

Environmental Law cited in the Submission
SEM-23-002 (*Avocado Production in Michoacán*)

- **Political Constitution of the United Mexican States**

Article 4.

[...]

Every person has the right to a healthy environment for his or her development and wellbeing. The State shall guarantee the observance of this right. Environmental damage and deterioration shall generate liability for anyone who causes it in the terms of the law.

Every person has the right of access to sufficient, clean, acceptable and affordable water for personal and domestic consumption, including the disposal and sanitation thereof. The State shall guarantee this right and the law shall define the bases, support measures and modalities for ensuring access to equitable and sustainable use of water resources, by defining the participation of the federal government, the states and the municipalities, as well as that of citizens for the attainment of these goals.

[...]

- **The General Ecological Balance and Environmental Protection Act**

Article 5. The Federal Government is vested with the following powers:

[...]

- II.** The enforcement of the environmental policy instruments set forth in the present Act, in accordance with the provisions established herein, as well as the regulation of actions to preserve and restore ecological balance and ensure environmental protection where such actions are carried out in assets and zones under federal jurisdiction;

[...]

- IX.** The formulation, enforcement and assessment of the general environmental land management programs and marine ecological codes referred to under Article 19 BIS of this Act;

[...]

Article 15. The Federal Executive shall observe the following principles as it formulates and implements environmental policy and issues Official Mexican Standards, as well as other instruments set forth in this Act, which concern the preservation and restoration of ecological balance and environmental protection:

[...]

- III.** The authorities and private citizens must both assume responsibility for protecting ecological balance;
- IV.** Anyone who carries out works or activities, which affect or may affect the environment, is obligated to prevent, minimize or repair the damages caused thereby, as well as

assume the costs arising from said impacts. In addition, incentives should be provided to anyone who protects the environment, promotes or implements actions to mitigate and adapt to the effects of climate change and exploits natural resources sustainably;

[...]

- IX.** Coordination between different agencies and organs of public administration and between different levels of government, along with consultation with the general public, is indispensable for effective environmental actions;

[...]

- XII.** Every person has the right to enjoy an environment that is adequate for his or her development, health and wellbeing. The authorities shall, in the terms of this Act and other laws, take measures to guarantee this right;

[...]

Article 19. In the formulation of environmental land management policy, the following criterion shall be taken into consideration:

- I.** The nature and characteristics of the ecosystems existing within the nation's territory and the areas over which the nation exercises its sovereignty and jurisdiction;
- II.** The vocation of each zone or region, as a function of its natural resources, population distribution and principal economic activities;
- III.** The imbalances existing in ecosystems due to human settlements, economic activities or other human activities or natural phenomena;

[...]

- V.** The environmental impact of new human settlements, roadways and other works or activities;

[...]

- VII.** The existing river basins, watersheds and aquifers, which are under the regulation of the competent land management authorities.

Article 20 bis 1. The Ministry shall provide technical support for the formulation and implementation of local and regional environmental land management programs, in accordance with the provisions of this Act.

The states and municipalities may participate in consultations and issue recommendations they deem pertinent to the formulation of general environmental land management programs and marine ecological codes.

Both local and regional environmental land management programs must include Ecological Zoning Committees as organs of social participation and spaces for consultation, collaboration, transparency and accountability.

In forming these Committees, the Ministry, the states, the municipalities and Mexico City's districts shall promote the participation of persons, organizations, groups and institutions of the public, private, social, academic and research sectors in order to obtain their technical opinions on the soundness of the sectoral plans, programs and actions in the study area.

The Committees referred to in the present Article, shall comply with the provisions of their respective coordination and consultation agreements. The latter will, in turn, determine whether the Committees' opinions are binding on the relevant executive authorities' public policies, plans, programs and budgets, in relation to environmental management issues.

Article 21. The federal and state governments shall, within the purview of their respective jurisdictions, design, develop and implement economic instruments to incentivize compliance with the objectives of environmental policy and, in so doing, pursue the following ends:

- I. Promote change in the conduct of persons who carry out industrial, commercial and services activities, such that their interests are compatible with society's interests in environmental protection and sustainable development;
- II. Encourage the incorporation of reliable and sufficient information on the environmental consequences, benefits and costs to the economy's price system;
- III. Grant incentives to anyone who carries out actions for the protection, preservation or restoration of ecological balance. Policy should also seek to ensure that whoever damages the environment, misuses natural resources or alters ecosystems must assume the resulting costs;
- IV. Promote greater social equity, informed by an intercultural and gender perspective, in the distribution of the costs and benefits associated with the objectives of environmental policy; and
- V. Ensure that these instruments are used in coordination with other environmental policy instruments, especially in relation to observing thresholds or limits in the utilization of ecosystems in order to guarantee ecosystems integrity and ecological balance, as well as to safeguard the health and wellbeing of the population.

Article 78. In areas where environmental degradation, desertification processes or serious ecological imbalances exist, the Ministry must develop and execute ecological restoration programs to ensure that necessary actions are taken to ensure the recovery and reestablishment of conditions conducive to the development and continuity of said areas' pre-existing natural processes.

In formulating, executing and monitoring such programs, the Ministry must encourage the participation of land owners, land holders, community, public sector or private organizations, Indigenous peoples, local governments and other interested persons.

Article 79. To ensure the preservation and sustainable use of wild flora and fauna, the following criterion shall be taken into consideration:

- I. The preservation and conservation of biodiversity and of the natural habitats of the species of flora and fauna found within the nation's territory and the areas over which it exercises its sovereignty and jurisdiction;
- II. Continuity in the evolutionary processes of species of flora and fauna and other biological resources through the designating of representative areas of the country's ecological systems for conservation and research purposes;

[...]

- VI.** The participation of community, public or private sector organizations, and others, interested in the preservation of biodiversity;

[...]

- IX.** The development of alternative economic activities for rural communities; and

[...]

Article 88. To ensure the sustainable use of water and aquatic ecosystems, the following criterion shall be taken into consideration:

- I.** The State and society are responsible for protecting aquatic ecosystems and stability in the hydrological cycle's natural processes;

[...]

- III.** To maintain the integrity and stability of the hydrological cycle's natural processes, consideration must be given to protecting soils, forested areas and jungles, to maintaining the basic flow rates of watercourses and to the recharge capacity of aquifers; and

- IV.** The preservation and sustainable use of water and of aquatic ecosystems is the responsibility of users, as well as that of parties who execute works or activities which affect said resources.

Article 89. The criterion in relation to the sustainable use of water and aquatic ecosystems shall be considered in:

[...]

- II.** The granting of concessions, permits and, in general, of any type of authorization for natural resources use or for the execution of activities which affect or may affect the hydrological cycle;

- III.** The granting of permits for the deviation, extraction or diversion of national waters;

[...]

- V.** The suspension or revoking of permits, authorizations, concessions or resource allocations granted in accordance with the provisions of the National Waters Act, in cases where works or activities damage national water resources or affect ecological balance;

[...]

- XI.** Any practice of different economic sectors which affects surface and ground water quality.

[...]

Article 98. To ensure soil preservation and sustainable soil use, the following criterion shall be taken into consideration:

- I.** Soil use must be compatible with its natural vocation and must not alter balance in ecosystems;

- II.** Soils must be used in ways which maintain their physical integrity and productive capacity;

- III. Productive land uses must avoid practices which foster erosion, soil degradation or modification of topographical features, with adverse ecological effects;
- IV. In actions to ensure soil preservation and sustainable soil use, consideration must be given to the measures necessary to prevent or reduce soil erosion, deterioration in the physical, chemical or biological properties of soil and the long-term loss of natural vegetation;
- V. In zones affected by degradation or desertification processes, the regeneration, recovery and rehabilitation actions necessary to restore these areas must be carried out; and
- VI. The execution of public or private works which may in and of themselves provoke severe deterioration of soils, must include commensurate actions for the regeneration, recovery and reestablishment of their natural vocation.

Article 99. Environmental criterion for soil preservation and sustainable land use shall be considered in:

[...]

- IV. The determination of uses, reserves and vocations in forested plots of land;
- V. The establishment of forest zones and reserves;

[...]

- VII. The provisions, technical guidelines and soil protection and restoration programs applicable to farming, forestry and activities using water resources;
- VIII. The establishment of soil conservation districts;
- IX. Forest management in the country's water basins;

[...]

- XII. The formulation of the environmental management programs referred to in this Act.

Article 159 bis. The Ministry will develop a National Environmental and Natural Resources Information System to record, organize, update and disseminate national environmental information, which will be available for consultation. This system will complement and operate in coordination with the National Accounts System kept by the National Institute for Statistics, Geography and Information Science.

In this System, the Ministry shall integrate information on, *inter alia*: the existing inventories of natural resources in the country; the mechanisms for monitoring air, water and soil quality and the results obtained from them; environmental land management; the matters referred to in Article 109 BIS; and the registers maintained and the programs and actions implemented for environmental protection and the preservation of ecological balance.

The Ministry shall assemble the relevant reports and documents generated through scientific and academic activities, technical studies or studies of any other type, which bear on environmental issues and the preservation of natural resources and which were produced in the country by natural or legal persons, be they Mexican or foreign. Said reports and documents will be turned over to the National Environmental and Natural Resources Information System.

The states, the municipalities and Mexico City's districts shall participate with the Ministry in the creation of the National Environmental and Natural Resources Information System.

- **The General Wildlife Act**

Article 1. This Act is public policy of social benefit and serves to enact Article 27 section III and Article 73 section XXIX, subparagraph G of the Constitution. The purpose of this Act is to establish the concurrent responsibilities of the federal, state and municipal governments, within the purview of their respective jurisdictions, in relation to the conservation and sustainable use of wildlife and wildlife habitat on the territory of the Mexican Republic and in the areas where the Nation exercises its jurisdiction.

The sustainable use of wood and non-wood forest resources and of entirely aquatic species shall be regulated by forestry and fisheries laws, respectively, except in the case of endangered species or populations.

Article 4. It is the duty of every inhabitant of the country to conserve wildlife; any act which causes the destruction of or damage or disruption to wildlife, to the detriment of the Nation's interests, is prohibited.

The owners or legitimate holders of plots of land where wildlife is distributed shall have the right to sustainable use of wildlife specimens, parts and by-products, in the terms prescribed in this Act and other applicable provisions.

Rights over genetic resources shall be subject to international treaties and the relevant legal provisions.

Article 5.

[...]

- II. Preventive measures for the maintenance of conditions conducive to the evolution, viability and continuity of ecosystems, habitats and populations in their natural environments. The absence of scientific certainty may never be invoked as a justification for deferring the adoption of effective measures for the conservation and comprehensive management of wildlife and wildlife habitat.

[...]

- V. The participation of the owners and legitimate holders of plots of land where wildlife is distributed, as well as of the persons who share its habitat, in wildlife conservation and restoration and the benefits arising from its sustainable use.

Article 6. The design and implementation of national policy on wildlife and wildlife habitat shall be the responsibility of the states, the municipalities and Mexico City's districts, within the purview of their respective jurisdictions, as well as the federal government.

Article 9. The federal government is responsible for:

- I. The formulation, management, operation and evaluation, with the appropriate participation of the states, of national policy on the conservation and sustainable use of wildlife and wildlife habitat, as well as the development and implementation of the programs and projects established for these purposes;
- II. Regulation of the conservation and sustainable use of wildlife and wildlife habitat;

[...]

- IV.** Attending to issues related to the conservation and sustainable use of wildlife and wildlife habitat in areas not under the jurisdiction of the states;

[...]

- XVIII.** Issuance of recommendations to the competent state authorities on wildlife issues in order to promote compliance with the legislation on conservation and sustainable use;

[...]

- XXI.** Monitoring and inspecting compliance with this Act and the standards arising therefrom, and imposing the safety measures and administrative sanctions prescribed in this Act, with the collaboration, where appropriate, of the states.

Article 18. The owners and legitimate holders of plots of land where wildlife is distributed shall enjoy the right to the sustainable use thereof. With this right comes the obligation to contribute to habitat conservation in accordance with the provisions of this Act. In addition, they may transfer this prerogative to third parties, while conserving the right to participate in the benefits arising from the resulting use.

The owners and legitimate holders of said plots of land, as well as any third parties who use wildlife, shall be jointly and severally liable for any negative effects such use may have on wildlife conservation and wildlife habitat.

Article 19. The authorities which, in the exercise of their responsibilities, must intervene in activities involving the utilization of soil, water and other natural resources for agriculture, livestock farming, fish farming, forestry and other purposes, shall observe the provisions of this Act, and of others arising therefrom; in addition, they shall adopt the measures necessary to ensure that said activities are carried out in a manner which avoids, prevents, repairs, offsets or minimizes negative effects on wildlife and wildlife habitat.

Article 20. In the provisions arising from this Act, the Ministry shall design and promote the development of criterion, methodologies and procedures which facilitate the identification of the values of biodiversity and of the environmental services that it provides, in order to harmonize the conservation of wildlife and wildlife habitat with the sustainable utilization of goods and services. In addition, it shall endeavor to incorporate the resulting tools in economic analysis and planning, in accordance with the General Ecological Balance and Environmental Protection Act and other applicable provisions, by means of:

- a) Certification systems for the production of environmental goods and services;
- b) Studies to assess and quantify the value of biodiversity in cultural, social, economic and ecological terms;
- c) Studies to assess and internalize the environmental costs of activities which make use of environmental goods and services;
- d) Compensatory mechanisms and economic instruments which compensate local inhabitants for said costs associated with biodiversity conservation or the maintenance of the flows of environmental goods and services arising from their use and conservation; and
- e) The utilization of compensatory mechanisms and other international instruments for contributions at the global level.

Article 70. In the event of wildlife habitat destruction, contamination, degradation, desertification or imbalance problems, the Ministry shall formulate and execute, as rapidly as possible, prevention, emergency response and restoration programs to ensure the recovery and reestablishment of conditions conducive to the normal development and continuity of natural wildlife processes, taking into account the provisions of Articles 78, 78 BIS and 78 BIS 1 of the General Ecological Balance and Environmental Protection Act, and in accordance with the provisions of the Regulation to said law and other applicable provisions.

Article 106. Without prejudice to other applicable provisions, any natural or legal person who directly or indirectly causes harm to wildlife or to wildlife habitat is obligated to repair said harm or provide compensation for it, pursuant to the Federal Environmental Liabilities Act.

The owners and legitimate holders of plots of land, as well as any third parties users, shall be jointly and severally liable for any negative effects said use may have on wildlife conservation and habitat.

- **General Sustainable Forest Development Act**

Article 93. The Ministry may only authorize a change in land use on forested lands on an exceptional basis, after receipt of the technical opinion of the members the State Forest Council in question and on the basis of technical studies, the content of which shall be stipulated in the Regulation to this Act. These studies must demonstrate that the biodiversity of the affected ecosystems shall be maintained and that any soil erosion, reduction in carbon storage capacity, deterioration of water quality or reduction of water catchment shall be mitigated in the areas affected by forest vegetation removal.

When issuing a permit for a change in land use on forested lands, the Ministry must provide a substantiated and properly reasoned response to the technical opinions issued by the members the State Forest Council in question.

The Ministry is vested with the power to issue criterion and guidelines for changes in land use on forested lands, in accordance with the provisions of this Act and the Regulation thereto.

The permits issued must stipulate a program to rescue and relocate the affected species of flora and fauna, which enables adaptation to their new habitat pursuant to the requirements set forth in the Regulation to this Act. Said permits shall, where applicable, be subject to the provisions of the relevant environmental land management codes, Official Mexican Standards and other applicable legal and regulatory provisions.

In the case of lands located in Indigenous territories, the issuance of a land use change permit must also be accompanied by prior, free, informed, culturally appropriate and good faith consultation measures, in the terms of the applicable legislation. To that end, the Ministry will coordinate with the National Institute of Indigenous Peoples.

Article 94. Land use change permits must be recorded in the Register.

Article 96. Holders of a permit authorizing a change in land use on forested lands must file periodic operations and progress reports on said change in land use, in the terms of the Regulation to this Act.

Article 97. No land use change permit may be granted on forested lands where the loss of forest cover was caused by a forest fire, logging or land clearance, unless a 20-year period has passed

and the applicant proves to the Ministry that the affected forest vegetation has regenerated, by means of the mechanisms prescribed for that purpose in the Regulation to this Act.

Article 98. Applicants for a land use change on forested lands must provide proof of their having made a deposit with the Mexican Forest Fund, for the purposes of environmental compensation, i.e., to enable restoration activities in the affected ecosystems, preferably in the water basin where proposed land use change is located, in accordance with the terms and conditions set forth in the Regulation to this Act.

Article 99. The Ministry shall, with the participation of the Commission, coordinate land use policy with the Ministry of Agriculture and Rural Development in order to stabilize land use for agricultural purposes through the development of sustainable practices and by avoiding growth in agricultural production at the expense of forested lands.

The various agencies of the federal government, states and municipalities may not offer support or economic incentives for activities on forested lands when said activities involve changes in land use which have not been authorized by the Ministry.

- **National Waters Act**

Article 7 bis. The following purposes and objectives are in the public interest:

[...]

XI. Environmental sustainability and prevention of over-exploitation of aquifers.

Article 9.

[...]

XXXVI. Monitor compliance with and enforcement of this Act, interpret it for administrative purposes, apply sanctions and exercise those acts of authority pertaining to water resources not expressly reserved to the Federal Executive;

[...]

Article 14 bis 5. The following principles underpin national water resources policy:

[...]

IX. Whereas water conservation, preservation, protection and restoration, in terms of both quantity and quality, is a national security issue, non-sustainable water use and adverse ecological effects must be avoided;

X. The integrated management of water resources per water basin is based on the multiple and sustainable uses thereof and on the vital interrelationships which exists between said water resources and the air, soil, flora, fauna, other natural resources, biodiversity and ecosystems;

XI. Water provides environmental services which must be recognized, quantified and remunerated, in the terms of this Act;

XII. Water must be used efficiently and its reuse and recirculation must be promoted;

[...]

Article 119. “The Water Authority” shall punish the following offenses, in accordance with the provisions of this Act:

[...]

- III.** The exploitation or use of national waters in volumes beyond the limits specified under the appropriate permits or beyond those officially recorded in the Public Water Rights Register;

[...]

- VIII.** The exploitation or use of national waters without the appropriate permit, where such is required in the terms of this Act;

[...]

- XVII.** The causing of environmental damages which are considerable or which generate imbalances in water resources, in the terms of the relevant legal provisions;

- XVIII.** Water wastage in contravention of the provisions of this Act and its regulations;

- **Sustainable Rural Development Act**

Article 165. In accordance with the provisions of the preceding Article, the federal, state and municipal governments shall, provided that they so agree, promote the most appropriate land uses, in accordance with local soil characteristics and productive potential, as well as the most suitable production processes for soil and water conservation and improvement.

Article 170. The Inter-ministerial Commission shall, in collaboration with the Mexican Council, identify priority areas for productive conversion, when the fragility, degradation or over-exploitation of natural resources so warrants.

Article 172. Production support policy and programs shall prioritize sustainability criterion in relation to resource exploitation, while taking into account market opportunities and producers’ perspectives regarding acceptance of production practices and technologies.

Pursuant to the provisions of the Forestry Act, the Ministry of the Environment and Natural Resources will establish procedures for identifying fragile lands, preferably forested, where governmental support and actions will be oriented towards the selection of sustainable crops and land management techniques, in accordance with the provisions of Articles 53 and 57 of this Act.

- **General Climate Change Act**

Article 26. In the formulation of national climate change policy, the following principles shall be observed:

- I.** Sustainability in the exploitation or use of ecosystems and the constituent natural features thereof;

[...]

III. Caution, when there's a threat of grave or irreversible damage. The absence of absolute scientific certainty must not serve as a reason to postpone mitigation and adaptation measures for addressing the adverse effects of climate change;

IV. Prevention, as this is the most effective means to avert damage to the environment and preserve ecological balance in relation to the effects of climate change;

[...]

XI. Conservation of ecosystems and their biodiversity, with a particular focus on wetlands, mangroves, reefs, dunes, coastal areas and lagoons, as these ecosystems provide environmental services fundamental for reducing vulnerability;

[...]