



RESPONSE FROM THE UNITED MEXICAN STATES

**SUBMISSION SEM-23-006
(ILLEGAL LOGGING IN JALISCO)**

**SUBMITTED TO THE SECRETARIAT OF THE COMMISSION FOR ENVIRONMENTAL
COOPERATION IN TERMS OF ARTICLE 24.27.4 OF THE AGREEMENT BETWEEN
THE UNITED MEXICAN STATES, THE UNITED STATES OF AMERICA AND
CANADA (USMCA)**

Note: Unofficial translation for reference purposes

Mexico City, August 16, 2023.

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GLOSSARY

Term	Meaning
ECA	Agreement on Environmental Cooperation between the Governments of the United Mexican States, the United States of America and Canada.
CEC	Commission for Environmental Cooperation.
CPEUM	Political Constitution of the United Mexican States.
FEJ	Jalisco State Prosecutor's Office.
LGDFS	General Act on Sustainable Forest Development.
LGEEPA	General Act on Ecological Balance and Environmental Protection.
MEXICO	United Mexican States.
OIC	Internal Control Organ of the Ministry of Environment and Natural Resources.
TALA REQUEST ILLEGAL IN JALISCO	Submission SEM-23-006 (Illegal Logging in Jalisco), submitted to the Commission for Environmental Cooperation on 17 May 2023.
SUBMITTERS	Individuals whose identity is confidential.
PROFEPA	Federal Attorney General's Office for Environmental Protection.
PROTOCOL	Protocol Replacing the North American Free Trade Agreement (NAFTA) with the Agreement between the United States of America, the United Mexican States and Canada.
RLGDFS	Regulations of the General Act on Sustainable Forestry Development.
CEC SECRETARIAT	Secretariat of the Commission for Environmental Cooperation.
SEMARNAT	Ministry of Environment and Natural Resources.
SFP	Ministry of Public Administration.
NAFTA	North American Free Trade Agreement.
USMCA	Agreement between the United Mexican States, the United States of America and Canada.
UCORGT	Coordinating Unit of Representation Offices and Territorial Management of SEMARNAT.

INDEX OF ANNEXES

Annex	Description of the document
MX-001	General Act on Ecological Balance and Environmental Protection.
MX-002	General Act on Sustainable Forest Development.
MX-003	Regulations of the General Act on Sustainable Forest Development.
MX-004	Informative Note.
MX-005	Oficio SGPARN.014.02.02.01.954/21.
MX-006	Written on 03 August 2021.
MX-007	Written on 07 September 2021.
MX-008	Oficio FE/DOF/F-8554/27561/2023-IX.
MX-009	Oficio FE/DGIE/5803/F-12165/2023.
MX-010	Oficio 7052/2023/FR.
MX-011	Oficio PFPA/5.3/2C.28.5.2/00139-23.
MX-012	DGDI/DDI/323/052/2023.
MX-012	DGDI/DDI/323/052/2023, annexes.
MX-012	SIDEC Capture.
MX-013	Illegal logging and Deforestation Actions.

A. BACKGROUND

1. On 17 May 2023, two Mexican citizens (**Submitters**), who in terms of Article 16(1)(a) of the Environmental Cooperation Agreement (**ECA**) requested confidentiality of their data, filed a Submission with the Secretariat of the Commission for Environmental Cooperation (**CEC Secretariat**), pursuant to Article 24.27(1) of the Agreement between the United Mexican States, the United States of America and Canada (**USMCA**).
2. In the Submission it is noted, in accordance with what the Secretariat determined, that the Submitters claim that Mexico is failing to effectively enforce environmental law, among other things, regarding deforestation and change of forest land use for avocado cultivation in Cuautla, state of Jalisco, Mexico, and also in relation to authorizations for the beneficial use of forest resources (timber).¹
3. Following its examination of the Submission, the CEC Secretariat, in Determination A24.27(2)(3)/SEM/23-006/06/DET issued on 16 June 2023, concluded that the Submission met the admissibility requirements set forth in Article 24.27(2) of the USMCA,² and required the Government of Mexico to submit a Party Response concerning the effective enforcement of the following legal provisions:
 - a) Articles 160: first and third paragraphs, 161: first paragraph, 162: first paragraph, 166, 167, 169: last paragraph, 170: sections I and II, 182: first paragraph, 189: first paragraph, 189: first paragraph, 190, 191: first and third paragraphs, 192, 193, 202: first paragraph and 203 of the General Act on Ecological Balance and Environmental Protection (**LGEEPA**);³
 - b) Articles 154 and 155: Sections III, VI, VII, XII and XV of the General Act on Sustainable Forest Development (**LGDFS**); and⁴
 - c) Articles 225, 226: first and third paragraphs, 227: first paragraph, 229, 231, 232, 233: second paragraph and 234 of the Regulations of the General Act on Sustainable Forest Development (**RLGDFS**);⁵

B. PRELIMINARY ANALYSIS

4. Prior to presenting the Party's Response, it is considered of utmost importance to clarify several legal provisions that were considered by the CEC Secretariat, since these provisions are not applicable to the arguments made in the Submission itself.

- **Articles 166, 170, 189, 190 and 203 of the General Act on Ecological Balance and Environmental Protection.**

5. Article 166: Regarding this article, which states that the competent authority may request the assistance of the police to conduct an inspection visit, it should be noted that although the CEC Secretariat qualified this provision as environmental law because it is related to the mechanisms of assistance for conducting inspection acts, it is also true that the verb "may" implies that its exercise is discretionary; that is, it may or may not be

¹ Submission, pp. 10, paragraphs 43.

² Determination A24.27(2)(3)/SEM/23-005/09/DET, pp. 24, para. 91 and 92.

³ MX-001.

⁴ MX-002.

⁵ MX-003.

exercised, and therefore its application does not constitute an obligation for the authority, in this sense, it is not considered prudent to analyze it.

6. Article 170: In this regard, it should be specified that although this article starts from the existence of an imminent risk of ecological imbalance or serious damage or deterioration to natural resources, as stated by the CEC Secretariat in paragraph 28 of its Determination; it is also true that, this provision does not establish that “...the authority shall impose security measures, including...”, instead it states that the “authority may order any or some of the following security measures”; therefore, its implementation is optional, and it does not constitute an obligation for the authority, in this sense, it is not considered proper to analyze it.

7. Articles 189 and 190: While it is true that these are provisions related to the central aspects of the Submission at hand because they deal with the Citizen Complaint procedure; it is also true that, its implementation does not fall on an authority (PROFEPA), but on the Submitters, being processed at the request of a party and having to fully comply with the formal requirements established. In this sense, and since these are procedural issues attributable to the Submitters, it is not appropriate to analyze them in this Submission; however, compliance with this article as far as PROFEPA is concerned will be evidenced below.

8. Article 203: In relation to this provision, which refers to the liability and obligation of a person who pollutes, deteriorates the environment or affects natural resources, to repair the damages caused, in accordance with civil legislation; it is important to point out that the same article in its second paragraph contemplates that the term to sue for environmental liability will be 5 years, counted from the moment in which the act is committed. In this sense and taking into consideration what the Submitters have stated in their submission, it is noted that the first moment in which the acts, facts or omissions related to the environmental impact occurred was on 1 August 2021 and, therefore, said term has not yet expired, therefore, we do not find it appropriate to analyze the article in question.

- **Articles 154 and 155 of the General Act on Sustainable Forest Development.**

9. Article 154: Finding that this article states that monitoring and surveillance in the forests corresponds to PROFEPA, which has the function of safeguarding and patrolling forest resources to conduct technical investigations, inspections, surveillance and verification of compliance with the provisions and obligations contained in the LGDFS, its Regulations and the Mexican Official Standards (*Normas Oficiales Mexicanas*—NOM), in accordance with the provisions of Title Six of the LGEEPA; in this sense, and derived from analysis of the facts and assertions made in the Submission that concern us, it is evident that the Submitters do not allege non-compliance with the provisions and obligations contained in the LGDFS, its Regulations or any NOM; therefore, this provision does not apply, since its application is subject to the violation of the aforementioned legal provisions, thus it is found that this article does not apply to the present Submission.

10. Article 155: Regarding section III of this article, it is not evident in the Submission that the Submitters directly relate the beneficial use of forest resources with the content of the LGDFS, its Regulations or the NOMs; additionally, since there are Proceedings still pending resolution, this provision is not found to be enforceable.

11. Regarding section VI, it is not found to be applicable, since in order to be applicable,

the holder of the authorization for beneficial use of forest resources and change of land use must be the one who violates the regulations related to its conferral.

12. Regarding section VII of the same article, it is not found to be applicable, since although it is true that the Submitters refer to problems related to illegal logging of timber resources, it is also true that, from a reading of the facts set forth by the Submitters in their Submission, there are no facts or evidence of acts, actions or omissions that confirm the change of land use of forest lands to devote or induce them to non-forest activities, as alleged by the Submitters.

13. Now, with respect to section XII of the same article, since the Proceeding related to the Submission is still in progress; that is, there is no Resolution that concludes it, this provision is not found to be applicable.

14. Finally, as for section XV of the same article, which establishes that it is an infraction to transport, store, transform or possess forest raw materials without documentation or established control systems to prove their legal origin; in this regard, this provision is not found to be applicable, since from a reading of the facts stated by the Submitters, it is not evident that there has been a formal requirement to prove their legal origin and, therefore, such an assumption does not exist.

- **Articles 227, 229, 231, 232, 233 and 234 of the Regulations of the General Act on Sustainable Forest Development.**

15. Article 227: This provision is not applicable to the matter at hand, since it does not address issues related to concessions, permits, licenses, authorizations and, in general, administrative acts issued by agencies and entities of the Public Administration for the beneficial use of natural resources and which, as a result of their granting, have caused damage to Forest Ecosystems. In this sense, the "Authorization for the beneficial use of forest resources (timber)" that was granted, according to the Submitters, by the Representation Office, formerly SEMARNAT's Delegation in the State of Jalisco, on 14 July 2021, cannot be linked because in order for it to be applicable, the Authorization should have been granted to whoever is causing the damage to the Forest Ecosystem.

16. Articles 229 and 232: By virtue of the fact that these provisions derive from article 170 of the LGEEPA, which, as already mentioned, is implemented optionally and does not constitute an obligation for the authority, considering that the accessory follows the principal, its application depends on PROFEPA ordering any of the security measures established in Article 170 of the LGEEPA, among which is the seizure of goods; therefore, they are not found to be applicable to the case at hand.

17. Artículo 231: While it is true that this provision refers to the Citizen Complaint Procedure, which is one of the central aspects of the Submission at hand, it is also true that, as stated in relation to articles 189 and 190 of the LGEEPA, an authority (PROFEPA) is not responsible for exercising it, but rather the Submitters, at their request; in this sense and since it deals with procedural issues attributable to the Submitters, it is not found to be applicable to the case at hand; however, compliance with this article as far as PROFEPA is concerned will be evidenced below.

18. Article 233: Regarding the second paragraph of this article, on which the CEC Secretariat focuses its analysis, it should be noted that it states that PROFEPA may be assisted by the technical investigation indicated in Article 154 of the LGDFS, as a result of which it is noted that its exercise is optional for the Authority and does not constitute an

obligation; likewise, in accordance with what has been stated regarding the application of Article 154 of the LGDFS, this provision is not found to be applicable to the case at hand.

19. Article 234: Since its application derives from article 156 of the LGDFS, which establishes that Semarnat shall administratively sanction infractions established in article 155 as part of the Resolution that concludes the respective inspection procedure; in this context, section VI of the referenced article contemplates establishing restoration measures. In view of the above and given that the corresponding proceeding is still being substantiated, this provision is not found to be applicable.

20. On the other hand, although it is true that the CEC Secretariat in paragraph 4 of its Determination A24.27(2)(3)/SEM/23-006/06/DET issued on 16 June 2023, alleges that the "*Submitters assert that Mexico is failing to effectively enforce its environmental laws with respect to deforestation and change in land use of forest land for avocado cultivation in Cuautla, Jalisco State, Mexico, and with respect to authorizations for the beneficial use of forest resources*"; it is also true that, from an exhaustive review of the assertions made in the Submission filed on 17 May 2023, it is evident that this is a presumed, general and inaccurate interpretation, since the Submitters specifically refer to facts that affect a particular interest, such as the illegal logging and deforestation of their property to change the use of forest land and dedicate it to avocado plantations, a situation that does not fall within the scope of Article 24.4(1) of the USMCA, because it is not "a sustained or recurrent course of action or inaction". This, since such provision states: "No Party shall fail to effectively enforce its environmental laws through a sustained or recurring course of action or inaction in a manner affecting trade or investment between the Parties after the date of entry into force of this Agreement."

21. This is the case because, even in their claims, no mention is made of the non-observance of Article 4, paragraph five of the Political Constitution of the United Mexican States, which provides for the obligation of the State to guarantee the right to a healthy environment, but rather they refer to provisions related mostly to the powers of the PROFEPA, which operates the system of Citizen Complaints as well as inspection and surveillance visits, which result in the imposition of security measures and administrative sanctions, which allow for verification of compliance with environmental obligations, within the framework of the provisions of Title Six of the LGEEPA.

22. It should not go unnoticed that, also the CEC Secretariat in paragraph 4 [sic] of its Determination A24.27(2)(3)/SEM/23-006/06/DET, states that the "***Submitters refer to documentation to confirm that the matter has been communicated to the relevant authorities of the Mexican government, namely: claims, petitions, and complaints, including claims and written filings before the delegations of Semarnat and Profepa in order to communicate the matter to the relevant authorities of the Party; follow-up submissions regarding the actions of the delegations of Profepa and Semarnat in the state of Jalisco in relation to the complaints filed, and a writing before the Presidency of the Republic in which the situation in question is communicated. The submission also includes a communication to the Civil Service Secretariat, and several communications from the delegation of the Profepa in Jalisco in relation to the complaints and various writings submitted by the Submitters***"; it is also true that such statement does not fall under the assumption established in Article 24.27(2)(c) of the USMCA, since it literally reads as follows: "[P]rovides sufficient information to allow for the review of the submission, **including any documentary evidence on which the submission may be based**, and identification of the environmental law of which the failure to enforce is

asserted", which demonstrates that one of the 5 admissibility requirements provided in the aforementioned Article 24.27(2) is not satisfied.

23. Due to the aforementioned arguments, the Party's Response will focus specifically on the claims raised by the Submitters in their Submission against the performance of the Mexican Authorities they mention; additionally, the aspects related to the illegal logging and deforestation of their property to change the use of forest land for avocado plantations will be addressed in a general manner.

C. RESPONSE BY MEXICO PURSUANT TO ARTICLE 24.27 (4) OF THE USMCA.

24. As noted by the CEC Secretariat in its response request to Mexico, the USMCA entered into force on July 1, 2020 in accordance with the Protocol replacing the North American Free Trade Agreement with the Agreement between the United States of America, the United Mexican States and Canada (**Protocol**).

25. Under the terms of paragraph 1 of the Protocol, the provisions of the North American Free Trade Agreement were null and void, except for "those provisions set forth in the USMCA that refer to provisions of NAFTA."

26. Based on the foregoing, Mexico submits its response as a Party in accordance with its commitments under the USMCA, which are binding as of its entry into force, i.e., as of July 1, 2020,⁶ in order to comply with the provisions of paragraph 4 of Article 24.27 (Submissions on Enforcement Matters) of the USMCA.

(a) Whether the matter at issue is the subject of a pending judicial or administrative proceeding, in which case the CEC Secretariat shall not proceed further.

i) Illegal logging and deforestation to change the use of forest land for avocado plantations.

27. The Submitters claim that Mexico failed to effectively enforce its environmental law, due to the illegal logging on their property, thereby deforesting the land to change the use of forest land to avocado plantations, despite having filed claims, petitions, and complaints to various relevant agencies of the Government of Mexico.

28. In this respect, the CEC Secretariat is informed that by means of an Informative Note,⁷ consisting of 02 pages, the SEMARNAT Representative Office in the State of Mexico, attached to the UCORGT, sent information specifically with respect to the facts referred to in the Determination, which are related to the matter at hand and which it became aware of.

29. In this regard, we point out that with respect to paragraph 9 of the Determination, which states that "despite having received an endorsement of the authorization for the

⁶ Article 24.4 (Enforcement of Environmental Laws) states that "[n]o Party shall cease to effectively enforce its environmental laws after the date of entry into force of this Treaty". This is further confirmed by Article 28 (Non-retroactivity of Treaties) of the Vienna Convention on the Law of Treaties, which states that "[t]he provisions of a treaty shall not bind a party in respect of any act or fact which took place prior to the date of entry into force of the treaty for that party or any situation which at that date ceased to exist...".

⁷ MX-004.

beneficial use of forest resources from the Semarnat delegation in the state of Jalisco and the completion of the forestry management program proposed by Semarnat for the property, third parties are illegally logging on their property, thereby deforesting the land in order to change the use of the land from forest to avocado plantations,” there is a record in the Representative Office of the Request for Renewal of the authorization to harvest timber forest resources at the end of a cutting cycle. Modality A: Without automatic authorization, registered under number 14/CB- 0312/11/20, which was authorized by official letter SGPARN.014.02.02.01.954/21,⁸ consisting of 06 pages, in favor of [REDACTED], valid until June 30, 2031.

30. Likewise, in relation to paragraph 11 of the Determination, consisting of two complaints filed before this Representative Office, there is a record of the written filings received on 3 August 2021,⁹ consisting of 08 useful pages, and 7 September 2021,¹⁰ consisting of 03 useful pages, registered with document numbers 14DEP-01385/2108 and 14DEP-01664/2109, respectively, by means of which [REDACTED] submitted a citizen complaint for the irregularities that occurred on the property “Los Amoles,” Municipality of Cuautla, Jalisco; specifying that the first one was handled by sending it to PROFEPA by means of official letter SEMARNAT.JAL.UJ.-120/2021, informing the claimant by means of SEMARNAT.JAL.UJ.-121/2021; and as for the second one, which provided new contact information for the aforementioned complaint, it was handled by sending it to PROFEPA by means of official letter SEMARNAT.JAL.UJ.-137/2021 and informing the complainant.

31. On the other hand, with respect to paragraph 56 of the Determination, which states that, in addition to the aforementioned complaints filed with the Jalisco offices of Semarnat and Profepa, the Submitters had previously filed appeals with the public prosecutor's office in Ayutla, Jalisco, attached to the “Sierra de Amula” regional state prosecutor's office, this Representative Office is unaware of the appeals filed with the public prosecutor's office in Ayutla, Jalisco, [REDACTED], related to the deforestation and change in the use of forest land for avocado cultivation in Cuautla, Jalisco, Mexico.

32. Finally, with regard to paragraph 71 of the Determination, which states that action has been sought from the federal authorities through the submission of claims, petitions, and complaints to various relevant agencies of the Government of Mexico, this Representative Office states that, with regard to the effective enforcement of environmental laws, monitoring and surveillance of the forest is the responsibility of SEMARNAT, through PROFEPA, which, among other functions, is responsible for safeguarding and patrolling forest resources; technical investigations, inspections, surveillance and verification of compliance with the provisions and obligations contained in the LGEEPA and the LGDFS, their Regulations and the Mexican Official Standards, in accordance with the provisions of Title Six of the LGEEPA.

33. On another note, we also communicate to the CEC Secretariat that the Directorate of the Jalisco State Prosecutor's Office, through official letter FE/DOF/F-8554/27561/2023-IX,¹¹ , consisting of 01 page, communicated that in order to address what was stated by the Submitters, it requested information from different General Directorates, Special

⁸ MX-005.

⁹ MX-006.

¹⁰ MX-007.

¹¹ MX-008.

Prosecutor's Offices and Investigation Units of the State Prosecutor's Office.

34. In this sense, the General Director of Specialized Investigation, by means of official letter FE/DGIE/5803/F- 12165/2023,¹² , with 1 page, informed that after a thorough search, there are no investigation files initiated for the facts and municipalities mentioned, which consist of deforestation and changes in forest land use for the planting of avocado, nor for dispossession or threats.

35. Likewise, the Regional Special Prosecutor, by means of official letter 7052/2023/FR,¹³ consisting of 02 useful pages, indicated, in relevant part, the following:

- A record was found in District VII with headquarters in Autlán de Navarro, Jalisco, regarding Investigation File 110/2021 initiated for the crime of threats, denounced by the victim [REDACTED] against [REDACTED] who threatened to take a property from her and was referred to alternative dispute resolution, where the parties reached a reparatory agreement.
- Investigation File 434/2021 initiated for the crime of dispossession, where [REDACTED] appears as the victim, against whomever is responsible, denouncing the dispossession of a rustic property called "Los Amoles," located in the locality of Los Metates, on the road to Chilacayote; it should be noted that during the interview conducted by the investigating police, citizen [REDACTED] in his capacity as Technician of the property of "Los Amoles", stated that on 11 November 2021, some people were illegally cutting down trees, leading him to make the complaint before the PROFEPA, since they were affecting 60 hectares of said property, which has file number PFFPA/21.3/2C.27.0/00032- 21.

36. Finally, it is noted that with respect to the information provided, the security, secrecy, and confidentiality measures that the present matter merits were taken to avoid unauthorized disclosure of the document or information contained therein.

37. For the foregoing reasons, pursuant to Article 24.27(3)(a) of the USMCA, the CEC Secretariat is requested not to proceed with the submission.

ii) The alleged failure of the Federal Attorney General's Office for Environmental Protection to carry out its duties.

38. Regarding the citizen complaint referred to in the Submission, the CEC Secretariat is informed that the General Directorate of Crimes, Commutations, Claims and Complaints of PROFEPA, through official letter PFFPA/5.3/2C.28.5.2/00139-23,¹⁴ containing 04 useful pages, in a well-founded and reasoned manner, provided information about the proceedings regarding the matter in question.

39. In this context, in compliance with articles 189 first paragraph and 190 of the LGEEPA, these articles provide in relevant part that any person, social group, organization, association or civil society group can exercise the citizen complaint mechanism before PROFEPA, as well as section 231 of the RLGDFS, which specifies the acts, facts or omissions that produce or may produce ecological imbalance to the forest ecosystem or damage to forest resources. On 3 August 2021, the then Delegation of PROFEPA in the

¹² MX-009.

¹³ MX-010.

¹⁴ MX-011.

State of Jalisco, now the Representation Office, received a letter from a person who, for the purposes of the Submission at hand, requested confidentiality of their identity, so that hereinafter, they will be identified as "claimant" and/or "submitter" and/or "citizen" and/or "complainant", and who pointed out the logging, burning and extraction of wood with machinery and trucks without authorization on a fraction of the land they said to be their property called "Los Amoles", located in the Municipality of Cuautla, Jalisco.

40. In this sense, we add that on 12 August 2021, the Representative Office issued the Prevention Agreement in relation to the letter mentioned above, given that it noticed that those statements failed to comply with the requirement provided in article 190 section III of the LGEEPA, which states that a citizen complaint must contain "facts that allow for identification of the alleged offender or the source of the pollutant." Although the claimant indicated the coordinates that corresponded to the property "Los Amoles," they were also only reporting actions on "a fraction of the property," therefore, given the size of the property, the exact coordinates where the denounced acts occurred should have been specified. The citizen was made aware of the agreement by means of official letter PFPA/21.7/0749-21 001894 of 12 August 2022, and was notified of both documents on 22 September 2021 by means of an email to the email addresses indicated by the claimant in their letter received by the Representation Office on 7 September 2021, which offered evidence and provided new contact information for notification purposes.

41. Now, in compliance with Article 191, first and third paragraphs of the LGEEPA, which provides that once the complaint is received, Profepa's Office must notify the corresponding Admissibility Decision and assign it a case number. On 13 October 2021, the Representative Office issued the Admissibility Decision for Investigation PFPA/21.7/1019-21 002588, in which it also confirmed compliance with the above-mentioned provision and in accordance with section 193 of the LGEEPA, it provided an opportunity for the complainant to participate in the proceedings. Profepa also acknowledged the statements and evidence expressed by the complainant in her written filings presented on September 7 and 27, 2021 before the Representation Office. The Admissibility Decision and decision number PFPA/21.7/1020-21 002589, with which the citizen complaint was acknowledged as received, were notified to the citizen [complainant] on 1 March 2022, to one of the e-mail addresses provided by her.

42. Furthermore, in accordance with what is provided in section 192 of the LGEEPA, which states that once the complaint is admitted, the necessary steps will be taken to verify the acts, facts or omissions constituting the complaint, the Department of Environmental Claims, Complaints and Public Participation of the Representation Office, on 13 October 2021, turned this citizen complaint over to the Sub-delegation of Natural Resources Inspection of that Administrative Unit, in order to carry out the inspection and surveillance actions that would allow for corroboration of the probable violations of federal environmental regulations under the competence of that Federal Attorney General's Office.

43. In this sense, in accordance with Article 160, first and third paragraphs of the LGEEPA, in its Sixth Title called "Control and Safety Measures and Sanctions", which governs the standards that must be observed when carrying out inspection and surveillance actions, the Sub-delegation of Natural Resources Inspection, on 8 November 2021, issued the corresponding Inspection Order, addressed to the owner, legal representative, manager and/or occupant of the land comprising the property called "Los Amoles," in the Municipality of Cuautla, Jalisco.

44. Next, in compliance with the aforementioned order and in accordance with the regulatory provisions applicable to the specific case, among which Articles 160, 161 first paragraph and 162 first paragraph of the LGEEPA, 154 of the LGDFS and 225 of the RLGDFS stand out, which state that the Federal Attorney General's Office must carry out the inspection, surveillance and verification acts, in order to determine the probable commission of violations of the federal environmental regulations under its jurisdiction. On 10 November 2021, the aforementioned Sub-delegation of Inspection of Natural Resources, carried out an Inspection Visit to different zones within the property "Los Amoles," in the Municipality of Cuautla Jalisco, therefore, based on articles 226 first and third paragraphs and 234 of the RLGDFS, the facts found, consisting of activities changing the land use of forest land (which will be detailed in the following paragraphs), were recorded in the corresponding Inspection Record, and in turn, without the technical investigation provided for in Articles 154 of the LGDFS and 233 second paragraph of the RLGDFS being necessary, it was determined that in the case of deterioration and serious damage to the forest ecosystem observed in the process, the imposition of the security measure consisting of the total temporary closure of the inspected area was appropriate. However, in the record created for the temporary closure, it was stated that "for reasons of safety of the inspector, the person who was visited, and the witness, it was not imposed at the time of the visit." Likewise, it states that, due to the fact that, at the moment of executing the Inspection Visit, there was no opposition whatsoever to it being carried out, it was unnecessary to request the assistance of the police for the execution of the Inspection Visit, as provided for in article 166 of the LGEEPA.

45. Derived from the foregoing, in compliance with the provisions of Articles 167 and 170 sections I and II of the LGEEPA, and 232 of the LGDFS, on 7 August 2023, the interested party was notified of the summons PFPA/21.5/2C.27.2/269-23-000905, dated 26 June 2023, which dictated the corrective measure issued by SEMARNAT, consisting of presenting the authorization for change of land use and granting a period of 15 working days to present in writing what was considered appropriate and offer the evidence considered pertinent, as well as the security measure consisting of the total temporary closure of the change in land use in forest land.

46. On the other hand, we point out that given the circumstances stated in the Inspection Report issued on 10 November 2021, consisting of acts tending to change the land use of forest land, such as deforestation for agricultural use, the removal of natural vegetation and the loss of the pine-oak forest vegetation cover, as well as the insecurity of the area attributed to organized crime, in order to investigate such circumstances in criminal proceedings, the Representative Office will file the appropriate criminal complaint before the Attorney General's Office in the State of Jalisco, in accordance with articles 169 last paragraph, 182 first paragraph, 202 first paragraph and 203 of the LGEEPA; this is done in order to investigate the probable commission of crimes and impose the corresponding penalties and/or sanctions.

47. Likewise, we point out that, with regard to articles 155 sections III, VI, VII, XII, and XV of the General Act on Sustainable Forest Development, in which the violations of the Forestry Law are indicated; 227 first paragraph, and 229 of the RLGDFS, in which the power of the Federal Attorney General's Office to request the cancellation of concessions, permits, licenses and authorizations to stop the damages to forest ecosystems and the seizure of goods, respectively, are provided. It is important to point out that such regulatory provisions will be found at the appropriate procedural moment, that is to say,

when issuing the corresponding Administrative Resolution in accordance with the law, which will define the sanctions that the responsible party may be subject to and the appropriate measures for restoration or repair of the environmental damage.

48. Finally, PROFEPA, states that it will continue with the administrative process, with conducting forest inspection and surveillance actions on the property called "Los Amoles", in the State of Jalisco, in order to address the citizen complaint and, if necessary, impose the appropriate sanctions, in order to guarantee the enforcement of the Federal Environmental Legislation.

49. In another order of ideas, it is communicated to the CEC Secretariat that the Complaints Department of the SFP, through official letter DGDI/DDI/323/052/2023 and its annexes,¹⁵ consisting of 19 useful pages, informed that it found the registration of universal file 19507/2022, which corresponds to a complaint filed by the following [REDACTED] on 1 March 2022; which was forwarded to the Internal Control Organ of the Ministry of Environment and Natural Resources for its corresponding attention according to its jurisdiction.

50. Likewise, said Directorate forwarded certified copies of the documents that were generated as responses given to [REDACTED],¹⁶ consisting of the Citizen Communication DGDI/DD/CC/323/1277/2022, through which she was informed that her letter was forwarded to the Internal Control Organ of SEMARNAT for its corresponding attention, which was notified to the e-mail account [REDACTED], provided as a means of contact, as well as to the address provided to receive notifications by means of ordinary and certified mail with the tracking number RM011616235MX, which was received on 18 March 2022.

51. Likewise, said advancement is in investigation status, as can be observed in the capture of the Integrated System of Citizen Complaints (*Sistema Integral de Denuncias Ciudadanas—SIDE*C),¹⁷ consisting of 03 pages.

52. Finally, the above mentioned Directorate specifies that the documents provided contain confidential information in terms of the regulations on Transparency and Protection of Personal Data; therefore, their confidentiality and integrity must be guaranteed in accordance with Article 95 of the General Law of Administrative Responsibilities, in addition to the fact that confidentiality is directly related to the protection of the complainant, which the investigating authorities must protect at all times, as established in Articles 16 and 64 section III and last paragraph of the General Law of Administrative Responsibilities.

53. For the foregoing reasons, in accordance with the provisions of Article 24.27(3)(a) of the USMCA, the CEC Secretariat is requested not to proceed with the submission.

(b) Any other information that the Party wishes to provide

54. Regarding the CEC Secretariat's finding that the Submitters allege that the

¹⁵ MX-011.

¹⁶ MX-011.

¹⁷ MX-012.

Government of Mexico is failing to enforce environmental law in relation to the deforestation and change of forest land for avocado cultivation in Cuautla, Jalisco, and also in relation to the authorizations for the use of timber forest resources, we make some clarifications in relation to this issue where SEMARNAT, through its Administrative Units and Decentralized Bodies, acts within the scope of its standard and permanent functions.

55. In this regard, it is important to reiterate that PROFEPA, in terms of the provisions of Articles 3, paragraph B, section I, 4, second paragraph, 43, sections I II, III, XXII and XLIX, 45, section IV, subsection c) and 61, sections XVI, XVII and XXXII of the Internal Regulations of the Ministry of Environment and Natural Resources, among other functions, exercises its authority to address citizen complaints and carry out inspection and surveillance actions regarding compliance with the responsibilities conferred by the LGEEPA and the LGDFS, their Regulations and the Mexican Official Standards, with the purpose of deterring clandestine logging on forest lands for avocado plantations.

56. It is important to point out that, as evidenced, often the [complaints] do not have the legal substance to establish an administrative proceeding, and this is how the sanctioning power of the Administrative Authority is lost, since it becomes difficult to locate the responsible parties.

57. It is imperative to point out that, through the citizen complaint mechanism, it is known that organized crime is involved in several cases of logging and land use changes on forest lands, which implies a great risk for inspectors who perform their duties in the field.

58. By virtue of the foregoing, the Representative Office of PROFEPA in Jalisco, if necessary, is supported by the Police, through the Secretary of National Defense (SEDENA), the Secretary of the Navy (SEMAR) and the National Guard, in order to safeguard the integrity of those who act in the performance of their administrative duties, to exercise sanctioning powers against those who damage the environment.

59. In this context, it should be noted that PROFEPA, through its Representative Office in the State of Jalisco, participates in the Security Working Group, which also involves the Federal Environmental Sector, the National Guard, and with the accompaniment of personnel from the National Institute of Ecology and Climate Change (INECC), among others, it has the purpose of establishing actions to deter and control illegal logging and land use changes in the state [of Jalisco].

60. In this context, it is important to inform the CEC Secretariat that on 8 September 2022, the "Environmental Roundtable in the Municipality of Puerto Vallarta Jalisco" was held, led by the representative from SEMARNAT, various representatives of the Federal Environmental Sector and the Municipality of Puerto Vallarta, among others.

61. The Working Group addressed the issue of pollution in monoculture crops, agave, avocado and berries, and proposed establishing coordination between the Representative Offices of the Federal Environmental Sector Agencies and the Representative Office of the Secretary of Agriculture and Rural Development, in order to establish lines of action, through federal inter-institutional analysis, to prevent the loss of forest cover and minimize the adverse effects on the climate, watersheds, ecosystems and society, derived from the increase of high commercial value crops such as agave, avocado and berries in the State of Jalisco.

62. As a follow-up to the above, the Environmental Working Group was formed in the State of Jalisco, aimed at counteracting the loss of forest cover due to the increase in the surface area of crops such as agave, avocado and berries, in which the SEMARNAT

Representative Office in the State of Jalisco, attached to the Coordinating Unit of Representative Offices and Territorial Management, participates in coordination activities, and the SEMARNAT Legal Affairs Coordinating Unit provides the corresponding legal support to achieve the objectives entrusted to it.

63. In addition to the above, on 12 June 2023, the Security Working Group was implemented, headed by the SEMARNAT Representative Office in the State of Jalisco, with the participation of the Federal Environmental Sector Agencies, the National Guard, and with the accompaniment of personnel from the National Institute of Ecology and Climate Change (INECC), in order to define follow-up and support actions to address the problem of clandestine and illegal logging, as well as changes in land use, at critical points identified in several municipalities in the State of Jalisco, including the Municipality of Cuautla.

64. It is equally important to state that SEMARNAT carries out actions against illegal logging and deforestation in various regions of the country, as shown in the document attached hereto,¹⁸ consisting of 09 pages, including but not limited to the following:

- In June 2021, by presidential instruction, the Judicial Action Board "Critical Points of Illegal Logging and Deforestation" was created. The Board has held 61 uninterrupted sessions.
- The Board's objective is to strike at the criminal structures involved in environmental crimes, particularly illegal logging and deforestation, from an operational, logistical and financial perspective.
- Fourteen federal agencies participate in the Board, in six focal areas and 44 lines of action.
- Among the most relevant results, Global Forest Watch (GFW) points out that deforestation has decreased by 45.3% between 2019 and 2022 by going from 327 thousand to 179 thousand hectares.
- Articles 418, 419 and 423 of the Federal Criminal Code were amended, in order to strengthen penalties against those who commit environmental crimes in the form of illegal logging. The reform was published in the Official Gazette of the Federation on 8 May 2023.
- A total of 531 investigation files have been opened, of which 20 have been prosecuted.
- Fifty-six people have been arrested, of which 33 have gone to trial and 11 have been sentenced in oral proceedings.
- Between 2022 and 2023, 4,814m³ of timber, 57 vehicles and 227 pieces of equipment and machinery were secured in the participating states.
- Forty-two containers of precious woods of illegal origin, destined for the export market, have been secured.
- A mass spectrometer for wood identification (DART-TOFMS) was donated to the Laboratories of the General Coordination of Contamination and Environmental Health of INECC.
- CONAFOR developed the Early Deforestation Warning System (EWS) as an analysis tool to provide timely information on changes in forest cover. It is currently being applied in the Yucatan Peninsula and the avocado-growing area of Jalisco.

¹⁸ MX-013.

- By 2023, a dual intervention model consisting of fiscal auditing and forestry inspection has been designed to detect in parallel forestry crimes, typified in the Federal Criminal Code, articles 418 and 419 (illegal logging and trade), as well as associated crimes that cut across forestry crimes.
- In 2023, 85 actions have been conducted, including visits to farms and CATs, review of unauthorized extraction and inspection of forest product transportation, in which security measures such as suspension, closure and seizures have been applied.

65. Therefore, in accordance with Article 24.27(3)(a) of the USMCA, the CEC Secretariat is requested not to proceed with the submission.

D. CONCLUSIONS.

66. As stated in this Party's Response, the implementation of the related activities to address the problems related to the illegal logging and deforestation of the Submitters' land to change the use of forest land to avocado plantations have been the subject of various administrative proceedings; likewise, timely follow-up has been given to the citizen complaints filed by the Submitters, and there are currently administrative proceedings pending resolution. Through them, the effective enforcement of the following legal provisions is accounted for:

- Articles 160: first and third paragraphs, 161: first paragraph, 162: first paragraph, 166, 167, 169: last paragraph, 170: sections I and II, 182: first paragraph, 189: first paragraph, 189: first paragraph, 190, 191: first and third paragraphs, 192, 193, 202: first paragraph and 203 of the LGEEPA;
- Articles 154 and 155: sections III, VI, VII, XII and XV of the LGDFS; and
- Articles 225, 226: first and third paragraphs, 227: first paragraph, 229, 231, 232, 233: second paragraph and 234 of the RLGDFS.

67. Similarly, in relation to the alleged failure to enforce environmental legislation regarding deforestation and change of forest land for avocado cultivation in Cuautla, State of Jalisco, and also in relation to the authorizations for the enjoyment of timber forest resources, determined by the CEC Secretariat, it was evidenced that SEMARNAT, through its Administrative Units and Decentralized Bodies, conducts within the scope of normal and permanent functions, the necessary actions to address this problem.

68. As a result, it is reiterated that Mexico is effectively carrying out its functions in compliance with the following legal provisions:

- Articles 160: first and third paragraphs, 161: first paragraph, 162: first paragraph, 166, 167, 169: last paragraph, 170: sections I and II, 182: first paragraph, 189: first paragraph, 190, 191: first and third paragraphs, 192, 193, 202: first paragraph and 203 of the LGEEPA;
- Articles 154 and 155: Sections III, VI, VII, XII and XV of the LGDFS; and
- Articles 225, 226: first and third paragraphs, 227: first paragraph, 229, 231, 232, 233: second paragraph and 234 of the RLGDFS.

69. Based on the foregoing, we respectfully request that the CEC Secretariat, in terms of the provisions of Article 24.27(4)(a), not continue processing the present Submission, since as has been detailed with respect to the illegal logging and deforestation of the Submitters' property in order to change the use of forest land for avocado plantations, there are administrative proceedings pending that are related to the central allegations

raised by the Submitters and with the effective enforcement of environmental laws, so that the resolution of the aforementioned pending administrative proceedings may also contribute to resolving the matter raised in the Submission.

70. Similarly, for the reasons set forth in paragraphs 20 to 22 of section B. Preliminary Analysis of this Party's Response, the CEC Secretariat is requested not to proceed with the Submission, pursuant to Article 24.27(3)(a) of the USMCA.