

Santamarina
+ Steta

RECOMMENDATIONS FOR THE CHANGE OF LAND USE ON FOREST LAND

S+S INSIGHTS



By the year 2021, Mexico had 138.7 million hectares¹ of forest area. Unfortunately, between 2001 and 2021, the country recorded deforestation of 208,850 hectares.

Forest ecosystems are important because, among other environmental services, they support terrestrial biodiversity, help preserve soil, and absorb carbon dioxide. This last function is crucial for addressing the current climate crisis.

The development of some projects involves clearing vegetation from forest land, a permission known as land-use change on forest land. This authorization requires adopting measures to prevent, mitigate and/or compensate for adverse environmental impacts, for example, by reforesting larger areas than the area cleared.

Forestry regulations have designed a series of legal requirements to reduce the adverse environmental effects of land use change on forest land. Based on the professional experience of Santamarina + Steta in this area, we make the following recommendations:

1. THE BEST IMPACT IS THE ONE NOT CAUSED.

When considering a property for the development of a project, it's preferable to use land that has already been cleared, for example, agricultural, urban, or legally impacted areas.

2. LAND WITH NATIVE VEGETATION IN GOOD CONSERVATION CONDITIONS IS FOREST LAND.

There is a mistaken notion that only temperate forests are forest ecosystems. Assuming that forests, wetlands, arid and semi-arid zones are not forest ecosystems can lead to illegal logging.

The arid and semi-arid vegetation typical of northern Mexico is perhaps the one that suffers the most from this confusion since it is not made up of trees and is often cut down without the corresponding authorizations.

3. THE CHANGE OF LAND USE IN FOREST LAND MUST BE DONE THROUGH TWO AUTHORIZATIONS.

Whoever intends to log forest land must obtain an environmental impact authorization (AIA) and an authorization for change of land use on forest land (ACUSTF). Logging with only one authorization or without either of them is illegal.

4. THE TERMS AND CONDITIONS IMPOSED BY THE AIA AND ACUSTF AUTHORIZATIONS MUST BE COMPLIED WITH.

Both authorizations impose a series of obligations that must be adhered to, for example, relocating fauna on the land, rescuing flora in some degree of protection, or reforesting other lands.

5. LAND WHERE REGENERATION OF NATIVE VEGETATION BEGINS IS ALSO CONSIDERED FOREST LAND.

In these cases, a forestry expert duly registered in the National Forestry Registry should determine whether or not the land is considered forest land.

6. IT IS NOT POSSIBLE TO CUT OR PRUNE MANGROVES OR VEGETATION WITHIN 100 METERS OF THE MANGROVE.

Mangroves are a protected species, so the environmental authority is legally prohibited from granting AIAs and ACUSTFs that allow the cutting or pruning of mangroves.

It is possible to generate technical and legal strategies so that the authorities reduce the 100-meter strip adjacent to the mangrove, allowing vegetation to be cut down.

7. OWNERS OF FOREST LAND THAT HAS BEEN BURNED OR ILLEGALLY LOGGED WILL NOT BE ABLE TO OBTAIN AN ACUSTF FOR A PERIOD OF 20 YEARS.

In the preparatory stage of a project, it is advisable to verify whether the land where the project is to be developed was or is covered by forest vegetation and, if so, that such vegetation has not been affected by fire or illegally harvested.

8. PENALTIES FOR LOGGING WITHOUT AN AIA AND/ OR AN ACUSTF OR FAILURE TO COMPLY WITH THE OBLIGATIONS OF THESE AUTHORIZATIONS CAN END THE VIABILITY OF A PROJECT.

In addition to the possible environmental, administrative, and criminal liability for those who commit illegal logging or fire, such infractions could result in the obligation to repair the environmental damage caused. The above implies the execution of all necessary actions to return the forest land to its previous state before the damage was caused and substantial reforestation measures.

In addition, as mentioned before, in the 20 years following the infraction, it will not be possible to obtain an ACUSTF for the affected property.

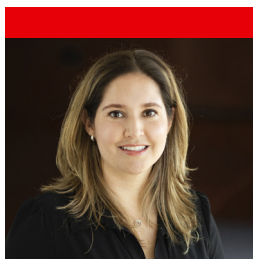


Adequate legal and technical planning is key for developing projects in forest lands to be carried out in a sustainable manner, in full legal compliance, and to help preserve these ecosystems.

¹ <https://databosques.cnf.gob.mx/inicio/>



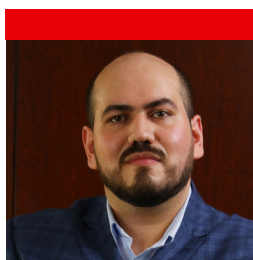
Vicente Grau
Partner
Mexico City
+52 55 5279 5466
vgrau@s-s.mx



Claudia Rodríguez
Partner
Mexico City
+52 55 5279 5408
crodriguez@s-s.mx



Heriberto Garza
Partner
Monterrey
+52 81 8133 6010
hgarza@s-s.mx



David González Vega
Associate
Mexico City
+52 55 5279 5456
david.gonzalez@s-s.mx