

Environmental law cited in the submission

Illegal logging in Jalisco (SEM-23-006)

- **General Act on Ecological Equilibrium and Environmental Protection**

Article 160. The provisions of this title shall apply to the execution of acts of inspection and surveillance and of safety measures; the determination of administrative violations and the commission of offenses, with the corresponding sanctions; and administrative procedures and remedies, in the case of matters under federal jurisdiction governed by this Act, except where other laws specifically govern these matters, in relation to the matters with which this Act is concerned.

[...]

Concerning matters contemplated in this Act that are governed by special laws, this Act applies as suppletive law where inspection and surveillance proceedings are concerned. [...]

Article 161. The Ministry shall conduct acts of inspection and surveillance of compliance with the provisions contained in this Act and those deriving from it.

[...]

Article 162. The competent authorities, acting by duly authorized personnel, may conduct inspection visits, without prejudice to any other measures provided by law that they may carry out in order to verify compliance with this Act.

[...]

Article 166. The competent authority may request the assistance of law enforcement agencies in conducting the inspection visit, where any person, or persons, obstructs or opposes the procedure, irrespective of any sanctions that may apply.

[...]

Article 167. Upon receipt of the inspection report by the ordering authority, this authority shall, where applicable, by personal notice or by certified mail with acknowledgment of receipt, order the interested party to immediately take any corrective or urgent measures that are necessary to comply with the applicable legal provisions, as well as with any applicable permits, licenses, approvals, or concessions, indicating the period in which compliance must take place and providing the grounds in law and fact for this order. In addition, the interested

party must be notified that it has a period of fifteen days in which to make representations as it sees fit and, where applicable, submit any evidence that it considers relevant in relation to proceedings undertaken by the Ministry.

Once the evidence submitted by the interested party is received and processed, or once the period to which the preceding paragraph refers has elapsed without the interested party having availed itself of this right, a record of the proceedings shall be made available to it so that it may, within a period of three working days, present its arguments in writing.

[...]

Article 169. The relevant administrative decision shall contain:

[...]

In appropriate cases, the federal authority shall notify the Public Prosecutor's Office of the acts or omissions found during the exercise of its powers that may constitute one or more offenses.

Article 170. Where there exists an imminent risk of ecological disequilibrium or of serious harm to or deterioration of natural resources, or in cases of contamination with dangerous repercussions for ecosystems, their components, or public health, the Ministry may, with a basis in law and fact, order any of the following safety measures:

- I. temporary partial or total closing of sources of contamination and of facilities handling or storing forest resources or specimens, products, or subproducts of wildlife species, or carrying on activities that give rise to the eventualities to which the first paragraph of this article refers;
- II. seizure of hazardous materials and wastes as well as specimens, products, or subproducts of wildlife species or their genetic material, forest resources, and also property, vehicles, tools, and instruments directly related to the conduct giving rise to the application of the safety measure; [...]

Article 182. In those cases where, in the course of exercising its powers, the Ministry takes cognizance of acts or omissions that may constitute offenses under the applicable law, it shall make the relevant report to the Office of the Federal Public Prosecutor.

[...]

Article 189. Any person, social group, nongovernmental organization, association, or society may complain to the Office of the Federal Attorney for Environmental Protection or other authorities of any fact, occurrence, or omission that causes or may cause ecological disequilibrium or harm to the environment or natural resources, or that contravenes the provisions of this Act or other provisions governing matters relating to the protection of the environment and the preservation and restoration of ecological equilibrium.

[...]

Article 190. A citizen complaint may be filed by any individual, provided it is filed in writing and includes:

- I. the name or trade name, domicile, and telephone number, if any, of the complainant and, as applicable, his legal representative;
- II. the acts, occurrences, or omissions complained of;
- III. the information necessary to identify the presumed offender or to locate the source of contamination, and
- IV. any evidence that the complainant can offer. [...]

Article 191. Upon receipt of a complaint, the Office of the Federal Attorney for Environmental Protection shall acknowledge receipt thereof, assign a file number thereto, and register the number.

[...]

Once the complaint is registered, the Office of the Federal Attorney for Environmental Protection shall, within the ten days following the filing of the complaint, notify the complainant of the decision on the initial status thereof and indicate the manner in which the complaint was processed.

[...]

Article 192. Where it allows a complaint, the Office of the Federal Attorney for Environmental Protection shall identify the complainant and give notice of the complaint to the person or persons, or to the authorities, to which the occurrences complained of are attributed or to those who may be affected by the outcome of the measure taken, in order for these latter to submit any documents and evidence in support of their position, within a maximum period of fifteen working days following the corresponding notice.

The Office of the Federal Attorney for Environmental Protection shall take the steps necessary to ascertain the existence of the acts, occurrences, or omissions on which the complaint is based.

In addition, in those cases contemplated in this Act, it may initiate any applicable inspection and surveillance procedures, in which case the applicable provisions of this Title shall be observed.

Article 193. The complainant may assist the Office of the Federal Attorney for Environmental Protection by providing evidence, documentation, and information as it sees fit. Said Office shall, when ruling on the complaint, state any considerations adopted with respect to the information provided by the complainant.

Article 202. The Office of the Federal Attorney for Environmental Protection, within the scope of its responsibilities, has the power to take any applicable action before the competent authorities where it takes cognizance of acts, occurrences, or omissions constituting violations of administrative or penal law.

[...]

Article 203. Without prejudice to any applicable criminal or administrative sanctions, anyone who contaminates or degrades the environment or affects natural resources or biodiversity shall be liable and obligated to repair the harm caused, in accordance with the applicable civil legislation.

The period in which to sue for environmental liability shall be five years as from the time of the act, occurrence, or omission in question.

- **General Act on Sustainable Forest Development**

Article 154. Preventive and surveillance measures related to forests are the responsibility of the Ministry, acting through the Office of the Federal Attorney for Environmental Protection, which has the duty to safeguard and patrol forest resources and to carry out acts of technical investigation, inspection, surveillance, and verification of compliance with the provisions and obligations contained in this Act, its Regulation, and the Mexican Official Standards in accordance with the provisions of Title Six of the General Act on Ecological Equilibrium and Environmental Protection.

Investigation may be carried out in response to a complaint or during acts of inspection and surveillance, operations, or verification of compliance with the provisions and obligations contained in the Act, its Regulation, and the Mexican Official Standards.

Diagnostic studies of critical forested areas shall be part of the technical investigation.

In addition, forest-related professionalization and training of personnel participating in inspection visits and operations shall be furthered.

Article 155. The following are offenses under this Act:

[...]

III. Exploiting forest resources or engaging in forestation or reforestation in contravention of the provisions of this Act, its Regulation, or the applicable Mexican Official Standards;

[...]

IV. Changing the use of forested land without the corresponding approval;

[...]

V. Causing serious harm or deterioration to forest ecosystems;

[...]

VI. Transporting, storing, processing, or possessing forest raw materials without the documentation or control systems put in place to prove their legal origin;

[...]

• Regulation to the General Act on Sustainable Forest Development

Article 225. For the purposes of Article 154 of the Act, the Office shall conduct acts of inspection and surveillance of compliance with the provisions of the Act, this Regulation, and those flowing from them, pursuant to the provisions of Title Six of the General Act on Ecological Equilibrium and Environmental Protection.

Article 226. Where the Office detects *in flagrante delicto* that offenses may have been committed under the Act or this Regulation, it shall produce an official record thereof.

[...]

In flagrante delicto is defined as a situation in which one or more of the presumed offenders is caught committing the acts contrary to the Act or this Regulation or, after the commission

of the acts, where the presumed offenders are physically pursued or identified by a witness to the acts or by anyone who participated with them in committing the offense, as well as where he has in his possession instruments, objects, or products relating to the offense. The situation is deemed to be one of *in flagrante delicto* by witness identification where, following the commission of the offense, either the search for the presumed offender has not been interrupted or he has been found.

Article 227. The Office may, pursuant to the provisions of Article 160 of the Act, ask the bodies and entities of the Federal Public Administration to suspend, modify, revoke, or cancel any concessions, permits, licenses, approvals, or administrative acts of any nature that have been issued, upon thirty days' notice thereof, where this is necessary to stop the harm caused to forest ecosystems.

[...]

Article 229. Where the Office seizes property as prescribed by Article 170 paragraph II of the General Act on Ecological Equilibrium and Environmental Protection, it may designate as depository the director of forestry or of commercial forest plantations, the provider of forestry services, the carrier, the manager of storage or processing centers or of centers not incorporated into a primary processing center, or any other person, according to the circumstances of the procedure that gave rise to the seizure.

The Office may place seals or marks on property and order measures to ensure that it is protected.

Article 231. Pursuant to the provisions of Title Six of the General Act on Ecological Equilibrium and Environmental Protection, anyone may complain to the Office or other authorities of any occurrence, act, or omission that causes or may cause ecological disequilibrium to forest ecosystems or harm to forest resources, or who contravenes the provisions of the Act and this Regulation.

The complainant shall submit all the evidence in his possession in support of his complaint, which shall be processed in accordance with the procedure set out in the General Act on Ecological Equilibrium and Environmental Protection.

Article 232. Where it is determined further to acts of inspection, surveillance, and verification that there exists an imminent risk of ecological disequilibrium or of serious harm

to or deterioration of forest resources, the Office may order the application of the safety measures contained in Title Six of the General Act on Ecological Equilibrium and Environmental Protection.

Article 233.

[...]

The technical investigation procedure contemplated in Article 154 of the Act may be used in determining that there exists an imminent risk of ecological disequilibrium or of serious harm to or deterioration of forest resources.

Article 234. For the purposes of Articles 156 paragraph VII and 159 of the Act, any restoration measures applied by the Office shall have as their purpose the rehabilitation of a forest ecosystem in order to partially or totally restore its original functions.

In addition, the Office shall promote the creation of alliances between vendors and carriers, with the aim of preventing illegal traffic in forest resources, raw materials, and forest products.