

**REPORT ON CHILE'S GOVERNMENT
INFORMATION ABOUT PLANTATION OF EXOTIC
SPECIES IN REGION X**

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REPORT ON CHILE'S GOVERNMENT INFORMATION ABOUT PLANTATION OF EXOTIC SPECIES IN REGION X

I. Context

ForestEthics¹, a non governmental organization based in United States, is leading an international market campaign to stop the expansion of non-native tree farms into Chile's remaining native forests. ForestEthics is concerned about the plans for this expansion in Region X, especially its coastal range zone.

To maximize the success of the ForestEthics campaign, CEADA provides in this report information given by CONAF regarding the current plans for substitution/conversion in Region X.

II. Methodology: Description of the consultation and questionnaire process used

The primary input of this report was the information delivered by Carlos Weber, the Executive Director of Corporación Nacional Forestal² (CONAF), Chile's National Forest Service, responding to the request of Mr. Fidel Espinoza¹, Deputy of the Republic of Chile for Region X.

CEADA, through its consultant, Fernanda Vila, who has a broad experience in the operation of the National Congress, was able to get a Representative of Region X to request CONAF for official information about the native forests and forestry plantations in Region X.

Fernanda Vila convinced Deputy Fidel Espinoza, a Representative of Region X, to send CONAF's office in Region X a questionnaire containing questions with the information required by F.E.

The CEADA team strategically decided not to request the information directly but through a petition carried out by a member of the National Congress instead, in accordance with the Constitutional Organic Law of the National Congress (Ley 18,918)³, because of two reasons:

¹ www.forestethics.org

² To know CONAF's functions and activities see: www.conaf.cl

³ Law 18,918. Published in Chile's Official Gazette of February 4, 1990.

First, there are precedents of CONAF's refusal to disclose information. In fact, on several occasions CONAF's Executive Director has denied to disclose information of public interest to non-governmental organizations about forestry projects, forestry enforcement and substitution of native forestⁱⁱ.

Second, Law 18,918 permits exerting greater pressure on public agencies to disclose information than Law 19,653 on Administrative Probity (Ley 19.653)ⁱⁱⁱ.

Therefore, in order to obtain information rapidly, CEADA resorted articles 9 and 10 of Law 18,918. Article 9 of that piece of legislation indicates that State agencies must provide the specific reports and background information requested by any member of the Chambers of Congress and its internal bodies, with the exception of those reports and background information that due to specific legal provisions are considered confidential or reserved.

On the other hand, Article 10 of Law 18,918 establishes that the head of the public agency, which the information is requested from, is personally responsible for delivering or disclosing the information. If this rule is violated, the head of the agency will be penalized by the General Controllershship's Office, the entity in charge of ensuring that public agencies comply with legal provisions, with a fine equivalent to a monthly salary – which evidently is a significant incentive for the heads of public agencies to fulfill their duty of informing members of Congress.

III. Schedule of the process followed

After preparing a letter and questionnaire, CEADA obtained Deputy Fidel Espinoza to send them personally on August 19, 2002 to Mr. Pedro Bahamondez, CONAF's Director in Region X⁴.

CONAF's Regional Office in the city of Puerto Montt received the request on August 23, 2002. Mr. Pedro Bahamondez, in turn, sent the letter to his direct boss, Mr. Carlos Weber, CONAF's Executive Director, whose legal domicile is in Santiago.

During 60 days, Fernanda Vila monitored CONAF to get its Executive Director to answer the questionnaire within a term of 60 days.

⁴ See Annex 1.

Finally, Mr. Carlos Weber officially replied Deputy Espinoza on October 22, 2002, through a letter with Executive Order No. 515, Matter: “Reply to questions of institutional actions”; which reached Deputy Espinoza’s office in Valparaíso, Region V on October 24, 2002⁵. The original letter was sent to CEADA on October 26, 2002.

On the basis of the information delivered by CONAF’s senior authority and by comparing it with information obtained from other sources and CONAF reports, CEADA prepared an analysis of the answers provided by Carlos Weber with comments that are added to the official answers (*author’s comments*).

IV. Destruction and degradation of the native forest

The process of destruction and degradation of native forests in Chile is one of the most serious environmental conservation problems faced by the country. It is estimated that 80% of the existing native forests are seriously damaged (*Burschel et al., 1991*) and that the native forest area that is reduced and deteriorated each year is as high as 120,000 hectares (*PAF-Chile, 1992*).

The causes for destruction are selective logging, which removes the largest, healthiest species, illegal cutting, fires, changing to agricultural use, and substitution. A study recently conducted by CONAF, published in 1996, reveals that only 24% of all native forest interventions carried out between 1985 and 1994 in Regions VI and XII are forestry management. Therefore, the remaining 76% correspond to interventions that degrade or destroy the forest. Many of these interventions cannot be prevented because of CONAF’s weak management.

In synthesis, the loss of native forest is the result of two causes: direct degradation and substitution due to other productive uses of the land (crops, pastures and plantations). In the first case it is a slow process, in which the native forest suffers the impact of man, who uses wood products to the point that it converts the forest in bushes, shrubs and small trees or unused land (devoid of vegetation).

On the other hand, substitution is a rapid, direct process where the native forest is eliminated with the express, precise purpose of using the land in other more profitable uses, and not to use the products like in the previous case, even though they may be used. According to these definitions, the loss of native forest in Region X is distributed largely between plantation substitution, degradation to bushes, shrubs and small trees, and degradation to land without any vegetation.

⁵ See Annex 2.

V. Definitions of the Cadastre and Evaluation of Chile's Native Vegetation Resources

The “*Cadastre and Evaluation of Chile's Native Vegetation Resources*” was conducted between 1994 and 1997 making it possible to quantify the different uses of the land in the Chilean territory⁶. Following are some of the definitions used in the *Cadastre and Evaluation of Chile's Native Vegetation Resources*, which are relevant to understand this report.

Native forest: Ecosystem where the tree strata is made up of native species over 2 meters high with treetop coverage of over 25%.

Adult native forest: Primary forest, generally with a heterogeneous vertical structure, treetop size, diameter and age distribution. The trees are over 8 meters high.

Mixed Forest: Forests made up of a combination of adult native forest, secondary native forest and shrubby, stunted forest.

Native forest-plantation: A combination of native forest and forest species planted in proportions ranging between 33% and 66% for each of the categories that make up the forest. The plantations generally correspond to the consolidation of secondary forest or growth of the native species that previously formed the forest.

Dominating species: Species that cover most of the dominating treetop canopy and the intermediate canopy in a vegetal formation. For a species to be considered dominating, it must occupy at least 25% of the treetop coverage.

Plantation: A forest whose tree stratum is dominated by exotic or planted native species. There are plantations and young or newly harvested plantations, which are plantations that are in an incipient stage of development or that have been recently harvested. Only the species that make up the plantation were determined in the Cadastre.

Secondary forest: A native secondary forest resulting from seeds and/or vegetative reproduction after anthropogenic or natural perturbation (fire, clear-cutting, falling). In general, these forests have homogeneous vertical structure and diameters.

Forest Types: Classification of forests on the basis of the predominating tree or trees in a determined area.

⁶ <http://www.conaf.cl/html/recursos/introduccion.html>

VI. Legal definitions of Decree Law 701 (DL 701)

Decree Law 701 (hereinafter DL 701) is a part of the environmental legislation that confers CONAF and its officials express powers in law enforcement, such as:

- a) the approval, objection or rejection of management plans (article 10);
- b) supervision of compliance with approved management plans and with reforestation duties established in articles 22 and 21 sub (2) of DL 701 (article 31).

DL 701 therefore contains environmental provisions and enforcement obligations, including those referred to management plans.

Article 2 of DL 701. Management Plan: “Instrument that, in compliance with the requirements established by this piece of legislation, regulates the rational use and exploitation of renewable natural resources on certain lands, with the objective of obtaining a maximum benefit from these resources, while at the same time ensuring their preservation, conservation, improvement and growth, as well as that of their ecosystem”.

Art. 2 DL 701. Forest: A place populated with vegetal formations –with the predomination of trees– that occupy an area of at least 5,000 m², with a minimum width of 40 meters, and with a treetop coverage of over 10% of the total area in arid and semi-arid conditions and 25% in more favorable conditions.

Art. 2 DL 701. Land Preferably Suitable for Forestry: All the land that because of climate and soil conditions should not be permanently plowed, whether or not covered by vegetation, excluding the land that can be used in agriculture, fruit-growing and intensive cattle raising.

Art. 2 DL 701. Forestation: The action of populating with tree or shrub species any land that does not have such species, or that although covered by such vegetation, it is not subject of being managed to form a tree or shrub mass with preservation, protection or production purposes.

Art. 2 DL 701. Reforestation: The action of repopulating with tree or shrub species, through sowing, planting or management of natural regeneration a piece of land that was previously covered with forest or that has been subject to extractive exploitation after October 28, 1974.

VII. Bonus or subsidies of DL 701

The subsidies or economic incentives provided for in DL 701 are bonuses granted according to law and that are grounded on the development of the forestry industry. Therefore, Title III of DL 701 is called “From Incentives to Forestry Activity”.

In general, Article 12 of DL 701 subsidizes forestry activities developed in fragile soils, in areas undergoing desertification; forestation in degraded land and activities aimed at recovering those lands; and forestation of land suitable preferably for forestry. The percentage of the bonus or rebate is generally 75% of the costs of the forestry activity.

VIII. The Questionnaire

The questionnaire sent to CONAF’s office in Region X through a letter mailed by Deputy Espinoza, with CEADA’s advice, was the following:

1. Area of Region X currently subject to management plans for cutting and exploiting artificial plantations (exotic or non-native) located in lands suitable for forestry or in other land that has a plantation with reforestation subsidy.
2. Area of Region X subject to reforestation or correction obligations, as the case may be, pursuant to Article 8, Decree Law 701 (hereinafter DL 701).
3. Area of Region X subject to forestation, even though that area may not be classified as preferably suitable for forestry and payment of forestry subsidies is not sought.
4. Area of Region X subject to a management plan and where the obligation to reforest has been substituted for recovering the land that was previously subject to extractive exploitation for agricultural purposes.
5. How many full-time or part-time inspectors or overseers does CONAF employ to carry out the work of forestry enforcement in Region X.
6. Hectares of native forest in Region X.
7. Sum of the subsidies received by the forestry sector in Region X over the past 8 years by virtue of DL 701.

8. How many hectares of artificial forest plantations (*Pinus radiata* and *Eucalyptus globulus*) are being managed by the following forest companies in the Chilean territory?:

- | | |
|---------------------------------|---------------------------------|
| a. Forestal Valdivia, S.A., | Rut ⁷ : 96.567.940-5 |
| b. Forestal Mininco S.A., | Rut: 91.440.000-7 |
| c. Forestal Tornagaleones S.A., | Rut: 81.507.700-8 |
| d. Forestal Anchile Ltda., | Rut: 79.909.100-3 |

8.a) How many hectares of artificial forest plantations (exotic or non-native) have been approved in Region X by CONAF for the companies mentioned in question 8?

b) Is there any company or holder of a forest management plan in Region X, of any type, that has more hectares of artificial forest plantations than the ones mentioned in question 8?

c) Are there any of the companies mentioned in question 8 or other parties applying for management plans or investment projects in Region X with the purpose of increasing the extension of their forestry plantations, whether directly or through other companies or forest owners in the Chilean territory and Region X?

d) In Region X how many hectares of “forest plantations” have been replaced native forest since 1995?

e) How many hectares of native forest existed in Region X in the years 1998, 1999 and 2000, according to the latest information held by CONAF or other public or private organizations?

f) In Region X, how many hectares of native forest existed in 1995, and how many hectares of native forest existed as of the most recent year for which data is available?

g) Which is the definition of native forest used by CONAF to determine the answers to questions No. 6 through 8?

⁷ The RUT is the Taxpayer's Identification Number assigned by the Chilean Internal Revenue Service to corporations or individuals that carry out an activity subject to Income Tax.

IX. Information requested by ForestEthics contained in the Questionnaire sent to CONAF

Please note that question No. 8 and letters a) through g), contains the same questions made by ForestEthics to CEADA. This information has been analyzed in this report by means of a systematic analysis of the answers given by CONAF's Executive Director to Deputy Espinoza.

Also, Deputy Espinoza requested information from CONAF about the forestry infractions to DL 701 during the 1996-2001 period. This data was delivered by CONAF in Tables 3, 4 and 5, attached hereto in Annex 3.

The sources of the information contained in the Tables are not reliable. This data was not analyzed because has not clear sources and it is not directly related to the study requested by ForestEthics to CEADA.

X. Questionnaire, Government Answers and Author' s Comments

Question 1. How many hectares of "forest plantations" are currently held in Region X by the following companies: Forestal Valdivia, S.A., Forestal Tornagaleones, Forestal Anchile Ltda and Forestal Mininco, S.A.?

Answer: CONAF has incomplete information about the way in which forest companies are managing their plantations, because in accordance with current forestry legislation⁸, a significant part of the companies do not require CONAF's approval to carry out their activities. Therefore, we suggest that such information is obtained directly from the companies involved (See Point 7 of the answer provided by CONAF's Executive Director, Carlos Weber).

Author's comments: CONAF has frequently indicated that it does not have complete information about the management plans to reforest with plantations. On the other hand, CONAF has stated that the information contained in the management plans and studies of infractions to such documents are not available to the public⁹. In contrast, in the United States the management plans prepared by the United States Forest Service (USFS) pursuant to the National Forest Management Act (NFMA) of 1976, are available to the public^{iv}.

Notwithstanding what we have stated in Point 8 about the official answer of CONAF's Executive Director, it was reported that the amount of the subsidy granted over the past decade to the companies indicated in question No. 1, is attached to the answer in Appendix II. Appendix II refers to the subsidies for forestation given to those companies in Region X, including exclusively the 1990-2001 period:

- a) *In the case of Forestal Pedro de Valdivia, at least 71 management plans with a total area of 7,591.87 hectares were granted a subsidy equivalent to \$283,785,000 pesos (1 US dollar is equivalent to approximately 700 pesos).*
- b) *In the case of Forestal Tornagaleones, at least 230 management plans with a total area of 9,681.33 hectares were granted a subsidy equivalent to \$427,366,000 pesos.*
- c) *In the case of Forestal Valdivia at least 405 management plans with a total*

⁸ Carlos Weber refers to DL 701 and its complementary regulations.

⁹ See judicial answer given by Carlos Weber in the case "CLAUDE versus CONAF", Case No.: 4173-2000, 29th Civil Court of Santiago.

area of 23,380 hectares were granted a subsidy equivalent to \$1,296,615,000 pesos.

d) *In the case of Forestal AnChile at least 104 management plans with a total area of 6,231 hectares were granted a subsidy equivalent to \$573,895,000 pesos.*

e) *In the case of Forestal Mininco at least 56 management plans with a total area of 2,829 hectares were granted a bonus equivalent to \$141,000,000 pesos.*

Question 2: Do any companies in Region X currently hold more hectares of “forest plantations” than the companies named in question 1?

Answer: *In point 9 of his answer, Carlos Weber indicates that “CONAF does not know whether there are any other companies or individuals holding significant plantation areas, like those mentioned in point 8, because as we have already mentioned, companies are not required to report the development of plantations to CONAF, unless the owner of the land decides to request the subsidies granted for this purpose by the current forest legislation”¹⁰ (bold letters have been included by us).*

Author’s comments: *The Executive Director’s answer shows the weaknesses of DL 701 and the technical-institutional mechanisms to quantify the rates of forest plantations. In this respect, when we asked CONAF to report about “Areas in Region X currently subject to management plans for cutting or exploiting artificial plantations located in land suitable for forestry or in other land that has subsidized plantations”, CONAF replied in Point 1 of its answer as follows:*

“The area currently subject to management plans for cutting or exploiting plantations located in land suitable for forestry or other land with subsidized plantations for the 2002-2005 period, totals 20,316 hectares.”

This information does not make it possible to clarify the type of plantations in Region X, as later on CONAF recognized that “we must take into account, that every management plan approved by CONAF, is a declaration of intent of the forest owner and, therefore, does not necessarily imply that such declaration is going to materialize during the period the permit is in effect”.

¹⁰ When Weber refers to “the current forestry legislation” he refers to DL 701 and regulatory legislation.

At present there is no clear way to determine the number of plantations, because the Cadastre and Evaluation of Native Vegetal Resources gives a definition of native forests and plantations that differs from that established in DL 701 and its complementary regulations. The latter concepts are the ones that are actually applied by CONAF in relation to the applications of management plans that it must request and control.

On the other hand, in Point 3 of his answer, CONAF's Executive Director indicated that the area in Region X subject to a forestry management plan where the reforestation obligation has been substituted for recovery for agricultural purposes, has been as follows over the past 3 years:

1999: 562 ha.

2000: 262 ha.

2001: 281 ha.

2002: 251 ha. (as of August)

With this information, Carlos Weber tried to show that substitution with agricultural purposes is decreasing. However, CONAF estimates indicate that approximately 40% of the forest areas requested and approved for preparing for agricultural use are in fact destined to substitution for exotic plantations (Emanuelli P.,1997).

Question 3: Where do the companies identified in questions No. 1 and 2 plan to establish additional "forest plantations" in Region X?

Answer: *In Point 10 of its answer, CONAF indicated that "the investment projects in the forestry industry, among which are those aimed at increasing the extension of forest plantations, are not reported to CONAF, due to the reasons already mentioned". Also, CONAF stated that "the companies maintain information related to investments that imply expanding or modifying its operating capacity, confidential."*

Author's comments: *Although CONAF does not have all the information about forestry investment projects, it is worth noting that Law 19,300 on General Environmental Guidelines¹¹ and the Regulation on the Environmental Impact Assessment System¹², authorize CONAF to participate in the assessment of the*

¹¹ Published in the Official Gazette of March 9, 1994.

¹² Supreme Decree (DS) No. 30, Ministry General Secretariat of the Presidency. This Regulation entered into force on April 3, 1997, date on which it was published in the Official Gazette.

environmental impact of forestry projects or activities that may potentially affect the environment¹³. Among those projects, we can mention projects related to forest development or exploitation in fragile lands, in lands covered with native forest, paper pulp industries, paper paste and paper, woodchip production plants, wood plants, and sawmills, all of industrial size¹⁴. Therefore, it cannot be denied that the scope and phases of development of forest plantation exploitation projects must be reported by CONAMA (Chile's Environmental Protection Agency) to CONAF, during the same environmental impact assessment process.

Question 4. How many hectares of "forest plantations" have been approved by CONAF in Region X to the companies identified in questions No. 1 and No. 2?

Answer: See Point 8 of the responses of the letter.

Author's comments: In this regard, CONAF reiterates what it indicated in Point 8 of its official answer, which indicates the amount of forestry subsidies to the companies mentioned in questions 1 and 2 detailed in Appendix II¹⁵, attached hereto.

Question 5. How many hectares of "forest plantations" have replaced native forests in Region X since 1995?

Answer: CONAF's current institutional policy regarding the possibility of substituting native forest with exotic plantations is restrictive in the framework of DL 701 and its regulations. The last areas approved by CONAF for substitution totaling 5,198 hectares, were subject to penalties in 1996.

Author's comments: The application of fines to 5,198 hectares in 1996 does not make it possible to have an exact estimate of the updated rate of native forest that has been substituted and the causes for such substitution.

The substitution of native forest with plantations refers exclusively to the direct replacement of native forest with plantations. However, the statistics and figures provided by CONAF do not make it possible to know whether they include the primary substitution of the native forest for agricultural and/or livestock farming and secondly, the replacement of this use or management for plantations. In the

¹³ See Article 25 of the Regulations of the Environmental Impact Assessment System.

¹⁴ See Article 10 of Law 19,300.

¹⁵ We already stated that Appendix II refers to subsidies for forestation provided to those companies in Region X, exclusively including the 1990-2001 period. .

first case, we are talking of short-term substitution for plantations that may be completely attributed to the current forestry development model, promoted by the DL 701 system of reforestation incentives.

Substitution can be defined as the activity aimed at eliminating the native vegetal species generally by clear cutting the forest and subsequently burning the remaining woody matter and applying herbicides. All of this with the purpose of clearing the land to establish the plantations of rapidly growing exotic species. The eliminated forests are generally native forests previously subject to selective logging and overexploitation or secondary growths of native species in different development stages.

On the other hand, the substitution of native forest with plantations as has been defined here (in the short term) can be carried out in two ways. A first direct route, where the native forest is directly replaced by establishing plantations; and a second route, where it is first replaced for intermediate uses (crops, pastures, shrubs or vegetation-free land) and only subsequently –but very rapidly– for plantations.

Therefore, the activities in land suitable for forestry located in these intermediate use areas are carried out by the small-sized forestry owners, who are the ones who finally complete the short-term substitution cycle. The management plans have been previously requested by the small sized owners to comply with the requirements indicated in DL 701.

We insist that CONAF did not mention in its answer whether the penalties were for substitution for plantation, agriculture or other purposes. In addition, the information is not updated as of 2002. Substitution has been rather imposed in the practice of forestation and reforestation over the past 25 years under the DL 701 system.

With regard to more recent information on native forest substitution, CONAF's Executive Director did not mention in his answer that the "Report on Administrative Revision and Enforcement Supervision of the Chaihuín and Venecia Properties" (2000), prepared by CONAF, indicate that forestation of 3,027 hectares was approved in those properties and substitution of 12,096.6 hectares both with Eucalyptus species¹⁶.

¹⁶ See "Report on Administrative Revision and Enforcement in the Chaihuín and Venecia property, Province of Valdivia, Region X", carried out by the Department of Regulations and Enforcement of CONAF, May, 2000.

The quoted report acknowledges that CONAF's Regional Office did not apply the current forest regulations properly and that it did not take into account the instructions given by CONAF's Executive Office regarding the conditions under which the management plan applications should be approved in the property of the company Bosques S.A.¹⁷.

Furthermore, the report acknowledges that the original approval of the management plans by CONAF in 1989 to Inversiones Terranova S.A., former owner of Chaihuín and Venecia, was based on an ambiguous interpretation of articles 25 and 26 of the Technical Regulations of DL 701¹⁸, used as a legal loophole¹⁹.

In fact, when DL 701 refers to reforestation of native forests that are exploited, it does not provide any details regarding the characteristics to be complied with by such reforestation. On the other hand, the Special Technical Rules of the Native Forest Management Plan, which constitutes the Technical Regulations of DL 701 are not sufficiently clear and its interpretation has permitted substituting native forests not only in Chaihuín and Venecia, but also in the rest of Chile. This was indicated in the quoted report²⁰.

Therefore, the substitution of the native forest is due to the fact that Article 26 of the Technical Regulations of DL 701 does not expressly specify what species must be used for reforestation, and the erroneous interpretation is frequently used by applicants to management plans, who interpret that reforestation may be done with an exotic species like Radiata pine or Eucalyptus.

CONAF has developed two internal guidelines to prevent replacing native forest with exotic species (CONAF, 1991 and 1993). These guidelines, however, have not been complied with in practice because of weak and inconsistent enforcement due to CONAF's lack of human and technical resources to enforce the laws.

In addition, it has been recently discovered that CONAF's enforcement activities in Region X is only carried out during office hours (9:00 A.M. to 6:00 P.M.) and that the Forestry Department of the Police in Region X will be shortly entrusted jobs other than forestry enforcement²¹.

¹⁷ Ibid Note 18.

¹⁸ Executive Decree 259 of 1980 of the Ministry of Agriculture.

¹⁹ Ibid Note 17.

²⁰ Ibid Note 17.

²¹ Information provided by telephone by Francisco Solis, Coordinator of the *Coalición para la Conservación de la Cordillera de la Costa*, to the Program "Archivos del Subdesarrollo" of the Radio Universidad de Chile, on November 13, 2002.

The Executive Director responded that the Enforcement and Forestry Management Department has 25 professionals in Region X, 10 of which are principally devoted to enforcement.

If for these purposes we accept the official figures of the *Cadastral and Evaluation of Vegetal Resources* (CONAF/CONAMA), which indicate that there is an area of 3,610,228 hectares of native forest in Region X, on the basis of the data obtained from CONAF, we may conclude that each overseer must control compliance with the forestry law in an area on average of 361,023 hectares. This explains why CONAF has no real capacity to prevent illegal logging, substitution practices or non-fulfillment of forest management plans.

Question 6: How many hectares of native forests existed in Region X in 1995, and how many hectares of native forests existed on the latest year for which data is available?

Answer: The Chilean Cadastral and Evaluation of Vegetal Resources was prepared during the 1995-1997 period by a Consortium made up of CONAF/CONAMA, financed by the World Bank, and executed by the Universidad Austral de Chile, which officially acknowledged an area of 3,610,228 of native forests in the Lake Region (Región de los Lagos), whose breakdown by province is as follows²²:

<i>Valdivia:</i>	<i>859,205.4</i>
<i>Osorno:</i>	<i>377,599.8</i>
<i>Llanquihue:</i>	<i>775,790.1</i>
<i>Chiloé:</i>	<i>622,022.5</i>
<i>Palena</i>	<i>975,610.2</i>

Subsequently, and on the basis of a partial updating of the Cadastral carried out during 1997 and 1998, a loss of native forest of 18,795.6 hectares was determined in the Lake Region; therefore, the region has an acknowledged area of native forest of 3,591,432.4 hectares distributed per province as follows²³:

<i>Valdivia:</i>	<i>851,815</i>
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²² See point No. 12 of the Official Answer given by Carlos Weber.

²³ See point No. 13 of the Official Answer given by C. Weber.

Osorno:	374,085,3
Llanquihue:	768,995.0
Chiloé:	621,990.5
Palena	974,546.1

Author's comments: According to the results of the “Chilean Cadastre and Evaluation of Native Vegetal Resources”, Chilean forests cover an area of 15.6 million hectares, representing 20.7% of the national territory. This area is mainly made up of native forest (13,430,603 hectares or 83.9%), where the principal area is covered by Evergreen forest (4,148,905 hectares) followed by Lenga forests (*Nothofagus pumilio*) - 3,391,552 hectares, Magellanic coigue (*Nothofagus betuloides*) - 1,793,098 hectares and a combination of Oak (*Nothofagus oblique*), Evergreen beech (*Rauli: nothofagus alpina*), and Chilean oak (coigue: *Nothofagus dombeyi*) covering 1,460,531 hectares.

On the other hand, forestry plantations, mainly Pinus radiata and Eucalyptus species cover an area of approximately 2.1 million hectares or 2.8% of the Chilean territory. The plantations are concentrated in Region VII and in the north of Region X, where 90% of all Pinus radiata plantations are found. The mixed forest covers an area of 87,625 hectares.

The results obtained by the Cadastre for the Lake Region, called “Regional Report for Region X” indicates that of the existing forest area in that Region, 3,608,873.1 hectares or 94.5% is native forest, 196,3356.6 hectares or 5.1% is forestry plantations and 15,272.5 or 0.4% is mixed forests. The most important forest type is Evergreen with 1,749,949.5 hectares or 48.5% of the total native forest, followed by Lenga - Nothofagus pumilio (15.9%) and Coigue-Rauli-Tepa – Nothofagus dombeyi - Nothofagus alpina -Laureliopsis philippiana (11.3%).

The Province of Valdivia concentrates the largest forest area in Region X with 1,027,779.9 hectares, 83.5% of which are native forest. Valdivia also has the largest Forest Plantations in the Region with 80.8% of the total.

The Native Forest Cadastre mentioned before only provides a quantification of the natural vegetal formations existing in the country. There is no consensus about the number of hectares of native forest and productive forest in Region X.

Question 7: What is the definition of "native forests" used by CONAF to determine the answers to questions No. 5 and No. 6?

Answer: The following native forest definition was used by the Cadastre for the purposes of determining the existence of native forest in Chile²⁴:

Native forest. Ecosystem where the tree strata is made up of native species of over 2 meters high and a tree-top coverage of over 25%.

Institutionally, however, the definition used for the purposes of penalizing different management plan presentations are related to the different obligations derived from Decree Law 701 and its regulatory bodies is the one defined in these same pieces of legislation, which are indicated herein.

Forest: A plot of land populated by vegetal formations, with the predomination of trees that occupy an area of at least 5,000 m², with a minimum width of 40 meters, tree-top coverage of over 10% of that total area in arid and semiarid conditions and 25% in more favorable conditions.

Native forest: The forest naturally made up of indigenous species that can appear forming forestry types.

Author comments: Due to the fact that different academic and non-governmental sectors are unsatisfied with the forest and native forest concepts that have been included in the Cadastre of Vegetal Resources and in DL 701, The Independent Chilean Forestry Certification Initiative²⁵ is preparing a proposal of native forest definitions that really satisfies the interests of the different academic institutions, non-governmental institutions and forestry sector. The objective is that such definitions must reflect the principles and criteria of a responsible, socially beneficial, and economically viable environmental management of Chilean forests.

On the other hand, the Parliament is still processing the bill on native forest called "Law for the Recovery of the Native Forest and Forestry Promotion", which classifies native forests into "production", "protection" and "preservation" forests. In its present form, this legal proposal represents a serious threat to the conservation of native forest because it facilitates the substitution of native forest²⁶.

²⁴ See point No. 14 of the Official Answer given by Carlos Weber.

²⁵ www.icefi.cl

²⁶ The enactment of the Law on Native Forest has been one of the most difficult ones in the three governments of the government coalition called the *Concertación*. Among other things, this is the result of a lack of consensus about the issues of forest substitution for plantations and about the sums to be subsidized for native forest management.

The classification proposed by the Government of production, protection and preservation forests is arbitrary, does not have any scientific basis because it delimits areas where extraction and forestation with exotic species are facilitated and permitted. This measure only benefits the forestry industry²⁷.

²⁷ See Titles I and II of the Bill on Native Forest presented by the Government in 2000.

Conclusions

CONAF's official responses highlight the conceptual lack of precision of definitions surrounding some of the key elements of native forest destruction and substitution.

The information provided by CONAF about both plantations in Region X face the obstacle of very inadequate data. This prevents the empirical validation of plausible cause and effect relationships between reforestation and substitution of native forests.

The Native Forest Cadastre of Chile only provides a quantification of the natural vegetal formations existing in the country and has not defined "frontier forest".

CONAF stated that has followed the definition of native forest given by the Native Forest Cadastre but institutionally is only empowered to use a different concept described in Article two of DL 701 as "A plot of land populated by vegetal formations, with the predomination of trees that occupy an area of at least 5,000 m², with a minimum width of 40 meters, tree-top coverage of over 10% of that total area in arid and semiarid conditions and 25% in more favorable conditions".

CONAF cannot control illegal operations in Region X. The failure to enforce the law is determined by the limitations of administrative capacity and resources.

Carlos Weber responses reveal the "policy of governmental secrecy" regarding the information contained in the forest management plans and the lack of transparency of its revisions and approvals.

CONAF's responses shows that the true extend of illegal logging and management plans non-fulfillment in the forestry sector cannot be known with precision, but evidence suggests that such activities are important and that they constitute an important underlying cause of native forest destruction and its substitution by exotic plantations.

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ⁱ Deputy Fidel Espinoza, District Office telephone-fax 65-311767, San Francisco 640, Oficina C, piso 2, Puerto Varas, X Región. Office at Parliament: telephone 32-505272, fax 505564. fespinoza@congreso.cl, Congreso Nacional, Valparaíso, V Región, Chile.

ⁱⁱ See the following judicial cases in which CONAF has denied to deliver and/or reveal information about its forest management: “*Claude versus CONAF*”, Case No.: 4173-2000, 29th Civil Court of Santiago; “*CEADA versus CONAF*”, Case No.: 2345-2001, 19th Civil Court of Santiago. In addition, ONG’s like CODEFF (www.codeff.cl) and the *Coalición para la Conservación de la Cordillera de la Costa* (Coalition for the Conservation of the Coastal Mountain Range) (www.ccc.terra.cl) have requested information from CONAF, which were not fulfilled.

ⁱⁱⁱ Law on Administrative Probity (19,653) mandates that the administrative measures taken by governmental agencies and supporting records are open to public scrutiny. Unfortunately, major gaps or lack of progress in ensuring access to information to the public by virtue of Law 19,653 are the following: Lack of specific provisions ensuring the right to public access to environmental information, presence of broad discretionary powers in determining the disclosure of information and organizational culture of secrecy among public servants.

^{iv} Forest management plans, prepared by the United States Forest Service (USFS) pursuant to the National Forest Management Act (NFMA) of 1976, are available to the public. Section 1604(d) of the NFMA requires the USFS to provide for "public participation in the development, review, and revision of land management plans including ... making the plans or revisions available to the public at convenient locations in the vicinity of the affected unit for a period of at least three months before final adoption." *Id.* During the period of review, the government must "publicize and hold public meetings or comparable processes at locations that foster public participation in the review of such plans or revisions." *Id.* For the full text of this section online, see <http://www4.law.cornell.edu/uscode/16/1604.html>. Forest management plans are available to the public after adoption under the U.S. Freedom of Information Act (FOIA). According to FOIA, any person may have access to information held by an agency, with only limited exceptions. See 5 U.S.C. § 552. A person may submit a FOIA request for a forest management plan. 5 U.S.C. § 552(a)(3)(A). The agency then has 20 days to respond to the request and may give itself a 10-day extension under "unusual circumstances." 5 U.S.C. § 552(a)(6).