

## **Alert** | Environmental



**May 2021**

### **Decree Amending Several Provisions of Mexico's General Law of Sustainable Forestry Development**

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On April 26, 2021, the Decree amending several provisions of Mexico's General Law of Sustainable Forestry Development was published in the Federal Official Gazette (DOF). The Decree is effective as of April 27.

In relevant part, the Decree's amendments include the following:

- Changes to land use of forest land will be subject to analysis of carbon storage capacity, in addition to the existing requirements set forth in the current law.
- Changes to the use of land in indigenous territories will be subject to a prior, free, informed, culturally appropriate, and good faith consultation, to be carried out by the Ministry of Environment and Natural Resources (SEMARNAT) in coordination with the National Institute of Indigenous Peoples.
- The Ministry of Agriculture and Rural Development (SADER) has been added to several decision-making processes.

The following chart compares the articles amended in the Decree:

<p style="text-align: center;"><b>General Law for Sustainable Forestry Development in force</b></p>	<p style="text-align: center;"><b>Decree</b></p>
<p><b>Article 18.</b> The Commission shall have as its Governing Body a Governing Board, which shall be the highest authority of the agency and shall be composed by the heads of the Ministries of National Defense; Finance and Public Credit; Social Development; Environment and Natural Resources; Economy; Agriculture, Livestock, Rural Development, Fisheries and Food; Agrarian, Territorial and Urban Development; and Tourism; of the National Water Commission, as well as the National Commission for the Development of Indigenous Peoples.</p> <p>...</p> <p>...</p> <p>...</p>	<p><b>Article 18.</b> The Commission shall have as its Governing Body a Governing Board, which shall be the highest authority of the agency and shall be composed of the heads of the Ministries of National Defense; Finance and Public Credit; <u>Welfare; Environment and Natural Resources; Economy; Agriculture and Rural Development; Agrarian, Territorial and Urban Development; and Tourism; of the National Water Commission, as well as of the National Institute of Indigenous Peoples.</u></p> <p>...</p> <p>...</p> <p>...</p>
<p><b>Article 20. ...</b></p> <p>...</p> <p><b>I. to XXXVII. ...</b></p> <p><b>XXXVIII.</b> Participate in territorial delimitation, land use planning and the preparation of territorial plans carried out by the Ministry of Agrarian, Territorial and Urban Development, the Ministry of Tourism, the Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food or other agencies.</p> <p><b>XXXIX. to XLI. ...</b></p>	<p><b>Article 20. ...</b></p> <p>...</p> <p><b>I. to XXXVII. ...</b></p> <p><b>XXXVIII.</b> Participate in territorial delimitation, land use planning and the preparation of territorial plans carried out by the Ministry of Agrarian, Territorial and Urban Development, Ministry of Tourism, <u>Ministry of Agriculture and Rural Development or other agencies;</u></p> <p><b>XXXIX. to XLI. ...</b></p>
<p><b>Article 24.</b> In accordance with the provisions of the Organic Law of the Federal Public Administration, the Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food will coordinate with the Ministry and with the participation of the Commission, as the case may</p>	<p><b>Article 24.</b> In accordance with the provisions of the Organic Law of the Federal Public Administration, the <u>Ministry of Agriculture and Rural Development</u> will coordinate with the Ministry and with the participation of the Commission, as the case may be, for the</p>

<p style="text-align: center;"><b>General Law for Sustainable Forestry Development in force</b></p>	<p style="text-align: center;"><b>Decree</b></p>
<p>be, for the fulfillment of the purposes of the Law and, particularly, in the following aspects:</p> <p><b>I. to IX. ...</b></p> <p>The Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food will not grant support or economic incentives for agricultural activities in deforested areas or for those that promote the change of land use of forest land or increase the agricultural frontier. For this purpose, agricultural activities will be understood as those defined as such in Article 3, Section I of the Sustainable Rural Development Law.</p> <p>For the purposes of the preceding paragraph, the Ministry and the Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food will establish the information instrument that will allow the identification of forest lands or agricultural and livestock properties.</p>	<p>fulfillment of the purposes of the Law and, particularly, in the following aspects:</p> <p><b>I. to IX. ...</b></p> <p><u>The Ministry of Agriculture and Rural Development</u> will not grant support or economic incentives for agricultural activities in deforested areas or for those that promote the change of land use of forest land or increase the agricultural frontier. For this purpose, agricultural activities will be understood as those defined as such in Article 3, Section I of the Sustainable Rural Development Law.</p> <p>For the purposes of the preceding paragraph, the Ministry and the <u>Ministry of Agriculture and Rural Development</u> will establish the information instrument that will allow the identification of forest lands or agricultural and livestock properties.</p> <p><u>The Ministry and the Commission shall enter into agreements with other federal government agencies that provide support for the development of the rural sector in order to fulfill the purposes of this Law and prevent deforestation and degradation.</u></p>
<p><b>Article 93.</b> The Ministry will authorize the change of land use in forest lands by exception, based on prior technical opinion of the members of the State Forestry Council in question and the technical justification studies whose content will be established in the Regulations, which demonstrate that the biodiversity of the ecosystems that will be affected will be maintained, and that soil erosion, deterioration of water quality or decrease in water catchment will be mitigated in the areas affected by the removal of forest vegetation.</p> <p>...</p> <p>...</p>	<p><b>Article 93.</b> The Ministry <u>will only authorize</u> the change of land use in forest lands by exception, based on prior technical opinion of the members of the State Forestry Council in question and the technical justification studies whose content will be established in the Regulations, which demonstrate that the biodiversity of the ecosystems that will be affected will be maintained, and that soil erosion <u>carbon storage capacity</u>, deterioration of water quality or a decrease in water catchment will be mitigated in the areas affected by the removal of forest vegetation.</p> <p>...</p>

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	<p>...</p> <p><i><u>In the case of land located in indigenous territories, the authorization for change of land use must also be accompanied by measures of prior, free, informed, culturally-appropriate and good faith consultation, under the terms of the applicable legislation. For this purpose, the Ministry will coordinate with the National Institute of Indigenous Peoples.</u></i></p>
<p><b>Article 97.</b> No land use change authorization may be granted on burned land before 20 years have passed and the Ministry has recognized that the affected forest vegetation has regenerated, by means of the mechanisms established for such purpose in the Regulations of this Law.</p>	<p><b>Article 97.</b> No land use change authorization may be granted on <i><u>forest land where the loss of forest cover was caused by fire, logging or clearing</u></i> before 20 years have passed and the Ministry has recognized that the affected forest vegetation has regenerated, by means of the mechanisms established for such purpose in the Regulations of this Law.</p>
<p><b>Article 99.</b> The Ministry, with the participation of the Commission, will coordinate with the Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food the land use policy to stabilize agricultural and livestock use, including the slash-and-burn system, developing permanent practices and preventing agricultural production from growing at the expense of forest land.</p> <p>The Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food will not grant support or economic incentives for agricultural activities on land whose land use change has not been authorized by the Ministry for such activities.</p>	<p><b>Article 99.</b> The Ministry, with the participation of the Commission, will coordinate with the <i><u>Ministry of Agriculture and Rural Development</u></i> the land use policy to stabilize agricultural and livestock use, developing sustainable practices, developing permanent practices and preventing agricultural production from growing at the expense of forest land.</p> <p><i><u>The various federal, state and municipal government agencies will not grant support or economic incentives for activities on forest land whose land use change has not been authorized by the Ministry.</u></i></p>

\* This GT Alert is limited to non-U.S. matters and law.

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