NATIONAL IMPLEMENTATION OF ACCESS & BENEFIT-SHARING FOR NON-COMMERCIAL ACADEMIC RESEARCH

MEXICO

This form is an annex of the document "Access & Benefit-Sharing in Latin America & the Caribbean, a science-policy dialogue for academic research", Biber-Klemm et al. (2014) (Available at http://www.diversitas-international.org/activities/policy/cbd-1/access-and-benefits-sharing-abs).

It was written by the Coordinación General de Corredores y Recursos Biológicos, Punto Focal para el Comité Intergubernamental del Protocolo de Nagoya (http://www.conabio.gob.mx/web/conocenos/CGCyRB.html), 30/08/2013.

SECTION 1: LEGAL AND INSTITUTIONAL FRAMEWORK

1. LEGAL SOURCES

1.1. Title of regulation(s) on access[1] to genetic resources and traditional knowledge regarding:

1.1.1. The conditions and procedures for access

In Mexico there is no single legislation regarding benefit access. Up until now, the legislation is based on several isolated general laws. A number of legal gaps have been identified, that will be considered when writing the new law which takes into account the Nagoya Protocol and allows its implementation.

Although in Mexico there is no specific regulation regarding benefit access, legislation does exist regulating genetic resource access through regulations for biologic resource collection for scientific, commercial and biotechnological purposes. These regulations are present in several isolated laws:

- **General Law for National Goods**[2]: This legislation establishes which goods constitute national heritage based on the Constitution of the United Mexican States (article 27 paragraphs four, five and eight; article 42 fraction IV and 132[3]). Regarding scientific research, article 84 of this law establishes that federal properties that are not of common use or useful for public service, may be subject to lease, *commodatum*, or usufruct in favor of institutions that carry out social assistance activities or scientific research, as long as they are characterized as nonprofit. This law also establishes in article 131 that "In case of humanitarian aid or

[1]Including legislation that regulates access to genetic resources but does not make explicit mention / use of the term "access" (e.g., "scientific collections", use for biotechnology purposes) when such legislation exists.

[2] http://www.diputados.gob.mx/LeyesBiblio/pdf/267.pdf

[3] http://www.normateca.gob.mx/Archivos/50_D_2767_19-08-2011.pdf

scientific research, The Federation may donate properties to foreign institutions and governments, with a presidential agreement authenticated by the Secretariat of Foreign Affairs (SRE) incumbent, the Secretariat and the dependency that has the property registered in its inventory".

- **Federal Law of the Ocean**[4]: This law implements the regulations regarding marine scientific research of national extent as established by UNCLOS (United Nations Convention on the Law of the Sea signed on December 10th 1982) in which the national regime for marine scientific research is established. Chapter IV lays out the principles for the execution of marine scientific activities in Mexican marine areas.
- **Regulations for Use and Exploitation of Territorial Seas, navigable routes, beaches, federal maritime and terrestrial zones and land reclaimed from the sea**[5]: This regulation establishes the possibility of granting permits for the use of federal maritime and terrestrial zones, land reclaimed from the sea and any other marine water deposit, when carrying out certain activities, including scientific research.
- **General Law for Sustainable Fisheries and Aquaculture**[6]: This law establishes legislation to regulate the exploitation, access, use and benefit of aquatic and fishery resources. It also promotes and facilitates scientific and technological research related to aquaculture and fishing (article 2). This law grants permissions for aquaculture and fishing for research, examination, species cultivation, exploration, experimentation in bodies of water, resource evaluation, creation, maintenance, technological innovation, new technology development and replacement of scientific collections (article 41).

The following environmental legislation refers to the collection of biologic resources with scientific, commercial or biotechnological purposes:

- **General Law for Ecological Balance and Environmental Protection** (**LGEEPA**[7]): This legislation regulates **scientific collection** (article 87) and the **authorization** for biotechnological use (article 87 bis). **Biotechnology**[8] is defined as any application of technology which uses biological resources, living organisms or their derivatives for the creation or modification of products or processes for specific uses.
- **General Wildlife Law** (**LGVS**[9]) and its regulations[10]: Includes legislation for scientific collection and collection destined for educational purposes. It precludes the exploitation of resources for commercial or biotechnological purposes. The regulations include five different modalities related with scientific collection.
- **NOM-126-ECOL-2000**[11]: This official Mexican norm establishes the "Specifications for the execution of activities regarding the scientific collection of biologic material of species of wild flora and fauna and other biological resources within the national territory." It is founded on article 87 of the General Law for Ecological Balance and Environmental Protection (LGEEPA) and articles 97 and 98 of the General Wildlife Law (LGVS).
- **General Law for Sustainable Forestry Development** (**LGDFS**[12]) and its regulations[13]: **Legislations for the collection** and the **use** of biological forest resources for **scientific** purposes as well as biotechnological collection for commercial purposes. This law recognizes the rights of indigenous communities to property,

[4] http://www.diputados.gob.mx/LeyesBiblio/pdf/124.pdf
[5] http://www.ordenjuridico.gob.mx/Documentos/Federal/wo75710.doc
[6] http://www.conapesca.sagarpa.gob.mx/wb/cona/cona_ley_de_pesca
[7] http://www.cddhcu.gob.mx/LeyesBiblio/pdf/148.pdf
[8] LGEEPA, Article 3, fraction V. Biotechnology: Any technological application that utilizes biological resources, living organisms or their derivatives for the creation or modification of products or processes for specific use.
[9] http://www.diputados.gob.mx/LeyesBiblio/pdf/146.pdf
[10] http://www.diputados.gob.mx/LeyesBiblio/regley/Reg_LGVS.pdf
[11] http://www.semarnat.gob.mx/leyesynormas/Normas%20Oficiales%20Mexicanas%20vigentes/NOM-ECOL-126.pdf
[12] http://www.diputados.gob.mx/LeyesBiblio/pdf/259.pdf
[13] http://www.diputados.gob.mx/LeyesBiblio/regley/Reg_LGDFS.doc

knowledge and use of local varieties. It also contains legislation for the management of traditional knowledge.

1.1.2. The competences and procedures for issuing permits

The permits for collection for scientific use or for commercial or biotechnological purposes are taken into account in four laws applied by the Secretariat for Environment and Natural Resources (SEMARNAT).

1. General Law for Ecological Balance and Environmental Protection (LGEEPA)
2. General Wildlife Law (LGVS), its regulations and NOM-126-ECOL-2000
3. General Law for Sustainable Forestry Development (LGDFS): and its regulations
4. General Fisheries and Aquaculture Law

The application of the regulations of LGEEPA and LGVS are the responsibility of the General Directorate of Wildlife and the application of the General Law for Sustainable Forestry Development (LGDFS) is the responsibility of the General Directorate for Forest and Land management (DGGFS).

The General Fisheries and Aquaculture Law[14] applies for organisms that live totally, partly or temporarily in water. It is applied by the Secretariat for agriculture, livestock, rural development, fishing and food (SAGARPA), except for species that are considered at risk, in which case they are the responsibility of SEMARNAT.

Permits involving foreigners engaging in marine scientific research in waters of national jurisdiction will be granted by the SRE. An application must be completed according to the instructions and additional documentation in Spanish must be included[15].

The legal regulations established in legislation (laws, regulations and official norms) must be associated with their corresponding processes which must be established in the Federal Registry for Processes and Services (RTFS) in which important information for the users is included, such as: responsible organization or government branch, location of offices and opening hours, judicial basis, request conditions and means, required information, documents to be attached, cost of the process, response times, validity and resolution criteria.

1.1.3. The issuing of research permits

Refer to point 1.1.2 regarding issue of permits according to current legislation. Regarding foreign researchers, the collection applications must be processed through the relevant embassies and are received by the SRE who directs them to the relevant Mexican authorities.

1.2. Content of the regulations

General Law for Ecological Balance and Environmental Protection (LGEEPA): This legislation was published in 1988; however the articles referring to scientific collection and use of these resources for biotechnology were modified in 1996. These articles refer to the prior explicit informed consent of the owner or legitimate possessor of the land where the resource is found. If these resources will be used for biotechnological use, the owners or legitimate possessors will be entitled to **equitable sharing of the benefits** that may be derived from it**.**

General Wildlife Law (LGVS) and its regulations: This legislation establishes that collection of specimens, parts or derivatives of wildlife for scientific research and educational purposes require an authorization from

[14] http://www.conapesca.sagarpa.gob.mx/wb/cona/cona_ley_de_pesca
[15] In the following link you can find useful information about the procedure unofficial foreigners who wish to conduct fieldwork in Mexico and oceanographic cruises: http://www.icmyl.unam.mx/arrecifes/fieldwork.html

SEMARNAT and will be carried out with to the prior explicit informed consent of owner or legitimate possessor of the land where the collection is carried out. This authorization does not apply use for commercial or biotechnological use and will only be issued when the viability of populations, species, habitats and ecosystems are not compromised.

- LVGS was published in 2000 and its regulations in 2006. This law recognizes (article 4) that "the owners or legitimate possessors of the land where the wild species of interest is located have rights to sustainable use of its specimens, parts of derivatives, according to the terms established in the law and other applicable legislation and regulations". Regarding genetic resources it states: "The rights regarding genetic resources are subject to international treaties and legislation on the subject".
- This law (LGVS) recognizes the notion of "collection"[3] and "derivatives". Nonetheless, although it is not specified in the definition, when it refers to collection of wild specimens, their parts and derivatives is limited to research purposes. It clarifies that the specimens may not be used for commercial or biotechnological purposes. It also establishes that activity reports must be filed and one duplicate of the biological material collected must be provided to Mexican institutions or collections, except if the Secretariat (SEMARNAT) rules otherwise because of sufficient collections in good state.
- LGVS also establishes that, when carrying out activities of conservation and sustainable use of wildlife, the knowledge, innovations and practices of rural communities that have traditional practices congruent with conservation and sustainable use will be preserved. In these cases the application of the law will be boarder with the approval and participation of the possessors of the knowledge, innovations and practices and the equitable sharing of the benefits derived from them will be ensured (article 24).
- The regulations of LGVS in article 123 establish five different modalities for scientific collection:

  I. Scientific collection per line of research carried out by scientific researchers and collectors linked to research institution.

  II. Scientific collection per line of research carried out by scientific researchers and collectors with experience contributing information for national knowledge on biodiversity.

  III. Scientific collection per project.

  IV. Scientific collection per project involving species or populations at risk or in critical habitats.

  V. Scientific collection for educational purposes.

- The procedure for authorization, the application form to be filled out, the information to be presented[16] and the requirements for the final report[17] are described in articles 124 and 125 of the LGVS regulations.
- **NOM-126-ECOL-2000**[18] establishes the "specifications for activities involving the collection of biological material from wild species of flora and fauna for scientific purposes and other biological resources in the national territory". These specifications are based on article 87 of LGEEPA and articles 97 and 98 of LGVS.

The **General Wildlife Law** (**LGDFS**[19]) was published in 2003 and its regulations in 2005. This law makes a distinction between "collection for scientific purposes" and "biotechnological collection for commercial purposes" (article 4 of the law). This law establishes that the authorization emitted by SEMARNAT will only be issued if it has the prior explicit informed consent of owner or legitimate possessor of the land where the

[16] http://207.248.177.30/tramites/AnexosFPresentacion/107-201335174314-SEMARNAT-08-049%20Formato%20Colecta%20Cientifica_.doc
[17] http://207.248.177.30/tramites/AnexosFPresentacion/107-201292214722-SEMARNAT-08-040%20Formato%20Informe%20Colector%20Cientifico.doc
[18] http://www.ibiologia.unam.mx/rubiaceas/pdf/reglas.pdf
[19] http://www.diputados.gob.mx/LeyesBiblio/pdf/259.pdf

resource is found. If the collection is carried out by public entities of the federal, state or municipal governments or by the owner of the resource, a notice presented to SEMARNAT will suffice.

- This law establishes that, in order to use the knowledge of indigenous people and communities, the property of the knowledge must be recognized and an agreement between the authorization applicant and the possessor of the knowledge must be presented, in which prior explicit informed consent of the community is expressed.
- The regulations of this law (LGDFS) (section 4, articles 62-70) details the necessary requirements and filled out authorization forms that must be presented to obtain the authorization for the collection of biological forest resources for scientific[20] and commercial[21] purposes. As with LGVS, this law and its regulations establish the obligation of the collectors to present a results report[22].
- If the collection activities are being carried out within a Natural Protected Area (ANP), the National Commission for Natural Protected Area (CONANP) must be notified within the following modalities:

1. Notice for research activities with collection or manipulation of specimens of wild flora or fauna within a Natural Protected Area[23]
2. Notice for research activities without collection or manipulation of specimens considered no to be at risk in natural protected areas[24]

1.3. Specific norms:

1.3.1. On monitoring and compliance

There is no monitoring system as such, however the researchers are obliged to present reports regarding the collection for scientific purposes according to LGVS[25] and LGDFS[26] (please refer to previous point regarding the format of the reports according to each of the laws).

Regarding the existence of specific norms for compliance, the Mexican system for collection for research purposes facilitates these activities *bona fide* and in some cases establishes fines for carrying out scientific collection activities for commercial or biotechnological purposes without the required authorizations.

Nonetheless and, according to scientific article published by Soberón Mainero, 2005[27] in Biotica Neotropica, since in Mexico biological exploration is facilitated *bona fide*, it would be fair for fines and punishment to be

[20] http://207.248.177.30/tramites/AnexosFPresentacion/107-20121025185l2-Solicitud%20de%20autorizaci%c3%b3n%20de%20colecta%20RBF%20con%20fines%20cient%c3%adficos%20publicado%20en%20el%20DOF%20el%2029%20de%20junio%20de%202010.doc

[21] http://207.248.177.30/tramites/AnexosFPresentacion/107-20121025204318-Solicitud%20de%20autorizaci%c3%b3n%20de%20colecta%20RBF%20con%20fines%20comerciales%20publicado%20en%20el%20DOF%20el%2029%20de%20junio%20de%202010.doc

[22] http://207.248.177.30/tramites/AnexosFPresentacion/107-20121025175313-SEMARNAT-03-049%20INFORME%20DE%20RESULTADOS%20DE%20COLECTA%20DE%20RECURSOS%20BIOLOGICOS%20FORESTALES.doc

[23] http://207.248.177.30/tramites/FichaTramite.aspx?val=29471

[24] http://207.248.177.30/tramites/FichaTramite.aspx?val=29474

[25] http://207.248.177.30/tramites/AnexosFPresentacion/107-201292214722-SEMARNAT-08-040%20Formato%20Informe%20Colector%20Cientifico.doc

[26] http://207.248.177.30/tramites/AnexosFPresentacion/107-20121025175313-SEMARNAT-03-049%20INFORME%20DE%20RESULTADOS%20DE%20COLECTA%20DE%20RECURSOS%20BIOLOGICOS%20FORESTALES.doc

[27] Biota Neotrop. vol.5 no.1 Campinas 2005 http://www.scielo.br/scielo.php?pid=S1676-06032005000100003&script=sci_arttext

more serious. The penal code in its articles 420 and 420 BIS[28] establishes punishment for collecting without permits with serious legal penalties and liability for prosecution by the Public Prosecution Office.

According to this article: "The philosophy expressed in these laws may be summarized as follows: Mexico recognizes the importance of basic taxonomic, ecological and biogeographical research (bases for biodiversity management) and facilitates it to most researchers that carry out their activities within the law. It also considers that violation of these laws is something serious and punishment for those who violate them will be tough. Legislation constitutes a powerful motivation to establish collaboration with international institutions and also motivates national researchers to abide by the established agreements."

1.3.2. For research or non-commercial research

According to what has already been mentioned, in Mexico there is a clear distinction between collection for scientific purposes and collection for commercial purposes and special requirements must be met for scientific research.

Regarding the existence of norms for the distribution of benefits, including benefits resulting from non-commercial research, according to Mexican legislation, the distribution of benefits is mentioned in numerous laws as a principle to be followed, but there is no existing norm that establishes how these benefits should be distributed.

According to Soberón Mainero, 2005[29] in Biota Neotropica regarding the benefits obtained are of academic nature... *"The majority of results are published in scientific literature or in public access databases. The national benefit is derived from the advance in biological science and its applications to agriculture, public health, silviculture, conservation ecology, etc. The benefit to local communities is manifested through the economic spill, generally smaller than what research generates locally."*

1.3.3. For access to *ex-situ* collections (for non-commercial and for commercial purposes)

There is no regulation for this in Mexico

1.3.4. About change of intent from non-commercial to commercial

There is no regulation for this in Mexico

1.4. Definitions

1.4.1. Access

There is not a definition for this in the Mexican regulations

1.4.2. Change of intent (including indicators)

There is not a definition for this in the Mexican regulations

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[28] Codigo penal federal, Libro Segundo, Título vigesimo quinto. Delitos contra el ambiente y la gestión ambiental. Capítulo Segundo de la biodiversidad

[29] Biota Neotrop. vol.5 no.1 Campinas 2005 http://www.scielo.br/scielo.php?pid=S1676-06032005000100003&script=sci_arttext

1.4.3. Non-commercial-commercial use

Collection for scientific purposes: The capture, removal or extraction of biological material from the wild environment with non-commercial purposes for obtaining scientific information, integration to a repository and addition to scientific or museographic collections. This activity does not include the access to genetic resources for biotechnology and bioprospecting (LGVS regulations article 2 fraction VI).

Collection for scientific purposes: Activity consisting in the temporary or permanent capture, removal or extraction of biologic material from the wild environment with non-commercial purposes in order to obtain basic scientific information, integration to inventories or to increment scientific collections **(NOM-126-ECOL-2000, section 4.3).**

Collection for scientific purposes: Acquisition or removal of biological forest resources for the generation of basic scientific information and biotechnological research with non-commercial purposes (**LGDFS regulations, Article 2, fraction VII).**

Definite collection for scientific purposes: That in which biological material resulting from collection has not been reintegrated to its natural environment **(NOM-126-ECOL-2000, section 4.4).**

Temporary collection for scientific purposes: That in which biological material resulting from collection has been reintegrated to its natural environment in viable conditions for its development (**NOM-126-ECOL-2000, section 4.5).**

1.4.4. Genetic resources

Genetic resources: All genetic material, with real or potential value with vegetal, animal, microbial or any other origin that contains inheritance functions, existing in national territory and in zones where the nation's sovereignty and jurisdiction are exercised **(LGEEPA, Article 3, fraction XXIX).**

Forest genetic resources: Seeds and organs of vegetation on which hereditary factors and reproduction depend, that that exist in ecosystems and receive the generic name of forest germoplasm **(LGDFS, Article 7, fraction XXX).**

1.4.5. Traditional knowledge

There is not a definition for this in the Mexican regulations

1.4.6. Others

Biotechnology: Any technological application that utilizes biological resources, living organisms or their derivatives for the creation or modification of products or processes for specific use (**LGEEPA, Article 3, fraction V).**

Scientific collection: Repository or organized group of biologic material deposited in museums, herbariums, botanical gardens, research or higher educational institutions, or institutions of private character with research, educational, training or divulgation purposes. **(NOM-126-ECOL-2000, section 4.2).**

Collection: Extraction of specimens, parts or derivatives of wild life from the habitat in which they are found **(LGVS, article 3, fraction VII).**

Collection for commercial biotechnological uses: Extraction or removal of biological forest resources for the generation of chemical compounds, genes, proteins, secondary compound, molecular structures, metabolic processes and other results that are profit driven (**LGDFS regulations, Article 2, fraction VIII).**

Scientific or museographic collections: The systematized repositories of biologic material which are deposited in public or private institutions for research educational or divulgation purposes. **(LGVS regulations, Article 2, fraction V)**

Derivatives: Materials generated from specimens through biological processes, the use of which does not imply destruction of the specimens or their parts. Regarding regulations that apply to foreign commerce, non-transformed derivative products and sub products refer to products that have not been subject to any transformation **(LGVS, Article 3, fraction XI).**

Biological material: Samples, parts or individuals of wild flora and fauna or other biological resources **(NOM-126-ECOL-2000, section 4.12).**

Genetic material: All material of vegetable, animal, microbial or other origin, which contains functional inheritance units **(LGEEPA, Article 3, fraction XXII).**

Biological resources: Genetic resources, organisms, parts of organisms, populations or any other biotic component of ecosystems that represents real or potential value or utility for human beings **(LGEEPA, Article 3, fraction XXVIII)**

Biological resources: Genetic resources, organisms, parts of organisms, populations or any other biotic component of ecosystems **NOM-126-ECOL-2000, section 4.12).**

Biological forest resources: Species and varieties of plants, animals and microorganisms of forest ecosystems and their biodiversity, especially those of scientific, biotechnological or commercial interest **(LGDFS, Article 7, fraction XXVI)**

2. MANAGEMENT / GOVERNANCE

Functions of different authorities in the ABS process:

2.1. Focal Point

For the Convention on Biological Biodiversity (CBD), the primary focal points are the Secretariat for Environment and Natural Resources (SEMARNAT) and the General Administration for Global Matters of the Secretariat of Foreign Affairs (SRE).

The Nagoya Protocol in article 13 establishes that each part will designate a national focal point for the access and sharing of the benefits and one or more competent national authorities. While the Nagoya protocol becomes effective, the CBD decided that each Part will designate a focal point for the Nagoya Protocol Intergovernmental Committee that is the responsibility of the General Coordination of Biological Corridors and Biological Resources of the National Commission for Knowledge and Use of Biodiversity (CONABIO).

2.2. Authority granting authorisation

As mentioned in point 1.1.2, the application of the regulations of LGEEPA and LGVS are the responsibility of the General Directorate of Wildlife and the application of the General Law for Sustainable Forestry Development (LGDFS) is the responsibility of the General Directorate for Forest and Land management (DGGFS), which are dependencies of SEMARNAT.

Regarding organisms that live totally, partly or temporarily in water, the authority that issues the authorization/permit is the Secretariat for agriculture, livestock, rural development, fishing and food (SAGARPA), except when species are part of a category that corresponds to SEMARNAT.

2.3. Authorities (ministries, departments) involved in the evaluation process

Regarding permits issued to foreigners to carry out marine scientific research in waters of national jurisdiction, they are the responsibility of Secretariat of Foreign Affairs (SRE). An application must be submitted to SRE, which will consult the involved authorities.

If scientific research activities are carried out in Natural protected Areas, a notice must be sent to CONANP.

For the case of marine scientific research, the responsible entity is the National Commission for Coordination of Oceanographic Research (CONACIO), a permanent inter-secretarial commission formed by SEMAR, SEGOB, SEMARTNAT, SAGARPA, SRE, SEP, CONACYT and UNAM. Within this commission, a group was created in 2009 responsible for analyzing and setting the bases for establishing a procedure for issuing permits to carry out scientific research in marine areas.

2.4. External (non-governmental) entities involved (on the horizontal levels)

For the case of marine scientific research CONACIO involves the participation of UNAM as a research institution.

2.5. Organisation of evaluation (e.g. number of authorities involved; lead authority collecting assessments; meetings and procedures)

Depending on the type of resource concerned, collection for scientific purposes depends on the authority charged with issuing the permit and authorization. If the collection is carried out in a natural protected area CONANP must be notified.

SECTION 2: PROCEDURES

The procedure(s) for (i) application for and (ii) authorisation of access to genetic resources and / or associated traditional knowledge

3. PROCEDURE FOR ACCESS / APPLICATION FOR PIC AND MAT

3.1. The requirements for application

There are different requirements for requesting a permit vary. If the permit is the responsibility of LGVS the requirements are different of those required by LGDFS and of those involving scientific or biotechnological use for commercial use (attached find the formats for each).

3.2. Procedural steps for applicant

The legislation requires the issue of federal permit or authorization and that the collection is carried out with prior explicit informed consent of owner or legitimate possessor of the land where the biological forest resource is found. Therefore we would affirm that in Mexico two different types of PIC exist: a federal one (a permission or authorization) and one of the proprietors of the land.

Obtaining the government issued PIC does not guarantee obtaining of the private one. However, the majority of permits issued under LGVS legislation do not require a PIC from proprietors of the land.

If the collection is carried out in federal land, only the federal permission or authorization is required.

Although both LGVS (article 97) and LGDFS (article 101) establish that collection must be carried out with prior explicit informed consent of owner or legitimate possessor of the land where the biological forest resource is found, there is no format for the request of the PIC. However, the documents that must be presented are detailed in the LGFDS:

- An original and copy of the judicial instrument where it is established that the proprietor or legitimate possessor of the land was informed of the objective of the collection of the biological forest resource and of its use and has given his written consent.
- In case of common lands, the original and copy of an assembly act in which the communities consent is expressed.

There is no regulation for several applications on vertical scale (national level, province level, community / land owner level) in Mexico.

According to the LGDFS, when knowledge regarding biological forest resources of communities and indigenous people is going to be used, the property of the indigenous people must be recognized and a convention between the requester of the permit and the community that owns the knowledge must be signed in which prior explicit informed consent of owner must be acknowledged. The documentation that must be presented is as follows:

- Original and copy of the convention to use the knowledge related to biological forest resources of the people and communities (LGDFS, article 102).

4. PROCEDURE FOR ISSUING PIC / MAT – EVALUATION OF APPLICATION

4.1. Lead authority

This issue of the PIC depends on law or regulation that applies.

4.2. Other authorities and agencies involved

This issue of the PIC depends on law or regulation that applies.

4.3. Procedures if several decentralised entities are involved

NA

4.4. Procedures if TK associated to GR is involved

According to the LGDFS, when knowledge regarding biological forest resources of communities and indigenous people is going to be used, the property of the indigenous people must be recognized and a convention between the requester of the permit and the community that owns the knowledge must be signed in which prior explicit informed consent of owner must be acknowledged. The documentation that must be presented is as follows:

- Original and copy of the convention to use the knowledge related to biological forest resources of the people and communities (LGDFS, article 102)

5. ADDITIONAL INFORMATION ON SPECIFIC POINTS

5.1. Difference in requirements and / or procedure between applications by national researchers / research institutions vs. application from outside the country / province

In Mexican legislation the requirements procedure for issuing permits to national or foreign researchers is unique.

Regarding collection for scientific purposes, regardless of the law being applied (LGVS or LGDFS) and of the nationality of the researcher, the support of scientific or academic institutions must be recognized through a letter in which the solidary responsibility of a recognized Mexican institution is established.

In case of foreign researchers, apart from having the support of a Mexican institution, the project must include the participation of Mexican scientists and the terms of the collaboration regarding co-responsibility in the project must be clearly established in a letter. The role, responsibilities Mexican scientists during and after the project must also be included in this letter, as well as the destination of the collected samples, the results report to the Mexican Government, financing, publication co-authors and presentation of results, economic benefits, including royalties derived from intellectual property. Commitment letters from national researchers and formats must also be included.

5.2. Procedure for facilitation of access for research

As mentioned in point 1.3.1, the Mexican legal system facilitates the collection for scientific purposes *bona fide*. This is mentioned in Soberón Mainero, 2005[30]: The philosophy expressed in these laws may be summarized as follows: Mexico recognizes the importance of basic taxonomic, ecological and biogeographical research (bases for biodiversity management) and facilitates it to most researchers that carry out their activities within the law. It also considers that violation of these laws is something serious and punishment for those who violate them will be tough. Legislation constitutes a powerful motivation to establish collaboration with international institutions and also motivates national researchers to abide by the established agreements."

5.3. Specific requirements or procedure for access in protected areas or when it involves a species listed as threatened under national legislation

If the collection activities are being carried out within a Natural Protected Area (ANP), the National Commission for Natural Protected Area (CONANP) must be notified.

[30] http://www.scielo.br/scielo.php?pid=S1676-06032005000100003&script=sci_arttext

According to the LGVS, when species or populations at risk or critical habitat are concerned, the **executive summary of the project** must include:

1. Project title
2. Objectives and justification
3. List of species, genera and families to be collected, approximate quantity of specimens, parts or derivatives
4. Description of collection techniques and methodology
5. Site of collection is to be carried out, map of zone or region, indicating the natural protected area found within it
6. Dates of start and finish of field activities
7. Justification for collection

5.4. Number of permits issued per year

According to the statistics of the DGVS as of July 2012, the following information about the number of permissions issued is as follows: 1996 – 145; 1997 – 227; 1998 – 183; 1999 – 255; 2000 – 191; 2001 – 159; 2002 – 262; 2003 – 236; 2004 – 283; 2005 – 285; 2006 – 293; 2007 – 275; 2008 – 386; 2009 – 374; 2010 – 342; 2011 – 332

Regarding the number of permits issued under the LGGFS the information is not available from the competent authority as yet.

5.5. Number of permits rejected per year

NA

5.6. Taxonomic groups for which permits are issued

NA

6. ASSESSMENT (AUTHORS' PERSONAL EVALUATION OF THE ABS PROCESS)

6.1. Reflection of authors on the complexity/simplicity of the respective authorisation processes in regards to facilitating access for non-commercial research (including a potential change of intent)

As mentioned in point 1.3.1, the Mexican legal system facilitates the collection for scientific purposes *bona fide*. This is mentioned in Soberón Mainero, 2005[31]: The philosophy expressed in these laws may be summarized as follows: Mexico recognizes the importance of basic taxonomic, ecological and biogeographical research (bases for biodiversity management) and facilitates it to most researchers that carry out their activities within the law. It also considers that violation of these laws is something serious and punishment for those who violate them will

[31] http://www.scielo.br/scielo.php?pid=S1676-06032005000100003&script=sci_arttext

be tough. Legislation constitutes a powerful motivation to establish collaboration with international institutions and also motivates national researchers to abide by the established agreements."

6.2. Perception from authors of specific problems (for ABS for non-commercial research) regarding both, researchers and involved governmental agencies

A problem for scientific research could reside in the fact that collection for scientific purposes may involve various types of organisms such as genetic forest resources, genetic resources in a risk category, resources that have a life cycle that takes place both in water and on land and organisms that may be found in a Naturally Protected Area. A project with all of these characteristics where different procedures and requirements must be followed could be confusing to solicitants.

6.3. Experiences and lessons learned deemed important by authors

NA

ANNEX

Formats

The formats are available online at:

http://web2.semarnat.gob.mx/temas/ordenamientoecologico/cimaresold/Documents/nueva%20cimares/sesiones/formato_%20req_modificacione_21abr2010.pdf

http://tramites.semarnat.gob.mx/index.php/forestal-y-suelos/recursos-biologicos-forestales/

http://tramites.semarnat.gob.mx/index.php/vida-silvestre/colecta-cientifica/