

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES
OF WILD FAUNA AND FLORA

First meeting of the Mahogany Working Group
Santa Cruz de la Paz (Bolivia), 3-5 October 2001

National reports

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MEETING OF THE MAHOGANY WORKING GROUP
(*Swietenia macrophylla*)

National Report



Santa Cruz de la Sierra, Bolivia

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1. INTRODUCTION

At the 11th meeting of the Conference of the Parties it was agreed that a working group should be set up to deal with topics relating to the bigleaf mahogany (*Swietenia macrophylla*). The mandate for the working group is stated implicitly in Decision 11.4 which laid down that the range States, the principal importing countries, some intergovernmental organizations and some non-governmental organizations would take part in the group, contributing national reports and/or other documents of interest relating to this species.

The topics to be covered in the report are:

- Introduction
- National regulations for controlling trade
- Volume of trade
- Problems with regard to the issue of permits or certificates and possible solutions
- Illegal trade
- National regulatory plans and recovery programmes

In Mexico, the bigleaf mahogany is found in the states of Campeche, Chiapas, Quintana Roo, Oaxaca, Puebla, Tabasco, Veracruz and Yucatán. In the first three, it is found still forming part of forest stands.

It is estimated that the majority of the areas where the mahogany grew in the past have been converted to other uses, resulting in an approximate 80% reduction of the woods and forests containing mahogany.

2. NATIONAL REGULATIONS FOR CONTROLLING TRADE

LEGISLATION OF MEXICO CONCERNING FOREST RESOURCES

Mexico is a country whose location results in its having the three major forest ecosystems (woods, forests and arid zones), which in turn makes us owners of one of the richest varieties of flora in the world. However, the degradation of our forest resource is alarming. This has come about in particular in recent decades, but it is also in these recent years that more specific rules have been established and institutions set up with the responsibility of giving adequate protection to those resources. To that end, they have been given clearly delimited powers, both with respect to the content of their work and with respect to territorial jurisdiction. Thus, the *Procuraduría Federal de Protección al Ambiente* (PROFEPA, *Office of the Federal Prosecutor for Protection of the Environment*) is the body responsible for pursuing and, if necessary, applying penalties to persons only infringing regulations. In other words this office deals only with administrative matters. Its territorial jurisdiction extends over the whole of the Republic. On the other hand the Office of the Attorney General, the highest organ of the United Mexican States for administering justice, is responsible for applying penalties for crimes in forestry matters, with the entire territory of the country falling under its jurisdiction.

Within this context, the legal framework applicable to forestry matters may be summarized as follows:

- Political Constitution of the United Mexican States, Article 27 of which establishes the legal right embodied in the State to regulate the preservation and utilization of the natural resources of the country, this Article having been revised by a Decree published in the *Diario Oficial de la Federación* (D. O. F., *Official Gazette of the Federation*) of 1992 to take final form as follows:

“The Nation shall at all times have the right to impose on private property such administrative proceedings as are dictated by the public interest, as well as by the interest of regulating, for the benefit of society, the utilization of the natural elements which might be appropriated, with the objective of securing an equitable distribution of the public patrimony, ensuring its conservation, achieving the balanced development of the country and improving the conditions of life of the populations of town and countryside. In consequence, the necessary measures shall be promulgated in order to regulate human settlements and establish adequate provisions, usages, reserves and purposes for land, water and woodlands, for the purpose of carrying out public works, and planning and regulating the foundation, conservation, improvement and growth of the centres of population; to preserve and restore the ecological equilibrium; to break up the large tracts of land with a single owner; to arrange in accordance with the relevant law the organization and collective utilization of the cooperative land and communities; to develop small-scale rural land ownership; to foster agriculture, cattle-raising, forestry and the other economic activities in the rural environment, and to avert the destruction of the natural elements and the damage which might be caused to the land with consequent harm to society.”

Additionally, Article 73 of the Constitution, in its Section XXIX-G, grants to the Congress of the Union the power to pass laws which establish the joint responsibility of the Federal Government, of the State governments and the municipal authorities, within the scope of their respective jurisdictions, with regard to protection of the environment and preservation and restoration of ecological equilibrium.

- General Law on Ecological Equilibrium and the Protection of the Environment (LGEEPA), published in the D. O. F. of 28 January 1988, revised by Decree of 13 December 1996, which establishes the criteria which must be observed in the utilization, protection and preservation of natural resources, and for the prevention and control of environmental pollution. This then establishes the national policy on the environment and the instruments of that policy.
- Forests Act, published in the D. O. F. of 22 December 1992, revised by Decree of 20 May 1997, the purpose of which is to regulate and promote the conservation, protection, restoration, utilization, management, cultivation and production of the country's forest resources, with the aim of promoting sustainable development.

The *Secretaría de Medio Ambiente y Recursos Naturales* (SEMARNAT, *Ministry for the Environment and Natural Resources*) is the authority empowered to authorize the utilization of timber-yielding forest resources, afforestation and reforestation. This is based on rules which differ according to the characteristics of the resources and of the zones or ecosystems in which they are located. Thus, a distinction is drawn between timber-yielding and non timber-yielding forest resources. The latter, on the basis of their characteristics and the methods used to gather them, are regulated through the Official Regulations of Mexico.

For the utilization of the timber-yielding forest resources, afforestation or reforestation, an application has to be submitted to the SEMARNAT. This must include the document which confirms the right of the applicant to carry out those activities, in addition to a management programme, the authorization from the point of view of the environmental impact in tropical forests, protected natural areas and species which it is difficult to regenerate; an integrated environmental management and afforestation programme which will simultaneously include both forestry management and environmental impact in the case of plantations.

The persons responsible for drawing up, directing, implementing and evaluating the planning instruments described have to be recorded in the National Forestry Records and have to submit periodic reports, for the strict compliance with the management programmes. The competent authorities are empowered to monitor activities and carry out audits. Additionally, the

requirements which have to be met when changes are proposed to the management programme are laid down, with the objective of ensuring that the applicable environmental safeguards are observed. The supplementary actions which the authority may take in the event that individuals do not comply with the obligations provided for in the management programmes are also laid down.

SEMARNAT also issues and supervises phytosanitary rules relating to forest species, as well as coordinating, supervising and executing actions for the prevention, combat and control of forest fires and forest diseases.

SEMARNAT's federal implementing agency may enter into agreements with the States, dealing *inter alia* with the following matters: preparation, structure and implementation of forest programmes; promotion of education, knowledge, training and research into forests; and inspection and monitoring of forests. Similarly, it may enter into agreements in forest matters with artificial or natural persons from the corporate or private sector, on the implementation of forest programmes, promotion of education, knowledge, training and research into forests, as well as with respect to the tasks of forest monitoring and other operative actions provided for in the Forests Act.

It also regulates the transport, storage and processing of forest raw materials, strengthening the capacity of the State to take actions in order to combat actions harmful to the forest resources.

The *Consejo Técnico Consultivo Forestal Nacional (National Technical Consultative Council on Forests)* has been set up, comprising representatives of the departments involved, and also of research and teaching centres, groupings of producers and business people, non-governmental organizations and other organizations having to do with the sector. The council acts as the consultative arm of SEMARNAT, in matters of forest regulations and management of resources, and is supported by regional councils to which representatives of State governments, municipal authorities, collective farms and communities also belong.

Attention is also being paid to fostering the planting of forests in deforested areas in order to supply industry and reduce the pressure on the natural woods and the forests. The owners of eroded land, and land of low value owing to its poor agricultural or cattle-raising yield, can find an alternative use for the land by growing forests. SEMARNAT draws up and implements programmes of ecological restoration, in order to reverse the processes of degradation or desertification, or serious ecological imbalances occurring in forest lands or lands most suitable for growing forests.

In addition the federal implementing agency has powers to decree closed periods for forests, based on technical studies which SEMARNAT prepares in order to justify such a measure, following an opinion from the council and subject to the guaranteed right to a hearing for the workers on the collective farms, the members of communes and other owners or holders of the land in question, as well as holders of authorizations to use timber-yielding forest resources and carry out afforestation on those lands.

The protective measures which may be implemented include the precautionary securing of forest resources and raw materials, as well as of the assets, vehicles, utensils, tools, equipment or any other instrument directly related with the action or failure to act which has given rise to the imposition of this measure; the temporary partial or total shutdown of the installations, machinery or equipment, as appropriate; the temporary partial or total suspension of the utilization, afforestation, reforestation or of whatever activity is involved.

The offences and penalties in forest matters are drawn up in accordance with the substantive provisions of the Forests Act.

Finally, in the event of a criminal case, the criteria which the authority has to observe in the imposition of penalties are also stipulated:

- In the Penal Code for the Federal Capital District in matters of General Jurisdiction and for all of the Republic in matters of Federal Jurisdiction a chapter dealing with environmental offences was added by means of the Decree of 13 December 1996, which categorizes behaviour contrary to the provisions covering the protection, preservation and sustainable use of the natural resources established in the environmental and regulatory legislation.

Turning now to environmental crimes related to forests, those are covered in Title XXV of the environmental crimes in Articles 418 and 419 of the Federal Penal Code. In summary:

Article 418: Whoever without the authorization which is required under the Forests Act...

The authorization is that which is granted by the Ministry of the Environment and Natural Resources in conformity with the provisions of Article 11, together with Articles 12 and 14 of the Forests Act, as well as the notice referred to by Article 13 of the same.

Article 419: Whoever transports, sells, stockpiles or processes timber-yielding forest resources in quantities higher than 4 m³ of round wood or equivalent, for which use authorization has not been given in accordance with the Forests Act...

For purposes of appropriate implementation of this Article it is necessary to refer to Article 20 of the Forests Act which lists the documents and control systems to confirm the legal provenance of the wood. These are:

- Notices of utilization, which may include identification marks, seals or codes, in cases involving round wood, square-cut wood or non timber-yielding forest resources.
- Forest release forms, invoices or sales documents, in the other cases.
- Inventory records in the case of storage or processing centres.

It is also important to mention that Article 22 of the same law points out the principle that ignorance of the law does not negate the requirement to comply with it, indicating that it is an obligation on the carrier undertaking or on whoever trades in or processes forest raw materials to verify, as stipulated by the Act and its implementing regulations as well as by the Official Regulations of Mexico, that those resources come from authorized exploitations.

It is important to refer to Article 254, Section I of the Federal Penal Code, which states:

254.- The penalties listed in Article 253 shall also apply:

I. To inappropriate destruction of raw materials, trees... which is perpetrated with prejudice to the national patrimony or consumption...

This Article draws attention to the value of the forest products as a part of the national patrimony, which implies that in addition to the application of the provisions of the specific heading covering environmental crimes, this Article can also be applied. As a result, a plurality of Criminal Code provisions is applicable, and there is thus a warning that a double or multiple offence may result from a single action. Two offences are categorized, and in such a case, in accordance with the provisions of Article 64 of the Federal Penal Code, the greater penalty is applied. This in turn can be increased by up to a further half, which means that the penalty incurred for a single offence can be more severe, causing offenders to attempt by any means possible to avoid a recurrence.

3. VOLUME OF TRADE

Following is a summary of the information relating to exports and re-exports of bigleaf mahogany, provided by the CITES Management Authority of Mexico. The data in their expanded form will be found in Annex I.

EXPORTS AND RE-EXPORTS OF BIGLEAF MAHOGANY (*Swietenia macrophylla*) TOTALS BY YEAR

YEAR	PERMIT-HOLDER	No. PERMITS	TOTAL m ³
1996	Carpicentro, S.A. de C.V.	26	741.787
1996	Maderas Industrializadas de Q. Roo	8	133.709
1996	Maderas Reyba, S.A. de C.V.	2	35.000
1996	Maderas Tropicales y Finas, S.A. de C.V.	3	141.935
1996	Mercado de Maderas, S.A. de C.V.	6	246.258
1996	Ejido Nuevo Tabasco	2	50.339
1996	Ejido Felipe Angeles	4	151.099
1996	Ejido Lázaro Cárdenas	1	30.734
1996	Ejido Noh Bec, Q. Roo	2	273.642
1996	Consejo Regional Agrosilvopecuario y de Servicios de Xpujil S.C.	1	26.474
1996	Ejido Caoba	4	143.592
1996	Procesadora de Maderas del Real, S.A. de C.V.	8	283.200
TOTAL_____		67	2,257.769
1997	Carpicentro, S.A. de C.V.	7	246.450
1997	Maderas Industrializadas de Q. Roo	2	23.855
1997	Maderas Tropicales y Finas, S.A. de C.V.	4	146.320
1997	Sociedad Cooperativa Maderera e Industrializadora Chili S.C.L	1	39.360
TOTAL_____		14	455.985
1998	Carpicentro, S.A. de C.V.	1	35.400
1998	Industrializadora de Maderas y Duelas, S.A. de C.V.	1	150.000
1998	Margarito Hernández Romero	1	100.509
1998	P Y P Maderas de la Peninsula, S.A. de C.V.	1	6.500
1998	Caribbean Island, S.A. de C.V.	1	14.000
TOTAL_____		5	306.409
1999	Grupo Iberoamericano de Comercio, S.A. de C.V.	4	138.391
1999	Surtidora Triplay, S.A. de C.V.	1	43.502
TOTAL_____		5	181.893

2000	Surtidora Triplay, S.A. de C.V.	1	12.636
TOTAL_____		1	12.636
2001	Carpicentro, S.A. de C.V.	1	2.190
2001	Ejido Noh Bec, Q. Roo	3	169.309
2001	Maderas del Sureste Tai Pan. S.A. de C.V.	1	57.075
TOTAL_____		5	228.574
GRAND TOTAL_____		97	3,443.266
TOTAL PCE_____			14.094

Following is summary of the information relating to imports of bigleaf mahogany, provided by the CITES Management Authority of Mexico. The data in their expanded form will be found in Annex II.

IMPORTS OF BIGLEAF MAHOGANY (*Swietenia macrophylla*)

TOTAL BY YEAR

AÑO	TITULAR	No. PERMISOS	TOTAL m ³
1998	Comercializadora Internacional Concord, S.A. de C.V	1	64.430
1998	Maderas Tropicales y Finas,S.A. de C.V.	1	32.000
1998	Selva Corporation de Mexico, S.A. De C.V	1	26.000
TOTAL_____		3	122.430
2001	Sud American Lomber, S.A. de C.V.	4	60.910
2001	Triplay, Aglomerados y Muebles Azteca, S.A.de C.V.	2	11.455
2001	Triplay Frontera 2000. S.A. de C.V.	1	6.430
2001	Tablerama, S.A. de C.V.	1	0.000
TOTAL_____		8	78.795
GRAN TOTAL _____		11	201.225
TOTAL PCE_____			2.760

4. PROBLEMS RELATING TO THE ISSUE OF PERMITS OR CERTIFICATES AND POSSIBLE SOLUTIONS

Up to the present time there have not been any problems relating to the issue of CITES permits or certificates, largely owing to the fact that the provisions laid down by the Convention are followed.

In relation to the set of problems concerning the management plans, there is a delay (of 6 months to a year) in the reporting of the environmental impact; on some plots of land, only the bigleaf mahogany is taken while the other usable species are left standing (a further 11 species). Also, in Quintana Roo the usable volumes have dropped in recent years (from 25 to 10 thousand m³/year).

5. ILLEGAL TRADE

QUINTANA ROO

Date	Type	Quantity/measure
1. January 2001	Mahogany	0.337 m ³ of planks
2. January 2001	Mahogany	1.41 m ³ in boards
3. February 2001	Mahogany	2 m ³
4. February 2001	Mahogany	20.36 m ³
5. March 2001	Mahogany	16.5 m ³
6. May 2001	Mahogany	3.7 m ³
7. May 2001	Mahogany	0.353 m ³
8. May 2001	Mahogany	3.4 m ³
9. June 2001	Mahogany	2.083 m ³
10. June 2001	Mahogany	20 m ³
TOTAL		70.143 m³

CAMPECHE

Date	Type	Quantity/measure
1999	Mahogany	467.11 m ³ sawn 464.118 m ³ round
2000	Mahogany	100.664 m ³ sawn 120.388 m ³ round
2001 up to 15 July	Mahogany	80.51 m ³ sawn 22.443 m ³ round
TOTAL		1,255.223 m³

CHIAPAS

This State reported no inventory of mahogany, either for export or for import.

OAXACA

This State reported no inventory of mahogany, either for export or for import.

TABASCO

Date	Type	Quantity/measure
1999	Mahogany	0.712m ³
2000	Mahogany	5643 board feet

VERACRUZ

This State reported no inventory of mahogany, either for export or for import.

YUCATAN

The Federal Delegation of the PROFEPA in the State of Yucatán reported that there are no authorizations for the use of this species, utilizations of forest materials not being reported to that department.

However, exports undertaken by countries which acquire the resource in the neighbouring states of Campeche and Quintana Roo have inevitably to pass through Yucatán. In those two States, the utilization is based on authorizations issued by SEMARNAT, and consequently the actions taken by the inspectors of the Delegation, in the ocean port of Progreso, do not go beyond verifying the documentation and conformity with the rules laid down in the CITES certificates. On the basis of this procedure, to date no irregularities have been detected which would justify the initiation of any administrative proceedings.

6. NATIONAL REGULATORY PLANS AND RECOVERY PROGRAMMES

- Management Plans. There are authorized utilizations in all of the States except for Yucatán, for an annual volume of about 20,000 m³ (for 1998, 19,302 m³ were authorized) of which 95% comes from Quintana Roo, Chiapas and Campeche. Additionally, 1,600 m³ were authorized in farming areas. With regard to density, there are records in Quintana Roo of 0.22 to 45.8 trees/ha, and stocks of 0.01 to 7.95 m³/ha in Campeche and Quintana Roo.
- National Regulatory and Recovery Plans. No plans have yet been designed or implemented; however, 1,555 ha of plantations of this species have been established, in five States (between one and five years old) which will make it possible to reduce the pressure on the natural populations. In the State of Quintana Roo it has been made a requirement for obtaining authorizations for utilization that replacement plantations have to be established. Also in that State, studies are being carried out on population dynamics, growth and natural regeneration.