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INTERNATIONAL
CORAL REEF INITIATIVE



SUMMARY OF LEGISLATIVE AND REGULATORY MECHANISMS FOR THE PROTECTION OF CORAL REEFS AND ASSOCIATED ECOSYSTEMS

COSTA RICA

With the support of



Government Offices of Sweden
Ministry of the Environment and Energy

SUMMARY OF LEGISLATIVE AND REGULATORY MECHANISMS FOR THE PROTECTION OF CORAL REEFS AND ASSOCIATED ECOSYSTEMS

COSTA RICA

The summary proposed in this document is an inventory at a given time and might be non-exhaustive.
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GENERAL OVERVIEW

CONTEXT OF THE STUDY

This study is conducted in the context of the implementation of the ICRI Plan of Action 2018–2020, and more particularly in the frame of the first theme, which is to *'promote effective and adaptable solutions to improve the protection of coral reefs'*. The aim of this study is to underline good practices of Costa Rica, which is a pilot country in this project, as regards the direct and indirect protection of coral reefs.

Those good practices are to be found in the legislation and regulations of the country, but also in the other means of implementation of the several international and regional instruments important in this issue, including soft law and the work done by private actors and civil society. The purpose of the study is not to assess and evaluate the efficiency of the action of the country, but only to point out the positive elements collected and to identify the potential lacks.



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LAWS AND REGULATIONS DIRECTLY OR INDIRECTLY PARTICIPATING IN THE PROTECTION OF CORALS

The legislation and regulations of Costa Rica are particularly rich and developed, especially in the context of the protection of biodiversity and coral reefs. The environment and biodiversity are considered as the 'common heritage of the population' and the regulations dealing with the conservation, extraction, trade, monitoring and utilization in general of wildlife are particularly protective and developed. The possibility of creating national protected areas and the inclusion of coral reefs in the definition of wetlands enhance this statement. The promotion of restoration and conservation initiatives for the recovery of coral ecosystems is, moreover, directly tackled by this legislative arsenal. More indirectly, the laws of Costa Rica are also dedicated to the fight against climate change (with innovative means, like the creation of a Citizen's Climate Change Advisory Board) as well as land-based and plastic pollution, which are very relevant for the preservation of the oceans in general.

Some lacks or partial lacks could be mentioned, as for instance in the field of pollution (operational or accidental) generated by maritime transport, probably as Costa Rica did not ratify the MARPOL, COLREG or BWM conventions, the physical restructuring of the coast, or the pollution of the marine environment by the use of sunscreen. The legislative regulations could also be more developed as regards the production of energy, as there is no regulation on the energy obtained by the exploitation of marine resources and ecosystems.

GOOD PRACTICES AND OTHER OBSERVATIONS

All the sectors in Costa Rica are fully engaged in the protection of coral. The private sector, with associations and civil society, is active in helping implement the national regulations. The public sector is also dedicated to the implementation, monitoring and soft regulation of the legal framework related to corals, with the development of ecological evaluations and indicators, and participation in the regional framework in place in the Caribbean as regards the protection of the marine environment, although Costa Rica is not part of the Specially Protected Areas and Wildlife (SPA) Protocol which is more detailed and developed in the context of coral reef protection at the regional level.

ANTHROPOGENIC DRIVERS OF CHANGE		EXISTENCE OF POLICY OBLIGATIONS
THEME	ACTIVITY	
Climate change	Activities resulting in emissions of greenhouse gases in the atmosphere	Yes
Production from living resources	Harvesting of living resources by large-scale/industrial operators	Yes
	Harvesting of living resources by small-scale and/or subsistence operators	Yes
	Harvesting of living resources by recreational operators	Yes
	Hunting and collecting of living resources for other purposes (including 'bioprospecting')	Yes
	Coastal aquaculture (including 'ranching', seaweed cultivation)	Partial
	All activities related to production from living resources	Partial
Generation of land-based sources of pollution	Production and disposal of plastics	Yes
	Waste treatment and disposal	Yes
	Urban or industrial activities	Yes
	Agriculture	Yes
	All activities generating marine pollution	Partial
Extraction of non-living resources	Extraction of minerals (e.g. sand, coral mining)	Yes
	Extraction of oil and gas (including infrastructure)	Yes
	Extraction of water (i.e. desalination)	No
Production of energy	Transmission of electricity and communications (cables)	Yes
	Renewable energy generation (wind, wave and tidal power), including infrastructure	Yes
Physical restructuring of the coastline, rivers or seabed	Coastal land claim (e.g. mangrove loss)	No
	Canalization and other watercourse modifications	No
	Coastal defense and flood protection	No
	Restructuring of seabed morphology, including dredging and depositing of materials	No
Tourism and recreation	Tourism and recreation activities (e.g. resulting in anchor use on reefs, vessel groundings, diving and snorkeling)	Yes
	Tourism and recreation infrastructure	Yes
	Marine biota souvenirs to sell to tourists, exporters	Yes
Transport	Transport – shipping	No
	Transport - infrastructure	No

Table 1. Table of principal Reef Relevant Policy Obligations per Human Activity Driving Changes in Coral Reef Ecosystems, inspired by the *Analysis of Global and Regional Policy Instruments Related to the Conservation and Sustainable Management of Warm Water Coral Reef Ecosystems*. Research Team, Nicholas Institute for Environmental Policy Solutions, Duke University On behalf of the United Nations Environment Programme November, 2018.

	CONVENTIONS RATIFIED BY FIJI	Signature / Ratification
REGIONAL	Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean	27/09/18 (S)
	Cartagena Convention for the Protection and Development of the Marine Environment in the Wider Caribbean Region	01/08/91 (R)
GLOBAL	Convention on biological diversity	13/06/92 (S) 26/08/94 (R)
	Cartagena Protocol	24/05/00 (S) 06/02/07 (R)
	Nagoya Protoco	06/07/11 (S)
	UNCLOS	10/12/82 (S) 21/09/92 (R)
	FAO (constitution) Agreement on Port State Measures to Prevent, Deter and Eliminate IUU Fishing	04/12/15 (A)
	IMO Convention on the Prevention of Marine Pollution by Dumping of Wastes and other matter (London Convention)	16/06/86 (S)
	Convention on Civil Liability for Oil Pollution Damage (CLC)	08/12/97 (S)
	International Convention for the Safety of Life at Sea (SOLAS)	06/06/11 (S)
	Basel Convention on the Control of Trans-boundary Movements of Hazardous Wastes and Their Disposal	07/03/95 (A)
	Montreal Protocol on Substances that Depletes the Ozone Layer	30/07/91(R)
	United Nations Framework Convention on Climate Change (UNFCCC)	13/06/92 (S) 26/08/94 (R)
	Kyoto Protocol to the UNFCCC	27/04/98 (S)
	Paris Agreement on Climate Change	09/08/02 (R)
		22/04/16 (S) 13/10/16 (R)
	Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)	30/06/75 (S) 28/09/75 (R)
UNESCO Convention for the Protection of the World Cultural and Natural Heritage	23/08/77 (R)	
Convention on the Wetlands of International Importance Especially as Waterfowl Habitat (RAMSAR)	27/04/92 (S) 27/12/91 (R)	
Convention on Persistent Organic Pollutants (POPS)	16/04/02 (S) 06/02/07 (R)	
Minamata Convention on Mercury	10/10/13 (S) 19/01/17 (R)	

Table 2. Table of regional and international conventions ratified by Costa Rica

LAWS AND REGULATIONS DIRECTLY OR INDIRECTLY PARTICIPATING IN THE PROTECTION OF CORALS

Several instruments could have a direct or indirect impact as regards corals' protection. They are referred to by themes, according to Table 1.



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1. GENERAL RIGHTS AND OBLIGATIONS RELATED TO ENVIRONMENTAL PROTECTION

THE CONSTITUTION OF COSTA RICA

1949

The **Constitution of Costa Rica**, adopted in 1949, consecrates its commitment to the conservation of biodiversity and the right to a healthy environment. **Article 46(5)** states, indeed, that *'consumers and users have the right to the protection of their health, environment, security and economic interests, to receive adequate and true information'*, and Article 50(2) more generally that *'all persons have the right to a healthy and ecologically balanced environment. For that, they are legitimated to denounce the acts that infringe this right and to claim reparation for the damage caused'*.

ORGANIC LAW OF THE ENVIRONMENT

Law n°7554, 4 October 1995

The Organic Law of the Environment provides the **general principles regarding the management of the environment**, which is considered as the *'common heritage of the population'* (Article 2). This article recalls the right to a healthy environment, and other principles as the rational and sustainable use of the elements of the environment. Among its objectives is the minimization of damages to the environment (Article 4). The sovereignty of **the State over biological diversity**, as its natural heritage, consecrated in Article 46, as well as the objectives of protection, conservation, and planification in all activities.

Moreover, **emphasis is placed on education for environmental conservation**, in all formal and informal educational programmes, and at all stages of life. The objective is to develop a culture of the environment necessary to reach a sustainable development (**Article 12** and following).

To implement these elements, several **procedures and institutions** have been created, such as: the regional councils for the environment (Article 5 and following), a national fund for the environment (Article 93) and an environmental administrative tribunal (Article 103).

Article 17 is dedicated to **environmental impact assessment**, providing that: *'Human activities that alter or destroy elements of the environment or generate waste, toxic or hazardous materials shall require an environmental impact assessment by the National Environmental Technical Secretariat created by this law. Its prior approval, from this organism, will be an indispensable requirement to initiate the activities, works or projects. The laws and regulations will indicate which activities, works or projects will require an environmental impact assessment.'* The following articles provide further information on this, stating that these evaluations must be carried out by an interdisciplinary team of professionals, registered and authorized by the National Environmental Technical Secretariat, in accordance with the guidelines prepared by it (**Article 18**). According to **Article 19**, *'The resolutions of the National Environmental Technical Secretariat must be founded and reasoned. They shall be binding both for individuals and for public entities and organizations.'* Sanctions are then provided in case of violation of those assessments.

Finally, administrative **sanctions for environmental impacts** and a liability regime are established, starting in **Article 98**. A controller of the environment, attached to the office of the Ministry of the Environment, is mandated to oversee the correct application of the law and denounce any violation.

2. CLIMATE CHANGE

ORGANIC LAW OF THE ENVIRONMENT

Ley N° 7554, 4 October 1995

Article 63: *'In order to prevent and control atmospheric deterioration, the Executive Branch, after consultation with the organizations that represent the productive sector, will issue the corresponding technical standards and will require the installation and operation of adequate systems and equipment to prevent, reduce and control emissions that exceed the permissible limits.'*

NATIONAL POLICY ON ADAPTATION TO CLIMATE CHANGE

Executive Decree n°41091 of April 20, 2018

This executive decree is organizing the national policy of adaptation to climate change, for the period 2018–2030. According to Article 2, **All Public Sector agencies are responsible for the implementation of the National Policy on Adaptation to Climate Change** within their respective legal scope, and in particular the institutions of the following areas: Tourism, Water Resources, Biodiversity and Forestry, Agriculture and Fishing, Health, Infrastructure and Energy.

The ambition of the Decree is to favour **'adaptation with a transformative vision'**, which implies a set of public and private actions and interventions in the face of the probable impacts of climate change, aimed at reducing conditions of vulnerability to moderate damage and avoid losses, taking advantage of opportunities to enhance the resilience of economic, social and environmental systems, on a national, regional and local scale in a measurable, verifiable and reportable manner (Article 3). The objective is therefore to move toward a resilient model, moderating damages generated by the adverse effects of climate change and contribute to the quality of life of the vulnerable population (Article 4).

A National Climate Change Metrics System is created by the Executive Decree n°41127 of 9 April 2018, as well as a **Citizen's Climate Change Advisory Board**, Executive Decree n°40616 of 7 August 2017, a platform for citizen participation within the framework of the national open government policy, which seeks to strengthen mechanisms for accountability, availability and access to information.

3. PRODUCTION FROM LIVING RESOURCES: FISHERIES AND BIODIVERSITY/SPECIES CONSERVATION

3.1. Conservation of living resources and ecosystems in general

LAW FOR THE CONSERVATION OF WILDLIFE

Law n°7317, 30 April 1998

In this law, *wildlife* is defined as 'all organisms that live in natural, temporary or permanent conditions in the national territory, both in the continental and insular territory, in the territorial sea, inland waters, the exclusive economic zone and jurisdictional waters, and that do not require human care for their survival' (Article 1). Coral is thus included in this definition¹.

According to **Article 3**, wild fauna constitutes a **renewable natural resource, which is part of the national patrimony, and is declared to be of the public domain**. Likewise, wild flora, conservation, research and development of genetic resources, species, breeds and wild botanical and zoological varieties, which constitute genetic reserves, as well as all wild species and varieties that have entered the country and have undergone genetic modifications in their adaptation process to the different ecosystems, are declared of public interest. The production, handling, extraction, commercialization, industrialization and use of the genetic material of wild flora and fauna, its parts, products and byproducts, are declared of public interest and **national patrimony** (Article 4).

This law is based on the areas identified by the National System of Conservation Areas, which constitute real refuges for wildlife (**Article 7**). The public authority owns important management and financial powers regarding those protected areas. **Activities of hunting, collection, extraction, possession are all prohibited**, but with specific authorized exceptions (Article 14). A special permit system is provided by Chapters VI and VII. To assist in the application and enforcement of this law, the Ministry of Environment and Energy appoints wildlife inspectors and natural resources surveillance

committees (COVIRENAS). A registry of wildlife is also created (Article 19). Chapter VII specifies the modalities of extraction for scientific or commercial interest.

Article 21 adds that **all wildlife management sites shall have a management plan**, approved according to their category and whose content shall be established by regulation, which will be prepared by a professional with proven training, suitability and experience in wildlife management, incorporated to the respective professional association.

Article 22 deals with **invasive species**: exotic or native wildlife that causes damage to any ecosystem or to agriculture, livestock and public health may be captured, controlled, exploited, eliminated or relocated in accordance with the provisions determined in the regulations of this law, after carrying out the corresponding technical-scientific studies and economic cost-benefit evaluations.

Continental and insular fishing are regulated by *Ministerio de Ambiente y Energía de Costa Rica* (MINAE) and licences are delivered through this ministry (Articles 61-63).

Finally, according to **Article 79**, **the export, import or traffic of fauna and flora, their products, parts or derivatives**, included in the appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) with countries that apply measures equal or equivalent to those established by the Convention is prohibited. Penalties are provided in Articles 93 and following, and **'shall be imposed on anyone who damages populations of target species, bycatch species and the ecosystems on which they depend to carry out their biological functions, such as marine, coastal marine, coral, rocky, mangrove, river, estuarine, estuarine and grassland ecosystems.'**

1. This law does not apply, however, to species of fishing or aquaculture interest, whose specific regulation is established in Law No. 7384, of 16 March 1994, and No. 8436, of 1 March 2005, and whose competence as executing entity corresponds to INCOPECSA. Moreover, all activities related to the use and access of genetic and biochemical information of wildlife shall be governed by the provisions of the Convention on Biological Diversity and its Annexes, Law No. 7416, of 30 June 1994, the Biodiversity Law, No. 7788, of 30 April 1998, and the concordant norms of the Costa Rican legal system.



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REGULATION TO THE WILDLIFE CONSERVATION LAW

Executive Order n°40548-MINAE August 9, 2017

This instrument creates a deeper regulation for wildlife conservation, reinforcing mandates from the Wildlife Conservation Law. As for coral, Article 5 includes them in the list of wildlife taxonomic groups.

The executive order also creates the National Commission of Wildlife (CONAVIS), an advisory commission composed of different state institutions and the participation of the scientific and NGO sector.

BIODIVERSITY LAW

Law n°7788 30 April 1994

The objective of this law is the **conservation of biodiversity and sustainable use of resources**, as well as the equitable distribution of benefits, in conformity with the international Convention on Biological Diversity (Article 1). The principle of sovereignty over natural resources is recalled by Article 2.

To achieve these goals, the law promotes the adoption of **incentives** as well as the establishment of a system of conservation of biodiversity, environmental safety and sustainability. It also reaffirms the prevention, precaution, environmental public interest and integration principles (Articles 10-11) and settles the National Commission for the Management of Biodiversity; the National System of Conservation Areas (Articles 13 and following). The National System of Conservation Areas is notably composed by a National Council, competent to define strategies and policies for the development and consolidation of national protected areas, to recommend the creation of new protected areas and to establish the guidelines and directives for their regulation (Articles 22 and following).

Environmental safety is promoted by Articles 44 and following (prior permission is required regarding genetically modified organisms) and Articles 62 and following deals with access to genetic components and biochemicals as well as the protection of associated knowledge.

An **obligation to maintain ecological processes** rests on the State and the citizens (Articles 49). For such effect, the Ministry of Environment and Energy set out the adequate technical rules and use mechanisms for its conservation, such as environmental regulations and assessments, evaluations of impact and environmental audits, prohibitions, permits, environmental licences and incentives, among others. A system of **identification of ecosystems** and their components is also elaborated in order to take appropriate measures including mitigation control, restoration, recuperation, rehabilitation (Article 51).

According to Article 54, when **environmental damage** exists in the ecosystem, the State can take measures to **repair, restore, recuperate and rehabilitate** it. To do so, it can make all kind of contracts with universities, national or international, with the aim of restoring the damaged components of biodiversity.

Species threatened with extinction have priority for the development of conservation programmes, with the development of in situ and ex situ conservation. Wild protected areas are to be declared and dedicated to conservation and protection of biodiversity (Articles 55 and following).

Finally, guidelines are elaborated to **evaluate the environmental impact**, changes in biodiversity and the identification of processes and activities which impact on the conservation and use of biodiversity, by the National Technical Secretary (Article 92 and following).

3.2. Instruments dealing with fisheries and other forms of exploitation

LAW ON FISHERIES AND AGRICULTURE

Law n°8436, 1 March 2005

Marine coral reefs are included as 'coastal marine resources' (Article 2.39), but also as wetlands (Article 2.18).

The State elaborates the Fishing and Aquaculture Development Plan, notably in accordance to the responsible and effective use of fishing aquatic resources, **in harmony with environment preservation, people health and biodiversity conservation** (Article 3).

Fishing and Aquaculture must be performed without producing irreparable damages to the ecosystems nor obstructing navigation, use and the natural course of waters. Also, these activities must be practiced; respecting third party legitimately acquired rights, so the legal holder should be properly compensated in case of being injured for security reasons, police officers or by any other cause. Moreover, the exercise of fishing activity with commercial purposes and sport fishing activity in national parks, natural monuments and biological reserves are prohibited (Articles 8 and 9).

The law also attributes INCOPECSA the implementation of policies and establishment of control (Article 14), and the promotion of scientific research (Articles 15).

To ensure **conservation, protection and administration of living marine resources**, INCOPECSA can establish zones or periods of fishing bans, by certain areas or certain species (Articles 33-34). Article 38 prohibits, furthermore, several fisheries techniques, as the use of explosives, acoustic equipment or toxic substances in vessels, use of non-authorized fishing gears, the capture of species inferior of the authorized size, as well as the introduction of wastes, radioactive or not, toxic, biological, fuel, chemical ... A special permit or licence is required for all activities of fisheries (Article 102). When exercising acts of fishing, **causing intentional damage** to the populations of benthic resources, **coral reef ecosystems** and sea grass banks, whoever is in command and the holder of the right to license, permit or concession will be punished by a fine of thirty to sixty basic salaries, as defined in Article 2 of Law No. 7337, 5 May 1993 (Article 138).

3.3. Designation and management of marine protected areas

ORGANIC LAW OF THE ENVIRONMENT

Law n°7554, 4 October 1995

The Organic Law of the Environment provides for the possibility and modalities of **creation of protected wilderness areas**: protected reserves, national parks, etc. Objectives to protect biological diversity, genetic diversity, landscapes, etc. The Ministry of the Environment and Energy has important powers to delimit the perimeter of the protected area (including private properties) (Article 32).

Chapter VIII is specially dedicated to **marine and coastal resources, including coral reefs** (Article 39). In this regard, Article 44 recalls that an environmental impact assessment is compulsory for all activities that potentially threat habitats and Article 45 states

that 'activities aimed at interrupting the natural cycles of wetland ecosystems are prohibited, such as the construction of dikes that prevent the flow of marine or inland waters, draining, draining, draining, filling or any other alteration that causes the deterioration and elimination of such ecosystems.'

NATIONAL PARK SERVICE LAW

Law n°6084, 24 August 1977

The National Park Service of the Ministry Environment and Energy has the specific purpose of developing and managing national parks to conserve the country's national heritage (Article 1). Its functions and organization are settled by the following articles.

According to Article 8, visitors are **prohibited from gathering or removing coral**, shells, rocks, or any product or waste from the sea, as well as introducing exotic animals or plants, or others. Anyone who violates this provision shall be immediately expelled from the National Park and remanded into the custody of the proper legal authority by the National Park Service (Article 9).



Photo: © Hannes Klostermann

TECHNICAL CRITERIA FOR THE IDENTIFICATION, CLASSIFICATION AND CONSERVATION OF WETLANDS

Executive Decree n°35803 of 07 January 2010

This executive decree is a transposition of the RAMSAR Convention, with the entry of coral reefs in the definition of wet areas. It states first that wetlands are part of the State's natural patrimonial administered by the ministry through the national system of areas of conservation (Articles 2-3).

Coral reefs are, moreover, directly included in the definition of wet lands in the category of marine systems (Article 7(c)) which consist of the littoral areas exposed to the flow of oceanic waters, including marine extensions up to the posterior limit of marine phanerogams or coral reefs or, in their absence, up to six metres deep at low tide. (Coral Reefs)

Following Article 9, each of the Conservation Areas shall assign a professional in Natural Resources who shall attend to issues related to wetland ecosystems.

3.4. Coral reef rehabilitation and specific protection of endangered species

PROMOTION OF RESTORATION AND CONSERVATION INITIATIVES FOR THE RECOVERY OF CORAL ECOSYSTEMS

Executive Decree n°41774, 6 June 2019

In the context of climate change and ocean acidification, the objective of the decree is to promote the protection and conservation of reef ecosystems throughout the national territory. To this end, according to the applicable legal framework, they may be declared a **protected wildlife area** under the corresponding management category (Article 1). A Coral Council is created (Article 15).

More precisely, Article 4 concerns the **identification, delimitation and monitoring of priority reefs ecosystems**. This is an implementation of science-based strategies and policies to confront the effects of climate change, and the degradation of degraded reefs is also considered.

According to Article 5, **the extraction, capture and commercialization of any type of coral is prohibited**, except those that, exceptionally, are expressly permitted by the ministry, with the warning that their use will only be permitted for sustainable scientific and bioprospecting activities, duly approved prior to extraction. **Ecotourism** and other activities related to the coral reef area are regulated with planning tools.

Articles 8 and 9 promote sensibilization and construction of **artificial reefs**. Following articles deal with the objectives and rules concerning artificial reefs and the objective of the restoration.

This decree has been qualified as *'historic'* as it directly and legally protects the vast coral ecosystems of the country.

4. GENERATION OF POLLUTION

ORGANIC LAW OF THE ENVIRONMENT

Law n°7554 4 October 1995

Articles 69-70 provide for waste management: prevention of pollution by contaminants, and prohibition to import wastes of any nature if the only purpose is the deposit, storage, confinement of final disposition as well as the transfer of hazardous wastes. But it does not apply if the wastes are to be recycled or reused.

PROMOTION OF RESTORATION AND CONSERVATION INITIATIVES FOR THE RECOVERY OF CORAL ECOSYSTEMS

Executive Decree n°41774, 2019

Article 6 of the 2019 decree for the promotion of restoration and conservation initiatives for the recovery of coral ecosystems prohibits the **dumping of solid and liquid waste** on reefs and coral communities, as well as in those areas of the marine land zone or coastal zone, where marine currents can carry such waste to coral zones and rocky reefs with live or dead coral cover; Article 7 prohibits **anchoring** on coral ecosystems.

LAW TO COMBAT PLASTIC POLLUTION AND PROTECT THE ENVIRONMENT

Law n°9786, 26 November 2019

This law is dedicated to the limitation of plastic pollution, and provides for incentives to develop projects of conservation, reduction, recycling, prevention and productive reconversion of industries dedicated to the manufacture of plastic products. The Development Banking System and the entities of the National Financial System are authorized to generate special research programmes for innovation, financing and support to micro and small companies in this field (Article 2).

According to Article 3, the commercialization and free delivery of **single-use plastic straws** is prohibited throughout the national territory.

The commercialization and free delivery of **plastic bags** to the final consumer in supermarkets and commercial

establishments whose purpose is to carry goods to their final destination is also prohibited (Article 4). Exceptions are made for plastic bags that guarantee their reusability, that are certified of low environmental impact and that comply with several characteristics (biodegradable, size).

Likewise, importers, producers, marketers and distributors of **single-use plastic bottles** and/or products packaged in this type of bottle shall comply with one of the following guidelines within the national territory (Article 5):

- (a) *Plastic bottles sold or distributed in the national market must contain a percentage of recycled resin, which will be defined through regulations considering the type of product to be packaged, the technology available and accessible to the country, the availability of resin in the local market, the conditions of asepsis, public health, hygiene, innocuousness and other conditions necessary to guarantee public health and environmental protection.*
- (b) *Establish an effective programme of recovery, reuse, recycling, energetic use or other means of valorization for the residues derived from the use or consumption of its products in the national territory. The parameters for implementing recovery programmes will be defined by regulation considering criteria of availability and access to waste.*
- (c) *Participate in a sectorial waste programme or by the nature of the waste for its integral management, organized either by sector or by product.*
- (d) *Develop products or use containers or packaging that, due to their design, manufacturing or use characteristics, minimize the generation of waste and facilitate its recovery, or allow its disposal in the least harmful way for health and the environment.*
- (e) *Establish strategic alliances with at least one municipality to improve the collection and integrated waste management systems.*

5. EXTRACTION OF NON-LIVING RESOURCES

COSTA RICAN CONSTITUTION OF 1949

In Costa Rica's Constitution Article 121. 14.b establishes that some non-living resources may not permanently leave the State's domain, which are coal deposits, oil sources and deposits, and any other hydrocarbon substances, as well as deposits of radioactive minerals existing in the national territory.

MINING CODE

Law n°6797 of 1982

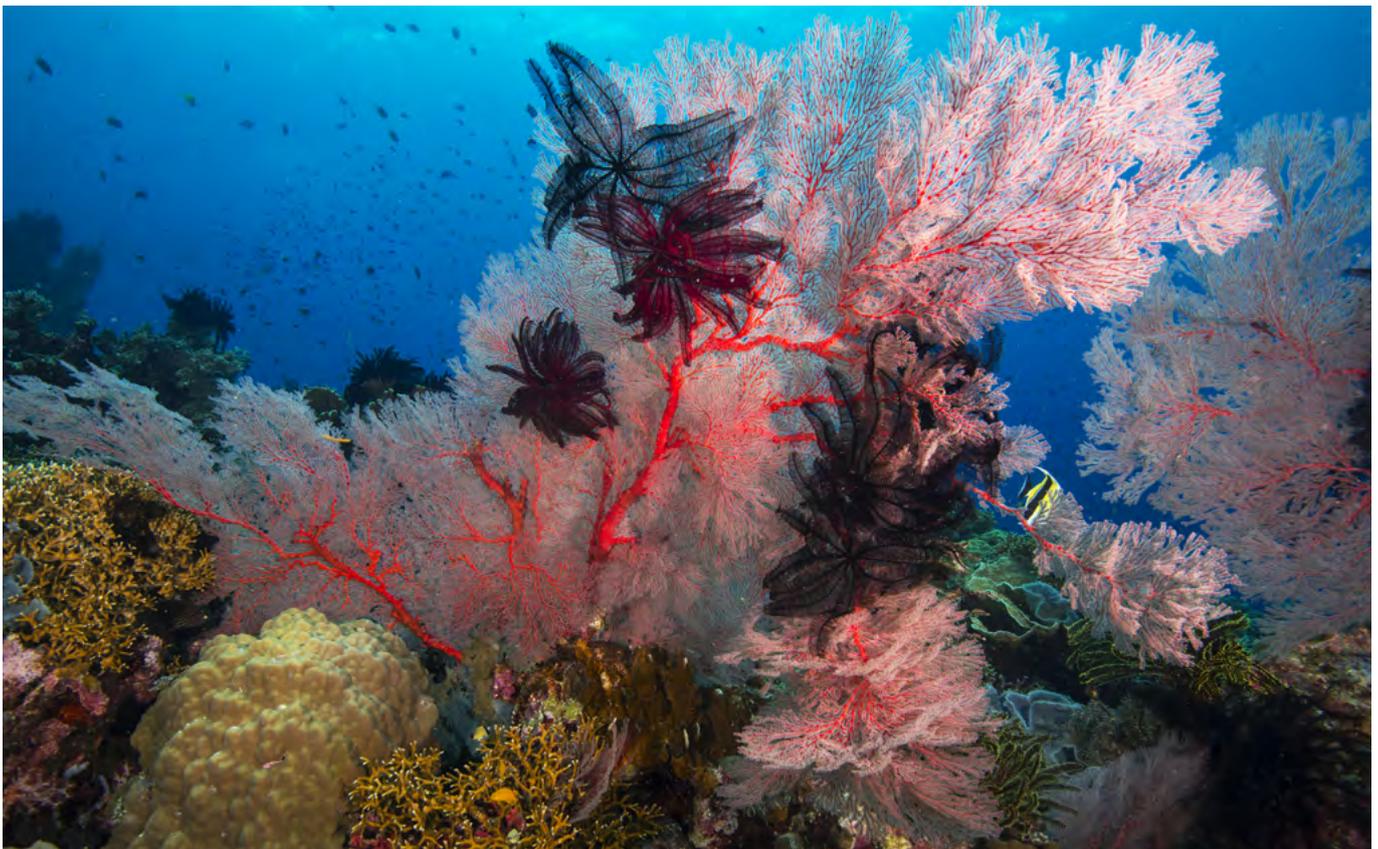
The Mining Code of Costa Rica indicates in its Article 1 that the State has absolute, inalienable and imprescriptible dominion over all mineral resources existing in the national territory and in its patrimonial sea, whatever the origin, physical state or nature of the substances they contain. The State shall endeavour to exploit the mineral wealth by itself or through agencies under its authority. However, the State may grant concessions for the recognition, exploration, exploitation and benefit of mineral resources, in

accordance with the present law. The concessions will not affect in any way the domain of the State, and will be extinguished in case of non-compliance with the legal requirements to maintain them.

In addition, Article 2 of the same instrument states that the exploitation of mineral substances may be carried out in quarries, public domain watercourses, placers, washes and mines; in all cases it shall be governed by the provisions of this Code and its Regulations. The above has allowed the development of several moratoriums on the mining of several non-living resources.

According to the regulations in the Mining Code, the Reform of Executive Decree No. 35982 of the Ministry of Environment and Energy determined a national moratorium for an indefinite period of time for open-pit metallic gold mining activities in the national territory that is still in force. **Executive Decree n°36693-MINAET establishes a national moratorium on oil exploitation in the national continental and marine territory until 31 December of 2050.** It is, however, important to point out that these norms do not include explicit regulations on any marine resource.

Photo: © Jane Jenkins



6. PRODUCTION OF ENERGY

COSTA RICAN NATIONAL ENERGY PLAN

Executive Decree n°39219 of 2015

The Costa Rican National Energy Plan 2015–2030 is the instrument that formalizes and regulates inter-institutional and regulatory coordination in energy matters. This instrument incorporates elements of sustainability in the use of natural resources such as water in general, although it does not have a broad development on energy obtained from marine ecosystems.

LAW AUTHORIZING AUTONOMOUS OR PARALLEL ELECTRIC GENERATION

Law n°7200 of 1990

Likewise, the law Authorizing Autonomous or Parallel Electric Generation indicates in its Article 4 that conventional energy sources are all those that use hydrocarbons, coal or water as a basic element. In the same case as above, there is no regulation on the energy obtained by the exploitation of marine resources and ecosystems.

7. PHYSICAL RESTRUCTURING OF THE COASTLINE, RIVERS OR SEABED

LAW FOR THE CONCESSION AND OPERATION OF TOURIST MARINAS

n°7744

Article 1 of this law determines that '*areas of the public domain such as the maritime-terrestrial zone and/or the adjacent area permanently covered by the sea, areas adjacent to coastal cities, except for lands that present open spaces for common use, concessions may be granted for the construction, administration and operation of marinas and tourist berths, in accordance with the provisions of this law. Exceptions to this provision are mangrove areas, national parks and biological reserves. Likewise, **concessions will not be granted for the construction and operation of marinas and tourist berths in areas where coral ecosystems exist.***' The previous standard is developed in the entire law by signalling processes and requirements in order to get a concession so a marine resource can be exploited.

CREATION OF THE MECHANISM FOR THE GOVERNANCE OF MARINE AREAS UNDER THE JURISDICTION OF THE COSTA RICAN STATE

Executive Decree n°41775, 8 June 2019

Article 3 of this instrument creates the Commission for Governance of Marine Areas as a permanent interministerial coordinating body that will serve as an authority for coordination and integrated management among the different public sector agencies that are part of the Costa Rican marine-coastal institutional framework. Article 11 concludes that it is necessary to have a **Marine Master Plan** that is based on participatory processes and technical and scientific criteria, **which guide actions aimed at using, conserving and managing marine, coastal and oceanic resources.** The instrument establishes the necessity of regulations for the use of marine resources that include community participation along the process.

8. TRANSPORT

ORGANIC REGULATIONS OF THE GENERAL DIRECTORATE OF WATER TRANSPORTATION

Executive Decree n°11147 of 1980

The Organic Regulations of the General Directorate of Water Transportation establish in its Article 2 that water transport to all activities, directly or indirectly related to the transport of passengers and cargo by water, as well as to the aspects related to the navigation of all types of vessels, whatever the activities involved. However, **Costa Rica has no law duly regulating maritime transport but**

has a series of scattered and obsolete norms that do not obey the global context, for example, the Maritime Commerce Code, which dates back to 1853. In 2019 there was a project in the legislative stream to amend the issue that was mentioned above but it hasn't been approved yet.

Photo: © Tom Vierus



OTHER INITIATIVES AND GOOD PRACTICES FOR THE PROTECTION OF CORALS

EXAMPLE OF INITIATIVES FROM THE PUBLIC SECTOR

PRONAMEC Protocol 2016

A **Protocol for Ecological Monitoring of Coral Formations**, which is a technical report aiming at **monitoring and evaluating the diverse species of corals of Costa Rica**, was elaborated in 2016 by the Ministry of the Environment and Energy and the National System of Conservation Areas in collaboration with the United Nations Development Programme and funding from the Global Environmental Fund (SINAC, 2016, **Protocolo PRONAMEC: Protocolo para el monitoreo ecológico de formaciones coralinas. Proyecto Consolidación de las Áreas Marinas Protegidas. Programa de Naciones Unidas para el Desarrollo (PNUD) y El Fondo para el Medio Ambiente Mundial (GEF)**, San Jos., Costa Rica. 61p.).

Recalling with details the **ecological specificities of Costa Rica's ecosystems** regarding coral reefs and the national biodiversity conservation's priorities, the report specifies the **indicators** taken into account in this monitoring protocol:

- Percent Coral Cover,
- Percent Algal Cover,
- Fish Abundance and Diversity,
- Macroinvertebrate Abundance and Diversity, and
- Reef Complexity.

Each of them requires prior knowledge in both species identification and the correct application of the methodology, which is acquired with training and practice prior to the implementation of the protocol.

According to this report, the **changes generated in**

each health indicator, function as a warning system, in order to improve the management of reef ecosystems and facilitate decision-making on management and conservation issues. In addition, the dynamics presented by each of the indicators can facilitate the communication of the protected areas with different experts, so that research can be planned and carried out to address priority issues based on the results generated by the priority topics, according to the results generated by the monitoring. Since coral reefs are one of the marine ecosystems most vulnerable to climate change, this tool is also supposed to assess the impact of climate change on coral reefs.

Cartagena Convention 1983

At the regional level, although Costa Rica is a member of the **Cartagena Convention for the Protection and Development of the Marine Environment in the Wider Caribbean Region**, signed in 1983 in the context of the Caribbean Environment Programme, it did not ratify the SPAW Protocol of 1990, which is dedicated to biodiversity conservation and the designation of specially protected areas in the region. The Cartagena Convention, nonetheless, provides for the classical obligations of cooperation, fight against pollution, creation of protected areas, environmental impact assessment, protection of ecosystems – including coral reefs, etc.

EXAMPLE OF INITIATIVES FROM THE PRIVATE SECTOR

Marine Conservation

<https://marineconservationcostarica.org/>

Moreover, **some non-profit organizations**, as for instance **Marine Conservation**, are dedicated to the **coral reef restoration** by offering courses, internships and educational courses related to the restoration of

coral but also monitoring reefs. The association also created a programme of 'adoption' of coral, to boost its system of nurseries and the construction of healthier reefs and organizes sessions of underwater cleanup.

**SUMMARY OF LEGISLATIVE
AND REGULATORY MECHANISMS
FOR THE PROTECTION OF CORAL REEFS
AND ASSOCIATED ECOSYSTEMS**

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COSTA RICA

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