



Gobierno de Reconciliación
y Unidad Nacional
El Pueblo, Presidente!

UNITA
NICARAGUA TRIUNFA!



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Agreement for the implementation of an Independent Forest Monitoring Pilot Project in Nicaragua
(translation of the original text in Spanish)

Established between
Instituto Nacional Forestal and Global Witness

Managua, Nicaragua, September 2008



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EXTENSION OF THE COOPERATION AGREEMENT BETWEEN INSTITUTO NACIONAL FORESTAL (INAFOR) AND GLOBAL WITNESS

We; **William Schwartz Cunningham**, of full legal age, married, graduated in Education Sciences, with ID number 601-041247-0000J, in my role as Executive Director of the Instituto Nacional Forestal (INAFOR), an autonomous, decentralised state institution, with legal status and its own patrimony, with operational, technical and administrative autonomy, and with capacity to perform its competencies; in accordance with Art. 49 of the Law for the Organisation, Competencies and Procedures of the Executive (Law 290) and the Presidential Agreement No. 12-2007, published in the Gaceta official newspaper no. seven (7) of 10 January 2007; and **David Young**, of full legal age, married, graduated in Forestry, located in London N19 5WP, UK, with ID number 093191620, in my role as legal representative of Independent Forest Monitoring Projects within Global Witness; we have agreed to sign the current agreement in accordance with the following considerations and clauses.

CONSIDERING

I

That it is the responsibility of the state, the central government, the regional and municipal governments and civil society to guarantee the protection of forests and the multiple benefits derived from biodiversity.

II

That the Law for the Promotion and Sustainable Development of the Forest Sector, Law No. 462, entitles INAFOR, within its forest strategy, to establish agreements with governmental and non-governmental organisations to coordinate activities to strengthen the country's forest sector, involving all stakeholders through dynamic and efficient processes that contribute to the socioeconomic development of Nicaragua.

III

That Art. 11 of the Law for the Promotion and Sustainable Development of the Forest Sector (Law No. 462), establishes that those agreements related to forest issues that INAFOR establishes with individuals or legal entities, can deal with the development of forest programmes, the promotion of education, culture, capacity building and forest research.

IV

That the establishment of inter-institutional cooperation agreements contributes to foster the work of relevant organisations, and in the case of INAFOR and Global Witness it will support the performance of the



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V

That Independent Forest Monitoring (IFM) is a practical tool that can provide substantial support in assessing the level of compliance with the forest legal framework by observing and supporting the official enforcement system in the forest sector, as well as fighting illegal logging and encouraging individuals and legal entities to operate within the law.

VI

That the Government for the Reconciliation and National Unity and the new forest administration have the will to strengthen their leadership in the sector, empowering the people through the Citizen Power Councils, within the framework of forest governance in the territories; strengthen the control and regulatory system to achieve a new model for forest verification, through effective articulation of and coordination with relevant institutions and Independent Forest Monitoring (IFM), thus building up a permanent tool to strengthen transparency and accountability, combat corruption and develop actions to tackle the vicious circle that provides incentives for illegal logging.

THEREFORE

Within our respective competencies, we agree to sign the current Agreement, which will be governed by the following clauses:

FIRST: Background

I. INAFOR, based on the competencies assigned to it by Law No. 462 and its additional regulations, will contribute to the sustainability of the forest resources by creating new alternatives to monitor the activities in the forest sector and allowing increased civil society participation in the use of forest resources. In this agreement INAFOR will thus act as the host in the implementation of the Independent Forest Monitoring Pilot Project, implemented by the UK based non-governmental organisation Global Witness.

II. This document is an extension of the agreement signed in July 2006, which established collaboration protocols between INAFOR and Global Witness to implement an Independent Forest Monitoring Pilot Project in Nicaragua.



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SECOND: Independent Forest Monitoring Objectives

IFM in Nicaragua has the following objectives:

1. Promote the principles of transparency in the work of forest law enforcement.
2. Strengthen the institutional basis for an IFM system in Nicaragua, through the development of working relations with INAFOR and other government institutions, as well as with civil society and the private sector.
3. Generate reliable information about logging and trade activities.
4. Contribute to the objectivity and transparency of the monitoring activities carried out by the relevant authorities, through the participation of an independent monitor with international credibility, whose reports and recommendations will be made public following a review of the forest authority.
5. Strengthen the operational capacity of the relevant authorities, through the implementation of joint field missions where experience and skills are shared.

THIRD: Independent Forest Monitoring Expected Results

1. A substantial increase in the quantity, quality and credibility of information on the level of governance in the forest sector, and the dissemination of such information amongst key actors.
2. An improvement in forest law enforcement, including increased operational capacity to detect and sanction illegal activities.
3. An identification of legal and institutional weaknesses and limitations facing the forest sector
4. Presenting the relevant institutions with solutions to overcome weaknesses detected.
5. The provision to the relevant institutions of information about the evidence gathered in the missions carried out by the monitor.
6. An improvement in inter-institutional coordination regarding forest law enforcement.
7. An improvement in forest governance in Nicaragua is expected to result from this work.



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FOURTH: Implementation geographical areas, activities and working protocols

The main intervention areas will include:

- a. Nort-Atlantic Autonomous Region (*Región Autónoma Atlántico Norte - RAAN*);
- b. South Atlantic Autonomous Region (*Región Autónoma Atlántico Sur - RAAS*);
- c. Río San Juan Department, and
- d. Nueva Segovia Department; however, any other area in the country can be covered as need be.

Activities will be subjected to the availability of funds, and will include:

- a. The continuation of an induction process which, through meetings and discussions, allows all the relevant actors to become familiar with IFM, with a view to ensure support and participation.
- b. Carrying out monitoring missions during the implementation period of the project.
- c. Producing a report for each of the missions that includes the findings, conclusions and recommendations resulting from it.
- d. Undertaking monitoring missions which, besides achieving the mentioned results, allow capacity building in monitoring techniques. These missions will include the participation of INAFOR staff and other relevant actors (community leaders, regional authorities, etc.)
- e. Building the capacity of relevant civil society actors in monitoring activities, and eventually supporting them in establishing themselves as local monitors.
- f. Producing annual reports summarising the main results and findings of the corresponding period, as well as the institutional and legal weaknesses observed, lessons learned and recommendations for INAFOR and other actors.

Both parties commit to observe the following working protocols:

- a.- Carry out joint field missions (visits to harvesting sites, sawmills, trading premises and ports), also including the possible participation of other institutions with competences in law enforcement. The monitor will be responsible for thoroughly documenting the findings in the field.
- b.- Where INAFOR representatives are not available for whatever circumstance, the monitor will have the right to carry out independent field missions, visiting the relevant sites alone and documenting its findings. Other relevant actors may participate in these missions.
- c.- Regardless of the type of mission, the monitor technical team will



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write the relevant report, which will include a description of the way the mission progressed, the main findings, the conclusions and the recommendations provided. The reports will be submitted to INAFOR no later than 15 (fifteen) working days after concluding the mission.

- d.- Once the report has been submitted, it will be assessed by INAFOR and other relevant institutions, and no later than 15 (fifteen) working days after, observations will be submitted back to the monitor.
- e.- Once comments from INAFOR's Technical Review Committee have been received, and/or further corroboration of the information has been completed, the monitor will amend the report as relevant. Following this, the final version of the report will be submitted to INAFOR for validation and the monitor will publish the report on its website (www.globalwitness.org).
- f.- The reports will be submitted for approval and validation of INAFOR's Technical Review Committee.
- g.- All the participants in monitoring missions will work towards achieving a consensus about the final document produced. In the unlikely event that no consensus is reached, the different opinions will be presented clearly, thus ensuring the independence of all the parties.
- h.- Those reports that, due to differences in opinion, are not validated, will be nevertheless published, presenting such differences in a clear way.

FIFTH: Collaboration with other institutions

Although this Agreement is established bilaterally between INAFOR and Global Witness, monitoring activities will be carried out seeking cooperation with the following institutions:

- Ministry of Agriculture, Fishing and Forests (MAGFOR).
- Ministry of the Environment and Natural Resources (MARENA).
- Special Environmental Unit and other institutions of the Public Ministry.
- Attorney General's Office for the Defence of Human Rights.
- Armed Forces and Nicaraguan National Police.
- Regional authorities of the Nicaragua Caribbean coast.

SIXTH: Responsibilities and obligations

a) The monitor must at all times:

- Devote its time exclusively to its professional activities.
- Provide a professional team.



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- Respect confidentiality and professional secrecy on all information in its possession, and communicate or disseminate such information only in strict respect of this Agreement and the laws of the country.
- Demonstrate diligence and objectivity in the exercise of its functions.
- Work in a coordinated way with all the stakeholders.

b) INAFOR must at all times:

- Ensure that the monitor has immediate access to all the information needed to carry out its job.
- Ensure that the monitor has the freedom to access harvesting sites, processing facilities and other points of the timber chain.
- Guarantee the monitor's right to publish its reports according to the protocols agreed.
- Guarantee the monitor team's integrity, protecting it, as far as possible, from threats, intimidations and other coercive acts.
- Support the monitor in the implementation of missions, even where the monitor carries them out alone.
- Analyse the reports written by the monitor from a legal point of view and issue the corresponding legal opinion.

SEVENTH: Termination

This Agreement may be terminated by either of the signing parties in writing with a 30-day notice. It can also be terminated by major force causes or due to breaches in the agreed protocols.

EIGHT: Timeframe

This Agreement will be valid for a period of one year from the date of its signature, and can be renewed for a similar period by agreement of both parties.

We hereby sign two copies of this Agreement in Managua, on 3 September 2008.

William Schwartz Cunningham
Director Ejecutivo INAFOR

David Young
Representante Global Witness.



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