal, unreported, and unregulated
- LGEEPA** Mexican General Law on Ecological Balance and Environmental Protection
- MAR** Mesoamerican Reef
- MPA** Marine Protected Area
- NGO** Non-governmental organization
- NPASA** Belize National Protected Areas System Act
- POEM** Ecological Programs for Marine Spatial Planning, Mexico
- SEMARNAT** Mexican Ministry of the Environment and Natural Resources

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## **Mesoamerican Barrier Reef Legal Reports. Regional Comparison.**

The legal reports for Belize, Guatemala, Honduras, and Mexico – the four countries of the Mesoamerican Barrier Reef (MAR) – cover aspects of fisheries and marine management laws that set out the framework for protecting the sustainability of small-scale fisheries, marine ecosystems, and the livelihoods of the fisherfolk who depend upon them. This regional comparison considers several key aspects of the reports: governance, sustainability, and fisheries management; marine spatial planning; marine protected areas and no-take zones; co-management and public participation mechanisms; and enforcement.

### **I. Governance. Centralization v. Decentralization in the MAR**

The 2016 Honduras Decentralization Act completed a decentralization process initiated with the creation, in 2001, of a Technical Decentralization Unit. Drawing from the 2012 National Decentralization Policy, the Act specifies that the declaration of national protected areas is a competence reserved to the national government. On the other hand, fisheries management is not excluded from decentralization.

A milestone in Mexico’s approach to decentralization was the creation of state and municipal planning and development committees during the presidency of Miguel de la Madrid (1982-88). In support of this decentralization effort, article 115 of the Mexican Constitution was reformed to expand the powers, duties, and tax collection capacities of municipal governments. Under the current Fisheries Act, state and municipal governments have the power to exercise competences in fisheries and aquaculture management.

In Belize, devolution of management to town and village governments started in the late 1990s. The Village Councils Act authorizes municipalities to enact by-laws for, among other issues, fostering community participation in public life and ensuring adherence to sound environmental practices within the village. The current Fisheries Act does not recognize a specific role of the municipalities in fisheries management, but it does allow the Minister to appoint any “public officer” as a fisheries officer.

Guatemala is currently engaged in a decentralization process. The 2017 National Decentralization Agenda lists management of “natural resources” as one of the main guidelines of the proposed decentralization process. The National Decentralization Agenda seeks to develop the 2002 General Decentralization Law, which had established as one of its key objectives the “sustainable management of the environment.” The Agenda does not specifically mention small-scale fisheries or MPA management.

### Common Law vs. Civil Law in the MAR

Most nations have either a common law or civil law system. Common law originates in medieval England while civil law traces its origins back to the Roman Empire.

**Common law.** Because common law is the foundation of the English legal system, it has been exported to many countries that have had historical ties with England, such as the United States. Common law is based more on precedent than on a codified set of laws and regulations. Judges hold immense power in a common law system, since the decisions that a court makes are then used as a precedent for future court cases. While common law systems do have laws that are created by legislators, it is up to judges to interpret those laws and apply them to individual cases. In common law countries, certain courts, such as the Supreme Court of the United States, have the ability to strike down laws that were passed by legislators if those laws violated the Law of the Land (i.e., the Constitution).

**Civil law** serves as the foundation for the legal systems of countries like France, Spain, and Portugal, along with many of their former colonies. Civil law systems rely on a large legal code that establishes legal procedures. In a civil law system, a judge merely establishes the facts of a case and then judges that case based on the procedures laid down by the legal code. As a result, precedent and judicial decisions have limited influence in a civil law system. Still, Supreme Courts in common law countries have a role in interpreting the law.

In the Mesoamerican Barrier Reef region, while Belize has a common law legal system, Mexico, Honduras, and Guatemala are civil law countries. All countries have a Supreme Court, and Guatemala has a specialized Constitutional Court.

*(Definitions adapted from the Black's Law Dictionary)*

Figure 1 Civil Law vs. Common Law in the MAR region

## II. Sustainability

Until the last two decades of the 20th century, small-scale fisheries in the Mesoamerican Barrier Reef (MAR) developed as a virtually unregulated, open-access economic activity to supply food to the national markets. Increased consumption coupled with internationalization led to a rise in revenue for fisheries targeting key species (lobster, abalone), followed by a series of crises due to overexploitation of the resources. These crises took a significant toll on small, fisheries-dependent coastal communities across the MAR.

Legislation in the four countries recognizes the principle of sustainable use and management applied to ocean resources stewardship. For example, Honduras has detailed provisions in this sense, describing the importance of sustainable use for regulatory decision-making, such as with the issuance of fishing permits.

In three of the four countries, Guatemala, Honduras, and Mexico, the fisheries law explicitly requires use of scientific principles of management and makes conservation and sustainability of the resource the goal of fisheries management. The Guatemala, Honduras, and Mexico laws also set out the precautionary approach as a guiding principle. Although the Belize fishery law does not articulate these principles, the recently implemented Managed Access policy seeks to implement a framework of sustainability.

Limitations remain on institutional and financial capacity to ensure adequate implementation of these basic natural resource management principles, and there seems to be a lack of mechanisms for evaluating sustainability and providing transparency concerning the use of the nation's marine living resources. Including sustainability as a *de jure* legal principle, although a necessary first step, is not sufficient to secure the sustainable use of small-scale fishing resources. Legal principles must be materialized into detailed regulatory measures, in line with the recommendations of the Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Alleviation, in order to achieve progress in the implementation of area-based fisheries management and the creation of participatory fisheries management systems and institutions.

### III. Marine Protected Areas and No-Take Zones

Marine Protected Areas in Mexico currently cover 22% of its ocean space. In Belize, the National System of Protected Areas consists of all protected areas; marine protected areas constitute 20% of Belize's marine area. Guatemala designates 6% of its total protected area as marine protected areas, and Honduras only sets aside 4% of its marine area as protected. In Belize, biological corridors may be created between protected areas but have not been used in marine areas. Honduras, Guatemala, and Mexico provide for buffer zones outside of protected areas.

The four countries follow similar procedures for the creation of protected areas. In Belize, the process of declaration requires submission of a request, which an NGO or government entity may make; execution of necessary scientific research; consultation with local communities; creation of a directive committee; and approval by the House of Representatives. A designated co-management entity may develop a management plan.

In Honduras, an NGO, community, municipality, Minister or legislator may propose a



protected area. Scientific studies are conducted, the Minister establishes the management category, and the proposal is reviewed by other government entities. A multidisciplinary team develops a management plan, which the National Institute for Forest Conservation and Development, Protected Areas, and Wildlife (ICF for its spelling in Spanish) approves before it may enter into a co-management agreement.

In Guatemala, an entity, including a municipality, may request that the government initiate a technical study, which includes an announcement for co-management. The protected area is established by decree. CONAP develops a master plan and may then devolve management to another entity. Additional regulation is recommended to improve conservation strategies within MPAs.

To establish an MPA in Mexico, a proposal is first made to the National Commission of Protected Areas (abbreviated as CONANP), which sends it to the Institute of Ecology where the consultative Council of Protected Areas reviews the proposal and sends it to the Executive for approval. The Secretariat is to promote the participation of local groups, including municipalities, in the establishment, administration, and management of protected areas. Some local communities have initiated the establishment of MPAs. CONANP is to collaborate with local groups, including municipalities, in the development of a PA master plan, and may subsequently transfer administration to municipal governments.

Please see Appendix A for a detailed description of the procedures for MPA and fisheries zones enactment in each country.

The chart below summarizes the roles of municipalities with respect to MPAs in the four countries.

**Role of Municipalities in Proposing, Creating, and/or Participating in MPA Management**

Country	Proposal/creation	Management plan/regulation	Administration/management	Monitoring/enforcement
Belize	An NGO may propose a protected area	Management plan prepared by protected area manager, with public consultation	Minister may enter into a co-management agreement with an entity, which can be a municipality	Co-managers may designate authorized enforcement officers
Guatemala	Municipality may propose MPA	CONAP develops master plan before delegating management	Management may be devolved to another entity, including a municipality	CONAP is responsible for granting licenses and concessions

Country	Proposal/creation	Management plan/regulation	Administration/management	Monitoring/enforcement
Honduras	Municipality may propose MPA	Multidisciplinary team that may include municipalities prepares management plan; ICF approves plan	Management may be delegated to another entity, including a municipality	Enforcement by coast guard
Mexico	CONANP has authority to propose PAs; municipalities may “participate” in establishment of protected areas; some local communities have initiated a few MPAs	CONANP develops master plan; must collaborate with local groups that include municipalities	CONANP may transfer administration to municipal governments, among other entities	Municipalities may participate in enforcement of fisheries regulations; SEMARNAT may collaborate with municipalities for PA enforcement

*Figure 2 Role of Municipalities in Proposing, Creating, and/or Participating in MPA Management*

Belize has set as a goal to increase the current area of 4% of marine no-take zones both within and outside of protected areas to 11.6% of its marine area, including deep-sea spawning sites. The government may create no-take zones under both the Fisheries Law and the National Protected Areas System Act. Similarly, in Honduras, the Law of Fisheries and Aquaculture as well as the Forest, Protected Area, and Wildlife Law both contain provisions allowing the creation of no-take zones. The latter allows creation of no-take zones within protected areas, while the former provides for the Minister to create special management areas that can include no-take zones. In Mexico, no-take zones may be created through the use of fishing sanctuaries, closed areas, or Sanctuaries for the Protection of Wildlife and Critical Habitats for Wildlife Conservation. Fishing sanctuaries, declared by the fisheries administrative agency, serve as an important form of closed area, although they are typically temporary closures. In Guatemala, the fisheries management framework does not include provision for no-take zones, but may be included in specific management plans.

In several cases across the MAR region, concessions and other forms of area-based fishing rights fall in or near areas of environmental protection. This situation creates opportunities for fruitful cooperation as contact with conservation agencies and/or NGOs facilitates focusing on fisheries management within a general framework of sustainable use and conservation. In some cases, however, distrust can hamper collaboration between environmental protection agents and fisheries-dependent communities. It is important to ensure that the legal framework provides environmental management officers with adequate tools to perform their duties, including having fisheries

monitoring and enforcement powers.

#### IV. Legal Procedures for Establishing Co-managed Marine Protected Areas or Fisheries Management Areas, Including No-Take Zones

This section addresses the specific procedures in each country for establishing co-management of fisheries and marine protected areas, and no-take zones. Following the country discussions is a chart summarizing best practices and examples for establishing area-based local community co-management, and sustainable use, protected and no-take areas. Appendix A presents the specific regulatory pathways in each of the four countries for achieving co-management of fisheries and/or protected areas, and establishing marine protected and/or no-take zones under fisheries or protected area legal frameworks.

##### **Belize**

Between the National Protected Areas System Act and the Fisheries Act, the NPASA currently provides *clearer procedural guidelines* for co-management than does the Fisheries Act. However, for the most part it does not call on fisherfolk or fishing communities to take the lead in co-management, although it provides for that possibility in *authorizing a community organization to become a co-manager*. The drawback is that it is the Minister, not the communities, who has the authority to declare new marine protected areas. In contrast, the *Managed Access policy* under the Fisheries Act has the potential to *involve the entire artisanal fishing community in locally based management* of all coastal fisheries. Among the needs for effective Managed Access policy implementation are to have a public, clearly defined policy; transparency of fishing information (such as catch records and licensing); and active and empowered local fishers' managed access committees.

Currently, the Managed Access policy provides a potential opportunity for fishers to co-manage fishing areas. Determination of no-take zones is, however, still under the jurisdiction of the Minister. When becoming involved in Managed Access, it is recommended that fisher organizations institute procedures to ensure that fishers' committees become and remain active in management and continue to advocate for improvements in implementation.

##### **Guatemala**

In Guatemala, the *Law on Protected Areas* provides more *procedural and management opportunities for local management* by municipalities or fishermen's organizations than does the General Law on Fisheries and Aquaculture. The Law on Protected Areas allows a municipality or local Council for Rural Development to propose a marine protected area, to take part in its assessment, to manage the area, and if declared manager, to participate in development of the master management plan. Such a plan could involve creating no-take zones in the protected area.

## Honduras

In Honduras, the *General Law on Fisheries and Aquaculture* provides a more direct means for fishers' organizations to *participate in fisheries management* than does the Law on Forestry, Protected Areas, and Wildlife, although the latter also provides opportunities for community involvement in designation and management of protected areas. Another drawback of the use of the protected areas law is that a very small percentage of Honduras' marine area – 4% – is designated as protected. The fisheries law provides explicitly for co-management of artisanal fishing areas through the designation of Areas of Responsible Fishing and Aquaculture. Although the Secretary of State of the Office of Agriculture and Livestock has the authority to declare the area, the declaration must be done through an agreement with the local fishers' organizations. The organization then develops a co-management agreement and is responsible for on-going monitoring and evaluation. The legal preference given to indigenous groups and ethnic communities for traditional fishing sites, together with Areas of Responsible Fishing and Aquaculture, may provide means by which indigenous and ethnic communities could establish such areas in their traditional areas.

In practice, the protected areas law could provide another means of facilitating co-management of fisheries within protected areas by municipalities and local communities. The law allows a local entity to be involved in key stages of the development of a protected area, including the request and technical study. ICF retains the authority to declare the protected area. Although ICF develops the management plan, local groups have input into it, and a municipality or other local entity may be authorized as the co-manager of the area. The management plan may designate zones of no-take within the core areas and allow fishing in buffer zones.

## Mexico

In Mexico, the *General Law on Sustainable Fishing and Aquaculture* provides a means for local communities of fishers to *request the establishment of a permanent, temporary, total, or partial fishing sanctuary*, a form of protected no-take area. It also allows for the *involvement of local organizations in monitoring and enforcement*. In addition, the law provides for *granting of area-based fishing concessions for benthic resources to local entities*, including fishers' organizations and indigenous groups. In order to obtain a concession, the organization must submit a fisheries management plan for a particular geographic area. Upon obtaining the concession, it is subsequently responsible for fisheries management in the particular area.

The General Law on Ecological Balance and Environmental Protection, which provides for creating protected areas, is another means of involving local communities in the management of resources. The management plan, which a co-management entity may administer, may provide for the establishment of no-take zones as well as exploitation of

resources such as fisheries in buffer zones. In a protected area, CONAPESCA is responsible for issuing any fishing permits.

Given the choice between the procedures for establishing a fishing sanctuary and those for establishing an MPA, it may be more straightforward for a fishers’ group that already holds a fishing concession to request the establishment and co-manage of a fishing sanctuary within their concession. If the sanctuary lies within an existing MPA, it will require coordination with the MPA administrator and SEMARNAT.<sup>1</sup>

V. **Best Practices for Establishing Co-management**

The following chart summarizes best practices for co-management of fisheries and protected areas and provides examples of MAR country legal frameworks that use them.

Best Practices for Establishing Co-management of Fisheries or Protected Areas in MAR Region
<b>Proposal:</b> Proposal to establish MPA or fisheries management zone
Best practice: Municipality or local organization may propose
Examples of best practice: <ul style="list-style-type: none"> <li>• Guatemala and Honduras: any party, including a municipality, may propose a protected area</li> <li>• Mexico: Any interested party may request declaration of fishing sanctuary</li> </ul>
<b>Technical study:</b> Study and formalization by government or proponent
Best practice: Consultation with community as a part of study, or local proponent conducts study
Examples of best practice: <ul style="list-style-type: none"> <li>• Honduras: Technical study for PA may be conducted by initiating party</li> <li>• Mexico: Proponent must include a technical study with the request to establish a fishing sanctuary</li> <li>• Guatemala: Municipalities and Councils are to contribute to evaluation of PA</li> </ul>
<b>Declaration:</b> Declaration by government
Best practice: Consultation with communities before declaring protected or special management area
Examples of best practice: <ul style="list-style-type: none"> <li>• Belize: Minister must provide prior public notice and consult with nearby communities before establishing a protected area</li> <li>• Mexico: CONANP must seek and take into account the opinion of local government, indigenous peoples and other local groups before establishing a protected area; must provide prior public notice</li> <li>• Mexico: To establish a fishing sanctuary, must have evidence that local communities accept it</li> <li>• Honduras: To establish a PA, prior consultation required with advisory councils, ethnic groups, and municipalities; prior public notice required</li> </ul>

<sup>1</sup> Morena, A. et al, Fostering fisheries management efficiency through collaboration networks: the case of the Kanan Kay Alliance in the Mexican Caribbean, Bull Mar Sci. 92(0):000–000. 2016, <http://dx.doi.org/10.5343/bms.2015.1085>

Best Practices for Establishing Co-management of Fisheries or Protected Areas in MAR Region
<b>Co-management agreement formalized</b>
Best practice: Co-management agreement made with local community or local fishermen's organizations
Examples of best practice: <ul style="list-style-type: none"> <li>• Honduras: May develop co-management agreement for Areas of Responsible Fishing and Aquaculture with local organizations of basic artisanal fishermen</li> <li>• Honduras: Municipalities may become managers or co-managers of PAs</li> <li>• Mexico: CONANP may transfer administration of a protected area to municipal governments, agrarian or indigenous communities</li> <li>• Mexico: May create fishing sanctuary through agreement with local fishermen's organizations (not full co-management)</li> </ul>
<b>Management Plan:</b> Creation of management plan that includes zoning for both sustainable use and no-take areas
Best practice: Co-manager creates plan, or plan jointly created by co-manager and government; plan provides for zoning, including no-take zones
Examples of best practice: <ul style="list-style-type: none"> <li>• Guatemala: Municipalities can contribute to PA plan; management plan may include zoning for no-take zones and multiple use</li> <li>• Mexico: CONANP develops a management plan for PAs together with local communities and municipal governments; must provide for public participation in on-going decision-making; plan establishes zones based on legal categories</li> <li>• Honduras: Core areas of PAs are no-take zones; municipalities to be involved in zoning of PAs</li> </ul>
<b>Enforcement:</b> Enforcement of regulations and licensing responsibility
Best practice: Co-management or local entity has enforcement authority and licensing responsibility
Examples of best practice: <ul style="list-style-type: none"> <li>• Honduras: In Areas of Responsible Fishing and Aquaculture, co-manager and Vigilance Committee are responsible for monitoring and enforcement of the area</li> <li>• Mexico: Local fishermen's organizations may participate in monitoring and enforcement of a fishing sanctuary</li> <li>• Mexico: CONAPESCA may transfer enforcement authority for fishing regulations to municipalities</li> </ul>

Figure 3 Best Practices for Establishing Co-management of Fisheries or Protected Areas in MAR Region

## VI. Fisheries Management

The Honduras and Mexico laws formally base fisheries policy in planning. In particular, Honduras requires development of a Plan of Coordinated Activities among all the institutions that participate in fishing and aquaculture; a Fisheries and Aquaculture Development Plan (overall reference plan); Fisheries and Aquaculture Management Plan; and particular fisheries management plans for each area and fishery. Guatemala law provides for assessment of the state of conservation of fishery resources, and the development of regulations and policies for sustainable exploitation. In addition, before

granting fisheries concessions, a technical study must show that the concession will not endanger sustainability.

The regulation of fisheries management plans usually includes provisions to facilitate community participation, but again, in practice this is more a formality. Mexico implements a detailed management plan (Carta Nacional Pesquera) which describes management tools and links to basic regulatory measures such as minimum sizes, prohibited fishing gear, and areas closed to fishing. However, these fisheries management plans lack coordination to ensure adequate compliance with protected/endangered species regulations.

In Mexico, the fisheries law allows for a more direct role of state and local governments in fisheries management. However, in practice fisheries policy is still the bailiwick of the federal government. Decentralization of fisheries policy in Mexico represents a potential way to raise cooperative management, especially in a context of traditional lack of active cooperation between marine protection and fisheries management agencies at the federal level.

The four countries differ on the extent to which and how they protect small-scale fisheries. In Belize, trawling and industrial fishing are banned, and the entire wild-catch fishery consists of small-scale fisheries. Regulations and the Managed Access policy focus on protecting the sustainability of small-scale fisheries. Although there is no national policy on subsistence fisheries, some marine protected areas regulations provide for access for subsistence fishers in areas zoned for general fishing. The Honduras fisheries law provides for Responsible Fishing and Aquaculture Areas, which are subject to management plans, could be zoned exclusively for artisanal fishing, and are to be co-managed by local fisherfolk organizations. In addition, the use of joint artisanal and industrial fisheries management plans may facilitate protection of access of artisanal fishers to the fishery resource. Indigenous peoples and ethnic communities have preferential rights to their traditional resources. In Mexico, the fishery law also establishes the principle of preferential use rights for indigenous people and local communities, and provides for establishing fishing sanctuaries for conservation purposes in coordination with local fisheries groups. In contrast, Guatemala fisheries law does not explicitly grant any preferential use rights to indigenous people and local communities, but it guarantees subsistence fishing rights to all Guatemalan nationals.

A few examples of the creation of exclusive fishing rights in the region, such as the well-organized fishing concessions in the Sian Ka'an biosphere reserve in Mexico, have effectively improved small-scale fisheries management in the MAR, and contributed to a culture of compliance among interested stakeholders.

In general, with the exception of Belize, the issuance of fishing permits is not aligned with a spatial distribution of fishing activity. In Mexico, INAPESCA recommends the issuance of specific fishing zones for benthic resources to ensure that the same fishing organization holds the right to fish all benthic resources in an area, simplifying management, monitoring and enforcement. Although fisheries registration systems exist in the four countries, lack of transparency on the number of active fishing permits and boats affects the capacity to effectively control and monitor fishing activity. In this aspect, Belize seems to be the better positioned of the four.

All countries have provisions to control the fishing effort and establish area-based management rules including fishing and no fishing zones. Belize seems to have taken the lead in spatial fisheries management with the implementation of the Managed Access System.

## VII. **Marine Spatial Planning**

The four countries differ in the extent to and ways in which they employ marine spatial planning and zoning through coastal zone management plans, fisheries management, and protected area planning. Belize has clear legal authority for planning through the Coastal Zone Management Act. Although the country completed a comprehensive coastal zone management plan in 2016, neither the plan nor the coastal planning areas have been coordinated with fisheries management, or with conservation or development projects. The Managed Access policy incorporates its own spatial planning through the declaration of eight coastal fishing zones for small-scale fisheries and a ninth deep sea zone. The country's National Protected Areas System Act establishes protected areas as a national system and provides for zoning within them, which establishes different uses for different zones.

In Honduras, there is no comprehensive marine spatial planning authority, but only certain area-based ocean management policies. Zoning is used in protected areas, while additional zoning occurs through buffer zones outside of the protected areas. All fisheries, which are divided into regions, are managed under specific development plans and management plans that take area use into account. The Responsible Fishing and Aquaculture Areas are designed to manage artisanal fisheries on a spatial basis. There is a potential for planning in the use of biological corridors.

In Guatemala, the National Policy for the Comprehensive Management of Marine and Coastal Zones, which is still in the process of being implemented, seeks to eventually coordinate among the different institutions, and include marine and coastal ecosystems in territorial planning. As in Honduras and Belize, protected areas are divided into zones, and fisheries management may use area-based management as a tool.



In Mexico, the general environmental law, the LGEEPA, provides for Ecological Programs for Marine Spatial Planning, in which municipalities and states may participate, in maritime zones and adjacent federal coastal areas. Marine spatial planning is an iterative process consisting of three stages: (i) Coordination Agreements between federal agencies, state governments, and municipal authorities; (ii) programs that divide the area into regions or ecological zones to inform the spatial planning process; and (iii) a public participation and transparency process. Using coordination agreements and an iterative process, marine spatial planning in Mexico can be integrated with all marine sectors. The protected areas law provides for spatial planning, or the creation of zones, within protected areas, but this approach does not fully comply with the kind of broader, integrated management of ocean resources that MSP seeks to promote. In addition, the challenge remains in ensuring adequate enforceability of the plans through integration in the overarching regulatory framework for ocean resources management.

Overall, there does not seem to be a consistent understanding across the four jurisdictions on the advantages of implementing MSP, what MSP entails, and the preferential approaches to its legal implementation. Harmonization of MSP policies and laws in the region will be paramount to ensure long-term sustainability of the MAR in a context of growing coastal population, tourism development, and increased urban wastewater and agricultural runoff.

Three countries provide some means of designating areas for small-scale fisheries. In Belize, all coastal fisheries are small-scale fisheries, and the Managed Access policy divides the coastal area into eight fishing zones for artisanal fishers. Honduras fisheries law provides for specifying areas for artisanal fishing through designation of Areas of Responsible Fishing and Aquaculture. In Mexico, concessions for benthic resources granted to organizations of artisanal fishers may serve as a means to establish areas for small-scale fisheries. In contrast, Guatemala law does not provide for setting aside areas specifically for artisanal fishers.

The following chart summarizes the legal mandates for coastal and marine spatial planning, and its implementation. It also highlights the potential for designating zones for small-scale fisheries.

### Mandates for MSP and Small-scale Fisheries

Country	MSP Authorities	MSP Implementation	SSF zones
<b>Belize</b>	Coastal Zone Management Act and Coastal Zone Management Plan	No clear means of enforcement	Coastal fishing is entirely small-scale fisheries; entire coastal area divided into eight zones designated for artisanal fisheries; no industrial fishing in Belize
<b>Guatemala</b>	Policy for the Comprehensive Management of Marine and Coastal Zones in Guatemala	Planning currently relies on sectoral regulation and use of cooperation agreements	No specific designation of areas for small-scale fisheries; all citizens have rights to subsistence fishing
<b>Honduras</b>	No legal instruments for coastal planning; some area-based projects incorporate planning	N/A	Exclusive areas of artisanal fishing may be created in APARs; indigenous fishers have priority in their traditional areas
<b>Mexico</b>	The LGEEPA authorizes ecological programs for marine spatial planning (POEMs)	The POEMs include Environmental Strategies for implementation; environmental programs of states and municipalities may design, issue, implement and update regional or local programs; however, the focus is limited to environmental matters, and inter-institutional coordination is lacking	No specific designation of areas for small-scale fisheries, although fishing concessions granted to local fishermen's groups could contribute to such area-based management

Figure 4 Mandates for MSP and Small-Scale Fisheries

### VIII. Co-management and Public Participation, Including Consultation and Management Involvement

Although municipalities do not have authority to manage coastal waters, they are autonomous and can regulate environmental matters in Honduras, and the legal framework allows for their involvement in management in Mexico.

#### Co-management in MPAs

In all four countries, the protected areas laws provide for the possibility of co-management of protected areas with local communities, non-governmental organizations, or indigenous communities, or in some cases private entities. In Belize, 12

of the 14 MPAs are co-managed, while 37 of 51 protected areas in Honduras are co-managed. In Belize, a certain category of protected area, Wildlife Refuge II, provides that an indigenous community that co-manages the area may maintain subsistence use of the resources. In Mexico, local communities and governments, indigenous peoples and other organizations or persons interested in protected areas can participate in their administration. In practice, the level of involvement of local communities in MPA management greatly varies on a case-by-case basis.

All four countries require public participation during the process of creation of protected areas. In Honduras, the local municipality must be involved, and the opinion of local indigenous communities is required to create the area. In Guatemala, the Councils for Rural or Urban Development as well as municipalities may contribute to the identification, assessment and development of protected areas in their jurisdictions. In Mexico, the government must seek the opinion of local governments, private and social organizations, and indigenous peoples. Other interested peoples may also be involved.

Co-management agreements must meet specific requirements in Belize and Honduras, and in Belize, co-management and management plans are subject to public consultation. Honduras also requires a specific public process for determining co-management and management plans. In Mexico, after a management plan is in place, the government agency may transfer responsibility for management to a local entity such as a state or municipal government, agrarian or indigenous community, or another organization.

In all four countries, there may be local advisory committees for co-managed protected areas. In Honduras, advisory councils established under the protected area law are to be consulted on management. In Guatemala, councils and municipalities may provide input into the development of a protected area. In Mexico, national authorities will support the creation of community groups interested in participating in the administration and conservation of ocean resources.

Belize and Mexico provide for public participation in marine and coastal planning. In Belize, local Coastal Advisory Committees participate in the development of the coastal zone management plan. In Mexico, municipalities and states participate in the development of Ecological Programs for Marine Spatial Planning (POEM), discussed above. In particular, the Environmental Log (which includes the coordination agreement, management program; environmental indicators for the evaluation of compliance; and the results of the evaluation of compliance analyses) of the information gathered through development of the POEM promotes public participation and transparency.

#### Co-management in Fisheries

Although fisheries laws in the four countries recognize the importance of co-management and community participation in fisheries stewardship, across the MAR countries this

policy approach **still requires development through more specific regulation that sets standards for participatory management**. Experience in the MAR shows that, in some cases, maintaining active community engagement is a challenge, and in other cases, implementation of legal mandates to establish fisheries co-management is lacking. Mexican and Honduran legal frameworks seem to be the more detailed in terms of organization of co-management institutions. However, there is still an overall need to define more specific elements of the regulatory implementation of co-management institutions, including the procedures for selection/removal of members, functions, fishing areas under co-management, decision-making power, development of co-management plans, enforcement capacity of the co-management institutions, and links between co-management capacity and the existence/distribution of exclusive fishing rights.

In the four countries, the regulatory framework allows for the creation of collaborative governance bodies. Participation in committees demands a certain level of fishers' structuring. Election of representatives often leads to tensions and politicization and is vulnerable to potential capture by parochial interests. It is therefore desirable for the legal framework to clarify issues like voting rules, length of mandates, transparency and accountability, and measures to ensure that the opinions of underrepresented sections of the small-scale fisheries sector are also taken into account.

### Participatory Processes

Fisheries laws enable the creation of advisory committees and similar institutions that include participation from academia, civil society, different levels of government, and associations of fishers. Overall, keeping these institutional schemes active and engaged remains a challenge, as adequately planning and organizing the meetings requires staff time and usually has a series of associated costs.

## IX. Enforcement

Of the four Mesoamerican Reef countries, only Honduras specifically dedicates a fund from fisheries fees to fisheries enforcement. It specifies that 40% of the proceeds from the mandatory fishing tax be dedicated to enforcement. In Belize, the National Protected Areas Conservation Trust, funded in part through a tourist tax, provides funding for the administration of protected areas, which can include but is not specifically directed to enforcement. In Guatemala, fishing fees fund administrative, research, and development expenses (75%), and enhancing riparian fishing conditions in coastal communities (25%). None of the fund, however, is specifically dedicated to enforcement.

Monitoring and reporting of catch is a required element of the Managed Access policy of Belize, but it has not yet been enforced for all fishers. Efforts are being made to extend

actual reporting to all fishermen. Results of the reports have not been publicly available. In Honduras, all fishers except basic artisanal fishers must report their catch; the country also requires industrial fishers to use electronic monitoring systems. Similarly, Mexico's fisheries law authorizes use of the best available technologies and scientific discoveries to combat illegal fishing. Mexico creates an overall enforcement plan, termed the Comprehensive Program for Fishing and Aquaculture Surveillance and Enforcement to Combat Illegal Fishing. A Guatemala provision mentions use of electronic technologies for monitoring vessels. The four countries have catch reporting requirements, but the main challenge remains ensuring effective implementation of all these regulatory provisions.

## X. Summary of Country Findings

This report has not identified legal provisions that would preclude the implementation of tested policy approaches to support a more sustainable small-scale fisheries sector, such as the creation of preferential, exclusive access rights for small-scale fishers. Legal frameworks across the MAR promote, with different degrees of detail, the participation of local communities and associations of producers in fisheries management, which provides opportunity for the implementation and reinforcement of co-management mechanisms.

This summary section first reviews country findings in relation to small-scale fisheries management, and follows with a discussion of avenues for regulatory reform to enable implementation of community-based managed access.

### Belize

#### *Strengthening small-scale fisheries and devolution of fisheries management*

The **Managed Access** program incorporates the principles of consultation and participation; economic, social and environmental sustainability; and social responsibility. The program protects **tenure rights** of traditional artisanal fishers by granting them access to two of the country's eight coastal fishing zones (in addition to the ninth, general access zone) as long as they comply with the rules. Local fishers are to be involved in **managed access committees** that help determine licensing and use of the resources. Fishers must **report catch**, which facilitates development of measures for the long-term conservation and sustainable use of fisheries. Because industrial trawling is prohibited, fisheries management is directed towards small-scale fisheries.

#### *Marine spatial planning*

Belize has a comprehensive **Coastal Zone Management Act** under which it created the **2016 Integrated Coastal Zone Management Plan**, involving local communities in its

creation. It has furthered **co-management of protected areas**, which it regulates under the **National Protected Areas System Act**, and which require a public procedure for their declaration. The **Protected Areas Conservation Trust** provides a source of funding for the management of protected areas.

#### *No-take zones*

The Minister has the authority to create **no-take zones** under the Fisheries Act, including Spawning Aggregation Sites, and through zoning within management plans for protected areas.

## **Guatemala**

### *Marine protected areas*

**MPAs are poorly represented in the Guatemalan System of Protected Areas.** Marine and coastal ecosystems comprise only around 6% of the total of PA in the country. The need to increase the marine and coastal protected surface has been recognized as an imperative to conserve the critical diversity of species and ecosystems and to achieve international goals endorsed by the Guatemalan State, like the Aichi Targets.<sup>2</sup> The current legal framework for protected areas in Guatemala does not include specific regulations for the creation of MPAs.

### *Marine spatial planning*

**Policies and regulations for an integrated and participatory spatial marine planning and sustainable management of marine resources and ecosystems are still in the early stages of development in Guatemala.** Although the Policy for the Comprehensive Management of Marine and Coastal Zones in Guatemala is an important step in that direction, the absence of comprehensive marine spatial planning procedures is a significant limitation that contributes to lack of coordination in ocean resources stewardship, and generates management and use conflicts.

### *Principles of sustainable fisheries management*

The General Law on Fisheries and Aquaculture is in some aspects a forward-looking regulatory instrument that introduces key principles, like the precautionary approach and the standard of best available scientific information, as governing criteria for decision-making processes concerning the exploitation of marine resources.

### *Co-management of protected areas*

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<sup>2</sup> According to the Guatemalan National Biodiversity Strategy and Action Plan 2012- 2022, which was designed to implement the Convention on Biological Diversity, by 2022 at least 10% of the marine and coastal ecosystems will be protected under a mechanism capable of ensuring their sustainable use and/or conservation.

The current legal framework provides a strong basis for the establishment of co-management agreements for protected areas. Through these agreements, the Guatemalan government can build protected area-specific governance and management mechanisms that involve municipalities, community organizations and associations, indigenous peoples and/or civil society organizations.

## **Honduras**

### *Principles of sustainable fisheries management*

The 2015 General Fisheries and Aquaculture Act is a forward-looking regulatory instrument that introduces key principles like sustainability, the implementation of the precautionary principle, the exercise of fisheries management within a framework of transparency, and the creation of preferential use rights for local communities and indigenous peoples.

### *Co-management of fisheries and marine protected areas*

The legal framework of Honduras provides a strong foundation for the creation of co-management mechanisms both for small-scale fisheries management and for marine protected areas stewardship. The APAR is a fisheries management instrument specifically oriented to putting the principles of transparency and preferential use rights into practice, designating co-management institutions and establishing a framework of cooperation between governmental authorities and local groups and institutions.

The current legal framework also provides for the establishment of co-management agreements for protected areas. Through these agreements, the Honduran government can build protected area-specific governance and management mechanisms that involve municipalities, community organizations and associations, and/or civil society organizations. Moreover, an institution like a local association or a municipality is authorized to simultaneously enter into a protected area co-management agreement and an APAR management agreement. This provides a strong legal foundation for integrating marine protected area management and small-scale fisheries management.

### *Marine spatial planning*

The existence of such a progressive regulatory scheme for protected area and small-scale fisheries management is in contrast with the apparent lack of an adequate regulatory mechanism for large-scale, integrated ocean and coastal planning and management. As with other countries in the Mesoamerican Barrier Reef region, the absence of comprehensive marine spatial planning procedures is a significant limitation that contributes to lack of coordination in ocean resources stewardship, and generates management and use conflicts.



## Mexico

### *Principles of sustainable fisheries management and community-based management*

The legal framework of Mexico provides a strong foundation for the sustainability of coastal fisheries and for advancing towards the effective development of co-management mechanisms both for small-scale fisheries management and for marine protected areas stewardship. The LGPAS is a forward-looking regulatory instrument that introduces key principles like sustainability, the implementation of the precautionary approach,<sup>3</sup> the exercise of fisheries management within a framework of transparency, and the creation of preferential use rights for local communities and indigenous peoples. On the enforcement side, the LGPAS also authorizes national authorities to use the best available technologies and scientific discoveries to combat illegal fishing.<sup>4</sup>

### *Marine spatial planning and area-based mechanisms*

The instruments for the design and implementation of the national policy on fishing and aquaculture in Mexico include a vast catalogue of area-based mechanisms to support decision-making processes. The instruments also adopt an adaptive framework for the sustainable administration and conservation of ocean resources, including the National Fishing Chart, programs for spatial planning and management plans, in addition to a detailed system to issue concessions and permits for different types of fishing. Instruments like the *ordenamiento pesquero* and fishing sanctuaries are examples of mechanisms specifically oriented to fostering co-management institutions and establishing a framework of cooperation between governmental authorities and local groups and institutions.

The environmental regulatory framework also provides a strong foundation for the sustainability of fisheries and the conservation of ocean resources in Mexico, and for integrating marine protected area management and small-scale fisheries management through instruments like the EIA, the ecological territorial spatial planning programs (POEMs and POETs) and the comprehensive administrative regime for the creation and administration of protected areas. The current legal framework also provides for the establishment of co-management agreements for protected areas, which can allow the Mexican government to move towards the creation of protected area-specific governance

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<sup>3</sup> Article 17 VIII of the LGPAS includes among the guiding principles for the development and implementation of the national policy on sustainable fishing and aquaculture the following provision:

*In order to conserve and protect the fishing resources and the ecosystems in which these resources are located, the administrative authorities in the fishing and aquaculture sector will adopt a precautionary approach that includes the definition of applicable catch and effort limits, as well as the evaluation and monitoring of the impact of fishing activities over the long-term sustainability of the populations*

<sup>4</sup> LGPAS, Articles 124 and 125.



and management mechanisms that involve municipalities, community organizations and associations, indigenous groups, and/or civil society organizations.

## XI. **Avenues for Regulatory Reform to Enable Implementation of Community-Based Managed Access**

### **Belize**

#### *Co-management of marine protected areas*

There is a need for consistency among co-management agreements with NGOs for marine protected areas as to enforcement, transparency, and public participation. Establish requirements and increase opportunities for ongoing local public participation in MPA management. Require NGO board meetings to take place locally so that local communities may participate.

Require MPA managers and associated communities to be notified and consulted when a project that may affect an MPA is proposed, in order to adjust proposed projects to their concerns.

#### *Enforcement*

Fisheries enforcement needs a dedicated source of funding. Currently fishing license fees go to the central treasury and are not dedicated to fishery enforcement. Earmark some of Protected Areas Conservation Trust money for fisheries enforcement within marine protected areas.

Improve coordination of fisheries enforcement and MPA enforcement. Make registries of licensed fishers available locally in order to facilitate enforcement.

#### *Marine spatial planning and area-based mechanisms*

Provide a mechanism through which to integrate coastal zone management with the proposal and approval of projects in all sectors within the coastal zone. Proponents could submit all proposals to the Coastal Zone Advisory Council for approval. The mechanism should also involve the local Coastal Advisory Council for the particular zone that the project would affect.

Align coastal zone management zones with fishing zones and marine protected areas. Ensure that zones do not cross MPA lines. Coordinate Coastal Advisory Committees with Managed Access Committees.

Reduce the minimum size of projects included on Schedule 1, the section of the Environmental Protection Act that requires mandatory environmental impact statements, in order to require EIAs or an environmental assessment for additional,

smaller projects that may impact mangroves, coastal areas, islands and cayes, protected areas, and other coastal resources.

#### *Regional coordination*

Update Belize lobster fishing regulations to comply with SICA requirements.

## **Guatemala**

### *Marine protected areas*

National strategies to move towards international goals like the Aichi Targets to increase marine protected area can become key assets to increase the coverage of MPAs in Guatemala, providing also opportunities for technical and financial assistance, including strategic governance actions to foster a comprehensive regulatory reform to fill gaps and overcome barriers to achieve the sustainable management of ocean resources.

Regulations for MPA can be strengthened to create specific mechanisms for area-based conservation strategies to enhance biodiversity conservation and fisheries governance in protected areas. In particular, regulations to the LPA could be revised and reformed to include specific provisions concerning the classification, creation, spatial planning and management of marine parks and other area-based mechanisms to promote the participation of local communities and authorities in the co-management of PAs and marine resources within protected areas.

### *Marine spatial planning*

The ongoing process to implement the PMIZMC is a critical opportunity to design and implement effective mechanisms for spatial planning and regulation (*ordenamiento territorial*), and to overcome obstacles posed by the current lack of coordination among national and regional sectoral authorities responsible for the conservation of biodiversity and the sustainable management of marine resources and ecosystems.

### *Co-management of MPAs and small-scale fisheries*

The legal framework of Guatemala lacks a strong foundation for the creation of co-management mechanisms both for small-scale fisheries management and for marine protected areas stewardship. It could be greatly enhanced with the inclusion of provisions for transparency, the creation of preferential use rights for local communities and indigenous peoples and co-management institutions to create a clear and effective framework of cooperation between governmental authorities and local groups and institutions.

## Honduras

### *Marine spatial planning*

There is a need for an adequate regulatory mechanism for large-scale, integrated ocean and coastal planning and management. There should be comprehensive marine spatial planning procedures.

## Mexico

### *Cross-sectoral and inter-institutional coordination*

The lack of effective coordination and communication among the federal agencies responsible for environmental protection and the sustainable development of fisheries – SEMARNAT, CONANP, PROFEPA, SADR, and CONAPESCA – is among the most pressing issues to resolve to create a comprehensive national policy for the conservation of ocean resources and ecosystems and the sustainable development of fisheries in Mexico. A reform to key pieces of legislation, like the LGVS and the LGPAS, to design adequate coordination mechanisms is regarded by experts in Mexico as an urgent response to overcome the division among the environmental authorities and those responsible for the fishing sector.

### *Strengthening small-scale fisheries*

The current regulatory framework does not include a definition of artisanal/coastal/riparian/small-scale fisheries. There are no specific provisions to guide the integration of marine protected area management and small-scale fisheries, or to inform the implementation of co-management strategies and mechanisms. A regulatory reform in these fields could greatly help to strengthen the capacities of artisanal fisheries, recognizing their links with traditional livelihoods and culture and allowing them to create and implement their own internal regulations and define their governance mechanisms. Such a reform would also provide legal certainty to artisanal fishing activities, establish effective mechanisms to guarantee the exercise of preferential rights of local communities and indigenous communities, provide clear and straight-forward alternatives to create institutions for the co-management of ocean resources and protected areas, and enable communities to participate in and cease to be affected by illegal fishing.

## Appendix A. Regulatory Comparison Chart

The comparison chart below summarizes the key legal issues in this Regional Comparison. A summary of regulatory needs relative to fisheries and area-based marine management follows the legal comparison chart. In addition to the legal framework presented in the chart, Appendix A contains flowcharts to illustrate the regulatory processes in each of the four countries that provide means for creating community-managed fisheries, co-managed marine protected areas, and no-take zones or protected areas.

The chart presents the following issues related to fisheries:

- fisheries governance,
- sustainability,
- area-based fisheries management,
- community management,
- small-scale fisheries, and
- no-take zones.

The chart also addresses other area-based management issues:

- legal framework for marine spatial planning,
- creation of marine protected areas, and
- co-management of marine protected areas.

### MAR Regional Legal Comparison

Country/ Legal Authority	Belize	Guatemala	Honduras	Mexico
<b>Fisheries governance</b>	The <i>Ministry of Agriculture, Fisheries, Forestry, the Environment, and Sustainable Development and Immigration</i> has overall authority over fisheries and protected areas; the Fisheries Department administers the fisheries law.	<i>Ministry of Agriculture, Livestock and Food (MAGA)</i> has authority to design and implement fisheries policy and regulations; within MAGA, the Directorate of Fisheries and Aquaculture Regulations (DIPESCA) administers the fisheries law.	<i>Secretary of State of Agriculture and Livestock</i> has authority to implement the fisheries law through the Directorate General of Fisheries and Aquaculture (DIGEPESCA); the Coordinating Committee of the National Council of Fisheries and Aquaculture	<i>Ministry of Agriculture and Rural Development, through National Commission on Fishing and Aquaculture (CONAPESCA)</i> , administers the fisheries law.

<b>Country/ Legal Authority</b>	<b>Belize</b>	<b>Guatemala</b>	<b>Honduras</b>	<b>Mexico</b>
			(CONAPESCA) is to develop a Plan of Coordinated Activities for the fishing and aquaculture sector.	
<b>Fisheries management – principle of sustainability</b>	In Managed Access policy	Law recognizes principle of sustainability	Law recognizes principle of sustainability	Law recognizes principle of sustainability
<b>Fisheries management – overall structure and potential for area-based management</b>	Managed Access policy is spatially based: fishing licenses granted based on area use; fisheries law provides regulatory authority for Minister (through Fisheries Dept) to control fishing effort and establish area-based management, including closures.	Technical assessment of resources prior to granting concessions; requirement to develop regulations and policies for sustainable exploitation; may control fishing effort and establish area-based management through regulation.	Planning requirements: Plan of Coordinated Activities, Fisheries and Aquaculture Development Plan, Fisheries and Aquaculture Management Plan, particular fisheries management plans; may control fishing effort and establish area-based management through regulation.	Planning requirements: National Fishing Charter and individual fishery management plans; may control fishing effort and establish area-based management through regulation.

Country/ Legal Authority	Belize	Guatemala	Honduras	Mexico
<b>Fisheries management – community participation</b>	Managed Access policy creates fishing committees with responsibility for determining eligibility for fishing licenses, monitoring and enforcement.	No relevant legal authorities.	Responsible Fishing and Aquaculture Areas to be co-managed by fisherfolk organizations; indigenous and ethnic communities have some management rights for their traditional resources.	CONAPESCA may transfer to local governments the power to administer and enforce aspects of local fisheries management. Regulation of fisheries management plans provides for community and state and local government participation. Concessions for benthic resources in a particular area may be granted to local fishermen’s organizations, which administer under a management plan.
<b>Fisheries management – protection of small-scale fisheries</b>	Law prohibits industrial trawling; all of wild-catch fishery is small-scale; area-based fishing rights incorporated into fishing licenses that allow fishers to access two coastal fishing zones; some MPA regulations provide for subsistence rights.	No preferential use rights for indigenous people and local communities; law ensures subsistence fishing rights to all Guatemala citizens.	Responsible Fishing and Aquaculture Areas may be zoned exclusively for artisanal fishing; joint artisanal and industrial fisheries management plans may help protect artisanal fisheries; preferential rights to resources given to indigenous peoples and ethnic communities.	CONAPESCA declares fishing sanctuaries in coordination with local small-scale fishers groups; law gives preferential use rights to indigenous people and local communities.

<b>Country/ Legal Authority</b>	<b>Belize</b>	<b>Guatemala</b>	<b>Honduras</b>	<b>Mexico</b>
<b>Fisheries area-based management – no-take zones</b>	Both fisheries law and protected areas law provide for creation of no-take zones; 11 no-take spawning aggregation sites declared under fisheries law; fishing may be prohibited in certain zones of MPAs.	Fisheries management framework does not provide for creation of no-take zones (but might be created in MPA management plans).	Both fisheries law and protected areas/wildlife law allow for the creation of no-take zones; in core zone of MPAs, take is prohibited.	No-take zones may be created as fishing sanctuaries under the fisheries law, or as Sanctuaries for the Protection of Wildlife or Critical Habitats for Wildlife Conservation under the wildlife law.
<b>Area-based management – marine spatial planning and community participation</b>	Creation of national coastal zone management plan involves participation of local Coastal Advisory Councils; not coordinated with fisheries management or development projects, or with other forms of area-based management.	Policy for the Comprehensive Management of Marine and Coastal Zones exists but still in process of implementation; as policy, no underlying statutory mandate.	No comprehensive marine spatial planning.	Statute provides for planning based on ecological programs for marine spatial planning process; involves municipalities and states.

Country/ Legal Authority	Belize	Guatemala	Honduras	Mexico
<b>Area-based management – marine protected areas</b>	The Minister declares protected areas under the protected area law; the Fisheries Department concludes and administers co-management agreements for Marine Reserves and most other marine protected areas; the Forest Department administers certain types of protected areas, including in marine areas. Declaration process requires technical study and consultation with local communities; biological corridors may be created.	National Council for Protected Areas (CONAP) has the authority to approve licenses for exploitation and management in protected areas and that may grant co-management agreements for protected areas; declaration process requires technical study. Councils for Rural or Urban Development and municipalities may contribute to the identification, assessment and development of protected areas; buffer zones may be created.	The National Institute of Forest Conservation and Development, Protected Areas and Wildlife (ICF) has authority to create protected areas and to sign co-management agreements; Secretary of State of Natural Resources at the proposal of the Secretary of State in the Office of the Environment, in consultation with municipalities, may create buffer zones. Declaration process requires technical study; local municipality must be involved, and opinion of local indigenous communities sought.	Declaration process requires a technical study; government must seek opinion of local governments, private and social organizations, and indigenous peoples; buffer zones may be created.
<b>Area-based management – co-management of MPAs</b>	Policy prescribes requirements for co-management agreements; local advisory councils may be created.	Local advisory councils may provide input into the development of a protected area.	Specific public process for determining co-management and management plans; advisory councils under the protected area law are to be consulted on management.	CONANP may grant protected area management responsibility to a state or municipal government, agrarian or indigenous community, or other organization, after management plan in place; community groups may be authorized to participate in the administration of ocean resources.



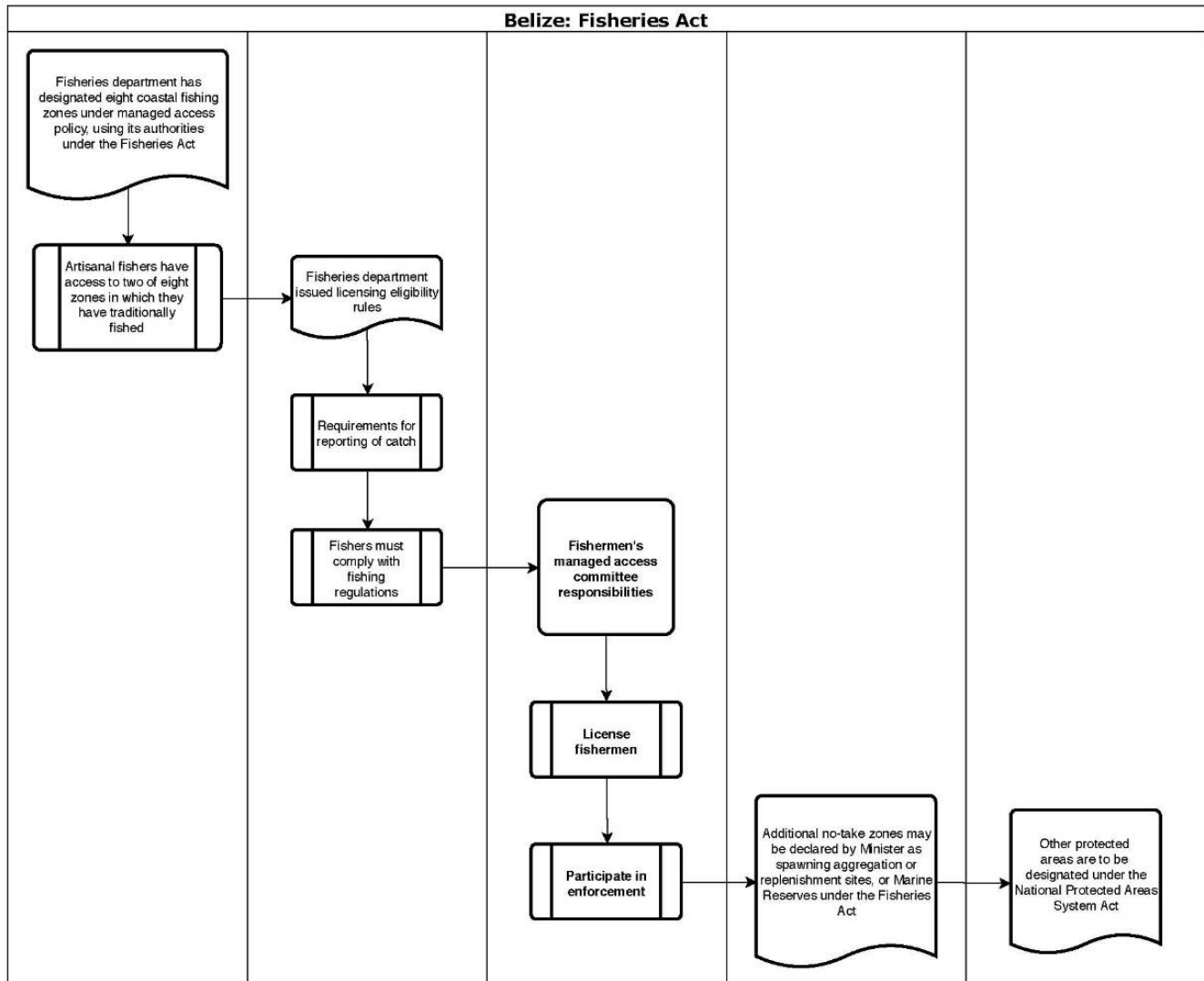
## Appendix B. Regulatory Needs Chart

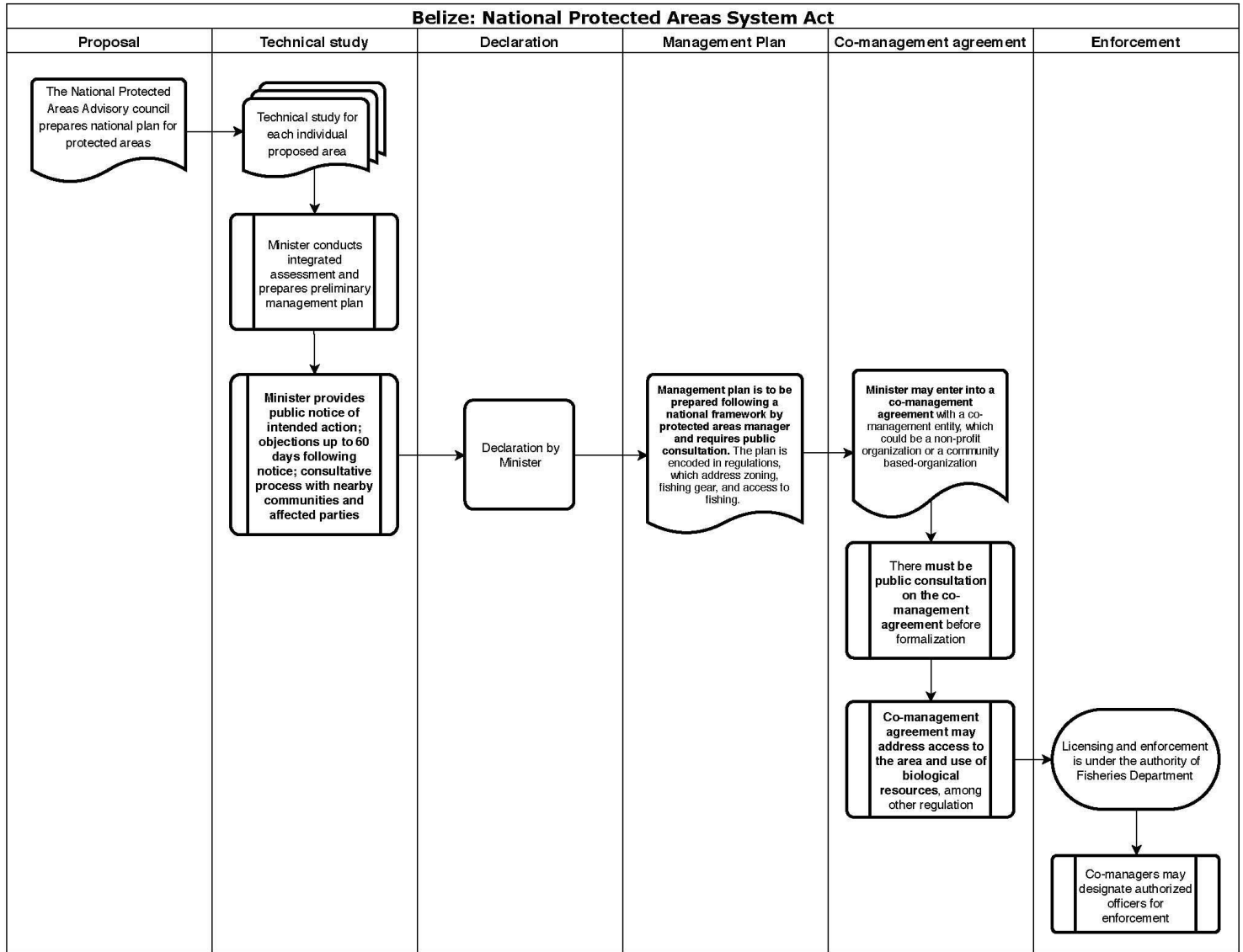
<b>Implementation of natural resource management principles</b>
Greater institutional and financial capacity to ensure adequate implementation; mechanisms for evaluating implementation and providing transparency on use of marine resources
<b>Community participation in fisheries management and co-management of MPAs</b>
Maintaining active community engagement in fisheries management community institutions is a challenge; regulatory need exists to define specific elements of co-management institutions: procedures for selection/removal of members, functions, fishing areas under co-management, decision-making power, development of co-management plans, enforcement capacity; links between co-management capacity and the existence/distribution of exclusive fishing rights. In Honduras, there is a need to clarify procedures through which to involve advisory councils and municipalities in fishery management plans and protected area development and implementation.
<b>Connection between area-based fishing rights and marine protected areas</b>
Potential for collaboration exists when area-based fishing rights are in close proximity to protected areas; however, the legal framework needs to provide adequate tools for fisheries monitoring and enforcement. There are inadequate coordination efforts between protected areas regimes and fisheries management regimes. Systematized coordination could improve both fisheries management and area protection.
<b>Cross-sectoral and inter-institutional integration</b>
Belize, Guatemala, and Honduras would benefit from specific cross-sectoral integration regulations, policies, and/or procedures. In Belize, decisions concerning fisheries, protected areas, and development are not required to comply with the 2016 Coastal Zone Management Plan. Belize does not require that developers notify or consult MPA co-management entities about development projects that may have impacts on the MPAs, and does not coordinate fishing and marine planning areas. Honduras lacks a comprehensive marine spatial planning program and the means to integrate protected area and fisheries policies. Although Guatemala has a marine planning policy, the policy is still in the process of implementation. In contrast, Mexico has a marine planning process for integrating the activities of marine sectors in particular planning areas.
<b>Strengthening regime for small-scale fisheries</b>
Ensure there are effective mechanisms to establish preferential use rights and sustainability for artisanal fisheries, local communities, and indigenous groups. Consider area-based rights for artisanal fishers, such as Belize's Managed Access policy and Honduras' Responsible Areas of Fishing and Aquaculture.
<b>Enforcement</b>
There is inadequate enforcement against IUU fishing. Belize, Guatemala, and Mexico do not have statutorily dedicated resources for enforcement; without dedicated funding, enforcement activities are likely to have inadequate resources. Even with dedicated funding as in Honduras, an assessment of the adequacy of resources and methods for enforcement is appropriate. Honduras exempts basic artisanal fishers from reporting catch, which creates a loophole in monitoring and scientifically based management. In Belize, reporting of catch is not yet universal, and the results of reporting are not public.

## Appendix C. Flowcharts. Procedures for Establishing Co-management and Protected Areas in the Four Countries.

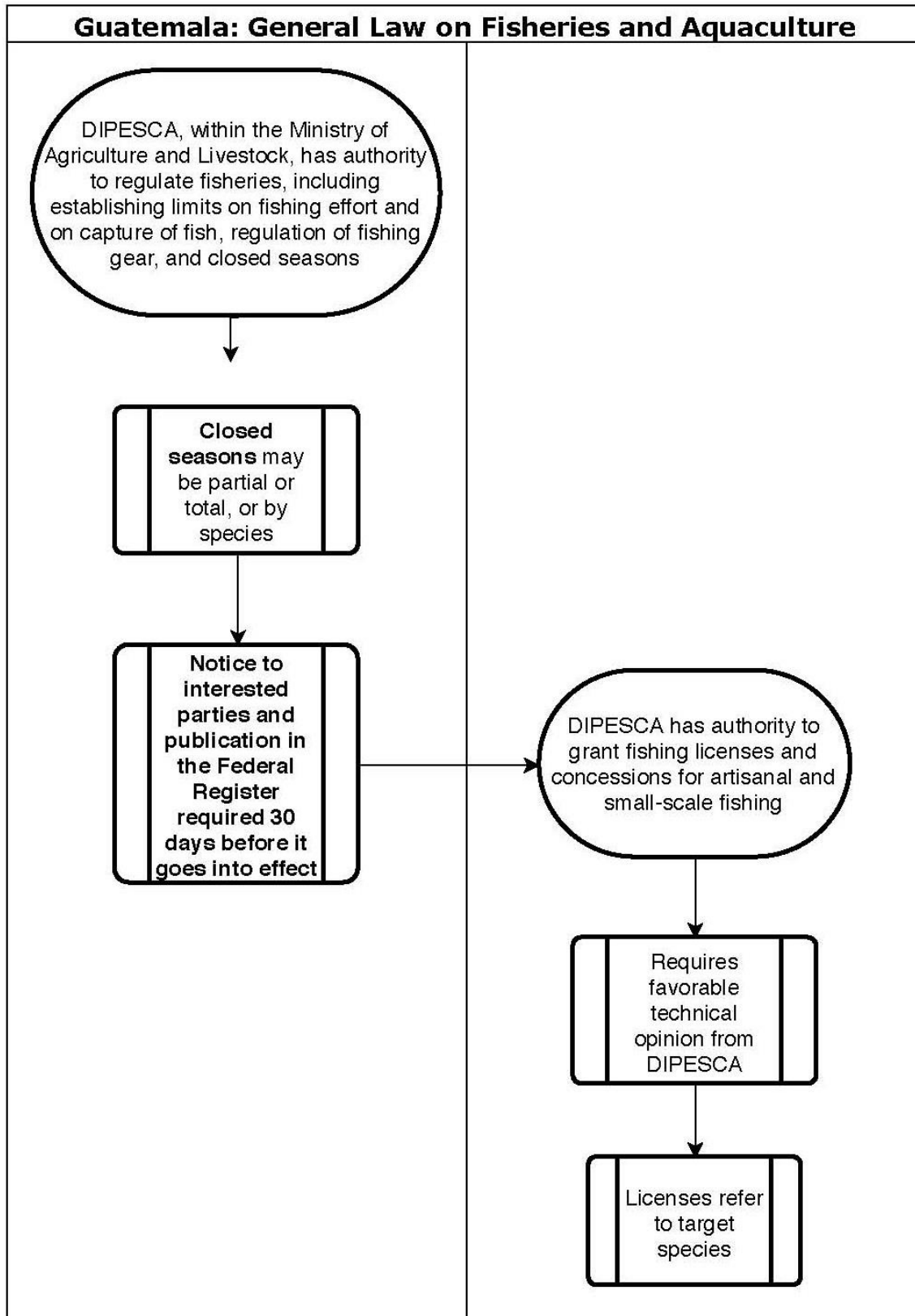
This appendix contains eight flowcharts. For each of the four countries, two different flowcharts illustrate the potential regulatory pathways, one flowchart for the fisheries law and one for the protected areas law.

### Belize

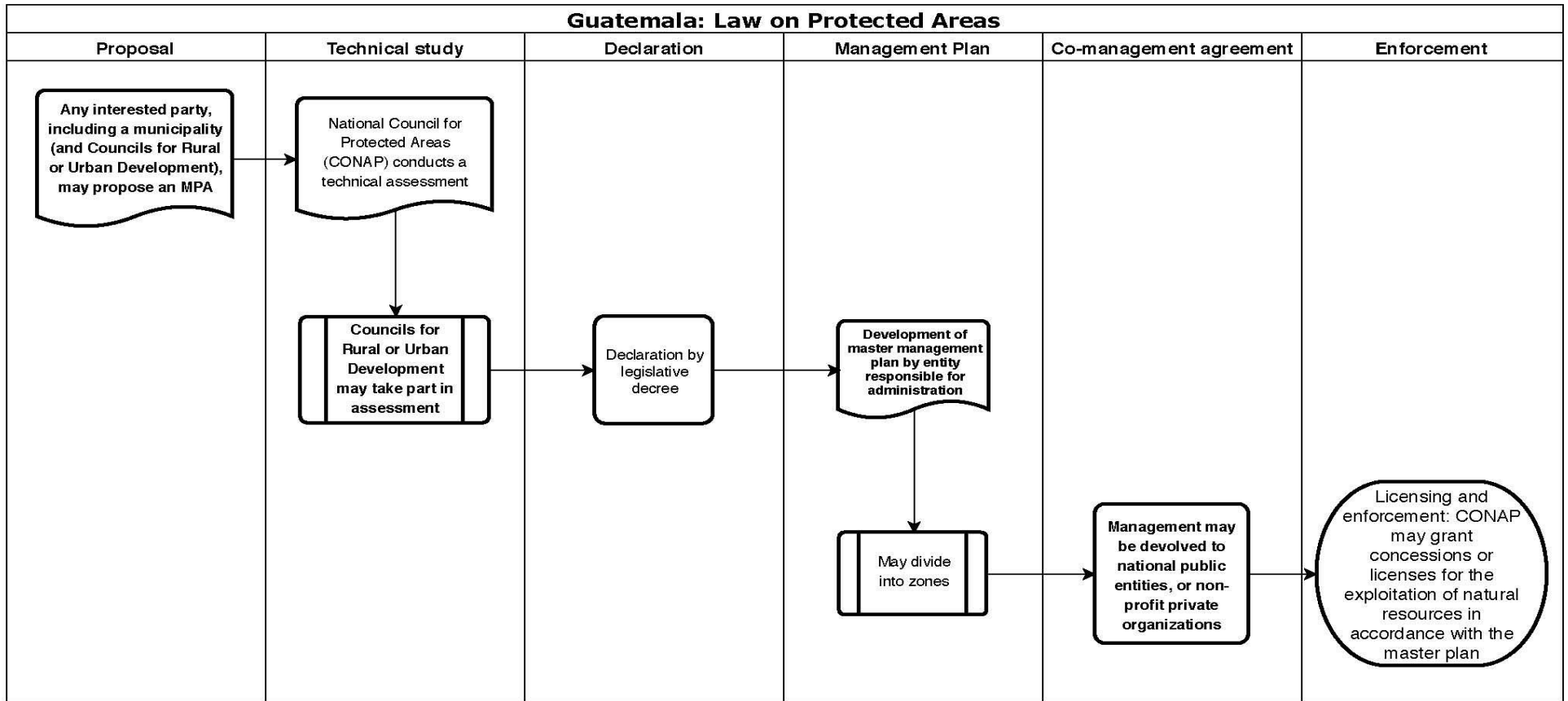




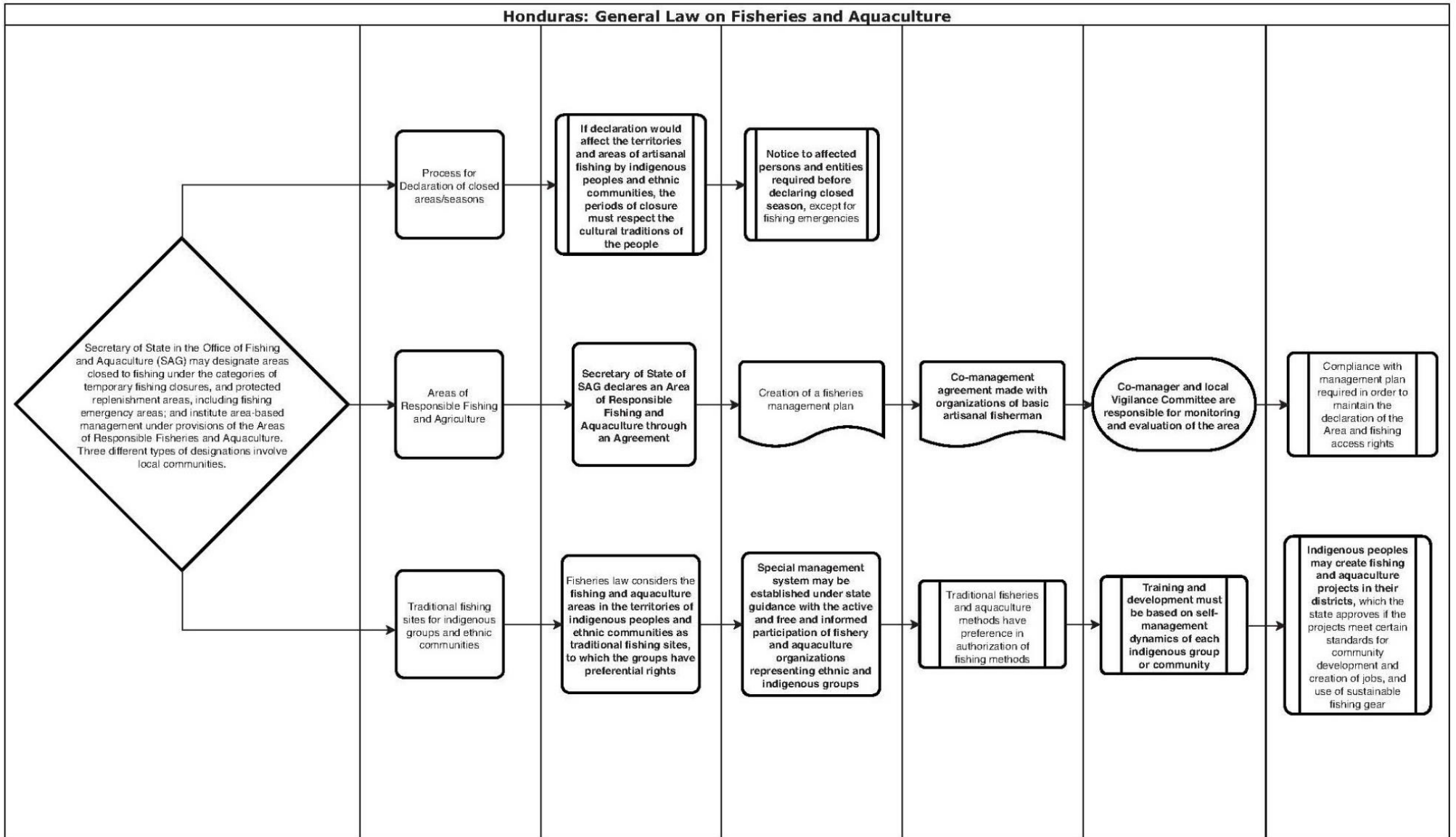
**Guatemala**



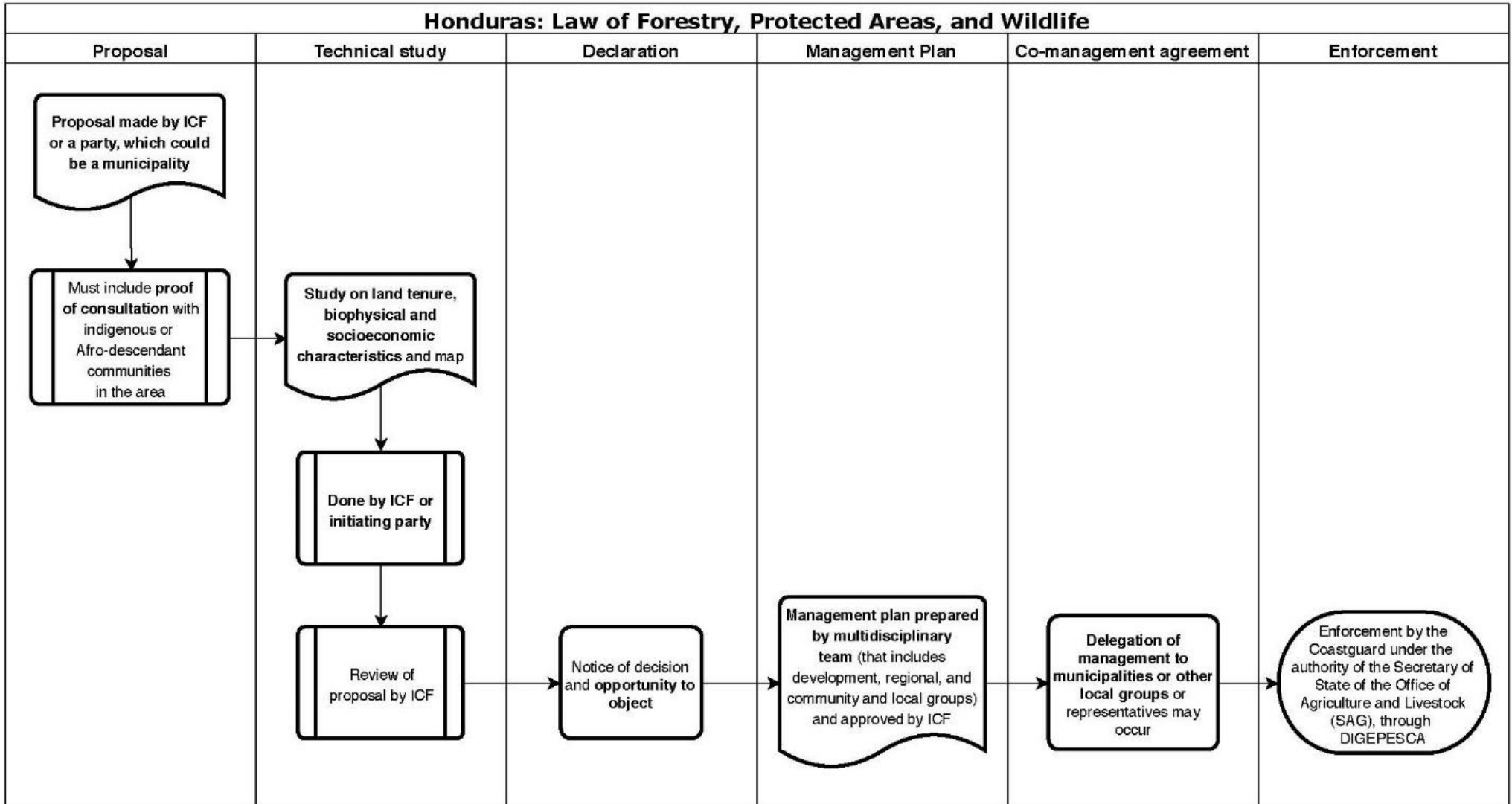
**Guatemala: Law on Protected Areas**



Honduras

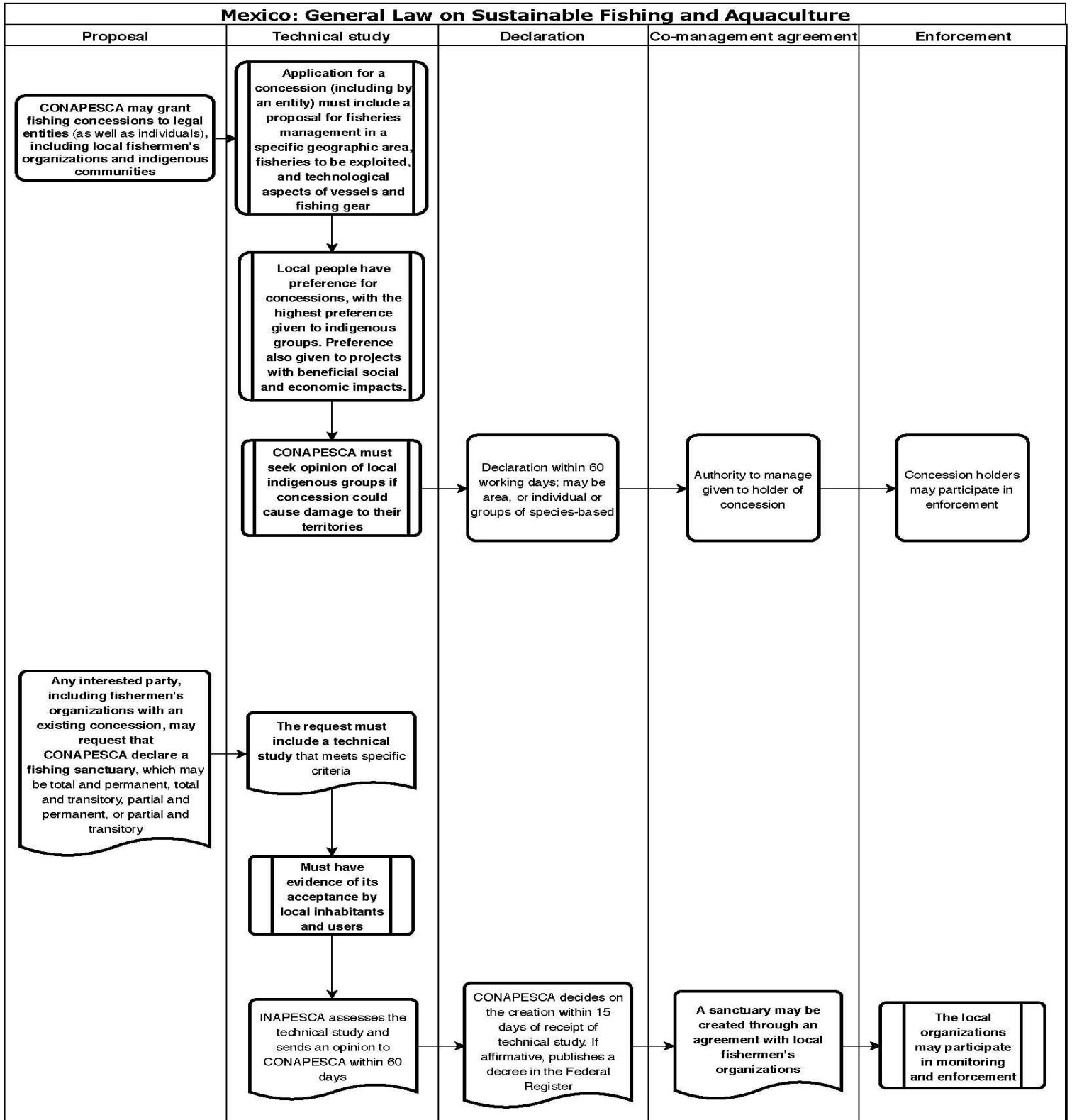


## Honduras: Law of Forestry, Protected Areas, and Wildlife



# Mexico

## Mexico: General Law on Sustainable Fishing and Aquaculture





**Mexico: General Law on Ecological Balance and Environmental Protection**

