

UNOFFICIAL TRANSLATION

DECREE N° 32-2005

THE CONGRESS OF THE REPUBLIC OF GUATEMALA

WHEREAS

All the people of Guatemala have right of access to a diet which meets their nutritional requirements and social needs, as an essential condition for total human self-fulfilment and for the good of society as a whole, such that it is necessary to improve the conditions for overcoming the state of food and nutrition insecurity that affects the people of Guatemala, deeming it to be a serious obstacle to national social and economic development, particularly in the rural areas and among the marginal and indigenous urban groups.

WHEREAS:

The root causes of the food and nutrition insecurity of the Guatemalan people are complex and relate to every field of development work, making it necessary to seek solutions through a comprehensive and multicultural approach to enhancing and enriching consumption patterns and production practices with multi-sector and multi-disciplinary participation. The State is duty-bound to address the food and nutrition security of the Guatemalan people in compliance with the provisions of articles 94 and 99 of the Constitution of the Republic which vests the State with the responsibility for the health and general welfare of the people.

WHEREAS:

Historically, maize and bean production practices were able to guarantee the availability of food and consumption patterns which research has demonstrated to be nutritionally adequate, and the right to food was established for the first time by article 25 of the 1948 Universal Declaration of Human Rights; this right was also emphasized in article 11 of the International Covenant on Economic, Social and Cultural Rights (1966), and in both cases, when Guatemala exceeded to these Treaties, it acknowledged its obligation to respect, protect and progressively realize the rights enshrined in them, including the right to adequate food.

WHEREAS:

The Committee of Economic, Social and Cultural Rights agreed, at the request of the member states at the 1996 World Food Summit in Rome, on general observation no.12 of 1999 on the interpretation of the provisions of article 11 of the International Covenant on Economic, Social and Cultural Rights.

WHEREAS:

It is the responsibility of all sections of society, public and private, to address the problem of food and nutrition insecurity in order to guarantee food availability, access, consumption and use, consistently with the National Food and Nutrition Security Policy.

NOW THEREFORE:

Exercising the powers vested in him by articles 171 (a) and 176 of the Constitution

HEREBY PROMULGATES

the following:

LAW ESTABLISHING THE NATIONAL FOOD AND NUTRITION SECURITY SYSTEM**CHAPTER I
GENERAL PROVISIONS**

Article 1. Definition. For the purposes of this law, the National Food and Nutrition Security Policy defines Food and Nutrition Security as “the right of every individual to timely and permanent physical, economic and social access to food in adequate quantities and of adequate quality preferably of national origin, consistently with their culture, and its adequate biological use for the purpose of maintaining a healthy and active life”.

Article 2. Prohibition of discrimination. It is an offence under this law to practise any discrimination on the grounds of race, ethnicity, colour, gender, language, age, religion, political or any other opinions, national or social background, economic status, birth or social condition, whose purpose or effect is to prevent or hamper the equal enjoyment or exercise of the right to food and nutrition security.

Article 3. Policy. Food and Nutrition Security has been adopted as State policy with a comprehensive focus within the framework of the poverty reduction strategies as defined, and of global, sectoral and regional policies, consistently with the national situation.

Article 4. Coordination. The National Food and Nutrition Security Policy lays down the governing principles, thematic approaches and general guidelines for the activities performed by the institutions involved in implementing activities to promote the Food and Nutrition Security of the population of Guatemala; this policy is governed by the following principles:

a. **Solidarity.** Activities designed to achieve food and nutrition security shall give priority to the dignity of the Guatemalan people. They shall also encourage members of society to see the issue of food and nutrition insecurity as their own problem, which affects a large proportion of the population because all the actions that are performed for the benefit of a few are of benefit to all.

b. **Transparency.** All activities shall be based on objective information and methods with permanent monitoring and evaluation, to encourage public expenditure and social auditing transparency, and taking account of the population's needs.

c. **Food sovereignty.** The State of Guatemala, in the exercise of its sovereignty, shall define the modality, timing, type and quality of food production, sustainably and at the lowest cost to the environment, and guarantee the food and nutrition security of the Guatemalan people.

d. **Oversight.** Pursuant to the Constitution, the State of Guatemala is officially required to exercise oversight in respect of the food and nutrition security of the population, such that food sovereignty and the paramountcy of the common good prevail over the private good.

e. **Equity.** The State shall put in place the conditions for ensuring that the population has safe and timely access to food, without distinction on the basis of gender, ethnicity, age, socio-economic status or place of residence.

f. **Comprehensiveness.** The Food and Nutrition Security Policy shall be of a comprehensive nature, and include aspects relating to food availability, physical, economic and social access to food, its consumption and its biological use.

In implementing this Policy due account shall be taken of the provisions of the Guatemalan Constitution, domestic legislation and public policies in the matter of physical planning, cultural diversity, education, health care, environmental protection, water resources and productivity.

g. **Sustainability.** Food and nutrition security is based on a range of sustainable factors guaranteeing physical, economic, social, timely and permanent access to culturally appropriate food of adequate quantity and quality, preferably of national origin, for appropriate biological use, to maintain a healthy and active life.

Food production shall be based on sustainable production models which respect biological and cultural diversity and protect natural resources.

Sustainability shall also be guaranteed by setting standards and laying down public policies, and by the necessary institutions, and shall be provided with the necessary financial, technical and human resources.

h. Precautions. Imports of genetically modified food – in the form of raw materials and finished products – shall be subject to appropriate labelling and comply with the regulations laid down in specific legislation to ensure that they are traceable and safe. The importer is required to provide the relevant public authorities with proof of their traceability and safety.

In order to protect native germplasm, laws shall be enacted to regulate imports, the cultivation of genetically modified seed, and trials with genetically modified seed, consistently with the conventions and protocols to which the State of Guatemala is a signatory State.

i. Devolution of powers. The State shall exercise its powers to devolve decision-making, resource allocation, and management powers to the departmental, municipal and communal levels, laying down the rules and creating whatever institutions may be necessary.

j. Popular participation. The State shall encourage the organised participation of the people in framing, implementing and monitoring the National Food and Nutrition Security Policy and the sectoral policies stemming from it.

Article 5. Participation. The Government of Guatemala shall encourage a process of consultation with organised civil society to propose solutions and frame strategies designed to guarantee Food and Nutrition Security in respect of traditional products such as maize and beans on suitable land for farming these crops, reflected in operational and strategic plans.

CHAPTER II

THE NATIONAL FOOD AND NUTRITION SECURITY SYSTEM

Article 6. Institution of the National Food and Nutrition Security System-SINASAN. The National Food and Nutrition Security System-SINASAN is hereby instituted, comprising Government Authorities and representatives of Guatemalan society, with the technical and financial support of international cooperation agencies.

Article 7. Objectives. The main purpose of SINASAN is to establish and maintain a strategic organisational and coordination institutional framework, within the context of the National Food and Nutrition Security

Policy, to prioritise, rank, harmonise, design and implement Food and Nutrition Security activities with the main purpose of:

- a. fostering activities for the eradication of malnutrition and the elimination of disease caused by inadequate or excessive diets throughout the whole country, and eliminating the intergenerational transmission of malnutrition by creating and reinforcing conditions which contribute to ensuring that the whole population is able to accede to decent human development opportunities;
- b. designing and implementing effective and timely actions to make basic foodstuffs and food assistance available to sections of the population suffering from malnutrition, complemented by community development and food and nutrition security programmes;
- c. fostering the objectives of the National Food and Nutrition Security Policy of the State of Guatemala in strategic plans, programmes and sectoral policies designed to pursue the socio-economic development of Guatemala.

Article 8. The structure of SINASAN. SINASAN shall be structured in terms of three levels of activity:

- a. Management and political decision-making, comprising the National Food and Nutrition Security Council.
- b. Coordination and technical planning, comprising the Food and Nutrition Security Secretariat of the Presidency of the Republic.
- c. Implementation, comprising the institutions or agencies responsible for the direct performance of Food and Nutrition Security activities at every level.

Article 9. Organs. The National Food and Nutrition Security System shall comprise the following organs:

- a) The National Food and Nutrition Security Council, as its governing body;
- b) the Food and Nutrition Security Secretariat of the Presidency of the Republic;
- c) a consultation and social participation body;
- d) a group of support institutions.

Article 10. The responsibility of the delegates. The delegates of each institution or organisation comprising the whole system, shall be

delegated by their institutional authorities to undertake commitments with SINASAN. Every member of SINASAN shall be responsible for compliance with the guidelines and agreements issued by CONASAN in the institution or organisation which they represent.

CHAPTER III THE NATIONAL FOOD AND NUTRITION SECURITY COUNCIL – CONASAN -

Article 11. Establishment. The National Food and Nutrition Security Council - CONASAN, is hereby established which will form part, through its Secretary, of the General Cabinet, the Social Cabinet and the Rural Development Cabinet.

Article 12. Nature. CONASAN shall be the governing body of SINASAN. It will be responsible for encouraging activities for the promotion of Food and Nutrition Security in the political, economic, cultural, operational and financial spheres.

Article 13. Structure. CONASAN Comprises the following institutional representatives:

- a. The Vice President of the Republic, as the chairperson;
- b. The Food and Nutrition Security Secretary, as the Secretary of the Council;
- c. The Minister of Agriculture, Livestock and Food;
- d. The Minister of the Economy;
- e. The Minister of Public Health and Welfare;
- f. The Minister of Education;
- g. The Minister of Communications, Infrastructure and Housing;
- h. The Minister of the Environment and Natural Resources;
- i. The Minister of Work and Social Security;
- j. The Minister of Public Finance;
- k. The Executive Coordination Secretary of the Presidency;
- l. The Secretariat of the Social Work of the First Lady;
- m. Two representatives of industry;

n. Five representatives of civil society.

In compliance with the principles of municipal autonomy and the division of powers the following may also be members of CONASAN if this is deemed appropriate:

a. The President of the National Association of Municipalities;

b. the Chair of the Food and Nutrition Security Committee of the Congress.

Ministers may only delegate their deputy ministers to represent them, and other officials may only delegate the official of immediately inferior rank who replaces them in their post to represent them.

Article 14. Responsibility. Each member of CONASAN shall be responsible for fostering compliance with the Food and Nutrition Security policy instruments and actions within their own institutions, together with any actions stemming from the strategic and operational plans for addressing serious contingent food insecurity problems, and any other guidelines and instructions issued by resolution, which shall be recorded by the governmental institutions when the Executive Secretariat transcribes them.

Article 15. Powers. The National Food and Nutrition Security Council is vested with the following powers:

a. ensuring compliance with the objectives, agreements and commitments produced within SINASAN;

b. approving and promoting compliance with the National Food and Nutrition Security Policy;

c. promoting the adoption of the necessary legislation and regulations governing basic food products such as maize and beans, expanding the basic basket and implementing food and nutrition security policy;

d. studying and adopting Food and Nutrition Security policies, plans and strategies and ensuring the availability and allocation of the human and financial resources needed to effectively implement them;

e. monitoring progress with the implementation of strategic plans, issuing corrective measures, re-planning strategies, and approving contingent actions;

f. standardizing criteria for strategies to address the food and nutrition problem in a comprehensive and systematic manner, enhancing the

systems used for the production of traditional products such as maize and beans within the framework of interculturalism, establishing the responsibilities and commitments of the sectors involved;

g. implementing government rules and regulations be able to reduce malnutrition in Guatemalan society ;

h. ensuring that the corresponding aspects of the National Food and Nutrition Security Policy are included and implemented in every area of government;

i. harmonising the National Food and Nutrition Security Policy with other governmental social and economic policies and with the poverty reduction strategy;

j. agreeing, analysing and proposing corrective measures to be applied to Food and Nutrition Security strategies and policies, based on the recommendations issued annually by the Human Rights Procurator with regard to respecting, protecting and progressively realizing the right to Food and Nutrition Security.

Article 16. Sessions of CONASAN. CONASAN shall hold ordinary meetings when convened in the manner required by the Rules of Procedure, and at all events once every quarter, at which resolutions shall be adopted collegially.

Article 17. Contingent plans. CONASAN may adopt contingent strategic and operational plans to address serious problems of malnutrition and hunger among populations identified as suffering from food and nutrition insecurity, and shall request the Congress of the Republic, through the Food and Nutrition Security Secretariat of the Presidency of the Republic, to adopt a corresponding resolution authorising the re-channelling of the resources of its member institutions, without declaring a state of emergency in the communities thus identified.

Article 18. Incorporation into Action Plans. Governmental institutions which are members of CONASAN shall incorporate policy instruments and guidelines for sectoral action into their annual Action Plans, consistently with the objectives of SINASAN, which shall be submitted to CONASAN for its information and approval.

CHAPER IV

THE FOOD AND NUTRITION SECURITY SECRETARIAT OF THE PRESIDENCY OF THE REPUBLIC

Article 19. Its establishment The Food and Nutrition Security Secretariat of the Presidency of the Republic -SESAN- is hereby instituted with the powers indicated above.

Article 20. Its nature. SESAN is the SINASAN coordinating body with the responsibility for the interdepartmental operational coordination of the Food and Nutrition Security Strategic Plan and for articulating the programmes and projects of the national and international institutions involved in Peru's Food and Nutrition Security.

Article 21. Its structure. To develop its areas of work, SESAN may develop the administrative and operational structure that is needed for the performance of these functions. Provision shall be made for this structure in the regulations connected with this Law, and shall initially comprise the following:

- a. the Food and Nutrition Security Secretary;
- b. the technical personnel and team needed in its areas of work;
- c. senior technicians from the State institutions represented on CONASAN, acting as liaison officers;
- d. technicians from the consultation and social participation body and from the group of support institutions whenever these are required by SESAN.

Article 22. Its powers. SESAN shall be responsible for establishing the technical planning and coordination procedures between the State institutions, Guatemalan society, NGOs and international cooperation agencies involved in food and nutrition security at every level (national, departmental, municipal and community).

SESAN shall coordinate the framing of the National Food and Nutrition Security Strategic Plan, and submit it to CONASAN; it shall also coordinate its updating, implementation, monitoring and evaluation, and support the executing agencies in the planning and scheduling of the strategic and operational sectoral plans with prioritized actions that are consistent with the National Food and Nutrition Security Policy; it shall also submit any relevant adjustments to CONASAN for its consideration.

SESAN shall be responsible for the following specific actions:

- a. submitting the draft National Food and Nutrition Security Policy to CONASAN for its approval;

- b. making proposals to CONASAN for the definition of policies or other legal aspects that are complementary to or necessary for the implementation of the National Food and Nutrition Security Policy;
- c. coordinating the implementation of the instruments of the National Food and Nutrition Security Policy in a programmatic manner and consistently with the relevant policies;
- d. Performing all relevant actions to achieve the objectives of CONASAN;
- e. Designing, implementing and operating the National Food and Nutrition Security Information System, hereafter "SIINSAN", making it possible to monitor and evaluate the state of Food and N for Security, progress made by, and the effect of, strategic plans and programmes, and the Early Warning System for identifying contingent situations of food and nutrition and security;
- f. disseminating the National Food and Nutrition Security Policy and ensuring that it is implemented;
- g. Supporting the institutions, at their request, in managing the financial resources with quiet to implement. The Food and Nutrition Strategic Plan and the resources required by SINASAN;
- h. Ensuring the inclusion and implementation of whatever may be required to implement the Food and Nutrition Security Policy in every area of government;
- i. Sensitising the public and private sector institutions, international organisations, and society in general regarding the magnitude and importance of the food and nutrition situation;
- j. Identifying the highly food insecurity-vulnerable sections of the population, in order to prevent the consequences and prioritise and perform the necessary activities;
- k. Implementing strategic and operational plans to address the serious problems of malnutrition and hunger in populations identified as suffering from food and nutrition insecurity, managing them as required in the governmental, civil society and international cooperation institutions;
- l. Coordinating with the Planning Secretariat of the Presidency of the Republic –SEGEPLAN all requests, offerings and donations under agreements for policies, plans and programmes relating to Food and Nutrition Security and the elimination of hunger;
- m. Documenting and laying down rules for the use of donations received in relation to Food and Nutrition Security;

n. Encouraging a cross-sector and comprehensive Food and Nutrition Security approach in all areas, and coordinated action between government agencies, non-governmental organisations and international cooperation agencies, with regard to all aspects of Food and Nutrition Security;

o. Encouraging the establishment and effective operation of channels and fora for dialogue and communication, and mechanisms for consultation and coordination between the Executive Body, civil society and international cooperation, encouraging the study and analysis of the issue of food and nutrition, and ways of solving it;

p. All other powers inherent in its nature and objectives, and those delegated by CONASAN.

CHAPTER V

THE SECRETARY FOR FOOD AND NUTRITION SECURITY OF THE PRESIDENCY OF THE REPUBLIC

Article 23. Operation. For the operation of SESAN, the Secretary for Food and Nutrition Security is responsible for:

a. acting as the Secretary of CONASAN;

b. overseeing the performance of the functions of SESAN;

c. supporting the establishment of transparency and social auditing mechanisms in the management of Food and Nutrition Security funds;

d. performing all relevant actions to achieve the objectives of CONASAN, and of Food and Nutrition Security policy and plans;

e. representing the Executive Body by appointment of the President of the Republic in dealings with international bodies and agencies involved in Food and Nutrition Security;

f. representing CONASAN in dealings with the General Cabinet, the Social Cabinet, and the Rural Development Cabinet of the Executive;

g. Any other functions specifically established by the President of the Republic.

Article 24. Eligibility. In order to be appointed Secretary for Food and Nutrition Security of the Presidency of the Republic. The eligibility requirements and qualities are the same as those required to be appointed Minister, both of which hold the same hierarchical rank, and the

appointee must be fully familiar with the national situation, and have proven social commitment and experience in the field of Food and Nutrition Security.

CHAPTER VI THE CONSULTATION AND SOCIAL PARTICIPATION BODY

Article 25. Establishment. The Consultation and Social Participation body is hereby created as part of SINASAN, to provide it with technical input, identifying and providing instruments for actions on issues relating to Food and Nutrition Security whenever requested by SESAN. The nature, membership, structuring and operation of this group shall be established in the Regulations implementing this law.

Article 26. Powers. The Consultation and Social Participation body shall perform the following actions:

- a. providing consultancy services to CONASAN through SESAN in the sectors it represents;
- b. ensuring that in the pursuit of the objectives of SINASAN, CONASAN all the sectors they represent;
- c. fostering the participation of the sectors responsible for actions to implement the Food and Nutrition Security Strategic Plan;
- d. advising SESAN when taking decisions to address contingent or structural Food and Nutrition Security situations.

CHAPTER VII GROUP OF SUPPORT INSTITUTIONS

Article 27. Support institutions. SESAN shall have a group of support institutions, comprising government institutions that are not members of CONASAN and international cooperation agencies able to provide technical, financial and operational support at the request of SESAN, to be formalised by the executives of these institutions under cooperation and coordination agreements.

CHAPTER VIII JOINT INSTITUTIONAL RESPONSIBILITIES

Article 28. Food availability. In this area, it is the responsibility of the Ministry of Agriculture, Livestock and Food, acting in coordination with other State institutions, whether or not members of CONASAN, to encourage activities to contribute to greater food availability for the

population, both through local production and food imports, in a timely, permanent and safe manner.

Article 29. Food access. In this area, it is the responsibility of the Ministry of Agriculture, Livestock and Food, the Ministry of the Economy, the Ministry of Work and Social Security and the Ministry of Communications, Infrastructure and Housing, acting in coordination with other State institutions, whether or not members of CONASAN, to encourage activities to contribute to greater physical, economic and social access to food by the population, in a stable manner.

Article 30. Food consumption. In this area, it is the responsibility of the Ministry of Public Health and Welfare, the Ministry of Education and the Ministry of the Economy, acting in coordination with other State institutions, whether or not members of CONASAN, to encourage activities to develop the ability of the people to take appropriate decisions regarding food selection, conservation, preparation and consumption.

Article 31. Biological use of food. In this area, it is the responsibility of the Ministry of Public Health and Welfare, acting in coordination with other State institutions, whether or not members of CONASAN, to encourage activities to enable the population to maintain adequate environmental hygiene and health conditions that will enable them to make maximum use of the nutrients in the food they consume.

Article 32. Treating malnutrition. In this area, it is the responsibility of the Ministry of Public Health and Welfare, acting in coordination with other State institutions, whether or not members of CONASAN, to encourage act of it is making it possible to improve and keep up to date the human resources in the institutions and in other bodies regarding the diagnosis, treatment, recovery and rehabilitation of malnourished citizens.

Article 33. Information, monitoring and evaluation of Food and Nutrition Security. In this area, it is the responsibility of SESAN, acting in coordination with other State institutions, whether or not members of CONASAN, to design, put in place and run the Food and Nutrition Security information and oversight system with the support of international cooperation.

Article 34. Decentralisation. At the departmental, municipal and community levels, the Urban and Rural Development Councils shall establish Food and Nutrition Security commissions to encourage and attain the objectives of Food and Nutrition Security Policy and of the Strategic Plan with their respect to programmes, objects and activities, acting in coordination with SESAN.

CHAPTER IX SCOPE

Article 35. Compliance. Compliance with this law is required throughout the whole country, with priority given to actions on behalf of the population is defined as vulnerable to food and nutrition insecurity.

Article 36. Delegation of responsibilities. This law authorises the National Food and Nutrition Security System-SINASAN to delegate specific responsibilities to its members, and, based on these responsibilities and commitments, to evaluate achievements and results in the pursuit of the objectives established in the National Strategic Plan and the operational plans.

CHAPTER X FINAL PROVISIONS

Article 37. Specific funding allocation. When drawing up their ordinary budgets, each governmental institution forming part of CONASAN shall make provision in their respective strategic plans for the allocation of funding for the programmes, projects and activities to implement the policy.

Article 38. Specific budgetary allocation the Ministry of Public Finance, through of the Technical Budget Directorate, shall allocate, in the General Budget of State Revenues and Expenditure for each Financial Year, one-half of a percentage point (0.5 percent) to be used specifically for Food and Nutrition Security programmes and projects for the people living in poverty and extreme poverty, pursuant to the provisions of Decree No. 32-2001, Reforming the Value-Added Tax Law Reform, dated 26 July 2001, which shall not be interpreted as setting a budgetary ceiling on Food and Nutrition Security activities. These financial resources shall be allocated to the ministries and institutions indicated by CONASAN consistently with the sectoral and institutional responsibilities established by the Strategic Plan.

Article 39. VAT revenue report. Every year, CONASAN shall request the Ministry of Public Finance to provide an estimate of VAT revenues in order to be able to take account, in the budget management and planning process, of the resources available to the institutions forming part of the National Food and Nutrition Security Strategic Plan.

Article 40. Annual budgetary appropriations. When drawing up General Budget of State Revenues and Expenditure for each Financial Year, the Ministry of Public Finance shall make provision for the appropriations required for the implementation of SINASAN as a whole as formulated by SESAN through the relevant channels.

Article 41. Penalties. The ministries forming part of the National Food and Nutrition Security System may make proposals to their respective authorities regarding the technical and administrative elements, making it possible to impose penalties for any actions which jeopardize the right to food and nutrition security provided by Article 1 of this law.

Article 42. Regulation. CONASAN through SESAN, shall, within a maximum period of ninety (90) calendar days following the date of enactment of this law, issue the corresponding draft Regulations, and submit it to the Presidency of the Republic for adoption.

Article 43. Publication. The Executive shall publicise this law, through all the country's mass media.

Article 44. Effectiveness. This Decree shall come into effect on the day following its publication in the official Gazette (*'Diario Oficial'*).

**TO BE SUBMITTED TO THE EXECUTIVE FOR ADOPTION,
PROMULGATION AND PUBLICATION.**

**DONE IN THE LEGISLATIVE ASSEMBLY, GUATEMALA CITY, ON THE
SIXTH DAY OF APRIL 2005**

APPROVED

PALACIO NACIONAL: Guatemala, 25 April 2005.

TO BE PUBLISHED AND ENFORCED

OSCAR BERGER PERDOMO

President of the Republic

Lic. Jorge Raúl Arroyave Reyes

Secretary General of the Presidency of the Republic

**Published in the 'Diario Oficial' no. 66, tomo CCLXXVI, pp. 1-4,
2 May 2005.**

JORGE MÉNDEZ HERBRUGER

PRESIDENT

MAURICIO NOHÉ LEON CORADO FRANCISCO JAVIER DEL VALLE

SECRETARY

SECRETARY