

Timber Legality Risk Assessment Mexico

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Contents

A. Introduction	1
B. Overview of legality risks	2
C. Overview of the forest sector in Mexico	5
D. Legality Risk Assessment	8
LEGAL RIGHTS TO HARVEST	8
1.1. Land tenure and management rights.....	8
1.2. Concession licenses.....	12
1.3. Management and harvesting planning	13
1.4. Harvesting permits.....	19
TAXES AND FEES	26
1.5. Payment of royalties and harvesting fees.....	26
1.6. Value added taxes and other sales taxes	26
1.7. Income and profit taxes.....	28
TIMBER HARVESTING ACTIVITIES	31
1.8. Timber harvesting regulations	31
1.9. Protected sites and species	35
1.10. Environmental requirements.....	39
1.11. Health and safety.....	42
1.12. Legal employment.....	44
THIRD PARTIES' RIGHTS	48
1.13 Customary rights	48
1.14. Free prior and informed consent	49
1.15. Indigenous/traditional peoples' rights	49
TRADE AND TRANSPORT	53
1.16. Classification of species, quantities, qualities	53
1.17. Trade and transport	57
1.18. Offshore trading and transfer pricing.....	60
1.19. Custom regulations	61
1.20. CITES.....	64
1.21. Legislation requiring due diligence/due care procedures.....	67
Annex I. Timber source types	69

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B. Overview of legality risks

Timber Risk Score: 17 / 100 in 2017

This report contains an evaluation of the risk of illegality in Mexico for five categories and 21 sub-categories of law. We found:

- **Specified risk for 14 sub-categories.**
- **Low risk for 1 sub-category.**
- **No legal requirements for 6 sub-categories.**

The Timber Risk Score for Mexico is 17 out of 100. The key legality risks identified in this report concern legal rights to harvest, taxes and fees, timber harvesting activities, third parties' rights, and trade and transport.

For **Legal Rights to Harvest**, there is a risk that:

- Regulatory procedures are implemented incorrectly in tropical forests (Sub-category 1.3).
- Harvesting takes place without the required harvesting permit (1.4).

For **Taxes and Fees**, there is a risk that:

- Buyers of standing timber or roundwood do not issue a sales invoice when the processed timber is sold (1.6, 1.7).
- Risk that forest enterprises with Programme for Forest Management Authorization do not issue the legally required sales invoice for the sale of standing timber or roundwood (1.7).

For **Timber Harvesting Activities**, there is risk that:

- Forest Management Programmes are not implemented in tropical forests (1.8)
- Protected natural areas are illegally harvested (1.9)
- Environmental impact regulations, such as those related to directional felling, maintenance of protection buffer strips, erosion, maintenance and opening of roads, etc., are not followed, even when an environmental impact assessment has been conducted (1.10)
- Protective equipment is not used during forest management activities (1.11)
- Legally required benefits such as vacations or bonuses, or benefits corresponding to time on the job are not provided to employees, and that child labour is used in forest management (1.12)

For **Third Parties' Rights**, there is a risk that:

- Forest enterprises do not respect the customary rights of indigenous communities to access forest resources (1.15).
- Forest management authorisations are granted to community-owned farms despite customary claims by indigenous communities (1.15).

For **Trade and Transport**, there is a risk that:

- Harvested species are not documented correctly (1.16).

- Timber is transported without legally required transport documents or with false documents (1.17).
- Timber from unspecified origin is exported without required permits, and that requirements related to phytosanitary certificates are not fulfilled (1.19).
- CITES species are illegally harvested and exported (1.20)

Timber source types and risks

There is four timber source type found in Mexico. Knowing the “source type” that timber originates from is useful because different source types can be subject to different applicable legislation and have attributes that affect the risk of non-compliance with the legislation.

Temperate forest with no species in the “at-risk” category	Timber from communal and privately owned, forest with no “at risk” species. A large proportion of timber produced in Mexico comes from the <i>Pinus</i> genus (over 45 species), and in lesser amounts from <i>Abies</i> and <i>Quercus</i> . States include Chihuahua, Durango, Oaxaca, Guerrero, Michoacan, Jalisco, Chiapas and portions of Central Mexico.
Temperate forest with “at-risk” species	Timber from communal and privately owned, natural temperate forest that contains “at risk” species. Harvesting is relatively small-scale and can occur in any state in the country. Harvesting has been observed in Jalisco, Michoacan, Oaxaca, Chiapas and in transition zones from tropical forests to cloud forests.
Tropical forest	Timber from communal and privately owned natural forest in tropical areas. Forest types include tall, medium, and low evergreen rainforest. Harvesting of tropical forests occurs mostly on the Yucatan Peninsula (Quintana Roo, Tabasco, Campeche, Yucatan) and to a lesser extent in portions of the Pacific foothills and coast, including Nayarit, Jalisco, Colima, Michoacan, Guerrero, Oaxaca and Chiapas. Harvesting also occurs on the Atlantic Coast in Veracruz.
Plantations	Timber from communal and privately owned plantations of native and exotic species.

This matrix summarises the findings of the timber legality risk assessment set out in this report.

Legal Category	Sub-Category	Risk conclusion			
		Temperate forest		Tropical forest	Plantation
		Pine and Oak	At risk species		
Legal rights to harvest	1.1 Land tenure and management rights	Low	Low	Low	Low
	1.2 Concession licenses	N/A	N/A	N/A	N/A
	1.3 Management and harvesting planning	Low	Low	Specified	Low
	1.4 Harvesting permits	Specified	Specified	Specified	Specified
Taxes and fees	1.5 Payment of royalties and harvesting fees	N/A	N/A	N/A	N/A
	1.6 Value added taxes and other sales taxes	Specified	Specified	Specified	Specified
	1.7 Income and profit taxes	Specified	Specified	Specified	Specified
Timber harvesting activities	1.8 Timber harvesting regulations	Low	Low	Specified	Low
	1.9 Protected sites and species	Specified	Specified	Specified	Specified
	1.10 Environmental requirements	Specified	Specified	Specified	Specified
	1.11 Health and safety	Specified	Specified	Specified	Specified
	1.12 Legal employment	Specified	Specified	Specified	Specified
Third parties' rights	1.13 Customary rights	N/A	N/A	N/A	N/A
	1.14 Free prior and informed consent	N/A	N/A	N/A	N/A
	1.15 Indigenous/traditional people's rights	Specified	Specified	Specified	Specified
Trade and transport	1.16 Classification of species, quantities, qualities	Specified	Specified	Specified	Specified
	1.17 Trade and transport	Specified	Specified	Specified	Specified
	1.18 Offshore trading and transfer pricing	N/A	N/A	N/A	N/A
	1.19 Custom regulations	Specified	Specified	Specified	Specified
	1.20 CITES	Specified	Specified	Specified	Specified
	1.21 Legislation requiring due diligence/due care procedures	N/A	N/A	N/A	N/A

C. Overview of the forest sector in Mexico

Mexico has a total area of 197.3 million hectares, approximately one-third of which is covered by forests or rainforests (temperate and/or tropical), mangroves or plantations. However, when areas covered by vegetation in arid and semiarid zones are included as part of the country's forested area, then a little over two-thirds of the land surface (138 million hectares) is covered by vegetation (Murillo, C., 2014).

The Corruption Perception Index of Mexico is 30 (2016), below FSC's threshold of 50.

A total of 77% of the entire area of the country is considered to have the potential to produce timber and non-timber forest products, and 22% would require some type of restoration. (Evolution and current situation in the forest sector (Evolución y situación actual del sector forestal) <http://www.fao.org/docrep/009/j7354s/j7354s07.htm>).

There are 3,887 million cubic metres of roundwood in Mexico distributed over 63 million hectares. A plurality of these inventories (32%) are located in areas where coniferous and broadleaf species grow, followed by tall and medium forests (28%); the third largest are coniferous forests with 18% of the total inventory, followed by broadleaf species (12%), and lastly low forests, which have the smallest proportion (10%) of the timber inventory (2004-2009 National Forest and Soil Inventory (Inventario Nacional Forestal y de Suelos 2004 – 2009)).

The area certified by FSC in Mexico is 876,919.85 hectares, 98.4 % of which corresponds to natural forest management and 1.6% to plantations (exclusively of exotic species). In addition, 96.08 % of the total certified area is communal property (communities or community-owned forest (ejidos), and the remaining 3.92% is private property (www.info.org.fsc).

The harvesting of temperate forests is concentrated in coniferous forests, which are dominated by pine species (*Pinus* spp.) and, to a lesser extent, oak (*Quercus* spp.), *Abies* spp., *Alnus* spp., *Juniperus* spp., among others. In the case of tropical forests, the harvested species include mahogany (*Swietenia macrophylla*), cedar (*Cedrela odorata*), black poisonwood (*Metopium brownei*), sapodilla (*Manilkara zapota*), granadillo (*Platymiscium yucatanum*), machiche (*Lonchocarpus castilloi*), gregorywood (*Bucida buceras*), katalox (*Swartzia lundellii*) and ziricote (*Cordia dodecandra*), among others.

The coniferous forests are found in the high plains of the Sierra Madre Occidental and Oriental, as well as in the Trans-Mexican Volcanic Belt in central Mexico. The tropical forests are concentrated in the Yucatan Peninsula, in the states of Quintana Roo, Tabasco, Campeche and Yucatan, and to a lesser degree in parts of the Pacific foothills and coast, such as Nayarit, Jalisco, Colima, Michoacan, Guerrero, Oaxaca and Chiapas, as well as the coast of Veracruz.

Authorisation to harvest forest resources is granted by the Ministry of the Environment and Natural Resources (Secretaría de Medio Ambiente y Recursos Naturales (SEMARNAT, Spanish acronym)), in accordance with the General Law for Sustainable Forest Development (Ley General de Desarrollo Forestal Sustentable (LGDFS, Spanish acronym)) and its Regulation.

In natural forests, forest harvesting is authorised through a Forest Management Programme, and because this applies to tropical rainforests over 20 ha, difficult-to-regenerate species and protected nature areas, an environmental impact statement must also be submitted and approved, as stipulated by the General Law for Ecological Balance and Environmental

Protection (Ley General del Equilibrio Ecológico y la Protección al Ambiente (LGEEPA, Spanish acronym)).

Before harvesting voluntary forest plantations, a Proof of Plantation Registration (Constancia de Registro de Plantación) must be submitted. If this has not been done, according to Provisional Article 5 of the Regulation pertaining to the Sustainable Forest Development Law (Ley de Desarrollo Forestal Sustentable), forest plantations that were planted before 26 May, 2003 (the date on which the Sustainable Forest Development Law entered into force) are permitted to be registered. As a harvesting instrument, the Simplified Forest Plantation Management Programme (Programa de Manejo de Plantación Forestal Simplificado) is submitted to SEMARNAT.

In addition, the country has the national norm NOM-059-SEMARNAT-2010, "Environmental Protection-Native Flora and Fauna Wildlife Species of Mexico-Risk Categories and Specification for Inclusion, Exclusion or Change- List of Species at risk" ("Protección Ambiental - Especies Nativas de México de Flora y Fauna Silvestres - Categorías de Riesgo y Especificaciones para su Inclusión, Exclusión o Cambio-Lista de Especies en Riesgo"), which lists and classifies the different flora and fauna species found in any Risk Category. These categories are: a) Probably Extinct in the Wild (Probablemente Extinta en el Medio Silvestre), b) Endangered (En Peligro de Extinción), c) Threatened (Amenazadas), and d) Subject to Special Protection (Sujetas a Protección Especial). To harvest any of the forest species found in any of the above categories, authorisation is required from an Environmental Management Unit (Unidad para Manejo Ambiental (UMA, Spanish acronym)), according to the guidelines in the General Wildlife Law (Ley General de Vida Silvestre), with the approval from SEMARNAT.

A Forest Permit (Remisión Forestal) issued by SEMARNAT is required to transport harvested forest products that are authorised through Forest Management Programmes (Programas de Manejo Forestal), and either a Forest Permit (Remisión Forestal) or Commercial Invoice (Factura Comercial) is required for products that are authorised through the Simplified Forest Plantation Management Programme (Programa de Manejo de Plantaciones Simplificado). For products derived from a UMA, the timber is transported with a Permit (Remisión) (template form) to harvest timber in a UMA, with approval from SEMARNAT. When transporting chips, the legal instrument used is an invoice, since Forest Permits are not issued for this purpose. No transport document is needed for roundwood, planks or firewood for domestic use (small amounts). The Federal Environmental Protection Agency (Procuraduría Federal de Protección al Ambiente (PROFEPA)) is responsible for verifying compliance with the above Laws and Regulations, using the Forest Re-shipment as the shipping document.

The establishment of sawmills, timber warehouses and other types of timber processing facilities requires a "Facility Operating Authorisation for Storage and Raw Forest Material Processing" ("Autorización de Funcionamiento de Centro de Almacenamiento y Transformación de Materias Primas Forestales"), issued by SEMARNAT.

To export species listed in CITES Appendices I and II, a Non-Detriment Extraction Finding (Dictamen de Extracción No Perjudicial) is required, guaranteeing that the exportation is sustainable and does not affect wildlife populations. Having this, a CITES permit is issued.

The legal requirements for harvesting and processing forest resources are specific to the various types of land ownership, such as: ejidos, communities, indigenous communities, private, federal, state, Mexico City, and municipalities that are the owners of land where the forest resources are located. They also depend on the different types of forests: coniferous,

broadleaf, tall and medium rainforest, low forest, cloud forest, mangrove and other forest types.

D. Legality Risk Assessment

LEGAL RIGHTS TO HARVEST

1.1. Land tenure and management rights

Legislation covering land tenure rights, including customary rights as well as management rights that includes the use of legal methods to obtain tenure rights and management rights. It also covers legal business registration and tax registration, including relevant legal required licenses. Risk may be encountered where land rights have not been issued according to prevailing regulations and where corruption has been involved in the process of issuing land tenure and management rights. The intent of this indicator is to ensure that any land tenure and management rights have been issued according to the legislation.

1.1.1. Applicable laws and regulations

- Political Constitution of the United Mexican States, Articles 2, 27 (Constitución Política de los Estados Unidos Mexicanos). Available at: http://www.dof.gob.mx/constitucion/marzo_2014_constitucion.pdf
- Agrarian Law, Articles 9, 10, 11, 50, 103, 16, 107, 135 (Ley Agraria). Available at: http://www.diputados.gob.mx/LeyesBiblio/ref/lagra/LAgra_orig_26feb92_ima.pdf
- Federal Fiscal Code, Articles 32F, 157 (Código Fiscal de la Federación). Available at: <http://www.diputados.gob.mx/>

1.1.2. Legal authority

- Ministry of Agrarian, Territorial and Urban Development (*Secretaría de Desarrollo Agrario, Territorial y Urbano* (SEDATU, Spanish acronym))
- Agrarian Legal Department (*Procuraduría Agraria* (PA, Spanish acronym))
- National Agrarian Registry (*Registro Agrario Nacional* (RAN, Spanish acronym))
- Public Registry of Properties (*Registro Público de la Propiedad* (RPP, Spanish acronym))
- Ministry of Urban and Ecological Development (*Secretaría de Desarrollo Urbano y Ecología*)
- National Commission for the Development of Indigenous Peoples (*Comisión Nacional para el Desarrollo de los Pueblos Indígenas* (CDI, Spanish acronym))
- Treasury and Public Credit Ministry (*Secretaría de Hacienda y Crédito Público* (SHCP, Spanish acronym))

1.1.3. Legally required documents or records

Any of the following documents:

- Basic File (Carpeta Básica) (presidential decree executed, with the affidavit of possession and final property lines)
- Proof of agrarian rights issued by the National Agrarian Registry (Registro Agrario Nacional)

- Certificate of plot rights
- Certificate of agrarian rights
- Public registration of title in the Public Registry of Property (Registro Público de la Propiedad)
- Document granting the producer recognition as the legal representative and administrator for the purpose of legal harvesting on the property
- Legal ruling adjudicating inheritance or bequest
- Rental contract
- Certificate of usufruct issued by the municipal authority
- Certificate issued by the State Government

1.1.4. Sources of information

Government sources

- phina.ran.gob.mx (N.Y.) *National system to search for national property records in Mexico*. [online]. Available at: <http://phina.ran.gob.mx>
- pa.gob.mx (N.Y.) *PROCEDE Records (Antecedentes del PROCEDE)*. [online]. Available at: <http://www.pa.gob.mx/publica/pa070113.htm>
- pa.gob.mx (N.Y.) *Estadísticas*. [online]. Statistics on agrarian groups. Available at: http://www.pa.gob.mx/publica/rev_42/ESTADISTICAS/Estad%C3%ADsticas_12.pdf
- Rivera Rodriguez, I. (N.Y) *Derecho agrario integral*. [online]. Theoretical framework regarding agrarian rights in Mexico. Available at: <http://www.pa.gob.mx/publica/pa070206.htm>
- Lopez Barcenas, F. (N.Y). *Territorios indígenas y conflictos agrarios en México*. [online]. (Indigenous Territories and Agrarian Conflicts in Mexico). Available at: http://www.pa.gob.mx/publica/rev_32/lopez.pdf
- transparenciapresupuestaria.gob.mx (N.Y.) *Diagnóstico del programa presupuestario del Registro Agrario Nacional*. [online]. (Evaluation of the budgetary programme of the National Agrarian Registry). Available at: http://www.transparenciapresupuestaria.gob.mx/work/models/PTP/Reingenieria_Gasto/imagenes/Ventanas/Ramo_15/15U001.pdf
- gob.mx (N.Y.). *Agrarismo en México*. [online]. (Agrarianism in Mexico). Available at: <http://www.gob.mx/presidencia/articulos/museo-virtual-agrario>

Non-Government sources

- Orozco Garibay, P.A. (2010). *Naturaleza el ejido de la propiedad ejidal, características y limitaciones*. [online]. (The Nature of Community-Owned Farms (ejido) and Community-Owned Property (ejidal), characteristics and limitations). Mexican Law Journal (Revista Mexicana de Derecho), Issue 12, Mexico 2010. Available at: <https://revistas-colaboracion.juridicas.unam.mx/index.php/rev-mexicana-derecho/article/view/14086/12575>

- publicaciones.inecc.gob.mx (2009). *Social Forest Property in Mexico (La propiedad social forestal en México)* [online]. Article from the Environmental Research Journal (Revista Investigación Ambiental). Available at:
<http://www2.inecc.gob.mx/publicaciones/gacetas/627/propiedad.pdf>
- A. Jimenez (2005). *Impact of land tenure on cultural heritage. (Impacto de la tenencia de la tierra en el patrimonio)* [online]. Extract from: Management of Archaeological Heritage in Mexico. Valuation and proposals. (La gestión del patrimonio arqueológico en México. Valoración y propuestas). Available at:
<http://etzakutarakua.colmich.edu.mx/proyectos/curutaran/publicaciones/Tenencia%20de%20la%20tierra%20y%20patrimonio.pdf>
- Mexico National Human Rights Commission (Comisión Nacional de los Derechos Humanos México) (2012). *Human Rights of Indigenous Peoples in Mexico (Derechos Humanos de los Pueblos Indígenas en México)*. [online]. Available at:
http://www.cndh.org.mx/sites/all/doc/cartillas/14_Cartilla_DH_Pueblos_Indigenas.pdf
- Reyes, J. A., D'Acosta (Eds.). (2012). *Memorias del Seminario Propiedad Social y Servicios Ambientales 8 de noviembre de 2011, (Memories of the Seminar Social Property and Environmental Services)* [online]. Seminar Report, City of México. Available at:
http://www.ccmss.org.mx/descargas/Memorias_del_seminario_propiedad_social_y_servicios_ambientales.pdf
- Quadri, G. (2012). *Forests: Collective or Private Property" (Bosques: Propiedad colectiva o privada)* [online]. News article. Available at:
<http://eleconomista.com.mx/columnas/columna-especial-empresas/2012/09/06/bosques-propiedad-colectiva-o-privada>
- Public FSC FM reports (please refer to fsc-info.org and include on the certificate code FM/COC and the country Mexico). Example:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00P33000000mrbccEAA>

Interviews with experts:

Conversations with various experts during March and April 2016 helped the authors of this report to better understand the applicable legislation and the risks associated with legal rights of land ownership and the use of resources.

1.1.5. Risk determination

Overview of legal requirements

Political Constitution of the United Mexican States (Constitución Política de los Estados Unidos Mexicanos)

Recognizes and guarantees the right of indigenous peoples and communities to free will and, consequently, autonomy to:

V. Conserve and improve the habitat and preserve the integrity of their lands according to the terms established by the Constitution.

VI. With respect to the forms and modalities of land ownership and tenure established by this Constitution and the laws on this matter, as well as rights acquired by third parties or by members of the community, to have preferential use and enjoyment of the natural resources

on the sites inhabited and occupied by the communities, except those areas corresponding to strategic areas as defined by this Constitution. In this regard the communities shall have freedom of association under the terms of the law.

The ownership of land and water located within the borders of the national territory originally belongs to the Nation, which has had and continues to have the right to transfer their domain to private parties, constituting private ownership.

The Nation shall at all times have the right to impose on private land the modalities dictated by the public interest, as well as regulate, for the social welfare, the exploitation of the natural elements that can be subject to appropriation, in order to equally distribute the public wealth, conserve it, achieve the balanced development of the country and improve the living conditions of rural and urban populations.

The legal personality of the population groups belonging to ejidales and communally-owned land is recognized, and their ownership of the land is protected, for human settlement as well as productive activities.

The law, in consideration of respecting and strengthening the community life of the ejidos and communities, shall protect the land for human settlement and regulate the exploitation of communal land, forests and water, and take the actions necessary to raise the living standards of the inhabitants.

The law shall protect the integrity of the lands belonging to indigenous groups.

Agrarian Law (Ley Agraria)

Ejidos operate according to internal regulations, with no restrictions on their activities other than those stipulated by law. Their regulations shall be registered with the National Agrarian Registry (Registro Agrario Nacional) and shall contain the general bases, freely adopted, for the economic and social organization of the community, the requirements for accepting new community landholders (ejidatarios), the rules for the exploitation of the community-owned land, and the other regulations contained in this law must be included in the regulation as well as all others that each ejido considers pertinent.

Collective exploitation of community-owned property (ejidales) can be adopted by a ejido when its assembly decides to do so, prior to which the rules regarding how to organize the work and exploit the natural resources of the ejido shall be established, as well as the mechanisms by which the benefits, capital reserves, social security or services, and the communal funds shall be equally distributed.

All the internal regulations stipulated in this law for ejidos are applicable to communities, as long as they do not contravene what is established by the present law.

General Law of National Assets (Ley General de Bienes Nacionales)

The federal maritime-terrestrial zone and reclamation ground shall not be subjected to agrarian uses and, consequently, shall not be included in presidential decrees pertaining to grants, expansion or restitution. Neighbouring ejidos or communities shall have priority when granting concession licenses to exploit these properties.

Fiscal Code of the Federation (Código Fiscal de la Federación)

This code stipulates that communities and ejidos are exempt from seizure.

Description of Risk

Although litigation and lack of clarity regarding property limits exist in Mexico, the level of legal certainty is considered to be sufficient as far as land ownership and the right to exploit the natural resources found on it are concerned. For the authorization of a Forest Management Program the manager must prove land tenure, which is analysed by a committee of agrarian authorities and the Legal Department of SEMARNAT. If there is a problem, the committee produces a document stating that there is land tenure dispute. The committees operate in each state of Mexico coordinated by SEMARNAT and State Government. Areas of land that are the subject of ongoing disputes or conflict are typically protected from exploitation and none of the parties laying claim to such areas harvest forest resources or other types of resources existing therein (confirmed by interviews with experts).

Meanwhile, the PROCEDE programme (Certification Programme for Community-Owned Property (ejidales) Rights and Land Titles (Programa de Certificación de Derechos Ejidales y Titulación de Solares), which terminated in December 2006, certified 91.5% of the ownership of community-owned property (ejidales) and/or communally-owned lands. Later, through FANAR (Fund to Support Agrarian Groups without Regularization (Fondo de Apoyo para Núcleos Agrarios sin Regularizar)), and until December 2009, other properties continued to be certified, with 92.07% of all property regularized to date. Although information is not available after December 2009, it can be inferred that the programme has continued to operate and that 95% of ownership is most likely certified (see PROCEDE Records (Antecedentes del PROCEDE)). In addition, the 52% of the land is Social property (correspond to ejido and community), 38% is private rural property, 4% correspond to federal zones, 4% is national land and 2% is agricultural / livestock colonies.

Regarding private property, unless there is a situation of conflict with another property, in this type of tenure, the certainty of ownership is clearer and there are documents that prove it (based on experience and public reports by FSC authorities). At the national level, this type of property represents 35% (Quadri G., 2012).and the documents that demonstrate this are available (experience and public reports by FSC authorities). At the national level, this type of property represents 35% (Quadri, G. 2012).

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.1.6. Risk designation and specification

Low risk

1.1.7. Control measures and verifiers

N/A

1.2. Concession licenses

Legislation regulating procedures for the issuing of forest concession licenses, including use of legal methods to obtain concession license. Especially bribery, corruption and nepotism are well-known issues in connection with concession licenses. The intent of this indicator is to avoid risk related to situations where organizations are obtaining concession licenses via illegal means such as bribery, or where

organizations or entities that are not eligible to hold such rights do so via illegal means. Risk in this indicator relates to situations where due process has not been followed and the concession rights can therefore be considered to be illegally issued. The level of corruption in the country or sub-national region is considered to play an important role and corruption indicators (e.g., Corruption Perception Index, CPI) should therefore be considered when evaluating risks.

1.2.1. Applicable laws and regulations

N/A. This legal sub-category does not apply to Mexico since concession licensing processes do not exist. These were discontinued in 1982, returning the right to exploit and manage their resources to those in possession of the land. Currently, permits are used only for harvesting or exploitation (which is described in sub-category 1.4 below).

1.2.2. Legal authority

N/A

1.2.3. Legally required documents or records

N/A

1.2.4. Sources of information

N/A

1.2.5. Risk determination

N/A

1.2.6. Risk designation and specification

N/A

1.2.7. Control measures and verifiers

N/A

1.3. Management and harvesting planning

Any legal requirements for management planning, including conducting forest inventories, having a forest management plan and related planning and monitoring, as well as approval of these by competent authorities. Cases where required management planning documents are not in place or are not approved by competent authorities should be considered. Low quality of the management plan resulting in illegal activities may be a risk factor for this indicator as well.

1.3.1. Applicable laws and regulations

- General Law of Sustainable Forest Development, Articles 73-82 (Ley General de Desarrollo Forestal Sustentable). Available at: http://www.profepa.gob.mx/innovaportal/file/3264/1/ley_general_de_desarrollo_forestal_sustentable.pdf
- Regulation pertaining to the General Law for Sustainable Development, Articles 28, 37 – 52, 93 – 110 (Reglamento de la Ley General de Desarrollo Sustentable). Available at: http://www.diputados.gob.mx/LeyesBiblio/regley/Reg_LGDFS_311014.pdf

- Official Mexican Norm NOM-152-SEMARNAT-2006. Available at: http://www.ccmss.org.mx/wp-content/uploads/2014/10/Norma_oficial_mexicana_programas_de_manejo_forestal.pdf

1.3.2. Legal authority

- Ministry of the Environment and Natural Resources (Secretaría del Medio Ambiental y Recursos Naturales (SEMARNAT))
- General Department of Wildlife (Dirección General de Vida Silvestre)
- Legal Department of the Federal Environmental Protection Agency (Procuraduría General de Protección al Ambiente (PROFEPA)) National Commission for Knowledge and Use of Biodiversity (Comisión Nacional para el Conocimiento y Uso de la Biodiversidad (CONABIO))
- Municipal authorities

1.3.3. Legally required documents or records

- Forest Management Programme (Programa de Manejo Forestal)
- Forest Management Programme Authorisation (Autorización de Programa de Manejo Forestal)
- Authorisation for extractive harvesting of specimens, parts or derivatives, modality B for specimens of at-risk wildlife species
- Plantation harvesting notice
- Proof of Plantation Registration (Constancia de Registro de Plantación)

1.3.4. Sources of information

Non-Government sources

- FAO (2005). *Characterization of the Forest Sector (Caracterización del sector forestal)*. [online]. Available at: <http://www.fao.org/docrep/006/j2215s/j2215s06.htm>
- FAO (2005). *Study of Trends and Perspectives in the Forest Sector in Latin America. (Estudio de tendencias y perspectivas del sector forestal en América Latina)* [online]. Available at: <http://www.fao.org/docrep/006/j2215s/j2215s08.htm>
- ITTO (2012). *Diagnóstico del potencial, productividad y manejo de especies nativas maderables tropicales con alto potencial comercial (Diagnostic of Tropical Species with High Commercial Potential)*. [online] Available at: http://www.itto.int/files/itto_project_db_input/2596/Technical/Capitulo%202%20Diagnóstico%20del%20potencial,%20productividad%20y%20manejo%20de%20especies%20nativas%20maderables.pdf

Interviews with Experts

Conversations with various experts during March and April 2016 helped the authors of this report to better understand the applicable legislation and the risks associated with planning and management of harvesting.

1.3.5. Risk determination

Overview of Legal Requirements

To develop the Forest Management Programme (the management instrument for the harvesting of forest resources in an area for the subsequent felling cycle) a forest inventory must be performed to identify the volumetric inventory, timber stand structures and distribution for forest management planning.

In addition, several instruments are used for the planning of the authorisation of the Forest Managements Programme. The main differences between those documents pertain to the size of the property. Plantations, on the other hand, are regulated by another, far simpler management instrument compared to the one that is used to request authorisation for natural forest management.

The main difference between temperate forest and tropical rainforest harvesting is that the latter also requires an Environmental Impact Statement.

General Law of Sustainable Forest Development (Ley General de Desarrollo Forestal Sustentable)

This law establishes that authorisation is required from SEMARNAT to harvest timber forest resources on forest land or potential forest land. This authorisation shall include the authorisation of the Management Programme.

In addition, the law stipulates that all legal documents (e.g. property land, presidential resolution from the ejido) must be included in the Forest Management Programme when requesting authorisation.

An Environmental Impact Statement must be presented to SEMARNAT as the agency responsible when rainforests over 20 ha, difficult-to-regenerate forest species and protection areas are involved.

To obtain authorisation to harvest timber forest resources in areas under or equal to 20 ha, the corresponding Forest Management Programme shall be consolidated into a plot or set of plots no larger than 250 hectares.

When harvesting timber forest resources in areas over 20 hectares and under 250 hectares, the interested party must present an intermediate-level Forest Management Programme.

When harvesting timber forest resources in areas over 250 hectares, the interested party must present an advanced-level Forest Management Programme.

The contents and requirements of these programme levels shall be determined by the Regulation pertaining to this Law, and actions to foster natural regeneration, or, when applicable, reforestation options with native species, shall always be considered.

Regulation pertaining to the General Law for Sustainable Development (Reglamento de la Ley General de Desarrollo Sustentable)

The Ministry shall process requests for authorisation to harvest forest resources according to the stipulations in the Law and the Regulation.

The different elements that shall be contained in the Forest Management Programme shall be considered.

In the case of commercial forest plantations on forest land or plots with areas under or equal to 800 hectares, only written notice from the interested party to the Ministry is required.

In addition, SEMARNAT shall register in the National Forest Registry (Registro Forestal Nacional) all commercial forest plantations established prior to the coming into effect of the General Law for Sustainable Forest Development and for which there is no corresponding registry.

Official Mexican Norm NOM-152-SEMARNAT-2006

This norm establishes guidelines, criteria and specifications as to the content of the Forest Management Programme regarding the harvesting of timber forest resources in forests and rainforests, and vegetation in arid zones.

The most important parts of the norm are the sections:

- 5- Criteria and specifications of the contents of the management programs
6. Timber and non-timber harvesting
7. Structure for presentation of management program
8. Procedure for conformity assessment
9. Degree of compliance with international standards and recommendations
10. Compliance with the Standard

One important point in the norm is its classification of land:

- Conservation and Restricted Harvesting Areas: areas with forest vegetation which, because of their physical and biological characteristics, are subject to protection, with restricted harvesting that does not place the land, water quality or biodiversity at risk. This includes:

- a) Protection Areas;
- b) Areas to conserve and protect existing habitat for at-risk species and subspecies of flora and fauna that are indicated in the applicable regulation;
- c) Protected buffer strips for riverside vegetation according to the official Mexican norms and other applicable regulations;
- d) Areas with slopes greater than 100% or 45 degrees;
- e) Areas more than 3,000 metres above sea level; and
- f) Areas with mangrove or cloud forest vegetation.

- Production Areas: areas in which forest resources can be sustainably harvested due to their vegetation, climate and land conditions;

- Restoration areas: areas where the forest vegetation and productivity of the land have been significantly altered and require rehabilitation actions;

- Forest Protection Areas as declared by the Ministry; and

- Areas used for other purposes.

Description of Risk

In the rainforests in Mexico, few regions that are designated solely for forestry activity, such as permanent forest areas, exist. In most cases, extraction is performed selectively in forest fallows (guamiles), mature secondary forests, or very isolated areas, including those that are protected. When forest activity is conducted in a permanent forest area, it is generally done with extensive management systems for target species (typically red cedar and mahogany). Since these systems define the felling cycle, silviculture treatment and harvesting system according to the target species, the impact of these activities on other species is difficult to measure. The management problem is further affected by the low yield of target species (under 1.5 m³/ha/25-year cycle), scarce regeneration (Negreros et al., 2000, cited by FAO, 2005, Characterization of the Forest Sector (Caracterización del sector forestal)) and little potential for stable markets for other species that grow in the tropical rainforest. For the purposes of the management system, the harvested volume is estimated based on the volume of inventoried tree with a diameter over 55 cm for precious species and over 35 cm for common tropical species (FAO, 2005, Characterization of the Forest Sector (Caracterización del sector forestal)).

The felling cycle does not have a consistent technical basis and is not consistent with silvicultural needs. Since felling is regulated according to volume without controlling the residual structure, the estimated harvest volume is often larger than the sustainable volume. Nevertheless, the planning of felling based on the land area is adequate for the site, but because of a lack of stratification of sites by productivity, those with low productivity tend to be over-exploited, and those with high productivity under-exploited (Torres et al., 2003 cited by FAO, 2005, Characterization of the Forest Sector (Caracterización del sector forestal)).

Harvesting in rainforests is based on the assumption of an annual increase of 0.5 cm for hard woods and decorative woods, 0.7 cm for precious woods, and 1.0 cm for soft woods. In addition, an intensity of 80% is harvested. Nevertheless, future harvest inventories are not considered during inventories of the current harvest. Doing so would make it possible to more accurately define whether the felling intensity is appropriate for maintaining the various species (Diagnostic of Tropical Species with High Commercial Potential, 2012 (Diagnóstico de Especies Tropicales con Alto Potencial Comercial)).

In the case of forests in temperate climates, the areas under authorised management are estimated to be among the best in terms of yields, which constitutes a solid basis for sustainable management (PEF-2025, 2001).

Poor management in tropical and temperate forests has decreased the density of populations to under the technically desirable amount, resulting in forest loss in most of the forests. This state of forest loss in Mexico reflects a historical lack of regulation and land management principles for forest harvesting (for example, in forests in temperate climates, the inappropriate application of the Silviculture Development Method (Métodos de Desarrollo Silvícola (MDS, Spanish acronym) in regions with small properties or with a large diversity of species). Under these circumstances, the MDS results in the inventory being reduced below sustainable harvest levels and in a notable decrease in the productivity of sites (FAO, 2005, Characterization of the Forest Sector (Caracterización del Sector Forestal)).

Furthermore, the incomplete application of regulatory procedures, as well as a lack of information about inventories and forest growth in tropical areas, has resulted in the elimination of precious woods surpluses, and a notable change in the structure and composition of tropical forests which poses a risk to many of the tropical areas subject to

forest harvesting. Such results are notable in states like Quintana Roo, Chiapas and Tabasco where the majority of the areas subject to harvesting have undergone a drastic reduction in harvest volumes. The yields in forest zones vary greatly. Zones with good yields can reach up to 8 m³/ha/year for commercial species, while there are also extensive zones where the yield is under 2 m³/ha/year. Meanwhile, in places where only the first felling stage is verified, overall harvest volumes are relatively low, ranging from 10-15 m³/ha/year to 50-60 m³/ha/year (FAO, 2005, Characterization of the Forest Sector (Caracterización del Sector Forestal)).

In zones with small yields and low density, management programmes are commonly modified in order to permit advanced or accumulated annuities (in order to make the harvest more profitable), resulting in an increase in the environmental impact on the harvested area. The application of management systems to specific conditions is not regulated or monitored by the authority responsible for granting harvesting permits, and therefore the application of management systems that are completely incompatible with the relevant environment is common. In addition, the harvesting system is greatly deficient, which further decreases the already low productivity. There are several species and sizes (diameter classes) that are not used or the use of which is greatly below their potential. This is due to technological limitations or to a lack of forest management that ensures enough product quality and quantity to maintain a share of the market (FAO, 2005, Characterization of the Forest Sector (Caracterización del Sector Forestal)).

Risk Conclusion

This indicator has been evaluated as specified risk for Tropical Forest. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

This indicator has been evaluated as low risk for Temperate Forest (two types) and Plantations. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.3.6. Risk designation and specification

Low risk for Temperate Forest (two types) and Plantations

Specified risk for Tropical Forest

1.3.7. Control measures and verifiers

- Verify the existence of a Programme for Forest Management (Programa de Manejo Forestal), the harvest extraction rate of the species in the UMA or the harvesting Notice (Aviso) for commercial plantations, approved by SEMARNAT.
- Verify the existence of a Forest Technical Service Provider (Prestador de Servicios Técnicos Forestales) duly registered as responsible for developing and implementing the management plan.
- Undertake a review of documentation that reflects the process for authorisation of the Programme for Forest Management (Programa de Manejo Forestal) and/or the

Environmental Impact Statement, including harvesting reports as well as complementary information such as maps showing management areas and neighbouring areas.

- Undertake a review of the commitment to reforestation or commitments established in the Programme for Forest Management (Programa de Manejo Forestal).
- Have a silviculture and environmental monitoring system.

1.4. Harvesting permits

Legislation regulating the issuing of harvesting permits, licenses or other legal document required for specific harvesting operations. It includes the use of legal methods to obtain the permit. Corruption is a well-known issue in connection with the issuing of harvesting permits. Risk relates to situations where required harvesting is carried out without valid permits or where these are obtained via illegal means such as bribery. In some areas, bribery may be commonly used to obtain harvesting permits for areas and species that cannot be harvested legally (e.g., protected areas, areas that do not fulfil requirements of minimum age or diameter, tree species that cannot be harvested, etc.). In cases where harvesting permits classify species and qualities to estimate fees, corruption and bribery can be used to classify products that will result in a lower fee. The level of corruption in a country or sub-national region is considered to play an important role and corruption indicators should therefore be considered when evaluating risks. In cases of illegal logging, harvesting permits from sites other than the actual harvesting site may be provided as a false proof of legality with the harvested material.

1.4.1. Applicable laws and regulations

- General Law for Sustainable Forest Development, Articles: 58 section II, 62, 73 – 106, 113 – 115 (Ley General de Desarrollo Forestal Sustentable):
http://www.profepa.gob.mx/innovaportal/file/3264/1/ley_general_de_desarrollo_forestal_sustentable.pdf
- Regulation pertaining to the General Law for Sustainable Forest Development, Articles 57, 71, provisional art 5. (Reglamento de la Ley General de Desarrollo Sustentable):
http://www.diputados.gob.mx/LeyesBiblio/regley/Reg_LGDFS_311014.pdf
- General Wildlife Law, Articles 40, 82, 83, 84, 87 (Ley General de Vida Silvestre):
<http://biblioteca.semarnat.gob.mx/janium/Documentos/Ciga/libros2009/ACD000824.pdf>
- Regulation pertaining to the General Wildlife Law, Articles 33, 51 (Reglamento General de la Ley de Vida Silvestre) http://www.diputados.gob.mx/LeyesBiblio/regley/Reg_LGVS.pdf
- Organic Law of the Federal Public Administration, Article 32 BIS (Ley Orgánica de la Administración Pública Federal) Available at:
<https://sre.gob.mx/component/phocadownload/category/2-marco-normativo?download=5:ley-organica-de-la-administracion-publica-federal>
- Internal Regulation of the Ministry of the Environment and Natural Resources, Article 40, section IX. (Reglamento Interior de la Secretaría de Medio Ambiente y Recursos Naturales): <http://www.diputados.gob.mx/LeyesBiblio/regla/n25.pdf>
- General Law for Ecological Balance and Environmental Protection, Articles 5, 79, 80 section I, 82 (Ley General del Equilibrio Ecológico y Protección al Ambiente):
http://www.profepa.gob.mx/innovaportal/file/1133/1/ley_general_del_equilibrio_ecologico_y_la_proteccion_al_ambiente.pdf

- Official Mexican Norm NOM-152-SEMARNAT-2006 (stipulates the requirements for developing Programme for Forest Managements (Programas de Manejo Forestal): <http://www.ccmss.org.mx/documentacion/766-norma-oficial-mexicana-programas-de-manejo-forestal/>

1.4.2. Legal authority

- Ministry of the Environment and Natural Resources (Secretaría del Medio Ambiental y Recursos Naturales (SEMARNAT, Spanish acronym))
- Legal Department of the Federal Environmental Protection Agency (Procuraduría General de Protección al Ambiente (PROFEPA, Spanish acronym))

1.4.3. Legally required documents or records

- Authorisation of the Programme for Forest Management
- Authorisation of the extractive harvesting of species, parts or derivatives, modality B of specimens of at-risk wildlife species
- Proof of Plantation Registration (Constancia de Registro de Plantación)

1.4.4. Sources of information

Government sources

- PROFEPA Report 2012 (Informe de Profepa): http://www.profepa.gob.mx/innovaportal/file/5322/1/iap_2012_260813.pdf

Non-Government sources

- ccmss.org (2009). *Impacts of the Economic Crisis on the Forest Sector in Mexico (Impactos de la crisis económica en el sector forestal mexicano)*. [online]. Available at: http://www.ccmss.org.mx/descargas/NOTA_INFORMATIVA_NUMERO_25.pdf
- FAO (2005). *Study of Trends and Perspectives in the Forest Sector in Latin America. (Estudio de tendencias y perspectivas del sector forestal en América Latina)* [online]. Available at: <http://www.fao.org/docrep/006/j2215s/j2215s08.htm>
- Illegal Logging Portal (N.Y.) [online]. Available at: <http://www.illegal-logging.info/regions/mexico>
- transparency.org (2014). Transparency International's Corruption Perception Index 2014. [online]. Available at: <http://www.transparency.org/country/#MEX>
- ITTO (2012). *Diagnóstico del potencial, productividad y manejo de especies nativas maderables tropicales con alto potencial comercial (Diagnostic of Tropical Species with High Commercial Potential)*. [online] Available at: http://www.itto.int/files/itto_project_db_input/2596/Technical/Capitulo%202%20Diagnóstico%20del%20potencial,%20productividad%20y%20manejo%20de%20especies%20nativas%20maderables.pdf
- Twitter.com (2016) *Reforest Mexico (Reforestamos México)*. [online]. The Current Situation with the Legality of Timber Forest Products in Mexican Forests and Rainforests, 2013-2014 Diagnostic (Situación actual de la legalidad de productos forestales maderables

en bosques y selvas mexicanos., Diagnóstico 2013–2014). Available at:

<https://twitter.com/search?q=%23Miercolegal&src=hash>

- Quadri, G. (2012). *Forests: Collective or Private Property*” (*Bosques: Propiedad colectiva o privada*) [online]. News article. Available at: <http://eleconomista.com.mx/columnas/columna-especial-empresas/2012/09/06/bosques-propiedad-colectiva-o-privada>
- Enciso, A. (2014). *Unprecedented Crisis, the Forest Sector* (*Crisis sin precedente, el sector forestal*). [online]. News Article. Available at: <http://www.jornada.unam.mx/2014/08/18/sociedad/041n1soc>
- Suárez, C. (2015). *Deforestation and Illegal Logging in Mexico* (*Deforestación y tala ilegal en México*). [online]. News Article. Available at: <http://terceravia.mx/2015/11/deforestacion-y-tala-ilegal-en-mexico/>
- Azteca Noticias (2015- Video in youtube about illegal logging: <https://www.youtube.com/watch?v=EBil-StCEDc>

Interviews with Experts:

Conversations with various experts during March and April 2016 helped the authors of this report to better understand the applicable legislation and the risks associated with harvesting permits.

1.4.5. Risk determination

Overview of Legal Requirements

General Law for Sustainable Forest Development (Ley General de Desarrollo Forestal Sustentable)

Stipulates the legal documents that must be included in the Forest Management Programme when requesting authorization to harvest.

Indicates that SEMARNAT is the agency responsible for authorisations to harvest timber on forest land or on potential forest land. The law includes a chapter describing the distribution of competences within forest matters (chapter II-responsibilities and competences between “federations” (section 1)- “state and federal district” (section 2)- “municipalities” (section 3)). Also, a description of the responsibilities from the SEMARNAT are included on chapter III-section 1. An Environmental Impact Statement is required for tropical forests over 20 ha, difficult-to-regenerate forest species and protected nature areas.

To obtain authorisation to harvest timber forest resources in areas under or equal to 20 ha, there shall be a simplified management plan.

When harvesting timber forest resources in areas over 20 hectares and under 250 hectares, the interested party must submit an intermediate-level Forest Management Programme.

When harvesting timber forest resources in areas over 250 hectares the interested party must submit an advanced-level Forest Management Programme.

The contents and requirements of these programme levels shall be determined by the Regulation pertaining to this Law, and actions to foster natural regeneration, or, when applicable, reforestation options with native species, shall always be considered.

Specifically, Article 81 says that the Ministry shall respond to requests for authorisation to harvest timber forest resources within 30 working days of the date the request is submitted.

The Ministry shall have up to 60 working days to respond to requests for harvest authorisation as indicated by Article 76 of the present law.

Exception: this period may be increased by up to 60 additional calendar days depending on the characteristics of the project, according to the conditions and terms established by the Regulation.

In the event that incomplete information or documentation is presented, the Ministry shall require that the applicants provide substantiation and motivation in writing, but only once, so that it can be incorporated within a maximum of 15 working days; during this time, the deadline for the procedure is suspended.

After submission of the additional documentation and information to the Ministry, the legal time periods to rule on the request will again take effect. If the required documentation and information is not submitted within 15 working days, the Ministry shall reject the request in question.

Regulation pertaining to the General Law for Sustainable Development (Ley General de Desarrollo Sustentable)

The Ministry shall process requests for authorisation to harvest forest resources according to the stipulations in the Law and its Regulation.

In the case of commercial forest plantations on forest land or plots with areas under or equal to 800 hectares, only written notice from the interested party to the Ministry is required.

In addition, SEMARNAT shall register in the National Forest Registry (Registro Forestal Nacional) all commercial forest plantations established prior to the coming into effect of the General Law for Sustainable Forest Development and for which there is no corresponding registry. Area and species to be planted shall also be registered by SEMARNAT.

Furthermore, authorisation shall not be required to harvest forest resources and raw material for domestic use, except in cases specified by the official Mexican norms and other applicable regulations, and this shall be the responsibility of the owner or landholder of the property in question.

The Ministry shall grant automatic authorisation for stipulations found in Article 84, paragraph 2 of the Law, after verification of the legal record of the interested party, within 5 working days of the date the request is received.

The applicant shall be considered to have an unremarkable legal record when:

- I. The holder of the harvesting permit in question has not violated the Law or the present Regulation with respect to any of the properties that he or she possesses or owns during the two years immediately prior to the date of the request for automatic authorisation, or
- II. The property for which the automatic authorisation is requested has the certification cited in Articles 113 and 114 of the Law.

The interested party shall comply with the requirements established by the Law and the present Regulation and, when applicable, annex to the request one copy of the certificate cited in section II of this article.

General Wildlife Law

This law describes the elements to be included in the Management Plan (Plan de Manejo) in order to register a property as a Wildlife Conservation Management Unit (Unidad de Manejo para la Conservación de Vida Silvestre, (UMA, Spanish acronym)). This applies to the harvesting of certain species designated by official Mexican norm NOM-059-SEMARNAT-2010 and difficult-to-regenerate species.

The law states that the extractive harvesting of wildlife specimens requires prior authorisation from SEMARNAT, in which the rate and duration of the harvest shall be established.

Regulation pertaining to the General Wildlife Law (Reglamento General de la Ley de Vida Silvestre)

Indicates the time periods in which the Ministry shall determine the authorisation of the UMA, as well as matters concerning harvesting performed on federal property.

The general procedure for any person/company that would like to start an activity related with habitat, species and need licences or permits/authorisations from the Secretary should follow the chapter 1 from title 3.

In order to create management plans for the UMA, the company should follow the section 3- chapter 4)

Organic Law of the Federal Public Administration (Ley Orgánica de la Administración Pública Federal)

Indicates that SEMARNAT shall manage and regulate the use and promote the sustainable harvesting of natural resources corresponding to the Federation, except for hydrocarbons and radioactive minerals.

Internal Regulation pertaining to the Ministry of the Environment and Natural Resources (Reglamento Interior de la Secretaría de Medio Ambiente y Recursos Naturales)

Indicates that each delegation of the SEMARNAT has the power to grant permits, licenses, authorisations and their respective modifications, suspensions, cancelations, revocations or expirations, in accordance with applicable legal regulations, and with internal technical and administrative guidelines and those corresponding to systems and procedures established by the Ministry's central administrative units.

General Law for Ecological Balance and Environmental Protection (Ley General del Equilibrio Ecológico y Protección al Ambiente)

This law stipulates the powers of the federation, including, among others, the Environmental Impact Evaluation of work or activities requiring it, as well as regulation for the sustainable use, protection and preservation of national waters, biodiversity and fauna, and other natural resources falling under its jurisdiction.

This law also stipulates the criteria that must be considered for the preservation and sustainable use of wild flora and fauna. This includes, among others: granting of licenses, permits, and in general, any type of authorisation for the use, possession, administration, conservation, repopulation, propagation and development of flora and fauna. These regulations are applicable to exportation.

Description of Risk

The Corruption Perception Index of Mexico is 30 (2016), below FSC's threshold of 50. A broad legal framework exists for the regulation of the harvesting of forest resources in Mexico, in production areas, conservation areas or under conditions related to species belonging to an at-risk protected category or difficult-to-regenerate species.

The experts consulted indicate that roughly 50 Forest Management Programmes authorisations have been delayed by SEMARNAT in the state of Oaxaca, on the basis that the requested information was not part of the Mexican norms for the development of the Management Programmes (Programas de Manejo). The consulted experts indicated the existence of over-regulation. It is also necessary to add that the demand for timber has not decreased, and the properties in this state currently do not have forest authorisations, raising the question as to the source of the timber circulating on the market.

In relation to this issue, on May 25, 2016 "Reforest Mexico" (Reforestamos México) published a study, through their Twitter account (see information source), discussing the amount of time that can be taken to authorize extractions of timber, as well as the issue of illegality. Although it is not available online, access to the complete study was obtained through the stakeholder consultation process (Current Situation with the Legality of Timber Forest Products in Mexican Forests and Rainforests, 2013-2014 Diagnostic (Situación Actual de la Legalidad de Productos Forestales Maderables en Bosques y Selvas Mexicanos, Diagnóstico 2013-2014). The study indicates that 1,344 producers were interviewed (652 with harvesting permits and 692 without permits) from 12 states in the country, with properties classified as large, medium and small, from which information was obtained regarding authorisation times of Forest Management Programme (Programa de Manejo Forestal) and other variables related to the processing of these authorisations.

The results show that for large properties, 59% of those surveyed indicated that the process took more than 4 months. For medium and small properties, 71% stated that it took more than 4 months. There were extreme cases in Veracruz, Campeche, Quintana Roo and Yucatan; all of those surveyed in Yucatan said the process took more than 4 months. The study also shows 85 properties for which the average authorisation time was 15 months.

The survey revealed the following reasons for extracting timber without permission or participating in illegal logging:

- The bureaucratic process is very complicated - 24%;
- Not all ejidos meet the requirements - 18%;
- The cost of a technical service provider is very high - 17%;
- A lack of employment/poverty - 32%;
- The response time for granting a Forest Management Programme is excessive - 9%.

In addition, the following was revealed regarding the perception of the advantages of illegal production:

- 41% stated that they save on the cost of going through the bureaucratic process;
- 26% did not know or did not respond;
- 18% participated in illegal production because of higher profits, and;
- 10% participated in illegal production to save time.

Those surveyed also gave their opinion about which factors in the request for Forest Management Programme authorisations should be changed:

- 48% wanted reduced processing time;

- 15% wanted the cost of the process reduced;
- 15% wanted more service centres, which are very centralized and the offices are sometimes very far away, and;
- 22% indicated other factors.

Clandestine logging occurs in many parts of Mexico and is carried out by organized groups, which operate with different groups of short that go by truck, in which it takes 4 to 5 people armed and have communication radios. The wood is sold to legal sawmills and illegal. The illegal timber makes it legal because they get documents from other areas or the legal sawmills sell the transport documentation to transport the illegal timber. Truckers do not stop them, as authorities on the roads bribe them with money and allow the wood to be transported.

On the other hand, PROFEPA's 2012 report indicates that roughly 2,000 authorisations of forest harvesting were issued that year.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.4.6. Risk designation and specification

Specified risk

1.4.7. Control measures and verifiers

- Verify that the Programme for Forest Management (Programa de Manejo Forestal) has been authorised, and that authorisation has been given for the extractive harvesting of specimens, parts or derivatives, modality B for specimens of at-risk wildlife species (Management of a UMA) or Proof of Plantation Registration (Constancia de Registro de Plantación)
- Verify through field inspection that the Forest Permit (Remisiones Forestales for natural forests) or Forest Re-shipment (reembarque forestall for plantations) have been obtained and issued
- Undertake field review of volumes, species and location of forest harvesting in accordance with the authorisation.

TAXES AND FEES

1.5. Payment of royalties and harvesting fees

Legislation covering payment of all legally required forest harvesting specific fees such as royalties, stumpage fees and other volume based fees. It also includes payments of the fees based on correct classification of quantities, qualities and species. Incorrect classification of forest products is a well-known issue often combined with bribery of officials in charge of controlling the classification.

1.5.1. Applicable laws and regulations

This legal sub-category does NOT apply to Mexico since no taxes are paid on the value of standing timber nor on the intrinsic value of the timber harvested.

1.5.2. Legal authority

N/A

1.5.3. Legally required documents or records

N/A

1.5.4. Sources of information

N/A

1.5.5. Risk determination

N/A

1.5.6. Risk designation and specification

N/A

1.5.7. Control measures and verifiers

N/A

1.6. Value added taxes and other sales taxes

Legislation covering different types of sales taxes, which apply to the material being sold, including selling material as growing forest (standing stock sales). Risk relates to situations where products are sold without legal sales documents or far below market price resulting in illegal avoidance of taxes.

1.6.1. Applicable laws and regulations

- Value-Added Tax Law, article 2, section A (applies a 0% rate) (Ley del Impuesto al Valor Agregado). Available at: http://www.diputados.gob.mx/LeyesBiblio/pdf/77_301116.pdf
- General Import and Export Tax Law, Chapter 44 Timber, charcoal and timber manufacturers (Ley de los Impuestos Generales de Importación y Exportación). Available at:

http://www.hacienda.gob.mx/LASHCP/MarcoJuridico/MarcoJuridicoGlobal/Leyes/138_ligie.pdf

- Customs Law, Articles 2, 36 A (Ley Aduanera). Available at: http://www.diputados.gob.mx/LeyesBiblio/pdf/12_270117.pdf

1.6.2. Legal authority

- Internal Revenue Service (Servicio de Administración Tributaria (SAT, Spanish acronym))

1.6.3. Legally required documents or records

- Monthly Return of Value-Added Tax (IVA) (Declaraciones mensuales de IVA)
- Proof of Payment of Value-Added Tax (IVA) (Declaraciones mensuales de IVA)
- Proof of Payment of applicable customs duties (Comprobantes de pago de aranceles aplicables)

1.6.4. Sources of information

Non-Government sources

- Public summaries and stakeholder consultations of FSC forest management certification reports published at info.fsc.org

Interviews with experts

Conversations with various experts during March and April 2016 helped the authors of this report to better understand the applicable legislation and the risks associated with value-added tax.

1.6.5. Risk determination

Overview of Legal Requirements

Article 2, section A of the Value-Added Tax Law (Ley del Impuesto al Valor Agregado) applies a 0% rate and stipulates that IVA does not apply to non-processed products, including roundwood.

General Import and Export Tax Law, Chapter 44: timber, charcoal, and manufactured timber addresses the various customs duties paid for importing and exporting timber, charcoal and manufactured timber (hardboard, particle board, chips, etc.).

The Internal Revenue Service (Servicio de Administración Tributaria (SAT, Spanish acronym)) regulates the ejidos, communities and private property owners through the authorisation of the Forest Management Programme, who issue an invoice and pay the respective taxes. The producers of raw material (referred to as “proveedores de materia prima”) must issue an invoice for the sale of standing timber or roundwood, to which the IVA is not applied.

For exportation, all timber must include a sales invoice. In addition, the corresponding customs duties must be paid. These duties are regulated by the SAT.

Description of Risk

The IVA does not apply to sales invoices for standing timber or roundwood, and it is a common situation in Mexico (according to comments from interested stakeholders in FSC’s

property auditing processes and consultation with experts in April 2016) that producers of raw materials, such as standing timber and roundwood, do not issue sales invoices for these products. Since the tax is not applied, it would not affect the net income tax (ISR) owed. Nevertheless, this is a chain process in which, subsequently, the buyer also does not issue an invoice when the processed timber is sold. At this point, the second sale, the value-added tax must be applied, and failure to do so is illegal.

In addition, it is worth mentioning that an invoice is never issued for sales of timber harvested outside an authorised Forest Management Programme.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.6.6. Risk designation and specification

Specified risk

1.6.7. Control measures and verifiers

- Verify the existence of a Tax Identification Number (Cédula de Identificación Fiscal).
- Verify issuance of invoices by the timber providers.
- Verify that species, volumes, and prices of timber are in accordance with the description on the invoice.
- Cross-check between invoices issued with permits and/or forest shipments.
- Review monthly value-added tax returns.
- Submit annual tax returns.

1.7. Income and profit taxes

Legislation covering income and profit taxes related to the profit derived from sale of forest products and harvesting activities. This category is also related to income from the sale of timber and does not include other taxes generally applicable for companies or related to salary payments.

1.7.1. Applicable laws and regulations

- Income Tax Law (Ley del Impuesto sobre la Renta) (determined according to company profits), Article 74. Provisional Regulation. Article 2, clauses I, XVII. Available at: http://www.diputados.gob.mx/LeyesBiblio/pdf/LISR_301116.pdf

1.7.2. Legal authority

- Internal Revenue Service (Servicio de Administración Tributaria (SAT))

1.7.3. Legally required documents or records

- Partial income tax return (ISR)
- Annual proof of income tax payments (ISR)

1.7.4. Sources of information

Non-Government sources

- Public summaries and stakeholder consultations of FSC forest management certification reports published at info.fsc.org

Interviews with experts

Conversations with various experts during March and April 2016 helped the authors of this report to better understand the applicable legislation and the risks associated with the payment of income taxes (ISR) and benefits.

1.7.5. Risk determination

Overview of Legal Requirements

Income Tax Law (Ley del Impuesto sobre la Renta)

This law stipulates the requirements for agricultural, livestock, silviculture and fishing activities. It establishes that taxpayers are those who exclusively engage in agricultural, livestock, silviculture and fishing activities and whose income from these activities represents at least 90% of their total income, not including income from transfer of ownership of fixed assets, land or property if used for the activity.

According to the Article 74, legal persons exclusively dedicated to agricultural, livestock, silviculture and fishing activities shall not pay, during the fiscal year, income taxes on the income from these activities up to the amount of 20 times the minimum wage corresponding to the geographic area of the taxpayer, annualized, for each associate unless this exceeds a total of 200 times the minimum salary corresponding to the Mexico City geographic area, annualized. The limit of 200 times the minimum salary shall not apply to ejidos and communities. In the case of natural persons, they shall not pay income tax (ISR) for income from these activities until reaching, over the course of the fiscal year, 40 times the minimum salary corresponding to the geographic area of the taxpayer, annualized. Legal persons to which this paragraph applies may add the profit corresponding to their exempt income to the balance of their net profit for the fiscal year in question. To determine said profit, the exempt income for the taxpayer is multiplied by the profit coefficient for the fiscal year, calculated according to Article 14 of this law.

Description of Risk

Producers of raw and secondary material with Forest Management Programme authorisation issue a timber sales invoice, which is taxable for the purposes of calculating their income tax (ISR) when the total exceeds 200 times the minimum salary for communities and ejidos and 40 times the minimum salary for natural persons. For those who exceed these amounts, the tax is applicable. Based on comments by parties interested in the FSC system and on public reports, as well as interviews with experts in April 2016, a common situation in Mexico has been identified in which producers of raw material do not issue an invoice for the sale of standing timber or roundwood. Wherever sales tax (IVA) is not applied, this affects the amount of income tax (ISR) owed. Given this situation, companies report less revenue from transactions involving the sale of timber, and the taxable amount applicable to the calculation of revenue or income tax (ISR) is smaller.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.7.6. Risk designation and specification

Specified risk

1.7.7. Control measures and verifiers

- Verify the issuance of invoices by timber providers.
- Verify that the species, volumes and prices of timber are in accordance with the description on the invoice.
- Cross-check between invoices issued with permits and/or forest shipments.
- Review monthly value-added tax returns.
- Submit payment of annual return.

TIMBER HARVESTING ACTIVITIES

1.8. Timber harvesting regulations

Any legal requirements for harvesting techniques and technology including selective cutting, shelter wood regenerations, clear felling, transport of timber from felling site and seasonal limitations etc. Typically, this includes regulations on the size of felling areas, minimum age and/or diameter for felling activities and elements that shall be preserved during felling etc. Establishment of skidding or hauling trails, road construction, drainage systems and bridges etc. shall also be considered as well as planning and monitoring of harvesting activities. Any legally binding codes for harvesting practices shall be considered.

1.8.1. Applicable laws and regulations

- Regulation pertaining to the General Sustainable Development Law (Ley General de Desarrollo Sustentable), Articles 16, 31, 93 – 110. Available at: http://www.diputados.gob.mx/LeyesBiblio/regley/Reg_LGDFS_311014.pdf
- General Law for Ecological Balance and Environmental Protection, Articles 161-169 (Ley General del Equilibrio Ecológico y Protección al Ambiente). Available at: <http://www.conacyt.mx/cibiogem/images/cibiogem/protocolo/LGEEPA.pdf>
- Mexican official Norm NOM-005-RECNAT-1997. Available at: <http://www.ordenjuridico.gob.mx/Documentos/Federal/wo68741.pdf>

1.8.2. Legal authority

- Ministry of the Environment and Natural Resources (Secretaría del Medio Ambiental y Recursos Naturales (SEMARNAT))
- General Department of Wildlife (Dirección General de Vida Silvestre)
- Legal Department of the Federal Environmental Protection Agency (Procuraduría General de Protección al Ambiente (PROFEPA))
- National Commission for Knowledge and Use of Biodiversity (Comisión Nacional para el Conocimiento y Uso de la Biodiversidad (CONABIO))
- Municipal authorities

1.8.3. Legally required documents or records

- Programme for Forest Management (Programa de Manejo Forestal)
- Programme for Forest Management Authorisation (Autorización de Programa de Manejo Forestal)
- Authorisation for extractive harvesting of specimens, parts or derivatives, B modality for specimens from at-risk wildlife species
- Plantation harvesting notice
- Proof of Plantation Registry (Constancia de Registro de Plantación)

1.8.4. Sources of Information

Government sources

- PROFEPA Report 2012 (Informe de Profepa):
http://www.profepa.gob.mx/innovaportal/file/5322/1/iap_2012_260813.pdf
- Profepa Report (Informe de Profepa), 2013:
<http://www.profepa.gob.mx/innovaportal/file/6285/1/informeprofepa2013.pdf>

Non-Government sources

- CCMSS (2012). *Approach to combatting illegal timber logging and trade in Mexico (Enfoque para combatir la tala y el comercio de madera ilegal en México)*. [online]. Available at: [http://www.ccmss.org.mx/wp-content/uploads/2014/10/NOTA INFO 33.Un nuevo enfoque para combatir la tala y el comercio de madera ilegal en Mexico.pdf](http://www.ccmss.org.mx/wp-content/uploads/2014/10/NOTA_INFO_33.Un_nuevo_enfoque_para_combatir_la_tala_y_el_comercio_de_madera_ilegal_en_Mexico.pdf)
- FAO (2005). *Characterization of the Forest Sector (Caracterización del sector forestal)*. [online]. Available at: <http://www.fao.org/docrep/006/j2215s/j2215s06.htm>
- FAO (2005). *Study of Trends and Perspectives in the Forest Sector in Latin America. (Estudio de tendencias y perspectivas del sector forestal en América Latina)* [online]. Available at: <http://www.fao.org/docrep/006/j2215s/j2215s08.htm>
- ITTO (2012). *Diagnóstico del potencial, productividad y manejo de especies nativas maderables tropicales con alto potencial comercial (Diagnostic of Tropical Species with High Commercial Potential)*. [online] Available at: http://www.itto.int/files/itto_project_db_input/2596/Technical/Capitulo%20%20Diagnóstico%20del%20potencial,%20productividad%20y%20manejo%20de%20especies%20nativas%20maderables.pdf
- eluniversal.com (2016). *Report on Critical Deforestation Zones (Reporte de zonas críticas de deforestación)* [online]. News report. Available at: <http://www.eluniversal.com.mx/articulo/periodismo-de-datos/2016/03/20/ubican-108-zonas-criticas-de-deforestacion-en-el-pais#.Vu7U6MWSOyU.twitter>

Interviews with Experts

Conversations with various experts during March and April 2016 helped the authors of this report to better understand the applicable legislation and the risks associated with the timber harvesting regulations.

1.8.5. Risk determination

Overview of Legal Requirements

General Law on Sustainable Forest Development (Ley General de Desarrollo Forestal Sustentable)

This law establishes the requirement that the harvesting of timber forest resources on forest land or potential forest land be authorised by SEMARNAT. This authorisation shall comprise the Management Programme.

In addition, this law stipulates all the legal documents that must be included in the Forest Management Programme to request authorisation.

Regulation pertaining to the General Law for Sustainable Development (Ley General de Desarrollo Forestal Sustentable)

The Ministry shall process requests for authorisation to harvest forest resources according to the stipulations in the Law and the Regulation therein.

This law also stipulates the conditions for suspending authorisation of forest harvesting, and mandates the registration of Technical Forestry Service Providers (Prestador de Servicios Técnicos Forestales) in the National Forest Registry (Registro Nacional Forestal). It indicates that the Legal Department of the Federal Environment Protection Agency (Procuraduría Federal de Protección al Ambiente (PROFEPA, Spanish acronym)) is the institution responsible for inspecting and monitoring compliance with the Laws, Regulations and Norms applicable to forest harvesting, and shall be responsible for administrative proceedings and for imposing the corresponding penalties.

PROFEPA shall notify SEMARNAT of administrative findings that have led to final rulings resulting in as an administrative penalty, the temporary, total or partial suspension of the authorisation of forest harvesting. The Ministry shall record said suspension in the Registry within 5 working days after notification. The same terms and conditions shall be observed for recording subsequent lifting of said suspension in the Registry.

The procedure described in the preceding paragraph shall be applied when an administrative inspection or monitoring procedure has ordered as a security measure, the temporary, total or partial suspension of a forest harvesting authorisation.

In accordance with Article 168 of the Law, PROFEPA may request from Federal Public Administration (Administración Pública Federal) entities and agencies that, within a period of 30 working days of notification, they suspend, modify, revoke or cancel concessions, permits, licenses, authorisations and, in general, any administrative acts that may have been issued, as needed to prevent damage to the forest ecosystem.

When concessions, permits, licenses, authorisations and, in general, any administrative acts have been issued by authorities representing federal or municipal entities, PROFEPA may, in turn, demand that the local authority responsible for forestry matters request the corresponding suspension, modification, revocation or cancelation.

Mexican official norm NOM-005-RECNAT-1997 establishes the procedures, criteria and specifications for the harvesting, transporting and storing of bark, stems or stalks and complete plants from forest vegetation. These procedures, criteria and specifications are subject to review by PROFEPA.

Description of Risk

For Mexico, this indicator is analysed in the same way as indicator 1.3 (Harvest Management and Planning) since the management and planning instruments for harvesting are based on the same Forest Management Programme, which are developed per felling cycle and are based on the forest inventory for the entire felling cycle.

Approval of this Forest Management Programme includes approval of proposals related to cutting method, cutting area, dragging system, road construction, timber transport, minimum

cutting diameter, etc. Therefore, the norm for harvesting covers these aspects of managing and planning the harvest.

In addition, PROFEPA does not regularly and/or systematically monitor the implementation of Forest Management Programmes.

Although there is no precise data on some value of compliance by forest lands, in terms of regulations for forest extraction, PROFEPA indicates in its Activity Report 2015 that the main illegal activities that affect the forest ecosystems of Mexico They are:

- Change of land use on forest lands, without authorization.
- Extraction of healthy wood (without plagues or diseases) under sanitation notifications.
- "Woodwashing" given by the use of forest remissions and shipments to cover more than one trip.
- Clandestine Talking
- On the utilization of the resource, with respect to the authorized volumes, in the programs of management of the estates under forest use.

Taking into account the latter activity, it is considered that there is a breach of the law, due to the failure to observe the regulations in the harvest.

Risk Conclusion

This indicator has been evaluated as specified risk for the category Tropical Forest. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

This indicator has been evaluated as low risk for Temperate Forest (two types) and Plantations. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.8.6. Risk designation and specification

Low risk for Temperate Forest (two types) and Plantations

Specified risk for Tropical Forest

1.8.7. Control measures and verifiers

- Harvesting must be duly authorised by SEMARNAT.
- Harvesting must be implemented within the borders of the property and directed at the authorised species.
- Verify in the field the degree to which the management plan is implemented and respected, especially with regard to minimum cutting diameter, species, volumes, maintenance of the residual timber stand, respect of at-risk conservation species, and maintenance of protection areas.
- Verify the existence of the Technical Audit Prevention report with the UMF.
- Verify forest permits and annual harvesting reports.

- Regardless of whether the actions by the Technical Service Providers fall within the framework of the law in terms of their responsibilities, their performance should be verified by SEMARNAT, as should their management history of other properties the Provider has managed.
- Consult with management units or neighbouring plantations to obtain their opinions about the management actions implemented.
- Put in place a silviculture and environmental monitoring system.

1.9. Protected sites and species

International, national, and sub national treaties, laws, and regulations related to protected areas allowable forest uses and activities, and/or, rare, threatened, or endangered species, including their habitats and potential habitats. Risk relates to illegal harvesting within protected sites, as well as illegal harvest of protected species. Note that protected areas may include protected cultural sites, including sites with historical monuments.

1.9.1. Applicable laws and regulations

- General Law for Sustainable Forest Development, Articles: 28 and 72. (Ley General de Desarrollo Forestal Sustentable). Available at:
http://www.profepa.gob.mx/innovaportal/file/3264/1/ley_general_de_desarrollo_forestal_sustentable.pdf
- General Law for Ecological Balance and Environmental Protection, Article 5, section VIII, 29. (Ley General del Equilibrio Ecológico y Protección al Ambiente). Available at:
<http://www.conacyt.mx/cibiogem/images/cibiogem/protocolo/LGEEPA.pdf>
- Regulation pertaining to the General Law for Ecological Balance and Environmental Protection, Article 50, section N (Reglamento de la Ley General del Equilibrio Ecológico y Protección al Ambiente). Available at:
http://www.diputados.gob.mx/LeyesBiblio/regley/Reg_LGEEPA_MEIA_311014.pdf
- General Wildlife Law, Articles 39, 40, 83, 84, 87 (Ley General de Vida Silvestre). Available at:
<http://biblioteca.semarnat.gob.mx/janium/Documentos/Ciga/libros2009/ACD000824.pdf>
- General Regulation pertaining to the General Wildlife Law, Article 50 (Reglamento General de la Ley de Vida Silvestre). Available at:
http://www.diputados.gob.mx/LeyesBiblio/regley/Reg_LGVS.pdf
- Official Mexican Norm NOM-059-SEMARNAT-2010. Available at:
<http://biblioteca.semarnat.gob.mx/janium/Documentos/Ciga/agenda/DOFsr/DO2454.pdf>

1.9.2. Legal authority

- Ministry of the Environment and Natural Resources (Secretaría de Medio Ambiente y Recursos Naturales (SEMARNAT, Spanish acronym)
- General Wildlife Department (Dirección General de Vida Silvestre (DGVS, Spanish acronym)

1.9.3. Legally required documents or records

- Management Programme
- Programme for Forest Management Authorisation (which includes requirements regarding protected species and spaces)
- Authorisation of extractive harvesting of specimens, parts or derivatives, modality B of specimens of at-risk wildlife species

1.9.4. Sources of Information

Government sources

- Zamorano, P. (2009). *Flora and Fauna Wildlife in Mexico and its Regulation (La Flora y Fauna Silvestre en México y su Regulación)* [online]. Available at: http://www.pa.gob.mx/publica/rev_40/notas/pablo%20zamorano%20de%20haro.pdf
- PROFEPA (2012). *Annual Report (Informe Annual)* [online]. Available at: http://www.profeпа.gob.mx/innovaportal/file/5322/1/iap_2012_260813.pdf

Non-Government sources

- De la Torre, A. (2014). *These are the Nature Reserves in Mexico. How to protect them? (Estas son las reservas naturales de México; ¿cómo protegerlas?)* [online]. Available at: <http://ecoosfera.com/2014/08/estas-son-las-reservas-naturales-de-mexico-como-protegerlas/>
- Rodríguez, E. (2015). *The Disarming of CONANP (Interview with Luis Fueyo Mac Donald) (El desarme de la CONANP (Entrevista a Luis Fueyo Mac Donald))* [online]. Available at: <http://ecoosfera.com/2015/10/conanp-cronica-de-una-caida-no-anunciada-entrevista-a-luis-fueyo-mac-donald/>
- Imagen Agropecuaria, (2016). *Seventy percent of timber sold in Mexico is Illegal (Ilegal 70% de la madera que se vende en México)* [online]. Available at: <http://imagenagropecuaria.com/2016/ilegal-70-la-madera-se-vende-en-mexico/>
- Quadri, G. (2016). *The Drama of Protected Natural Areas in Mexico. (El Drama de las Áreas Naturales Protegidas de México)* [online]. News article. Available at: <http://imagenagropecuaria.com/2016/ilegal-70-la-madera-se-vende-en-mexico/>
- Andrade, F. (2016). *Seventy Percent of Timber Calculated to be Illegal (Calculan sea ilegal 70% de Madera)* [online]. News article. Available at: <http://www.reforma.com/aplicacioneslibre/articulo/default.aspx?id=873986&md5=059f99cfe332d5335ce9d152c4a7ae67&ta=0dfdbac11765226904c16cb9ad1b2efe&po=4>
- De la Luz, G. (2014). *Se compromete Profepa a intensificar acciones para proteger el Parque Nacional La Malinche (Profepa is committed to intensify its actions to protect the national parc La Malinche)* [online]. News article. Available at: <http://www.lajornadadeoriente.com.mx/2014/11/13/se-compromete-profepa-a-intensificar-acciones-para-proteger-el-parque-nacional-la-malinche/>

Interviews with experts

Conversations with various experts during March and April 2016 helped the authors of this report to better understand the applicable legislation and the risks associated with the regulation of protected sites and species.

1.9.5. Risk determination

Overview of Legal Requirements

General Law for Sustainable Forest Development (Ley General de Desarrollo Forestal Sustentable)

This law includes the factors to be considered in the quantification of areas in the Forest Management Programme, including conservation areas and restricted harvesting areas.

It also includes considerations related to harvesting raw forest materials for domestic use in protection areas.

General Law for Ecological Balance and Environmental Protection (Ley General del Equilibrio Ecológico y Protección al Ambiente)

This law indicates that the powers to establish, regulate, manage and monitor national protection areas belong to the Federation, including: biosphere reserves, national parks, natural monuments, protection areas for natural resources, protection areas for flora and fauna, sanctuaries, and areas voluntarily set aside for conservation.

It establishes the criteria for the preservation and sustainable harvesting of wild flora and fauna, taking into account endemic, threatened and endangered species, and those subject to special protection.

Regulation pertaining to the General Law for Ecological Balance and Environmental Protection (Reglamento de la Ley General del Equilibrio Ecológico y Protección al Ambiente)

With respect to environmental impact, the Regulation states that authorisation from SEMARNAT is required to harvest species that are subject to protection and those that are difficult-to-regenerate. Authorisation is also required to harvest in protection areas.

General Wildlife Law (Ley General de Vida Silvestre)

This law describes the requirements for registering properties as Wildlife Conservation Management Units (Unidades de Manejo para la Conservación de Vida Silvestre).

General Regulation pertaining to the Wildlife Law (Reglamento General de la Ley de Vida Silvestre)

Those responsible for the UMA shall present the reports required under the present Regulation.

Official Mexican Norm NOM-059-SEMARNAT-2010

This norm establishes the categories and specifications of environmental protection of native wild flora and fauna and lists the species in each category.

Description of Risk

Mexico has 176 Protected Natural Areas (Áreas Naturales Protegidas (ANP, Spanish acronym)) administered by the National Commission for Protected Natural Areas (Comisión Nacional de Áreas Naturales Protegidas), totalling 25,394,779 hectares and representing 12.93% of the area of the country. Of the 161 ANPs, 121 are located in land ecosystems and 61 have international designations or recognition (De la Torre, 2014).

Protected Natural Areas in Mexico are divided into three categories: federal, state and municipal. This causes severe problems; their management is subject to the decision of multiple stakeholders, many of whom (such as at the municipal level) have terms of 3 years (De la Torre, 2014).

Protected Natural Areas are currently threatened by permits for land use changes, which lead to deforestation. (De la Torre, 2014).

In PNA, timber can be harvested in the buffer zones but not in the core zone, except in cases of natural plague or disaster.

In this way, the main threats to the PNAs are overexploitation of resources, pollution, invasive species, climate change, narcotrafic (which degrade soil and deforest, as well as threaten environmentalists), politician's corruption. Another major threat to PNA care is that many are privately owned. This makes the care of these areas involve many actors whose interests are not always in the same line as protection.

The budget of the National Commission for Protected Natural Areas was reduced by 26% from 2015 to 2016. An article from September 2015 indicates that park rangers a key human factor in the conservation and management of ANPs lack authority, receive indignantly low pay and are mostly temporary workers (with no employment security), as are a significant segment of technicians and officers in the National Commission for Protected Natural Areas (Rodríguez, E. 2015).

Considering that 70% of the timber that reaches the Mexican market is from illegal sources (Andrade, 2016; Imagen Agropecuaria 2016), as well as the vulnerability of protection areas in Mexico, it can be inferred that much of the illegal timber comes from ANPs.

At the same time PROFEPA, in its 2012 annual report, presented actions it had conducted in protection areas: 33.23% (from the total amount of field inspections done by the PROFEPA) had occurred in forests. This shows the need for control and monitoring actions in ANPs (PROFEPA, 2012).

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.9.6. Risk designation and specification

Specified risk

1.9.7. Control measures and verifiers

- Verify through the UMA that harvesting authorisation for species in at-risk categories or authorisation of the Programme for Forest Management within the Protection Area or communally-owned reserves has been granted.
- Verify, in the field, the location of harvesting and its relationship with any of the eligible management categories in the protection area.
- Verify authorisation on properties with harvesting of species in at-risk categories with SEMARNATthatauthoris.

1.10. Environmental requirements

National and sub-national laws and regulations related to the identification and/or protection of environmental values including but not limited to those relating to or affected by harvesting, acceptable level for soil damage, establishment of buffer zones (e.g. along water courses, open areas, breeding sites), maintenance of retention trees on felling site, seasonal limitation of harvesting time, environmental requirements for forest machineries, use of pesticides and other chemicals, biodiversity conservation, air quality, protection and restoration of water quality, operation of recreational equipment, development of non-forestry infrastructure, mineral exploration and extraction, etc... Risk relates to systematic and/or large-scale non-compliance with legally required environmental protection measures that are evident to an extent that threatens the forest resources or other environmental values.

1.10.1. Applicable laws and regulations

- Regulation pertaining to the General Law for Ecological Balance and Environmental Protection (Ley General del Equilibrio Ecológico y Protección al Ambiente), Chapter II, work or activity that require authorisation of environmental impact and exceptions. Available at: http://www.diputados.gob.mx/LeyesBiblio/regley/Reg_LGEEPA_MEIA_311014.pdf
- General Law for Sustainable Forest Development, Article 76 (Ley General de Desarrollo Forestal Sustentable). Available at: http://www.profepa.gob.mx/innovaportal/file/3264/1/ley_general_de_desarrollo_forestal_sustentable.pdf
- Regulation pertaining to the General Law for Sustainable Development, Articles: 37, 45, 49 (Reglamento de la Ley General de Desarrollo Sustentable). Available at: http://www.diputados.gob.mx/LeyesBiblio/regley/Reg_LGDFS_311014.pdf
- National Waters Law and its Regulation. Articles 55 – 57, 85 (Ley de Aguas Nacionales y su Reglamento). Available at: http://www.diputados.gob.mx/LeyesBiblio/pdf/16_240316.pdf

1.10.2. Legal authority

- Ministry of the Environment and Natural Resources (Secretaría de Medio Ambientes y Recursos Naturales (SEMARNAT, Spanish acronym))
- Federal Environmental Protection Agency (Procuraduría Federal de Protección al Ambiente (PROFEPA) (PROFEPA, Spanish acronym))

1.10.3. Legally required documents or records

- Authorisation of Programme for Forest Management
- Authorisation of extractive harvesting of specimens, parts or derivatives, modality B of specimens of at-risk wildlife
- Authorisation of Environmental Impact Statement

1.10.4. Sources of information

Government sources

- PROFEPA (2012). *Annual Report (Informe Annual)* [online]. Available at: http://www.profepa.gob.mx/innovaportal/file/5322/1/iap_2012_260813.pdf

Non-Government sources

- FAO (2005). *Study of Trends and Perspectives in the Forest Sector in Latin America. (Estudio de tendencias y perspectivas del sector forestal en América Latina)* [online]. Available at: <http://www.fao.org/docrep/006/j2215s/j2215s08.htm>
- ITTO (2012). *Diagnóstico del potencial, productividad y manejo de especies nativas maderables tropicales con alto potencial comercial (Diagnostic of Tropical Species with High Commercial Potential)*. [online] Available at: http://www.itto.int/files/itto_project_db_input/2596/Technical/Capitulo%20%20Diagnóstico%20del%20potencial,%20productividad%20y%20manejo%20de%20especies%20nativas%20maderables.pdf
- Quadri, G. (2012). *Forests: Collective or Private Property" (Bosques: Propiedad colectiva o privada)* [online]. News article. Available at: <http://eleconomista.com.mx/columnas/columna-especial-empresas/2012/09/06/bosques-propiedad-colectiva-o-privada>

Interviews with Experts

Conversations with various experts during March and April 2016 helped the authors of this report to better understand the applicable legislation and the risks associated with the environmental regulations.

1.10.5. Risk determination

Overview of Legal Requirements

Regulation pertaining to the General Law for Ecological Balance and Environmental Protection (Ley General del Equilibrio Ecológico y Protección al Ambiente) and the General Law for Sustainable Forest Development (Ley General de Desarrollo Forestal Sustentable).

This regulation indicates the activities that require an environmental impact evaluation, among which are the harvesting of rainforests of over 20 hectares, properties with species in any of the at-risk categories, and harvesting in Protection Areas.

Regulation pertaining to the General Sustainable Development Law (Ley General de Desarrollo Forestal Sustentable)

This regulation indicates the elements that should be included in the Forest Management Programme. These include:

- When natural forests will be harvested, a description and plan of the measures that will be taken to prevent and mitigate environmental impacts during the different management phases, as well as measures to be taken during fallow periods or when the authorisation expires.
- When at-risk flora and fauna wildlife species are present, the measures that will be taken to conserve and protect their habitat.
- Actions to rehabilitate areas requiring restoration and the schedule for those actions.

- In the case of commercial forest plantations, a cost-benefit analysis of the project, including possible impacts on biodiversity.

National Water Law and its Regulation (Ley de Aguas Nacionales y su Reglamento)

This law and its regulation indicate the water use rights of communities and ejidos. The legislation relating to water pollution is also relevant.

Description of Risk

Regarding tropical rainforests in Mexico, many forest operations primarily communities and ejidos sell standing timber because of a lack of business investment and vision. In such cases the buyer is responsible for felling, dragging, selection of material to be extracted and transportation out of the forest, resulting in a complete lack of control of the environmental impact; this is in spite of an Environmental Impact Statement having been submitted and approved in order to obtain authorisation for harvesting. In areas with low yield and low density, Management Programmes are commonly modified in order to receive an advance on annuities or their accumulation (making harvesting more profitable), which also leads to increased environmental impact. The application of management systems adapted to specific conditions is not regulated or monitored by the institutions (FAO, 2005).

In addition, inspection and monitoring actions were performed in order to mitigate and contain illicit activities that affect Mexico's forest ecosystems. These illicit activities include: a) unauthorised changes in land use for forest land, b) over-exploitation of resources compared to the volumes authorised in Management Programmes for properties on which forest harvesting is conducted, c) extraction of healthy timber (without infestation or disease) under the cover of false health notifications that describes an issue which is not in fact present, d) laundering of timber by using permits, re-shipment waybills for more than one trip, e) sale of permits and waybills and f) illegal felling. The 2012 report does not describe levels of compliance with environmental impact regulations, such as: directional felling, maintenance of protection buffer strips, erosion, maintenance and opening of roads, etc.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.10.6. Risk designation and specification

Specified risk

1.10.7. Control measures and verifiers

- Review PROFEPA district reports to identify the degree of compliance with environmental protection measures. In addition, obtain information about administrative procedures.
- Review annual reports presented to SEMARNAT with respect to the impact of harvesting and to compliance with Programme for Forest Managements.
- In the field, verify the implementation of the preventive or mitigation measures proposed in the Programme for Forest Management.
- Verify the existence of Technical Preventive Audits reports with the UMF.

- In the field, verify protective measures for water sources and soil erosion, use of chemical products, transport during suitable periods and other environmental measures as needed.

1.11. Health and safety

Legally required personnel protection equipment for persons involved in harvesting activities, use of safe felling and transport practice, establishment of protection zones around harvesting sites, and safety requirements to machinery used. Legally required safety requirements in relation to chemical usage. The health and safety requirements that shall be considered relate to operations in the forest (not office work, or other activities less related to actual forest operations). Risk relates to situations/areas where health and safety regulations are consistently violated to such a degree that puts the health and safety of forest workers at significant risk throughout forest operations.

1.11.1. Applicable laws and regulations

- Official Mexican Norm NOM-008-STPS-2013. Available at: http://dof.gob.mx/nota_detalle.php?codigo=5320271&fecha=31/10/2013
- Agrarian Law, Articles 10, 11 (Ley Agraria). Available at: http://www.diputados.gob.mx/LeyesBiblio/pdf/13_191216.pdf

1.11.2. Legal authority

- Ministry of Labour and Social Welfare (Secretaría de Trabajo y Previsión Social (STPS, Spanish acronym))

1.11.3. Legally required documents or records

- Internal regulations of communities or ejidos
- Internal work regulations for private properties
- Proof of worker registration in the IMSS
- Proof of registration in Public Insurance (Seguro Popular)
- Contracts with private clinics for medical care

1.11.4. Sources of information

Non-Government sources

- Public FSC FM report (please refer to fsc-info.org and include on the certificate code FM/COC and the country Mexico).
- *Interviews with Experts*

Conversations with various experts during March and April 2016 helped the authors of this report to better understand the applicable legislation and the risks associated with health and social security regulations.

1.11.5. Risk determination

Overview of Legal Requirements

The Official Mexican Norm NOM-008-STPS-2013 stipulates health and safety guidelines for work activities that primarily involve timber forest harvesting, as well as for storage and processing facilities.

To correctly interpret this norm, it should be read in conjunction with these other norms:

- NOM-001-STPS-2008, Buildings, shops, facilities and workplaces areas – Safety conditions.
- NOM-002-STPS-2010, Conditions for safety-prevention and protection against fires in workplaces.
- NOM-004-STPS-1999, Protection systems and safety devices for machinery and equipment used in workplaces.
- NOM-005-STPS-1998, Related to workplace safety and hygiene conditions for managing, transporting and storing hazardous chemical substances.
- NOM-011-STPS-2001, Safety and hygiene conditions for workplaces that generate noise.
- NOM-017-STPS-2008, Personal protection equipment – selection, use and handling in workplaces.
- NOM-018-STPS-2000, System to identify and communicate hazards and risks from hazardous chemical substances in workplaces.
- NOM-019-STPS-2011, Creation, membership, organization and functioning of safety and hygiene commissions.
- NOM-020-STPS-2011, Pressurized and cryogenic containers and vapor generators or boilers – functioning and safety conditions.
- NOM-021-STPS-1993, Related to requirements and characteristics for reports of work risks that occur, to incorporate the statistics.
- NOM-022-STPS-2008, Electric shocks in workplaces – safety conditions.
- NOM-024-STPS-2001, Vibrations – Safety and hygiene conditions in workplaces.
- NOM-025-STPS-2008, Lighting conditions in workplaces.
- NOM-026-STPS-2008, Safety and hygiene colours and signage, and identification of risks from fluids in piping.
- NOM-027-STPS-2008, Welding and cutting activities – Safety and hygiene activities.
- NOM-029-STPS-2011, Maintenance of the electrical installations in workplaces – safety conditions.
- NOM-030-STPS-2009, Safety and health prevention services in the workplace – functions and activities.

The Agrarian Law recognizes that ejidos operate in accordance with their internal regulations with no limitations on their activities other than those stipulated by law.

Description of Risk

Approximately 55% of Mexico's forest land is in the possession of ejidos or communities, where the majority of the workers are members of these groups or of neighbouring Management Units or other similar social structures. These communities or ejidos function

according to their Internal Regulations. Although there are no official statistics about safety conditions in the forests, experiences in ejidos and communities, as well as observations by the compilers of this document, and interviews with experts held in April 2016, indicate that protective equipment is not normally used for forestry activities, except on certain properties that have some type of forest verification or certification scheme. These communities and ejidos were found to be unaware of NOM-008-STPS-2013.

Meanwhile, on private properties there are stricter requirements for the use of protective equipment for private operations, and mechanisms exist for their use. Nevertheless, workers have also been observed to perform field operations without the use of protective equipment in cases where the use of this equipment is not part of the procedures of their employing companies (field observations and FSC Audit reports).

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.11.6. Risk designation and specification

Specified risk.

1.11.7. Control measures and verifiers

- Verify worker training in the areas of health and safety and that regulations are implemented.
- Ensure that technical and operations personnel implement measures for personal protection and use of safety equipment compatible with the work they perform.
- Ensure that all persons involved in forest harvesting and/or transportation work are aware of measures in place to protect their health and safety on the job.
- In the field, verify monitoring and implementation of the use of personal protection equipment and of measures to prevent workplace accidents.
- Prove enrolment of workers in the IMSS (Instituto Mexicano del Seguro Social).
- Prove enrolment of workers in public insurance (Seguro Popular).
- Ensure that contracts exist with private clinics for the provision of medical care.

1.12. Legal employment

Legal requirements for employment of personnel involved in harvesting activities including requirement for contracts and working permits, requirements for obligatory insurances, requirements for competence certificates and other training requirements, and payment of social and income taxes withhold by employer. Furthermore, the points cover observance of minimum working age and minimum age for personnel involved in hazardous work, legislation against forced and compulsory labour, and discrimination and freedom of association. Risk relates to situations/areas where systematic or large scale noncompliance with labour and/or employment laws. The objective is to identify where serious violations of the legal rights of workers take place, such as forced, underage or illegal labour.

1.12.1. Applicable laws and regulations

- Federal Labor Law, Articles 20, 21, 35, 42, 46, 53, 69, 82, 90, 132, 153, 175, 176, 279-284 (Ley Federal del Trabajo). Available at: http://www.diputados.gob.mx/LeyesBiblio/pdf/125_120615.pdf

1.12.2. Legal authority

- Ministry of Labor and Social Welfare (Secretaría de Trabajo y Previsión Social (STPS, Spanish acronym))
- Labor Legal Department (Procuraduría del Trabajo)
- Federal Legal Department for Workers Rights (Procuraduría Federal de la Defensa del Trabajo)

1.12.3. Legally required documents or records

- Payroll records
- Proof of enrollment in the IMSS
- Employment contracts

1.12.4. Sources of information

Non-Government sources

- FAO (2005). *Study of Trends and Perspectives in the Forest Sector in Latin America. (Estudio de tendencias y perspectivas del sector forestal en América Latina)* [online]. Available at: <http://www.fao.org/docrep/006/j2215s/j2215s08.htm>
- Mexico National Human Rights Commission (Comisión Nacional de los Derechos Humanos México) (2012). *Human Rights of Indigenous Peoples in Mexico (Derechos Humanos de los Pueblos Indígenas en México)*. [online]. Available at: http://www.cndh.org.mx/sites/all/doc/cartillas/14_Cartilla_DH_Pueblos_Indigenas.pdf
- Macías Vázquez, C. (2012). *Trabajo del campo (field work)* [online]. National Autonomous University of Mexico, Legal Research Institute (Universidad Nacional Autónoma de México, Instituto de Investigaciones Jurídicas). Available at: <https://archivos.juridicas.unam.mx/www/bjv/libros/7/3053/8.pdf>
- López, M. 2006. *The Child Workforce in Mexico (La fuerza del trabajo infantil en México)* [online]. Available at: http://www.uam.mx/cdi/pdf/iii_chw/lopezlimon_mx.pdf
- Zapata, E. et al. (2013). *Scenarios of Child Labor (Escenarios del trabajo infantil)* [online]. Available at: <http://www.uaim.mx/Documentos/EscenarioInfantilDraEmma.pdf>
- Public FSC FM report (please refer to fsc-info.org and include on the certificate code FM/COC and the country Mexico).

Interviews with Experts

Conversations with various experts during March and April 2016 helped the authors of this report to better understand the applicable legislation and the risks associated with the existing labour laws.

1.12.5. Risk determination

Overview of Legal Requirements

Two types of hiring systems exist for field workers in Mexico that are specific to silviculture jobs. One is established in the ejidos and communities (regardless of whether they are an indigenous population), in which the workers are also members of the communal company. In both the communities and ejidos, workers are governed by stipulations set forth in the Internal Regulations or decisions by the General Assemblies of community landholders (ejidatarios) and communal landowners (comuneros). The other type of hiring is for forest sector work on private properties.

The following aspects of the Federal Labor Law, among others, are of general and universal applicability:

- Silviculture work is a high-risk activity, and therefore workers under the age of 18 are not accepted.
- Women have the same rights as men, and the protection of maternity is of fundamental concern.
- Employment conditions must be in writing even when there are no applicable collective bargaining contracts.
- Labour relations.
- Causes for obligations to undertake work or to pay salaries to be suspended, with no liability for the employee or the employer.
- Performance reviews and termination of work relationships.
- Work shifts/hours.
- Days off.
- Salaries.
- Rights and obligations of employees and employers.
- Productivity, education and training of workers.
- Field workers (permanent, temporary or seasonal).
- Labour unions, federations and confederations.
- Strike procedures.
- Work Risks.

Description of Risk

Different types of hiring exist within the ejidos and communities, and involve community landholders (ejidatarios) or communal landowners (comuneros) who have rights to participate in the assemblies but who no longer work; therefore, their children, who are members of the same population centre, or external personnel, are hired. In both cases, workers do not receive any of the benefits indicated in the Federal Labor Law except for wages that are above the minimum wage. It was not possible to assess the hiring of children under 18 years of age in the field, but literature exists on the hiring of agriculture workers (López, 2006; Zapata, 2013) that shows that minors are commonly employed in harvesting activities. Both kinds of

worker, children of former workers and personnel hired from elsewhere, have accepted the conditions, which are based on decisions by the General Assemblies.

It has also been observed that the hiring of workers in the forestry sector for work on private property does not comply with labour laws. Workers are not given vacations or bonuses, or benefits corresponding to time on the job, and the hiring of minors is common. In addition, there are no mechanisms to safeguard freedom of association for workers, among other concerns (this is corroborated by the experiences of the compilers of this document, field inspections and FSC Audit reports, as well as by interviews with experts in April 2016).

In northern states, such as Durango and Chihuahua, the enrolment of workers in social security is more common, although still not consistent. In the rest of the states, workers are not enrolled in the Mexican Social Security Institute (Instituto Mexicano del Seguro Social (IMSS, Spanish acronym)) and therefore, in some cases, workers choose to enrol in public insurance (Seguro Popular) instead. Public insurance, however, does not provide all the benefits, nor entail all the obligations, associated with the IMSS (field observations and FSC Audit reports).

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.12.6. Risk designation and specification

Specified risk

1.12.7. Control measures and verifiers

- Verify that there are labour contracts between employer and employee, and that these contracts comply with the norms legally established by law.
- Verify that workers' enrolments in public insurance (Seguro Social) or contracts with private insurance comply with legal norms.
- Verify that workers have the freedom to legally organise and exercise their rights.
- In the field, conduct interviews to identify salary ranges of workers and verify that these correspond to legislated minimum salary.
- Verify acts of community-owned farm (ejidales) and community assemblies.

THIRD PARTIES' RIGHTS

1.13 Customary rights

Legislation covering customary rights relevant to forest harvesting activities including requirements covering sharing of benefits and indigenous rights.

1.13.1. Applicable laws and regulations

N/A. There is no specific law in Mexico on customary rights, therefore this sub-category does not apply.

However, it is worth mentioning that an information search on the customary rights of indigenous peoples in Mexico did not find rights specifically related to forests. The focus of current discussion is more on the theoretical and philosophical aspects of customary rights and state rights.

Taking into account the processes that exist in Mexico to provide certainty regarding land tenure, in which at least 95% of community-owned property (ejidales) and communal lands have been regularised (indigenous and non-indigenous), indigenous peoples do have a recognized right to access natural resources when those resources are on their property.

During the document review, information was found regarding conflicts over customary rights between private property owners and Wixarrika or Huicholes communities in northern Jalisco. In addition, during the consultation process, two experts mentioned that there were conflicts in Sierra Tarahumara de Chihuahua due to the granting of Programme for Forest Management authorisations to community-owned farms (ejidos) in spite of the indigenous Rarámuris claiming to hold customary rights over the land.

No information was found in the press or news sources regarding conflicts in other regions in the country between indigenous groups and any other type of property holder (community-owned farm (ejido), community or private property) in which indigenous groups claiming any customary rights to access forest resources had been denied access.

It is recommended that this preliminary evaluation of risk be considered category 2 for controlled wood: low risk throughout the country except for the southern portion of the state of Chihuahua and northern Jalisco where the risk should be considered specified.

1.13.2. Legal authority

N/A

1.13.3. Legally required documents or records

N/A

1.13.4. Sources of information

N/A

1.13.5. Risk determination

N/A

1.13.6. Risk designation and specification

N/A

1.13.7. Control measures and verifiers

N/A

1.14. Free prior and informed consent

Legislation covering "free prior and informed consent" in connection with transfer of forest management rights and customary rights to the organisation in charge of the harvesting operation.

1.14.1. Applicable laws and regulations

N/A. Mexico does not have a specific law for free prior and informed consent. Nevertheless, community-owned farms (*ejidos*) and communities use general assemblies and decisions set forth in the minutes from assembly meetings as mechanisms to inform discussions of related matters.

1.14.2. Legal authority

N/A

1.14.3. Legally required documents or records

N/A

1.14.4. Sources of information

N/A

1.14.5. Risk determination

N/A

1.14.6. Risk designation and specification

N/A

1.14.7. Control measures and verifiers

N/A

1.15. Indigenous/traditional peoples' rights

Legislation that regulates the rights of indigenous/traditional people as far as it's related to forestry activities. Possible aspects to consider are land tenure, right to use certain forest related resources or practice traditional activities, which may involve forest lands.

1.15.1. Applicable laws and regulations

- Political Constitution of the United Mexican States (Constitución Política de los Estados Unidos Mexicanos) Articles 2, 27. The Rights of Indigenous Peoples (Derechos de los

pueblos indígenas). Available at:

http://www.dof.gob.mx/constitucion/marzo_2014_constitucion.pdf

- National Commission Law for the Development of Indigenous Peoples (Ley de la Comisión Nacional para el Desarrollo de los Pueblos Indígenas). Available at: http://www.diputados.gob.mx/LeyesBiblio/pdf/261_070416.pdf
- Agrarian Law. Article 152 (Ley Agraria). Available at: http://www.diputados.gob.mx/LeyesBiblio/pdf/13_191216.pdf

1.15.2. Legal authority

- Ministry of Agrarian, Territorial and Urban Development (Secretaría de Desarrollo Agrario, Territorial y Urbano (SEDATU, Spanish acronym))
- Agrarian Legal Department (Procuraduría Agraria (PA, Spanish acronym))
- National Agrarian Registry (Registro Agrario Nacional (RAN, Spanish acronym))
- Commission Law for the Development of Indigenous Peoples (Comisión Nacional para el Desarrollo de los Pueblos Indígenas (CDI, Spanish acronym))

1.15.3. Legally required documents or records

- Basic File (Carpeta Básica) (Executed presidential decree with an affidavit of possession and final property lines)
- Proof of agrarian rights issued by the National Agrarian Registry (Registro Agrario Nacional)

1.15.4. Sources of information

Non-Government sources

- González, J. (N.Y.) *Indigenous Customary Rights in Mexico (El derecho consuetudinario indígena en México)* [online]. Available at: <https://archivos.juridicas.unam.mx/www/bjv/libros/1/195/10.pdf>
- Gallardo, M. (2009). *Indigenous Peoples and Customary Rights (Pueblos Indígenas y derecho consuetudinario)* [online]. Available at: <http://www.redalyc.org/articulo.oa?id=15911913002>
- Chacón, D. (2015). *Contributions to the Projection and Basis of the Concept: Indigenous Customary Rights (Contribuciones a la proyección y fundamentación del concepto: derecho consuetudinario indígena)*. [online]. Available at: <http://azc.uam.mx/publicaciones/alegatos/pdfs/82/89-04.pdf>
- Stavenhagen, R. (N.Y.). *Indigenous Peoples and their Rights (Los Pueblos Indígenas y sus derechos)* [online]. Available at: <http://www.cinu.org.mx/prensa/especiales/2008/Indigenas/libro%20pdf/Libro%20Stavenhagen%20UNESCO.pdf>

Interviews with Experts

Conversations with various experts during March and April 2016 helped the authors of this report to better understand the applicable legislation and the risks associated with the rights of traditional or indigenous peoples.

1.15.5. Risk determination

Overview of Legal Requirements

The Political Constitution of the United Mexican States (Constitución Política de los Estados Unidos Mexicanos) considers communities of indigenous peoples to be those that form a social, economic and cultural unit, are settled in a territory and that recognise their own authority in accordance with their purposes and customs. In addition, the Agrarian Law (Ley Agraria) recognises the customary rights of traditional communities.

According to Mexico's agrarian legislation, ejidos and indigenous and non-indigenous communities have the same rights of access to forest resources. Decision-making rights within ejidos are also the same; being a member of the community or ejido is more of a determinant than whether the person is indigenous or non-indigenous.

The National Commission Law for the Development of Indigenous Peoples (Ley de la Comisión Nacional para el Desarrollo de los Pueblos Indígenas) provide the competences of the National Commission for the Development of Indigenous Peoples, that its purpose is to guide, coordinate, promote, support, encourage, monitoring and evaluating public programs, projects, strategies and actions for development, integral and sustainable development of indigenous peoples and communities in accordance with Article 2. of the Political Constitution of the United Mexican States.

Mexico voted in favour of the UN Declaration on the Rights of Indigenous Peoples in 2007.

Description of risk

In 1992, the Constitution was amended and Mexico was recognised as a pluricultural nation (Art. 6). In 2001, as a result of the mobilization of indigenous peoples, the Constitution was again amended to reflect the "San Andres Accords" negotiated in 1996 between the government and the Zapatista National Liberation Army (EZLN). From 2003 onwards, the EZLN and the Indigenous National Congress (CNI) began to implement the "San Andres Accords", creating autonomous indigenous governments in Chiapas, Michoacán and Oaxaca. The state constitutions of Chihuahua, Nayarit, Oaxaca, Quintana Roo and San Luís Potosí have dispositions concerning indigenous peoples, but indigenous legal systems are still not fully recognised.

According to data from the last full Census of Population and Housing in 2010, 6,102,646 inhabitants are indigenous people, representing 14.9% of the total population. In the 2015 intercensal survey, which included a question on indigenous self-identification in the basic questionnaire, 25,694,928, or 21.5% of the total population self-identify as indigenous. Some 68 indigenous languages and 364 dialects are spoken within its territory. Although for the first time in its history, Mexico's census bureau has recognized the country's black population in a national survey that found there are approximately 1.4 million citizens (1.2% of the population), there is no indication that these are considered as traditional peoples with the same rights as indigenous peoples.

There is significant evidence of violations of legal and customary rights of IPs; the conclusions done by the Committee of the elimination of racial discrimination (4 april 2012) show that the

legislation on matters affecting indigenous peoples varies greatly from one federal state to another and that policies rely heavily on the administration's agenda in each federal state. The Committee reiterates its concern at the absence of domestic legislation that defines as an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, and all acts of racially motivated violence against, in particular, indigenous people and people of African descent in the State party (art. 1 and art. 4 (a)). The Committee expresses its concern at the limited scope for applying the "usage and customs" of indigenous communities (art. 5) and concern about the obstacles to access to justice faced by members of indigenous peoples and the alarming number of allegations of irregularities in cases concerning indigenous people, as well as the number of indigenous people in prison. Many sources mention that there are hundreds of cases of systematic grabbing of the land and resources of Mexico's indigenous peoples. As shown most of the problems are related with the exploitation of mineral.

However, through consultations with experts, information did come to light about conflicts concerning customary rights between private property owners and Wixarrika or Huicholes communities in northern Jalisco. Therefore, experts in these indigenous communities were consulted, and suggested that these conflicts exist due to a lack of respect for indigenous communities' customary rights of access to forest resources. In addition, during the consultation process, two experts mentioned that there were conflicts in Sierra Tarahumara de Chihuahua due to the granting of Forest Management Programme authorisations to ejido, when the indigenous Rarámuris claimed their customary rights over the land.

Risk conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.15.6. Risk designation and specification

Specified risk

1.15.7. Control measures and verifiers

- Verify the source of the timber through the forest permit.
- Request assembly minutes documenting the agreement of the indigenous community in question to harvest the forests, if the community owns the property.
- Request assembly minutes documenting the indigenous community's granting of free access to the resources in accordance with customary rights.
- Consultation with external organizations working with these communities

TRADE AND TRANSPORT

1.16. Classification of species, quantities, qualities

Legislation regulating how harvested material is classified in terms of species, volumes and qualities in connection with trade and transport. Incorrect classification of harvested material is a well-known method to reduce/avoid payment of legality prescribed taxes and fees. Risk relates to material traded under illegal false statements of species, quantities or qualities. This could cover cases where this type of false classification is done to avoid payment of royalties or taxes or where trade bans on product types or species are implemented locally, nationally or internationally. This is mainly an issue in countries with high levels of corruption (CPI<50).

1.16.1. Applicable laws and regulations

- Regulation pertaining to the General Law for Sustainable Development Law, Articles 93 – 110 (Reglamento de la Ley General de Desarrollo Sustentable). Available at: http://www.diputados.gob.mx/LeyesBiblio/regley/Reg_LGDFS_311014.pdf
- Official Mexican Norm NOM-059-SEMARNAT-2010. Available at: http://www.ccmss.org.mx/wp-content/uploads/2014/10/Norma_oficial_mexicana_programas_de_manejo_forestal.pdf
- Official Mexican Norm NOM-152-SEMARNAT-2006. Available at: http://www.profepa.gob.mx/innovaportal/file/435/1/NOM_059_SEMARNAT_2010.pdf
- Agreement establishing the specifications, procedures, technical and control guidelines for the use, transportation, storage and transformation that identify the legal origin of forest raw materials 2002 SEMARNAT (Acuerdo por el que se establecen las especificaciones, procedimientos, lineamientos tecnicos y de control para el aprovechamiento, transporte, almacenamiento y transformacion que identifiquen el origen legal de las materias primas forestales.) DOF. 24/12/2002. Available at: http://dof.gob.mx/nota_detalle.php?codigo=716453&fecha=24/12/2002

1.16.2. Legal authority

- Ministry of the Environment and Natural Resources (Secretaría de Medio Ambiente y Recursos Naturales (SEMARNAT, Spanish acronym))
- Environmental Protection Legal Department (Procuraduría Federal de Protección al Ambiente (PROFEPA, Spanish acronym))

1.16.3. Legally required documents or records

- Forest permits
- Permits for harvesting timber in a UMA (for species included in Official Mexican Norm NOM-059-SEMARNAT-2010)
- Forest re-shipment waybill
- Customs bill
- Financial documents (invoices)

1.16.4. Sources of information

Government sources

- conafor.gob.mx (N.Y.). Catalogue of Timber and Non-Timber Forest Resources (Catálogo de recursos forestales maderables y no maderables) [online]. Available at: http://www.conafor.gob.mx/biblioteca/Catalogo_de_recursos_forestales_M_y_N.pdf

Non-Government sources

- Mota Villanueva, J. L., Zárate Mancha, J., Alcocer, C. (2007). Guide for the Marketing of Timber Products by Communal Forest Companies (Guía para la comercialización de productos maderables de empresas forestales comunitarias). [online]. Included in Appendix III. NMX-C-018-1986: Construction Industry – pine boards and planks – classification. Available at: http://d2ouvy59p0dq6k.cloudfront.net/downloads/wwf_2007_guia_comercializacion_productos_empresas_forestales.pdf
- oem.com (2015). *PROFEPA presents 2 before the MPF for illegal transport of ziricote in Quintana Roo (Presenta Profepa a 2 ante MPF por transporte ilegal de madera de ciricote en Quintana Roo)*. [online]. Mexican Editorial Organization (Organización Editorial Mexicana) News Article. Available at: <https://www.oem.com.mx/oem/>

Interviews with Experts

Conversations with various experts during March and April 2016 helped the authors of this report to better understand the applicable legislation and the risks associated with the classification of timber species and their quality and quantity.

1.16.5. Risk determination

Overview of Legal Requirements

Regulation pertaining to the General Law for Sustainable Development (Ley General de Desarrollo Sustentable)

This regulation establishes that the legal source for purposes of transporting raw forest material, products and derivatives, including sawtimber or square timber, from natural forests or plantations shall be determined on the basis of the following documents:

- Forest permits, when material is transported from the harvest site to a storage facility, processing centre or other destination;
- Forest re-shipment waybills, when material is transported from a storage or processing facility to any other destination;
- Customs bills, when material (including Christmas trees) is imported or transported from a bonded warehouse to a storage or processing facility or any other destination; or
- Financial documents indicating the identification code, as stipulated by the present Regulation.

In terms of classification, the law establishes:

On the Forest Management Program, the estimated volumes of harvesting will be to be included (including dates, species, turns) -more details see article 46.

For plantation, it will be required to present a report with the summary of the activities for one year period (January-December), including among other aspects: volumes obtained/area, species -more details see article 52.

The harvesting authorisations will need to include among other information the description of the forest resource to be harvested, indicating type, quantity and volume, as well as scientific name and common species--more details see article 66.

For public entites, the notification of harvesting will include among other information the description of the forest resource to be harvested, indicating type, quantity and volume, as well as scientific name and common species -more details see article 67.

The holders of the harvesting authorisations, will need to present to the Secretary (within 30 days after the validityof the authorization) a report with the results including among other information:

I. Number of the authorization

II. Forest resource harvested, indicating type, quantity and volume, as well as the scientific and common name from species. Where it is not possible to specify the species, indicate gender and family

III. Georeferenced sites where the harvesting has been done, indicating a federative entity, Municipality and locality. -more details see article 70.

For obtaining forest permits (remisiones), it will be required to indicate the quantity per type of forest material, product or subproducts transported-more details see article 96

Official Mexican Norm NOM-005-RECNAT-1997

This norm establishes the procedures, criteria and specifications for the purposes of harvesting, transporting and storing bark, stems and complete plants derived from forest vegetation.

Official Mexican Norm NOM-152-SEMARNAT-2006

Based on the indicator classification of species, quantities, qualities; this norm establishes the criteria and specifications for management programmes, indicating that the scientific name of the species to be harvested must be presented in order to conduct harvesting, as well as aspects related with volume and other criteria related with the development of a management plan. Agreement establishing the specifications, procedures, technical and control guidelines for the use, transportation, storage and transformation that identify the legal origin of forest raw materials 2002 SEMARNAT (Acuerdo por el que se establecen las especificaciones, procedimientos, lineamientos tecnicos y de control para el aprovechamiento, transporte, almacenamiento y transformacion que identifiquen el origen legal de las materias primas forestales) ndicates that Regional Technical Forestry Advisory Councils (Consejos Técnicos Consultivos Regionales Forestales), in coordination with state governments, shall agree on a same procedure to reproduce the unique forms (used for the identification of origin in different documents throught the harvesting activity, transportation, storage and transformation of the timber) established by the present Agreement. The forms shall be reproduced with the instructions for each printed on their reverse side.

The criteria for forest transport are not uniform throughout the country, since each state has different criteria for the specification of species or groups of species. For example, in the state of Hidalgo, forest permits to transport roundwood contain species-level description, and therefore more than one forest permit can be issued for a single truck, each permit covering the transportation of a particular species. In the state of Puebla, on the other hand, forest permits to transport timber are filled out on the genus level (*Pinus spp.* and *Quercus spp.*), a situation which is prevalent in the country. Nevertheless, the future trend is to issue permits at the species level. The transport of plantation products is specified at the species level (consultations with experts).

Roundwood is transported with the following specifications: long dimensions, short dimensions, firewood, palisade timber and sawtimber. In the states mentioned above, in Hidalgo SEMARNAT issues permits based on the estimates of products given in the Forest Management Programme and of what was harvested (one permit is given for long dimensions and another for short dimensions), whereas in the state of Puebla, the same permit can be used for long or short dimensions.

Description of Risk

The Corruption Perception Index of Mexico is 30 (2016), below FSC's threshold of 50, and can directly affect the risk of this indicator, as information may not be controlled correctly by enforcement agencies.

According to the legal requirements, Forest Management Programmes must specify the level of the harvested species, regardless of that level or whether any of the species listed in the NOM-059-SEMARNAT-2010 are to be extracted. Experience based on the review of Forest Management Programmes in temperate as well as tropical forests has shown that this requirement is fulfilled as stipulated in the law (field inspections and reports from FSC Audits). In addition, it has been observed that harvesting authorisations are issued according to species. However, in the case of temperate forests, species-level information is no longer included when Forest Management Programmes are modified and SEMARNAT issues authorisation for that modification (ex. Plagues, impact of cyclones). Rather, only genus-level classifications are included for pine (*Pinus spp.*), oak (*Quercus spp.*), fir (*Abies sp.*) and other leafy species (*Alnus sp.*, *Arbutus sp.*). Although this does not amount to a particular risk of illegality, it suggests that harvesting may not be performed according to the volume determined during the inventory of each species.

In addition, categorising the various species by group or genus poses a risk that species in an at-risk category contained in the NOM-059-SEMARNAT-2010 may be included in the harvest.

Further, one case was reported by the Mexican Editorail Organization (Organización Editorial Mexicana) in 2015, in which a circote species (*Cordia dodecandra*) was transported with documentation for pine (*Pinus sp.*). Other similar situations were also mentioned by the consulted experts.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.16.6. Risk designation and specification

Specific risk

1.16.7. Control measures and verifiers

- Verify annual reports presented to SEMARNAT.
- Correctly classify products (species, quantities, qualities, etc.) on local and/or export sales documents.
- Verify that the material transported is what is indicated by transport documents.
- Consult with PROFEPA district offices to verify the performance of the properties and whether there are reports of inspections of sawmills.

1.17. Trade and transport

All required trading permits shall exist as well as legally required transport document which accompany transport of wood from forest operation. Risk relates to the issuing of documents permitting the removal of timber from the harvesting site (e.g., legally required removal passes, waybills, timber tags, etc.). In countries with high levels of corruption, these documents are often falsified or obtained by using bribery. In cases of illegal logging, transport documents from sites other than the actual harvesting site are often provided as a fake proof of legality with the harvested material.

1.17.1. Applicable laws and regulations

- Regulation pertaining to the General Law for Sustainable Development Law, Articles 93 – 110 (Reglamento de la Ley General de Desarrollo Sustentable). Available at: http://www.diputados.gob.mx/LeyesBiblio/regley/Reg_LGDFS_311014.pdf
- Agreement establishing the specifications, procedures, technical and control guidelines for the use, transportation, storage and transformation that identify the legal origin of forest raw materials 2002 SEMARNAT((Acuerdo por el que se establecen las especificaciones, procedimientos, lineamientos tecnicos y de control para el aprovechamiento, transporte, almacenamiento y transformacion que identifiquen el origen legal de las materias primas forestales.) DOF. 24/12/2002. Available at: http://dof.gob.mx/nota_detalle.php?codigo=716453&fecha=24/12/2002
- Customs Law, Articles 2, 36 A (Ley Aduanera). Available at: http://www.diputados.gob.mx/LeyesBiblio/pdf/12_270117.pdf

1.17.2. Legal authority

- Ministry of the Environment and Natural Resources (Secretaría de Medio Ambiente y Recursos Naturales (SEMARNAT, Spanish acronym)
- Environmental Protection Legal Department (Procuraduría Federal de Protección al Ambiente (PROFEPA, Spanish acronym)

1.17.3. Legally required documents or records

- Forest permits
- Permit to harvest timber in a UMA (for species contained in NOM-059-SEMARNAT-2010)
- Forest re-shipment waybill

- Customs bill
- Financial documents (invoices)

1.17.4. Sources of information

Government sources

- PROFEPA (2012). *Annual Report (Informe Annual)* [online]. Available at: http://www.profepa.gob.mx/innovaportal/file/5322/1/iap_2012_260813.pdf
- cmic.org (2015). *Documentation to demonstrate the legal source of raw forest materials, products and derivatives*. [online]. Available at: <http://www.cmic.org/>
- profepa.gob.mx (2015): Vigila profepa el cumplimiento de la ley en la importacion y exportacion de madera en puerto progreso, Yucatan. [online]. News Report. Available at: http://www.profepa.gob.mx/innovaportal/v/7805/1/mx/vigila_profepa_el_cumplimiento_de_la_ley_en_la_importacion_y_exportacion_de_madera_en_puerto_progreso_yucatan.html
- profepa.gob.mx (2010). *Topics addressed by PROFEPA (Temas que atiende PROFEPA)* [online]. Available at: http://www.profepa.gob.mx/innovaportal/v/52/1/mx.wap/principales_temas_que_atiende.html
- Profepa (2010). PROFEPA Impounds Timber through State-Level Operations (Asegura Profepa madera en operativos estatales). [online]. Available at: http://www.profepa.gob.mx/innovaportal/v/5406/1/mx.wap/asegura_profepa_51741_m3_de_madera_en_operativos_estatales.html

Non-Government sources

- Hernández, A. (2013) *Aumenta contraband de carbon en Yucatan (grafico)*. [online]. News Article. Available at: <http://sipse.com/milenio/aumenta-el-trafico-ilegal-de-carbon-vegetal-en-yucatan-48334.html>
- Delgado, W. (2015). *Aumenta depredacion de maderas*. [online]. News Article. Available at: <http://expresocampeche.com/notas/estado/2015/06/18/aumenta-depredacion-de-maderas/>

Interviews with Experts

Conversations with various experts during March and April 2016 helped the authors of this report to better understand the applicable legislation and the risks associated with trade and transportation regulations.

1.17.5. Risk determination

Overview of Legal Requirements

Regulation pertaining to the General Sustainable Development Law (Reglamento de la Ley General de Desarrollo Sustentable)

Transporters, responsible parties and owners of storage and processing facilities, as well as those in possession of raw forest materials and products and derivatives, including sawn or square timber, shall demonstrate the legal source when required by the competent authority.

Raw forest materials, products and derivatives whose legal source shall be demonstrated include:

- Branchwood, stumps, chips, roots and charcoal;
- Manually squared, sawtimber, worked, rough or planed, beams, stakes, trunks, ties, posts, planks, boards, square panels and blocks;
- Pallets and packaging boxes and wrapping;
- Sap, glues, waxes and latex, as well as other natural exudate;
- Complete plants, bark, leaves, shoots, rhizomes, stems, forest soils, leaf mould, mushrooms, stalks; and
- Flowers, fruits, seeds and fibres from forest vegetation.

For purposes of transporting raw forest material, and products and derivatives, including sawn timber or square timber, from natural forests or plantations, the legal source of the timber shall be recognized on the basis of the following documents:

- Forest re-shipment waybills, when transported from a storage or processing facility to any other destination;
- Customs bills, when imported and transported from a bonded warehouse to a storage or processing facility or any other destination (includes Christmas trees); or
- Financial documents indicating the identification code, as stipulated by the present Regulation.

Owners of forest land and commercial forest plantations interested in obtaining forest permits shall request them from the Ministry of the Environment and Natural Resources (Secretaría de Medio Ambiente y Recursos Naturales).

The timber may be transported only with the required transport documents specified in the Regulation pertaining to the General Law for Sustainable Development (Ley General de Desarrollo Sustentable). These documents can be inspected only by PROFEPA inspectors.

Risk description

It is worth mentioning at this point the process of “blanqueado” or timber laundering. Various documents (official reports from PROFEPA) and interviews with experts corroborate the finding of laundered timber on the market.

For example, timber is illegally harvested to produce charcoal and this material is transported with documentation for transporting timber. This occurs in Yucatan, which transports all the charcoal it produces in this way to the northern states. The material reaches the markets even though the distances travelled are very large. In many cases, PROFEPA has intervened when called (Hernández, 2013).

PROFEPA inspectors must have enough knowledge to be able to distinguish between species of timber according to the information on the transport document, and in some cases this task is difficult. The same botanical genus covers different species that may or may not be included in NOM-059-SEMARNAT-2010, and difficult to be differentiated when the logs are in the truck, and impossible to distinguish, just by sight, when is sawn timber. Certain pine species in Mexico are a good example of this (experience, field inspections and FSC Audit reports).

In June 2015, PROFEPA indicated that the seizure of illegal timber in the state of Campeche had increased during that year. According to Delgado (2015), however, one of the problems with these seizures is that timber is confiscated from people who have permits, but permits which were issued in other states (Delgado, 2015).

In the article from Delgado, 2015, it is reported that a trailer carrying granadillo (*Platymiscium yucatanum*) timber which was seized due to inconsistencies in the documentation; the permit was issued in Chiapas, but the timber being transported had been cut in several communities in Campeche.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.17.6. Risk designation and specification

Specified risk

1.17.7. Control measures and verifiers

- Verify existence of timber sale-purchase agreements in which the volumes and species included are specified.
- Maintain bookkeeping of income and transactions which clearly shows the data (provider, document number, date, species, quality, etc.) from the documents concerning material entering and leaving the country. In the case of processing companies, review matters relating to conversion of land.
- Verify that the material transported is what is indicated on the transport documents.

1.18. Offshore trading and transfer pricing

Legislation regulating offshore trading. Offshore trading with related companies placed in tax havens combined with artificial transfer prices is a well-known way to avoid payment of legally prescribed taxes and fees to the country of harvest and considered as an important generator of funds that can be used for payment of bribery and black money to the forest operation and personnel involved in the harvesting operation. Many countries have established legislation covering transfer pricing and offshore trading. It should be noted that only transfer pricing and offshore trading as far as it is legally prohibited in the country, can be included here. Risk relates to situations when products are sold out of the country for prices that are significantly lower than market value and then sold to the next link in the supply chain for market prices, which is often a clear indicator of tax laundry. Commonly, the products are not physically transferred to the trading company.

1.18.1. Applicable laws and regulations

N/A. Mexico does not have a specific law on offshore trading and transfer pricing, therefore this category does NOT apply.

1.18.2. Legal authority

N/A

1.18.3. Legally required documents or records

N/A

1.18.4. Sources of information

N/A

1.18.5. Risk determination

N/A

1.18.6. Risk designation and specification

N/A

1.18.7. Control measures and verifiers

N/A

1.19. Custom regulations

Custom legislation covering areas such as export/import licenses, product classification (codes, quantities, qualities and species).

1.19.1. Applicable laws and regulations

- Customs Law, Articles 2, 36A (Ley Aduanera). Available at: http://www.diputados.gob.mx/LeyesBiblio/pdf/12_270117.pdf
- Regulation pertaining to the Customs Law. Available at: <http://www.aduanas-mexico.com.mx/claa/ctar/leyes/rla.html>

1.19.2. Legal authority

- Ministry of the Treasury and Public Credit (Secretaría de Hacienda y Crédito Público (SHCP, Spanish acronym))

1.19.3. Legally required documents or records

- Commercial invoice
- Customs "entrusting letter" (Encargo conferido) (authorising the customs broker to process the documents on behalf of the exporter)
- Instructional letter to the customs broker (specific and detailed information about the operation, delivered directly to the customs broker)
- Packing list
- Certificate of origin
- Phytosanitary certificate
- Transport document
- Documents that evaluate compliance with non-duty regulations and restrictions, such as: health certificates, quality certificates, permits, etc.

1.19.4. Sources of information

Government sources

- Official Web site from the SHCP-(Secretaria de hacienda y Crédito Público) -SAT (Servicio de Administración Tributaria)- *Customs Operation Manual (Manual de Operación Aduanera) with all information for custom users:*
http://www.sat.gob.mx/moa/Paginas/despacho_aduanero.html

Non-government sources

- Benet, R. (2016). *From the Amazons to Tampico: Laundering, Evasion and Trafficking of Illegal Timber (Del Amazonas a Tampico: Lavado, evasión y tráfico de madera ilegal)* [online]. Available at: <http://m.aristeguinoticias.com/2406/mexico/del-amazonas-a-tampico-lavado-evasion-y-trafico-de-madera-ilegal-articulo-de-raul-benet/>
- stbdeacero.com (2014). Exportaciones ilegales de madera de México a China. [online]. Blog STB De Acero. Available at: <http://stbdeacero.com/2014/07/17/exportaciones-ilegales-de-madera-de-mexico-a-china/>
- Conafor (2014) *Estimation of the Commercial Trade Balance for Sawtimber (Balanza comercial madera aserrada estimación)* [online]. Available at: <http://www.google.com.mx/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&ved=0ahUKEwiU3d-0kMLNAhXL3YMKHdh6A7wQFggoMAI&url=http%3A%2F%2Fwww.cnf.gob.mx%3A8090%2Fsnif%2Fportal%2Fcomponent%2Fphocadownload%2Fcategory%2F25-estadistica-forestal-nacional%3Fdownload%3D1229%3Ainformacion-estadistica-de-la-produccion-forestal-nacional-2015&usq=AFQjCNEpTZrI7BkYG5vIc0G0Igx1BLVrxA>
- Quadratin, (2015). *Aseguran madera que pretendían exportar de manera ilegal a China.* [online]. News article. Available at: <https://mexico.quadratin.com.mx/Aseguran-madera-que-pretendian-exportar-de-manera-ilegal-a-China%C2%A0/>

Interviews with Experts

Conversations with various experts during March and April 2016 helped the authors of this report to better understand the applicable legislation and the risks associated with customs regulations.

1.19.5. Risk determination

Overview of Legal Requirements

Customs Law and its Regulation (Ley y Reglamento de la Ley Aduanera)

This law and regulation deal with the entry and exit into national territory of merchandise and the means used to transport it, the customs agency and its activities or events stemming therefrom, or from said entrance and exit of merchandise.

It will be required (based on the article 6), when presenting information to the customs authorities, to use the customs electronic system through an electronic or digital document, as required, using advanced electronic signature or digital stamp. For more information on how to address this electronic notification see Chapter II. In term of taxes, see article 95 to 101 (for import) and from article 102 to 103 (for export).

In order to export timber, the following need to be followed:

- Register on the “Registro Federal de Contribuyentes” (more details on: http://www.aduanas.gob.mx/aduana_mexico/2008/importando_exportando/142_10064.html)
- Identified the custom tariff classification for the product to be exported and pay the taxes for export based on the regulations from Mexico and the country to be exported the timber.
- Documentation required:
 - Commercial invoice
 - Customs “entrusting letter” (Encargo conferido) (authorising the customs broker to process the documents on behalf of the exporter)
 - Instructional letter to the customs broker (specific and detailed information about the operation, delivered directly to the customs broker)
 - Packing list
 - Certificate of origin
 - Phytosanitary certificate
 - Transport document
 - Documents that evaluate compliance with non-duty regulations and restrictions, such as: health certificates, quality certificates, permits, etc.

Description of Risk

Although a legal and regulatory framework exists for the harvesting of timber, seizures have occurred in Mexican ports of timber intended to be illegally exported to China (Blog De Acero, 2014; Quadratin, 2015). Official customs data from China indicate that, in 2012, Mexico was the third largest exporter of *Dalbergia retusa* or *Dalbergia granadillo*. Imports from Mexico increased from 8 m³ in 2008 to 181 m³ in 2009, and in 2011 the volume increased up to 4,011 m³ and again in 2012 to 5,710 m³, according to customs data from China cited in the document Examination of Proposals to Amend CITES Appendices I and II (Examen de las propuestas de enmienda a los apéndices I y II de CITES) (Blog De Acero, 2014).

Media research indicates that companies in Peru, Mexico and the United States that provide timber to the Mexican government maintain a network of timber trafficking and money laundering, and participate in tax evasion (Benet, 2016).

In Mexico, the importation of timber from the Peruvian Amazon is receiving attention due to repeated and proven accusations that a large proportion of the resources entering the country are from illegal sources. Additionally, this timber comes from Amazon forest reserves without harvesting permits and then taken out of Peru under false documentation (Benet, 2016).

In February 2016, for example, a load of timber from Peru was temporarily held in Tampico, Mexico, which contained over 154,668 m³ of tropical timber (Benet, 2016). Even though evidence demonstrated the illegal source of the timber, Mexican importers were able to bring that timber into the country because importation of timber into Mexico needs only a phytosanitary certificate, which the timber had. Mexican law says nothing about the source of the timber; that is, its legal origin does not have to be proven (Benet, 2016).

In the case of temperate forests where *Pinus* spp. and *Quercus* spp. are harvested, illegal export activities have not been documented. In addition, these species are not the main focus of exportation but rather are for domestic consumption. In general terms, Mexico imports more timber than it exports (Estimation of the Trade Balance of Sawtimber, 2014 (Balanza Comercial Madera Aserrada Estimación 2014)).

Ultimately, there is a risk that timber from unspecified origin is exported without required permits, and that requirements related to phytosanitary certificates are not fulfilled

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.19.6. Risk designation and specification

Specified risk

1.19.7. Control measures and verifiers

- Verify exportation documents and compliance with legal requirements.
- Verify tax payments and payments of fees for exportation procedures.

1.20. CITES

CITES permits (the Convention on International Trade in Endangered Species of Wild Fauna and Flora, also known as the Washington Convention). Note that the indicator relates to legislation existing for the area under assessment (and not e.g., the area from which CITES species are imported).

1.20.1. Applicable laws and regulations

- SEMARNAT-08-53 Procedure. Notice of Importation, Exportation or Re-Exportation Subject to CITES Permits or Certificates. Available at: <http://tramites.semarnat.gob.mx/index.php/vida-silvestre/importacion-exportacion-reexport/64-08-053>
- Registry CITES-SEMARNAT: <http://www.semarnat.gob.mx/sites/default/files/documentos/documentos/tramites/ff/FF-SEMARNAT-008.pdf>
- Regulation pertaining to the General Wildlife Law, Articles 56, 62 and 67 (Ley General de Vida Silvestre). Available at: <http://www.spabc.gob.mx/wp-content/uploads/2016/08/Ley-General-de-Vida-Silvestre.pdf>
- Customs Law Articles: 2, 36 A (Ley Aduanera). Available at: http://www.diputados.gob.mx/LeyesBiblio/pdf/12_270117.pdf
- Regulation pertaining to the Customs Law. Available at: <http://www.aduanas-mexico.com.mx/claa/ctar/leyes/rla.html>

1.20.2. Legal authority

- General Wildlife Department (Dirección General de Vida Silvestre (DGVS, Spanish acronym)), of the Ministry of the Environment and Natural Resources (Secretaría de Medio Ambiente y Recursos Naturales) – Mexico’s administrative authority for CITES
- National Commission for the Knowledge and Use of Biodiversity (Comisión Nacional para el Conocimiento y Uso de la Biodiversidad) – Scientific authority for CITES
- Federal Law Department for Environmental Protection (Procuraduría Federal de Protección al Ambiente) SEMARNAT – Authority over adherence and application of the Law

Three CITES authorities exist in Mexico: the General Wildlife Department (SEMARNAT) is the administrative authority, the National Commission for the Knowledge and Use of Biodiversity (Comisión Nacional para el Conocimiento y Uso de la Biodiversidad (CONABIO, Spanish acronym) is the scientific authority and the Federal Legal Agency for Environmental Protection (Procuraduría Federal de Protección al Ambiente (PROFEPA, Spanish acronym) is the authority for the application of the law.

All of the species listed in the Appendices of the Convention are immediately regulated by the DGVS, which, in consultation with CONABIO, issues CITES permits and certifications, or, when applicable, denies them when CONABIO determines that exportation would be detrimental to the survival of the species in the wild.

1.20.3. Legally required documents or records

- Commercial invoice
- Customs “entrusting letter” (Encargo conferido) (authorising the customs broker to process the documents in the name of the exporter)
- Instructional letter to the customs broker (specific and detailed information about the operation, delivered directly to the customs broker)
- Packing list
- Certificate of origin
- Phytosanitary certificate
- Transport document
- Documents that evaluate compliance with non-duty regulations and restrictions, such as: health certificates, quality certificates, permits, etc.
- CITES certificate

1.20.4. Sources of information

Government sources

- biodiversidad.gob.mx (2016). *CITES Structure in Mexico (Estructura CITES en México)*. [online]. Available at: http://www.biodiversidad.gob.mx/planeta/cites/estructura_mexico.html
- Profepa, (2010). *IMPIDE PROFEPA EXPORTACIÓN ILEGAL DE MADERA DE GRANADILLO* [online]. Available at:

http://www.profepa.gob.mx/innovaportal/v/5392/1/mx.wap/impide_profepa_exportacion_ilegal_de_madera_de_granadillo.html

- CITES (N.Y.). *Text from CITES: Art. IX*. [online]. Available at: <https://cites.org/eng/disc/text.php#IX>
- Camarena, I. (2014). *CITES in Mexico and the Mexican Strategy for the Conservation of Vegetation, 2012-2030 (CITES en Mexico y la Estrategia Mexicana para la Conservacion Vegetal)*. [online]. Available at: http://snics.sagarpa.gob.mx/Documents/Presentaciones_FIRA_2014/13_CITES_en_Mexico_y_la_Estrategia_Mexicana_para_la_Conservacion_Vegetal_2012-2030_Isabel_Camarena_Osorno.pdf
- CITES (2003). *Second Meeting of the Working Group Mahogany (Swietenia macrophylla) Working group (Segunda reunión del grupo de Trabajo sobre caoba (Swietenia macrophylla))* [online]. Available at: <https://cites.org/common/prog/mwg/MWG2/S-MWG2-09-02-MX.pdf>
- Biannual Report CITES Authority- 2013-2014 [online]. Available at: <https://cites.org/sites/default/files/reports/13-14Mexico.pdf> (from official source from CITES: <https://cites.org/eng/cms/index.php/component/cp/country/MX/national-reports>)

Non-Government sources

- Reuter, A., Mosig, P. (2010). *Comercio y aprovechamiento de especies silvestres en Mexico: observaciones sobre la gestión, tendencias y retos relacionados*. [online]. Available at: https://www.google.com.mx/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&ved=0ahUK_Ewjs1KCKzMrLAhUou4MKHS7RCbYQFggpMAI&url=http%3A%2F%2Fwww.traffic.org%2Fgeneral-reports%2Ftraffic_pub_gen50.pdf&usq=AFQjCNEAO9yJAgzuPnbk7U19XAQDAGWFOA&sig2=0sk-GCYu0Qls_XMa9UZX4g
- stbdeacero.com (2014). Exportaciones ilegales de madera de meciso a china. [online]. Blog STB De Acero. Available at: <http://stbdeacero.com/2014/07/17/exportaciones-ilegales-de-madera-de-mexico-a-china/>

Interviews with Experts

Conversations with various experts during March and April 2016 helped the authors of this report to better understand the applicable legislation and the risks associated with the marketing of CITES species.

1.20.5. Risk determination

Overview of Legal Requirements

General Wildlife Department (Dirección General de Vida Silvestre), of the Ministry of the Environment and Natural Resources (Secretaría de Medio Ambiente y Recursos Naturales) - This department publishes the guidelines on importing, exporting and re-exporting biological material from species included in the CITES appendices.

Its functions include, among others: a) issuance and review of permits and certificates; b) registration and monitoring of Wildlife Conservation Management Units (Unidades de Manejo

para la Conservación de Vida Silvestre (UMA, Spanish acronym), scientific samples, circus, importers, and exporters, including those that relate to CITES; c) development and analysis of statistics on the importation, exportation and re-exportation of CITES species of interest to Mexico; d) preparation of the participation guidelines for Mexico and attendance of CITES forums.

Customs Law and Regulation (Ley y Reglamento de la Ley Aduanera)

This law and regulation deal with the entry and exit into national territory of merchandise and the means used to transport it, the customs agency and its activities or events stemming therefrom, or from said entrance and exit of merchandise.

Description of Risk

Although a legal and regulatory framework exists for the harvesting of timber, seizures have occurred in Mexican ports of timber intended to be illegally exported to China (Blog De Acero, 2014; Quadratin, 2015). Official customs data from China indicate that, in 2012, Mexico was the third largest exporter of *Dalbergia retusa* or *Dalbergia granadillo*, with 10,662 m3. according to customs data from China cited in the document Examination of Proposals to Amend CITES Appendices I and II (Examen de las propuestas de enmienda a los apéndices I y II de CITES) (Profepa, 2010).

Based on the biannual report done by CITES authorities in Mexico, during 2012 and 2013, they confiscated 758 cubic meters of tropical timber in two seaports that led to actions in National territory with confiscation of 1,356 cubic meters of timber, 27 tons of charcoal, 9 cargo vehicles, decommissioning of three sawmills, suspension of 6 lots under forest use authorized by the misuse of the documentation and the establishment of 66 administrative procedures (sanctions).

Organised gangs participate in the illegal rosewood or granadillo (*Dalbergia granadillo*), precious timber market which has grown over recent years because of its use in China in traditional furniture-making. Loads destined to be exported to that country have been seized over the past two years in Mexico. Loggers are interested in this tree because of its commercial value; inspections and seizure operations have been conducted in Yucatan, Quintana Roo, Tabasco, Campeche and Chiapas (Blog STB De Acero, 2014).

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.20.6. Risk designation and specification

Specified risk

1.20.7. Control measures and verifiers

- Verify that export documents comply with legal requirements.
- Verify the payment of taxes and fees for exportation procedures.
- Verify CITES certificates and that they match the species indicated.

1.21. Legislation requiring due diligence/due care procedures

Legislation covering due diligence/due care procedures, including e.g. due diligence/due care systems, declaration obligations, and /or the keeping of trade related documents, legislation establishing procedures to prevent trade in illegally harvested timber and products derived from such timber, etc.

1.21.1. Applicable laws and regulations

N/A. Mexico has no specific due diligence law, though specific laws do cover a) protection of key legal interests, b) determination of whether the actions of the State are reasonable and c) determination of the existence of immediate risk or danger. Therefore, this sub-category does not apply.

1.21.2. Legal authority

N/A

1.21.3. Legally required documents or records

N/A

1.21.4. Sources of information

N/A

1.21.5. Risk determination

N/A

1.21.6. Risk designation and specification

N/A

1.21.7. Control measures and verifiers

N/A

Annex I. Timber source types

The table **Timber Source Types in Mexico** identifies the different types of sources of timber it is possible to find in the country of origin.

'Timber Source Type' is a term used to describe the different legal sources of timber in a country, in order to allow a more detailed specification of risk. The Timber Source Type is used to clarify:

- which forest types timber can be sourced from legally;
- what the legal requirements are for each source type, and
- if there are risks related to certain source types and not others.

Timber Source Type can be defined by several different characteristics. It may be based on the actual type of forest (e.g. plantation or natural), or other attributes of forests such as ownership, management regime or legal land classification. In this context Timber Source Types are defined and discerned using the following characteristics:

- Forest type** - refers to the type of forest such as plantation or natural tropical forest, or mixed temperate forest. Often the clearest differentiation is between natural forest and plantations.
- Spatial scale (Region/Area)** - relating to meaningful divisions of a nation. However, in some cases the assessment may be carried out at national level where that allows the risk assessment to establish risk at a meaningful level. E.g. a small country with uniform legislation and a uniform level of risk in all areas of the country, as national level assessment may be enough. In case there are significant differences in the legal framework or legality risks between different types of ownership (e.g. public forest, private forest, industrial forest), between different type of forest (e.g. natural forest and plantations) and/or between different geographical regions the conformance risk evaluation shall specify these differences when specifying the risk and apply the appropriate control measures.
- Legal land/forest classification** - refers to the legal classification of land. Focus is on land from where timber can be sourced, and this could entail a number of different legal categories such as e.g. permanent production forest, farm land, protected areas, etc.
- Ownership** - Ownership of land may differ in a country and could be state, private, communal etc. Ownership of land obviously have impacts on how land can be managed and controlled.
- Management regime** - Independently of the ownership of the land, the management of forest resources may differ between areas. Management may also be differentiated as private, state, communal or other relevant type.
- License type** - Licenses may be issued to different entities with a range of underlying requirements for the licensee. A license might be issued on a limited area, limited period of time and have other restrictions and obligations. Examples could be a concession license, harvest permit, community forestry permit etc.

TIMBER SOURCE TYPES IN MEXICO

Forest type	Region / Area	Legal Land Classification	Ownership	Management regime	License / Permit Type	Description of source type
Natural Forest	Temperate coniferous forests	Production Areas	Communal (communities, community-owned farms (<i>ejidos</i>)); private	Each community, community-owned farm (<i>ejido</i>) or private property owner has possession and use rights for each Management Unit (<i>Unidad de Manejo</i>) to which they belong. In communally owned forests and community-owned (<i>ejidal</i>) forests, decisions are taken in general assemblies by the communal landowners (<i>comuneros</i>) or community landholders (<i>ejidatarios</i>) who have voting rights. Private property can be in the name of an individual person or a company, regardless of the type of forest or region. Authorisation from SEMARNAT to harvest the natural resources must be obtained by the owner of the private, communally or community-owned (<i>ejido</i>) property.	Authorisation of Forest Harvesting (SEMARNAT). SEMARNAT grants forest permits to transport timber after it has been shown that forest harvesting has been conducted according to the management plan.	Temperate forest, primarily various species of pine (<i>Pinus spp.</i>), oak (<i>Quercus spp.</i>) and others (<i>Abies spp.</i> , <i>Alnus spp.</i> , etc.); communal, community-owned or private property. Corresponds to the category of temperate forests (pine and oak) with no at-risk species.
	Temperate broadleaf species forests	Conservation areas, harvesting is restricted	Communal (communities, community-owned farms (<i>ejidos</i>)); private	Each community, community-owned farm (<i>ejido</i>) or private property owner has possession and use rights for each Management Unit (<i>Unidad de Manejo</i>) to which they belong. In communally owned forests and community-owned (<i>ejidal</i>) forests, decisions are taken in general assemblies by the	UMA Management for <i>Pinus chiapensis</i> , <i>P. jaliscana</i> , etc.	Temperate forests, primarily holm oak, liquidambar, in transition to Cloud Forests. Riverbanks. Used for extraction of NTFP, tourism, water collection, etc.

			communal landowners (<i>comuneros</i>) or community landholders (<i>ejidatarios</i>) who have voting rights. Private property can be in the name of an individual person or a company, regardless of the type of forest or region. Authorisation from SEMARNAT to harvest the natural resources must be obtained by the owner of the private, community or community-owned (<i>ejido</i>) property, and authorisation must be received from the UMA.		Harvesting is restricted.
Tall and medium rainforest	Restoration areas, production areas	Communal (communities, community-owned farms (<i>ejidos</i>)); private	Each community, community-owned farm (<i>ejido</i>) or private property owner has possession and use rights for each Management Unit (<i>Unidad de Manejo</i>) to which they belong. In communally-owned forests and community-owned (<i>ejidal</i>) forests, decisions are taken in general assemblies by the communal landowners (<i>comuneros</i>) or community landholders (<i>ejidatarios</i>) who have voting rights. Private property can be in the name of an individual person or a company, regardless of the type of forest or region. Authorisation from SEMARNAT to harvest the natural resources must be obtained by the owner of the private, community or community-owned (<i>ejido</i>) property, and a Programme for Forest Management and Environmental Impact Statement are required.	Authorisation of Forest Harvesting and approval of Environmental Impact Statement. SEMARNAT grants forest permits to transport timber after it has been shown that forest harvesting has been	Tall and medium tropical rainforest; species include mahogany, cedar, machiche, caribbean walnut, granadillo, etc. Primarily community-owned forest (<i>ejidal</i>).

Low evergreen and deciduous rainforest	Restoration areas, production areas	Communal (communities, community-owned farms (<i>ejidos</i>)); private	Each community, community-owned farm (<i>ejido</i>) or private property owner has possession and use rights for each Management Unit (<i>Unidad de Manejo</i>) to which they belong. In communally-owned forests and community-owned (<i>ejidal</i>) forests, decisions are taken in general assemblies by the communal landowners (<i>comuneros</i>) or community landholders (<i>ejidatarios</i>) who have voting rights. Private property can be in the name of an individual person or a company, regardless of the type of forest or region. Authorisation from SEMARNAT to harvest the natural resources must be obtained by the owner of the private, community or community-owned (<i>ejido</i>) property, and a Programme for Forest Management and Environmental Impact Statement are required.	conducted according to the management plan.	Low and medium rainforest; species include cedar, huanacastle, caribbean walnut, palo colorado, copal. Primarily community-owned farm (<i>ejidal</i>) and communal ownership. Used extensively for livestock, firewood, wood for rural buildings.
Cloud forest	Protected and Conservation Areas	Communal (communities, community-owned farms (<i>ejidos</i>)); private	These forests are not subject to timber harvesting under any harvesting authorisations. CONAFOR provides support through the Environmental Services Programme (<i>Programa de Servicios Ambientales</i> (PSA, Spanish acronym)), or tourism projects are developed. Harvesting is done only in special cases as part of an emergency or restoration plan. The declaration of federal, state or private natural protected areas is promoted.		Forests with genera such as <i>Quercus</i> , <i>Juglans</i> , <i>Dalbergia</i> , <i>Podocarpus</i> , liquidambar, magnolias, along with <i>Chamaedorea</i> palms, ferns, orchids, bromeliads and hay, among others. Used for extraction of NTFP, tourism, water collection, etc. Harvesting is restricted.

	Brushland	Domestic production areas	Communal (communities, community-owned farms (<i>ejidos</i>)); private	These forests are not subject to timber harvesting under any harvesting authorisations. Non-timber products within the UMA are harvested.		Timber forest resources are not harvested in these forests. Rather, they provide non-timber resources such as fibres, extracts and fruits.
	Mangrove	Protection	Wetland forests on the edge of rivers and oceans, on federal property	Parties interested in harvesting in these ecosystems must request an area use concession and conduct an environmental impact evaluation before harvesting. No harvesting is done for commercial purposes. The specifications for the preservation, conservation, sustainable harvesting and restoration of coastal wetlands in mangrove zones are stipulated in Official Mexican Norm NOM-022-SEMARNAT-2003.		Harvesting of firewood for family consumption, wood for rural buildings.
Plantations	Plantations in temperate zones for timber production purposes	Production areas	Private	Each planter/owner gives notice of harvesting through the Simplified Forest Plantation Management Programme and/or develops a Programme for Forest Management if the area is over 800 ha. Based on this Programme, after the authorisation period for the plantation has concluded, documentation must be requested to transport the timber.	Plantation Harvesting Notice	Pine plantations
	Plantations in temperate regions for Christmas trees	Production area	Communal (communities, community-owned farms (<i>ejidos</i>)); Private	Each owner or legal representative of the community or community-owned farm (<i>ejido</i>) gives notice of harvesting to SEMARNAT and requests documentation to transport Christmas trees.		Species used are <i>Pseodotzuga</i> , <i>Pinus ayacahuite</i> , <i>Abies religiosa</i> , among others.

	Plantation in tropical regions with native species	Production areas	Communal (communities, community-owned farms (<i>ejidos</i>)); Private	Each planter/owner gives notice of harvesting through the Simplified Forest Plantation Management Programme and/or develops a Programme for Forest Management if the area is over 800 ha. Based on this Programme, after the authorisation period for the plantation has concluded, documentation must be requested to transport the timber.	Plantations with native species in tropical regions of the Pacific Coast and Gulf of Mexico; communal and private ownership at the experimental level.
	Plantation in tropical region with exotic species	Production forests	Private	Each planter/owner gives notice of harvesting through the Simplified Forest Plantation Management Programme and/or develops a Programme for Forest Management if the area is over 800 ha. Based on this Programme, after the authorisation period for the plantation has concluded, documentation must be requested to transport the timber.	Plantations with exotic species, primarily teak and eucalyptus, in the tropical region of the Pacific Coast and Yucatan Peninsula, including Veracruz, Tabasco and Oaxaca, almost exclusively private ownership



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About

Supporting Legal Timber Trade

Supporting Legal Timber Trade is a joint project run by NEPCon with the aim of supporting timber-related companies in Europe with knowledge, tools and training in the requirements of the EU Timber Regulation. Knowing your timber's origin is not only good for the forests, but good for business. The joint project is funded by the LIFE programme of the European Union and UK aid from the UK government.



NEPCon (Nature Economy and People Connected) is an international, non-profit organisation that builds commitment and capacity for mainstreaming sustainability. Together with our partners, we foster solutions for safeguarding our natural resources and protecting our climate.

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