

To: Secretariat of the Commission for Environmental Cooperation

Further to the Secretariat's reply in regard to the burning of asparagus crop residues in the Caborca (Sonora) region of Mexico, I am writing to clarify certain issues. Having reviewed the applicable legislation more carefully, and further to the determination that certain information concerning the specific statutes and articles applicable to this matter was lacking, we wish to clarify that the legal provisions that we consider to be the subject of ongoing violations are Articles 144, 146, 150, 151, 167, 168, 169, 170, 172 of the Environmental Protection Bylaw of the municipality of Caborca, Sonora.

We make this assertion because it is an obligation of the municipality and the growers to measure air quality yet they are failing to do so (Arts. 144, 146, and 172). It is therefore impossible to ascertain the degree to which the maximum permissible limits for air quality established by the applicable laws are being exceeded (Art. 150). The remaining articles mentioned above bear upon this matter as follows:

- Open-air burning: Art. 151 establishes a prohibition on open-air burning, which may cause environmental instability or have an impact on air quality, and this is in fact occurring.
- The measures necessary to prevent and control air pollution are lacking (Art. 167). As this article provides, the Branch (referring to the Urban Development and Environment Branch), in coordination with Civil Protection, must take the measures necessary to prevent and control environmental contingencies affecting the population where the air quality parameters set out in the applicable standards are exceeded, as very often occurs during the seasons in question.
- Unauthorized open-air combustion (Arts. 168–169). This is a crucial point in our submission. Burning permits are only to be issued when applied for at least 15 days before burning commences, and only when the burning in question meets the applicable environmental standards, which is not the case here. However, when we requested copies of the permits for previous years and for 2015, in order to ascertain whether the burning complies with the standards, I was told, in these words, that no such permits had ever been applied for, and that the only thing the Branch had ever received was notice of the burning calendar. One association requested this information in writing and did not receive a reply. It is for this reason that I ask you to make the same request in regard to these requirements.

- This burning should be prohibited (Art. 170) for the reasons we have stated, in support of which please find attached some press clippings and photos of these events, along with narrated videos. In addition, on this point, it is important to mention that many residents complain of burning eyes and throat, headaches, and so forth, lasting for many days during the burning season. We must suppose that this is due to the large quantity of agrichemicals used on this crop, since information about the product or products applied has never been forthcoming. And, as is clear, the burning responds to the dictates of weather, not the regulations in force.

In addition to the text of the bylaw, I am attaching the letter containing the reply we received from Profepa on 12 January 2016, giving notice of its lack of jurisdiction over the burning of crop residues, and more particularly asparagus, in the Caborca (Sonora) region of Mexico. Also attached is Mexican Official Standard NOM-015-Semarnat-Sagarpa, the document on which they base their statements and their continued indiscriminate burning of asparagus crop residues in violation of sections 4, 4.1.3, 4.1.14, 4.2, 5.1.3, 5.1.5, 5.2, 5.2.2, 7, and 7.4 thereof, these falling under the headings of objects and scope of application. Furthermore, there are ongoing violations of point 2.4.3 of section III of the Technical Appendix to NOM-015-Semarnat-Sagarpa, titled "Burning Methods and Their Characteristics," with respect to the schedule, since the schedule is not being observed and the decision to burn is made based on the weather, as occurred this past year-end when the city was totally enveloped in suffocating smoke, and the growers acknowledge that this decision was made on the basis of weather issues, as may be read in the attached article from the newspaper *El Imparcial*. Thus, there are also ongoing violations of point 2.4.6 in relation to smoke management, since this is a factor that cannot be controlled, as occurs during this period of the year.

I trust that these clarifications have answered your concerns and that we can continue to work together so that everyone can enjoy a healthy environment, with economic and business development that is responsible where the environment and its ecosystems are concerned.

[name confidential pursuant to NAAEC Article 11(8)(a)]