

Policy Gap Analysis: Preliminary Observations and Lessons Learned

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by
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Introduction

This document is intended to be an in-house, informal and preliminary review of the Policy Gap activity implemented by PROARCA-CAPAS/Costas.¹ It provides a structure for organizing information and observation that can be updated and revised in the future. The opinions and recommendations expressed are those of the author and do not represent the official positions of project management or any of the project's participants.

The intent of the Policy Gap Analysis activity is to:

1. Understand, in detail, why existing natural resource policies often do not achieve their objectives in and around protected and coastal marine areas.
2. Create local capacity to work with government to improve policy implementation.
3. Identify common policy gaps (or sources of implementation failure) that can be addressed more efficiently on a regional

¹ PROARCA is a regional program financed by the United States Agency for International Development (USAID). It has 4 components: 1) PROARCA/CAPAS is designed to consolidate the Central American System of Protected Areas. 2) Environmental Protection focuses on environmental contamination issues in the region. 3) PROARCA/Costas focuses on management of coastal marine resources. 4) LEPPE supports environmental planning at the municipal level.

level by CCAD to develop a regional policy agenda and strengthen the Central American System of Protected Areas.

The document is organized in four sections:

- Section 1 Describes the guiding principles and methodology.
- Section 2 Identifies activities, products, anticipated uses by clients and major spin-offs generated by the methodology.
- Section 3. Discusses four central management decisions, their consequences, and identifies some lessons learned.
- Section 4 Provides a mini-case study of one spin-off activity: Mangrove Regulations for Guatemala, and based on this example, suggests some “best practices” for a country working group formed to develop laws and regulations.

Section 1 Guiding Principles and Methodology

The Policy Gap Analysis is the logical extension of previous environmental policy activities supported by USAID and its NGO partners. Public awareness in Central America of the importance of environmental policies has increased, and better laws and regulations are being developed and approved by governments. Many of these policies, however, are not achieving their intended objectives.

Conventional wisdom explaining implementation failure is three-fold:

1. Resource users and officials often do not know the specific content of the laws and regulations that apply to their situation.
2. Even if they do know the applicable laws and regulations, the responsible government offices do not have sufficient institutional capacity or financial resources to apply them effectively.
3. Institutional responsibility and authority often is redundant, conflicting, or overlapping.

This explanation, tells only part of the story, and consequently does not provide much guidance about how citizens and government can work together to improve policy implementation. The rest of the explanation has to do with how stakeholders (including government agencies) interpret the larger set of policy messages that they receive from many different policy sectors. These messages include information about:

- actions that are encouraged, discouraged, required or prohibited by specific laws and regulations in other sectors;
- the probability of punishment for non-compliance;
- subjective estimates of the expected cost of non-compliance;
- the absence of a policy (for example the absence of land tenure or air quality emissions standards);
- accepted institutional or cultural practices;
- historical use patterns; and
- investment strategies promoted by policies in other sectors, such as agriculture, forestry, trade and investment, and Macroeconomic policies.

Stakeholders assess these other many sources of policy messages and then make “rational” decisions that support their values and interests. Implementation of a specific policy often fails because information from all of these other policy sources makes it “irrational” from the point of view of a stakeholder to comply. In order to understand the sources of implementation failure in sufficient detail to be useful to the project’s clients, a new methodology had to be developed and institutional relationships created to apply it.

Guiding Principles.

Several management principles guide the Policy Gap Analysis. Each activity and product is designed to:

1. Provide a training component to develop the professional and institutional capacity to produce and/or use the policy information being provided;
2. Establish professional partnerships with local institutions, rather than to sub-contract for services and products;
3. Generate demand-driven spin-off activities that become self-sustaining;
4. Identify windows of opportunity for other PROARCA supported activities;
5. Help the clients to participate with knowledge and shared understanding in assessing, formulating and implementing the policies that affect them.

Methodology

The methodology is designed to provide experiences and products that can stand alone, but will build cumulatively throughout the life of the project to have an impact that is more than the sum of the parts. It is described briefly below:

Step 1.

Identify the kind of policy information that PROARCA's clients believe they will need to carry out their institutional objectives. That information is summarized in Annex 1. The central underlying theme is the need to know what explicit and implicit policies exist, and to understand how they influence the way various stakeholder groups behave. How does policy (policy tools or instruments) affect the way people use their natural resources?

Step 2.

Identify an analytical model that would make it possible to organize policy information in a systematic and transparent fashion, and therefore, to be able to compare field sites and identify commonalties throughout the region. The model developed by the project has three components:

- A policy tool (or policy instrument);
- The behavior that is encouraged (or discouraged) by a policy tool (or absence of a policy tool); and
- The impact of that behavior on a specific resource.

Policy makers try to change behavior by designing and implementing policy tools. Policy tools create opportunities and/or limitations for different stakeholder groups that make some actions more or less attractive than other actions. When stakeholder groups respond to these opportunities (and limitations), their behavior has an impact on a specific natural resource.

Step 3.

Identify key resource management issues in and around protected areas and coastal zones, and the behavior that characterizes them. (See the RODA² Scope of Work for a complete list of issues and behaviors. The ten management issues were identified in workshops with stakeholders.) Because several policy tools may affect one behavior and one policy tool may affect several behaviors, the “Policy-Behavior-Impact” model allows the Gap Analysis to identify the specific components of each management issue separately, and compare one site with another.

² Red Mesoamericana de Organizaciones de Derecho Ambiental

Step 4.

Produce a general analyses of the applicable laws and regulations that:

- Clearly state the content and intent of the law or regulation;
- Identify legally established incentives for implementation;
- Assess the probable impact on the set of behaviors that characterize the ten key management issues;

Step 5.

Select the field sites and produce field-based case studies. The case studies focused on one or two management issues that local residents believed were the most important. Based on site visits and interviews, the studies identified key actors, stakeholder groups, and the historical, geographical and policy context of the management issues.

Step 6.

Using: 1) the field based case studies. 2) general analysis and 3) interviews with stakeholders at local and national levels, produce an in-depth analyses of selected issues. These studies identify of the role played by explicit and implicit policies in stimulating the behavior that characterizes a key management issue at a specific field site.

Step 7.

Hold stakeholder workshops to validate the results of the studies and develop a plan for supporting government agencies responsible for implementing key policy tools.

Step 8.

Form country working groups to address the issues identified by the stakeholder workshops. These groups will be provided support by PROARCA in phase 2.

Section 3. Activities, Products, Anticipated Client Uses, and Spin-offs.

The following table presents each activity, the products produced, anticipated use by the client, and the spin-offs which were directly supported by the Costas office as of January 1998. The spin-offs listed in the table were stimulated by the activities shown in the preceding cell, however, because the activities build on each other, the cause and effect relationship is interactive and cumulative. All activities provide products and experiences that support government and citizen efforts to improve policy implementations.

The project began to generate spin-offs and identify windows or opportunity almost from the beginning, and the demand for technical and institutional assistance gained momentum rapidly.

Activities, Products, Anticipated Client Use and Spin-offs

Activities & Products	Anticipated Client Use
<p><u>Activities:</u> Identify:</p> <ol style="list-style-type: none"> 1. key management issues in workshops at four project sites [GoH, GoF, M, Bdel T]; 2. select the analytical model: Policy-Behavior-Impact Model 3. identify the actions that characterize these management issues; <p><u>Product:</u> Scope of Work for RODA</p>	<p><u>RODA:</u> 1) SOW for Project activities; 2) template for acquiring the new analytic capabilities required for expanding role envisioned under the institutional strengthening component.</p> <p><u>Natural Resource Ministries:</u> The SOW is also a generalized methodology Ministry staff can use to: 1) make the content of applicable laws and regulations easily understandable and accessible; 2) identify sources of implementation failure; 3) Identify sources of overlap, conflict, redundancy among responsible government agencies.</p> <p><u>Non-Governmental Organizations:</u> The SOW provides a generalized methodology for assessing the policy terrain surrounding any management issue and for developing the analytical data base required to design activities to mitigate the impact of policy failure and/or support improved</p>

	implementation.
<p>Spin-offs</p> <p>1. Policy Gap Analysis model used by WWF in:</p> <ul style="list-style-type: none"> • Ecoregional Planning Process using the MACR as the focal unit, May 1997. • Ecoregion Planning seed funding proposal for \$70,000, July 1997. • Summit Foundation Proposal for \$3,000,000, Dec. 1997. <p>2. IDEADS applied the methodology described in the SOW to other activities outside the scope of the PROARCA work.</p>	
<p>Activity: RODA partners in each country produce the General Analysis[Phase 1] of applicable laws and regulations</p> <p>Product:</p> <ol style="list-style-type: none"> 1. Clear, easily understandable statement of content and intent of applicable laws and regulations 2. Identification of legally established incentives for implementing the intent. 3. Identification of the probable impact on the set of behaviors that characterize each management issues. 4. Suggested areas where implementation is incomplete or is failing. 5. Identification of formal points of public participation 6. Institutional maps of key organizations responsible for implementing applicable laws and regulations. 	<p><u>Natural Resource Ministries and Municipalities:</u></p> <p>Provides: 1) easily accessible information about the content of the laws and regulations they are responsible for implementing; 2) areas where authority and responsibility overlap or conflict or where there are gaps in authority that make it difficult to carry out their responsibilities; 3) visual maps of the way authority and responsibility is distributed among responsible offices.</p> <p><u>Non-Governmental Organizations:</u></p> <p>Provides a list of topics or activity areas where government offices and citizen groups can form <u>country working groups</u> to: 1) support policy implementation; 2) fill policy gaps; 3) solicit donor support for public participation or mitigation activities.</p>
<p>Spin-offs</p> <p>PROARCA/Costas supported the National Forestry Institute (INAB) to develop mangrove regulations required by the Forest Law.</p> <p>PROARCA/Costas worked with the Congressional Agricultural Commission to provide support for revising the draft Fishing Law.</p>	
<p><u>Activity:</u> The Technical Assistant in Policy Analysis (Marcia Brown) uses the General Analyses as a policy data base and develops site based case studies of management</p>	<p><u>RODA:</u> Case studies provide the focus for the in-depth studies.</p> <p><u>Non Governmental Organizations:</u> Case studies provide basic information for</p>

<p>issues selected by local informants.</p> <p><u>Product</u>: 24 Mini Case studies that identify the most important management issues at each site; major actors and stakeholder groups; resources available to stakeholder groups; the geographical distribution of the management issue; and institutional relationships of responsible authorities at local level.</p>	<p>focusing program design at the site level.</p>
<p>Spin-offs</p> <p>Port security study that led to cooperative planning by public and private sector entities and development of a Environmental Contingency Plan.</p> <p>Local NGOs and business interests established a National Forum on Sustainable Shrimp Aquaculture and prepared for a workshop to examine ways to improve policy and policy implementation.</p> <p>PROARCA CAPAS GoF International Law/NR policy harmonization, Jan 1998.</p> <p>CAPAS Costas Fish Management Study, Feb. 1998.</p> <p>CAPAS/Costas Meeting GoH Regional Fisheries, Mar 1998.</p>	
<p><u>Activity</u>: RODA uses the General Analyses and Site Case Studies to produce In-Depth Analyses of selected management issues for each site.[Phase 2]</p> <p><u>Products</u></p> <ol style="list-style-type: none"> 1. Identification of implicit and explicit policies that limit the effectiveness of implementation [absence of policies, institutional arrangements, administrative processes, authority gaps, social values, bottle necks] 2. Institutional maps illustrating the relationships of responsible authorities at national and local levels. 3. Flow charts of key administrative processes such as application for a license. 	<p><u>Natural Resources Ministries</u>: Detailed studies of the policy tools and processes that affect their ability to implement their responsibilities.</p> <p><u>Non Governmental Organizations</u>: Data for designing activities, programs, and policy improvement actions.</p>
<p><u>Activity</u>: Stakeholder Workshop</p> <p><u>Product</u>: Identification key policy gaps, windows of opportunity for future work, and</p>	<p><u>RODA</u>: Country Working Groups provide RODA with a forum or client for developing expanded institutional capabilities.</p>

<p><u>country working groups</u> to be supported by RODA</p>	<p>Natural Resource Ministries: Country Working Groups provide vehicle for accessing technical expertise and a legitimate process for participation.</p>
<p>Spin-offs</p> <p>Country Working Groups supported by PROARCA-CAPAS/Costas Phase 2.</p> <p>Seminario del Camarón en el Sendero hacia la Sostenibilidad.</p>	

Lessons:

The capacity to respond to the rapidly growing demand generated by the project rested with Sylvia Marin, and relied significantly on her creativity, versatility, technical competence and unlimited energy. The substantive and procedural content of what she brought to those responses needs to be identified and formally built into PROARCA II to provide “response modules” that can be easily matched to specific activities. Some of these elements can be identified now:

1. A rapid institutional assessment module to help the project’s partners: 1) clearly identify the tasks to be carried out in the spin-off activity; 2) identify the technical assistance that will be needed; 3) identify the information and communication technology needed to carry out the tasks; 3) design and establish a communication, coordination, and decision-making mechanism that is appropriate to those tasks; 4) develop a strategy for acquiring these elements; 5) revise the tasks to be within the capability of the partner.
2. A participation module to help the partner to develop procedures to maintain an open, transparent and participatory process that includes the necessary perspectives (scientific, legal, managerial, institutional).
3. A policy and law module to provide policy information and technical assistance targeted at a specific topic. (for example see the Fisheries Policy Inventory and Port Security Study)

4. Access to local and outside consultants to provide focused short-term technical support (creating computer networks and internet capabilities, developing computer literacy, meeting management, briefing techniques, workshop design, mediation, policy analysis, organizational analysis, legal analysis, strategic planning)
5. Clear criteria for supporting spin-off activities that includes responsibilities that the partner is willing to assume, for example, open sharing of information and dissemination of skills received, providing technical assistance to other partners.

Section 3. Key Management Decisions

The underlying management guidelines were: 1) To build on existing relationships with local government and NGO partners. 2) Create collegial professional partnerships with these organizations, rather than subcontracting activities or consultancies to them. 3) Use each activity as a vehicle for training and institutional development. 4) Encourage partners to develop spin-offs and parallel applications of the activities, products and methodology that would respond to their immediate institutional needs.

Each decision described below, in isolation, was well thought out, thoroughly discussed and considered to be a good choice, given these criteria. There was, however, a synergistic interaction between these decisions which produced unanticipated consequences.

Decision No. 1: Selection of RODA

The project selected RODA to carry out the General Analysis [Phase I] and In-Depth Case Studies [Phase II] for the Policy Gap Analysis. The choice was based on: 1) previous work with RODA under PACA; and 2) the assumption that legal training was a close analogue to the analytical skills required to assess policy impact (or at least a large component of it).

Edmundo Vasques, the IDEADS coordinator for RODA, consistently applied his legal professional paradigm to the analytic task. This paradigm views policy as a top-down command and control process in which policy is “intent or objectives as stated in laws and regulations” implemented through enforcement and sanctions. His professional perspective did not allow him: 1) to distinguish between the concept of “policy” as the specification of general objectives and the specific policy tools established to encourage (or discourage) behavior that would support those objectives; or 2) to accept the “Policy-Behavior-Impact” model.

Lesson:

The professional paradigm of those carrying out a project activity control the way they implement tasks, structure products, and communicate with colleagues. When the project relies on a local organization to carry out new tasks that are significantly different from those that an organization routinely carries out, the project must treat this as an institutional strengthening exercise. (See below, Decision 3)

Decision No. 2: IDEADS coordinates the RODA work

The decision to have RODA to carry out the General Analysis [Phase I] and In-Depth Case Studies [Phase II] interacted with the decision to coordinate the RODA work through the IDEADS office.

The PROARCA management philosophy was to create collegial professional partnerships rather than to subcontract services and products. As a consequence, the RODA work was coordinated from the IDEADS office. Edmundo’s professional paradigm functioned as a lens or filter. Information was filtered in two directions. Much of the spirit and promise of the methodology and its products did not reach the national RODA partners, and the project staff did not perceive the extent to which the national RODA offices really did not buy into the methodology.

Janette de Noak, the IDEADS lawyer, understood the methodology, contributed significantly to its development, and produced useful products. Based on her skill and competence, the project expected similar performance from the other RODA offices.

The Scope of Work required the RODA offices to take on new and non-routine tasks. Their existing activities, organizational structure, and technology were not designed to produce the new tasks. Consequently, there was a costly learning curve, and the RODA offices gave the new tasks low priority, in the context of more pressing and familiar demands.

One solution is to create a temporary structure within the project that is designed to do the new tasks and then export the structure and tasks to the partner organization. The management structure might have been a “shadow matrix” structure in which the lawyers in each RODA office work directly with a RODA employee located within in the Costas office. For example, the project might hire a person such as Janette de Noak to work full time as part of the PROARCA-Costas staff to manage and coordinate the RODA activities. This person is on loan from the partner, works in the PROARCA office, returns to the partner organization at the end of the contract, and has no conflicting organizational responsibilities. Her job would have been to work with Marcia and Hilary and then train RODA personnel in other countries, help RODA organizations apply the methodology to their ongoing work and identify new applications, and review RODA products (with Hilary’s help).

Edmundo was technically responsible for these activities, but the because he was located in the IDEADS office and had many competing demands, his organizational loyalties and responsibilities were to IDEADS, not the project.

Lessons:

Identify the kind of management and technological support the new tasks will need, and collaboratively design a shared management structure that can support the new tasks.

Make sure that key communication paths are redundant and not controlled by one person's professional paradigm.

Decision No. 3: Number of case studies and management issues

The number of field sites and case studies was designed to provide lots of detailed field-based data to stimulate country working groups organized around small manageable issues. Given the parallel objective of linking training and institutional strengthening activities [Decision No. 4] by coordinating Marcia's field work with RODA's General Analyses [Decision No. 6], the number of sites and case studies probably overwhelmed the available staff resources of both offices.

Lesson:

The ability to adaptively respond to new windows of opportunity is one of PROARCA's key project strengths. In this context, a formal procedure for regularly revising earlier management decisions in light of more recent ones would be desirable.

Decision 4: The scope of work for Phase I & II supports institutional strengthening for IDEADS, and by extension for other RODA offices.

IDEADS (in collaboration with project management) decided to expand its institutional role to include policy analysis and assessment in addition to legal assessment. The expanded role included:

1. Convoicing the gap analysis workshops, and providing the follow-up coordination and technical assistance to the working groups
2. Developing the ability to assess the probable impact of formal legal instruments and identify sources of implementation failure

3. Providing technical assistance to policy-makers to develop laws, regulations, and technical standards that are produced through a more participatory process.

The IDEADS staff directly participated in developing the Policy Gap Analysis methodology, experienced its utility in relation to other IDEADS projects, and spontaneously applied it to other contexts. The other RODA partners, however, were not directly involved with the decision to expand their institutional roles. Consequently they: 1) did not truly understand the methodology; 2) had not bought into the expanded role described above; 3) believed the data gathering tasks and process for organizing the data described in the SOW were somewhat arbitrary; and 4) tended to feel that they were not being paid enough to revise their analyses and case studies because they did not see the work as an investment in future institutional capabilities. As a result their products were less useful for the workshops.

Hilary argued for applying a scientific model to the general analysis. i.e. that it not be guided by the analyst's professional paradigm about the nature or source of a policy gap, but by a transparent and systematic survey of the laws and regulations. The purpose was to produce a data base that could used to assess the role of existing law, regulations and institutional relationships with respect any set of behaviors that characterize a management issue.

This produced a scope of work for the General Analysis and In-Depth Case Studies that required new tasks that were not part of RODA's existing professional and institutional capabilities. Additionally, the tasks required information processing and sharing abilities that the RODA offices didn't have, and they became burdened by the logistics of producing the analysis. For example: within IDEADS all products had to pass through one computer technician, and the office's productivity was limited by his available time. The lawyers were not connected by compatible computer hardware and software. The consequence was that the lawyers became overwhelmed with the information

processing challenges of the work and were not captured by the conceptual power that the methodology could provide them.

Lessons:

In order for an organization to take on new activities, it must have a structure to support those activities and the technical support capabilities. These two parts of institutional strengthening are usually left to be developed in an ad hoc fashion. This significantly limits the effectiveness of institutional strengthening activities provided by donor organizations.

As part of any institutional strengthening activity, project management and the partner should consider the following topics:

1. What management structure will the organization need in order to respond to the new demand? For example, if the work is to be done most efficiently in teams composed of staff from the two organizations (Marcia and a lawyer from each RODA office), then the organizational structure must support that coordination, i.e., with a matrix structure and a “linking pin” manager that spans the two organizations.
2. What in-house expertise will be needed? For example, if the new RODA are to support the working groups and provide technical assistance to them, they will need to be able to gather, organize and present information to various government offices.
3. What equipment will be needed? IDEADS and probably the other RODA offices experienced a severe bottle neck in their productivity because they did not have adequate computer hardware and software and the staff was not trained to use the software that they had.
4. What information and communication capabilities will be needed? If the RODA offices will be sharing documents, and editing and updating them, they will need electronic access to documents in all other RODA offices; perhaps a web site to

distribute the information RODA generates and facilitate discussion boards on various policy or management issues.

Decision 5: Marcia coordinates her case studies with RODA Phase 1.

At Hilary's suggestion, the project decided to use RODA's General Analyses [Phase I] as a resource for Marcia's field case studies, and have a RODA lawyer accompany her to the field. The idea was to disseminate information about existing laws and regulations to the field informants, and to encourage the lawyers observe how stakeholders interpret the opportunities and limitations established in formal laws and regulations and how these affect their behavior.

The coordination did not take place, perhaps because the RODA offices were not clear about how the methodology and its products would provide them with the basis for the expanded institutional role IDEADS and the project envisioned.

Lesson:

Coordinating tasks between two organizations requires a formal structure for do so that is supported by clear contractual responsibilities and communication requirements.

Decision 6: Training component disseminates information and new skills through IDEADS

The training methodology was that IDEADS (Edmundo Vasques and Janette de Noak) would work with the Policy Specialist (Hilary Lorraine) and Technical Assistant in Policy Analysis (Marcia Brown) to develop the Policy Gap Analysis methodology and produce the first round of products. These would be refined based on this initial experience, and IDEADS would then disseminate the methodology to other RODA partners by way of the activities to be carried out under the scope of work.

This procedure was developed as part of an effort to help IDEADS expand its institutional capabilities. The objective was:

- Through working with Marcia Brow (the Technical Assistant in Policy Analysis) to provide IDEADS with experiences that would help them understand the process through which legal specification is translated into institutional relationships and action at the field level; and
- Through working with Hilary Lorraine (the Policy specialist) to provide IDEADS with the ability to identify implicit and explicit policy tools and assess how these are affecting behavior in the field.

The process was successful in Guatemala because Jannette de Noak was an enthusiastic participant in the design process and could easily coordinate with Marcia and Hilary. Training, however, did not extend much beyond the IDEADS office.

Lessons:

Training that is part of an institutional strengthening activity requires that all of the recipients: 1) buy into the new institutional roles envisioned, and 2) receive the training as a formal part of the institutional strengthening activities provided by the project. The dissemination process by way of IDEADS did not work effectively.

Section 4 mangrove regulations for Guatemala

One of the policy gaps identified by the General Analysis of the Guatemala Forest Law was that Article 35 required regulations on the use of mangrove trees and a Special Protection Law for Mangroves that would support conservation and restoration of the mangrove habitat.

A working group was formed, composed of INAB, CONAMA, Grupo de Humedales (ICUN) IDEADS, ARCAS, FUNDAECO and PROARCA/Costas. The purpose of the working group was to provide support to INAB to develop the regulations required

by Article 35 using a participative process that would involve local actors, responsible authorities and the various interest groups. The process established by the group is summarized in the box below:

Participatory process used by Mangrove Country Working Group

1. Identify the key management principles and uses for the resource
2. Determine the direct and indirect users and actors, including their actions that affect the resource.
3. Interview actors at local and national levels
4. Review legislation and regulations from other countries
5. Prepare the first draft of the regulations
6. Revise the document with key actors
7. Analyze any interactions regulations may have with other normative instruments
8. Present final revision to the public
9. Present the final revision to the Junta Directive of INAB.

Review of the first drafts of the regulations indicated that: 1) the process oscillated between being fairly participatory and quite closed; and 2) it was dominated by two professional perspectives: the biological and the legal.

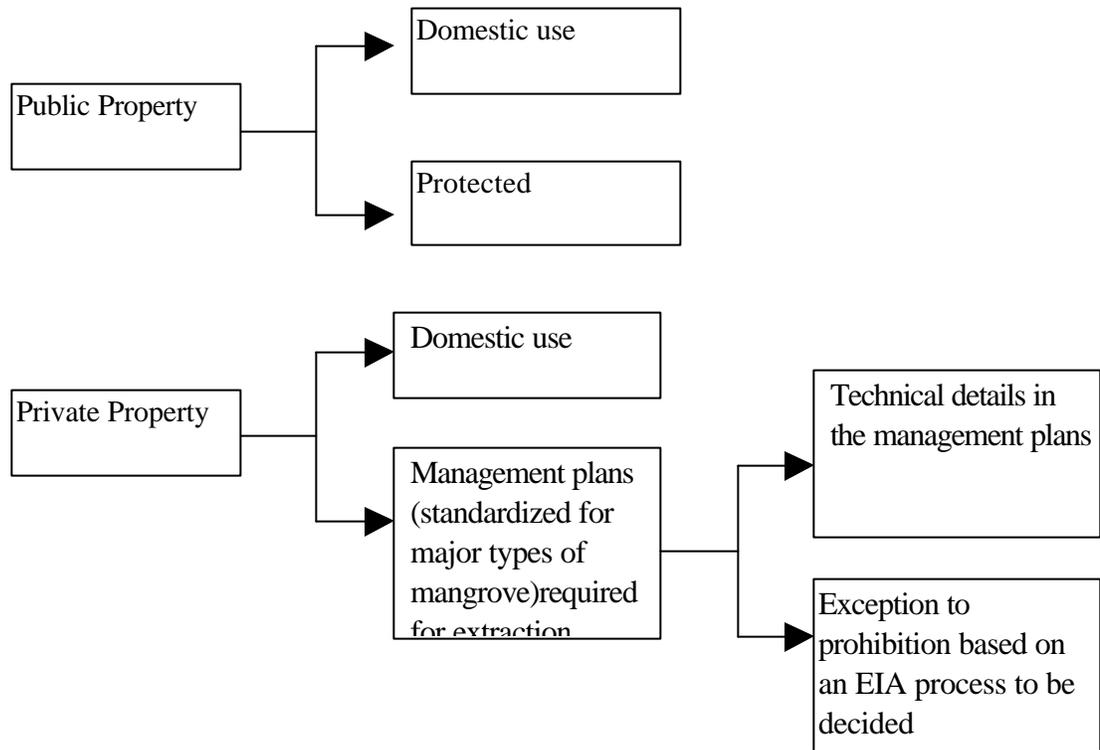
The biologists applied a biological perspective. They cast the problem in terms of biological data that produced precise types of mangrove habitats and the human uses that would be appropriate for each. This perspective generally: 1) assumes that failure to implement policy is caused by lack of resources and government will; and 2) is insensitive to human behavior and the range of existing incentives that promote or inhibit it.

The lawyers applied a legal perspective which focused attention on prescribing and proscribing behavior. This perspective: 1) often relies on a command and control model of implementation; 2) ignores the organizational [communication and coordination] capabilities required to implement the intent of policy; and 3) is uninformed about the way policy tools interact to make some behavior more attractive than other behavior in the minds of stakeholders.

While both these perspectives contribute essential information to the process of developing mangrove regulations, they do not focus attention on a key ingredient: the relationship between the policy tools and stakeholder behavior. What, where, when and how do explicit and implicit policies make the undesired behavior more cost effective, from the stakeholder's point of view, than the desired behavior?

The working group needed an advocate for a perspective that focused attention on: 1) identifying policy tools that support the policy objectives, i.e., make the targeted behavior more attractive (or less attractive); 2) understanding how existing policy tools affect objectives; 3) building on existing tools [for example conservation easements applied to private property]; 4) ability to implement the tools given existing institutional capabilities.

For example the biologists focused attention on the types of mangrove habitat and the lawyers limited uses in relation to these types. Limiting usage, however, means limiting property rights, which requires policy tools that can, in fact ,define these new range of rights. Presently, Guatemala, has only two use rights categories: public and private property rights. A regulation that was based on existing policy tools might look like the following:



The process unfolded as an exercise in drafting the regulations, rather than an exercise of identifying existing policy tools that could be used and/or modified to promote the desired behavior. Additionally: 1) the absolute prohibition on changing land use, and 2) including the technical management details in the regulations instead of the more flexible management plans created a large number of points for disagreement.

Lessons:

Scientists and lawyers are good at what they do because they apply powerful professional lenses to their work. Those lenses selectively focus attention and exclude information that is not important to the way the professional model identifies problems and constructs solutions. The biological and legal perspectives, together, do not focus attention on all of the information needed to develop regulations that can be implemented, and will achieve the objectives established by general laws. In fact, they probably work together to exclude from the discussion important information about the uncertainty associated with policy implementation and the variability of stakeholder behavior.

The participatory process needs a professional advocate for a policy perspective that can help the scientific and legal perspectives perceive and process information about:

- Available policy tools that can be used to support general management objectives;
- How policy tools will probably affect behavior;
- The institutional and organizational capabilities required for implementing the policy tools; and
- Strategies for creating consensus without sacrificing effectiveness.

Perhaps most importantly, the process should not unfold as an exercise in drafting a legal document. It should unfold as a participatory exercise to:³

- Select management objectives and principles;
- Identify resource users and other stakeholders;
- Identify desired and undesired actions to be promoted or inhibited;
- Identify existing policy tools that can be used to support the desired actions and inhibit the undesired actions;
- Identify new policy tools that can be used to build on existing policy tools;
- Identify the technical and institutional capabilities required for implementing policy tools;
- Assess political and budgetary feasibility
- Last of all, translate this vision into legal language.

³ See the Fisheries Policy Inventory for a more complete discussion of how this process might be structured in a specific policy area.

Annex 1: Clients’ policy information needs

The table below summarizes the client’s vision of their existing and/or desired institutional role in the policy arena and identifies the policy information they will need to fulfill that role.

Existing and/or desired institutional role in the policy arena	Policy information needed to fulfill that institutional role
United States Agency for International Development	
<ol style="list-style-type: none"> 1. Anticipate and respond to the opportunities and limitations created by national and regional policies. 2. Identify the major economic forces stimulated by a policy set and participate in the debate at local, national and regional levels. 3. Anticipate the site specific impact on protected areas and natural resources of: <ul style="list-style-type: none"> • broad policy changes such as the proliferation or regional and bilateral trade agreements • investment decisions that will be made as a result of policy sets that, for example, promote: inflows of foreign capital; enhance international competitiveness; eliminate trade and investment barriers; increase energy production; stimulate Regional and international infrastructure for transportation, communication, regulation and information. 4. Encourage opinion leaders to support a shared regional vision of a system of protected areas and other ENR objectives listed under the results framework. 	<p>Better understanding of the:</p> <ol style="list-style-type: none"> 1. Effect of policy implementation (and failure of implementation) on the way different stakeholder groups use a resource. 2. Cumulative and interactive impact of a set of policies on the way different stakeholder groups use a resource. 3. Site specific case studies. 4. Differences between policy sets across the region.
CCAD	
<ol style="list-style-type: none"> 1. Provide regional policy coordination and strong leadership to comply with regional and international biodiversity agreements, and agreements established under CONCAUSA 	<p>Better understanding of the:</p> <ol style="list-style-type: none"> 1. Way national policies affect human action in and around protected areas and coastal

<p>and ALIDES.</p> <p>2. Support horizontal coordination among Natural Resource Ministries when it is necessary for harmonizing policies that affect biodiversity, protected area management, and environmental quality.</p> <p>3. Support institutional strengthening of government and non-government agencies responsible for managing biodiversity.</p>	<p>zones.</p> <p>2. National policies that affect shared resources around protected areas and coastal zones.</p> <p>3. National regulatory frameworks that affect key management issues and create gaps between the intent of policies and the impact in the field of their actual implementation.</p> <p>4. Commonly encountered sources of implementation failure, or policy gaps that will help CCAD to identify targets for regional harmonization and policy improvement.</p>
<p>Natural Resource Ministries</p>	
<p>1. Implement the policies established in national law.</p> <p>2. Develop specific policy instruments (or policy tools) to achieve the general objectives stated in national law.</p> <p>3. Coordinate laterally with other Ministries and vertically with municipalities to implement the intent of policy and the application of specific policy tools.</p>	<p>Better understanding of the:</p> <p>1. Detailed content of the laws they are responsible for implementing.</p> <p>2. Content of the laws other ministries with whom they coordinate are responsible for implementing.</p> <p>Areas where authority and responsibility overlap or conflict, or where there are gaps that make it difficult to carry out their responsibilities.</p>
<p>Municipalities</p>	
<p>1. Implement policies established in national law that are decentralized to the municipal level</p>	<p>A better understanding of the:</p> <p>1. Specific content of national laws and regulations to be implemented by the municipalities</p> <p>2. Distribution of responsibility and authority for implementing the policy instruments created in national laws and regulations</p>
<p>Non Governmental Organizations</p>	
<p>1. Design activities to mitigate the negative consequences of policy impact at a specific site.</p> <p>2. Develop policy activities that respond to the opportunities and limitations created by policies.</p>	<p>Better understanding of the:</p> <p>1. Opportunities and limitations established under various laws, regulations and administrative procedures that promote behavior that will support or undermine their ability to achieve their objectives.</p>

<p>3. Develop coalitions with other NGOs to support a policy improvement agenda or implement a project or program.</p>	<p>Specific gaps in policy and/or policy implementation that affect their ability to achieve their objectives.</p>
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