

## Secretariat of the Commission for Environmental Cooperation

### REQUEST FOR INFORMATION for preparation of a factual record concerning submission SEM-18-002 (*Metrobús Reforma*)

#### I. The factual record process

The Commission for Environmental Cooperation of North America (CEC) is an international organization created under the North American Agreement on Environmental Cooperation (NAAEC), signed by Canada, Mexico and the United States in 1994. Article 2(4) of the Environmental Cooperation Agreement, in force as of 1 July 2020, establishes that active submissions “shall continue in accordance with the procedures established under Articles 14 and 15 of the NAAEC”. Therefore, this general plan conforms to the provisions of the NAAEC and the *Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of the North American Agreement on Environmental Cooperation* (the “Guidelines”).

Articles 14 and 15 of the North American Agreement on Environmental Cooperation (the “NAAEC” or the “Agreement”) provide for a process allowing any person or nongovernmental organization to file a submission asserting that a Party to the NAAEC is failing to effectively enforce its environmental law. The Secretariat of the CEC (the “Secretariat”) initially considers submissions to determine whether they meet the criteria contained in NAAEC Article 14(1). When the Secretariat finds that a submission meets these criteria, it then determines, pursuant to the provisions of NAAEC Article 14(2), whether the submission merits a response from the concerned Party. In light of any response from the concerned Party, and in accordance with the NAAEC, the Secretariat may notify the Council of the CEC (the “Council”) that the matter warrants the development of a factual record, providing its reasons for such recommendation in accordance with NAAEC Article 15(1). Where the Secretariat decides to the contrary, or where certain circumstances obtain, it then proceeds no further with the submission.

The introduction to the *Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of the North American Agreement on Environmental Cooperation* (the “Guidelines”) gives guidance as to the contents of a factual record:

The purpose of a factual record is to provide an objective presentation of the facts relevant to the assertion set forth in a submission and to allow the readers to draw their own conclusions regarding a Party’s environmental law enforcement. Although a factual record is not to contain conclusions or recommendations, it is expected to generally outline the history of the environmental enforcement issue raised in the submission, the relevant legal obligations of the Party, and the actions of the Party in fulfilling those obligations; as such, it is another valuable outcome of this information sharing-process...<sup>1</sup>

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<sup>1</sup> CEC, *Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of the North American Agreement on Environmental Cooperation*, p. 3, available at <[www3.cec.org/islandora/en/item/10838-guidelines-submissions-enforcement-matters-under-articles-14-and-15-north](http://www3.cec.org/islandora/en/item/10838-guidelines-submissions-enforcement-matters-under-articles-14-and-15-north)>.

Pursuant to NAAEC Article 15(4) and section 11.1 of the Guidelines, in preparing factual records, the Secretariat will consider any relevant technical, scientific or other information that is publicly available; submitted by the Joint Public Advisory Committee (JPAC) or by interested non-governmental organizations or persons, or developed by the Secretariat or independent experts.<sup>2</sup>

On 18 December 2020, in Council Resolution 20-05, the CEC Council instructed the Secretariat to prepare a factual record for submission SEM-18-002 (*Metrobus Reforma*) as per the Secretariat's recommendation in its notification of 17 December 2018. The Secretariat is therefore requesting relevant information relating to the matters to be addressed in the factual record.

## **II. Examples of relevant factual information**

Examples of information of a technical, scientific or other nature that are necessary for the preparation of the factual record are given below. You are kindly requested to send this information in electronic format to facilitate its management and integration. Information sent to the CEC Secretariat is understood to be subject to no limitations as regards confidentiality.

1. Environmental impact information related to the construction and operation of the Metrobus Reforma Project;
2. Data related to environmental parameters prior and following the construction and operation of the Metrobus Reforma corridor, such as: air emissions, noise, water and soil;
3. Research and publications related or similar to the Metrobus Reforma Project; and,
4. Any other technical, scientific, or other information that may be considered relevant for inclusion in the factual record.

## **III. Additional background information**

The submission, Mexico's response, the Secretariat's determinations, Council Resolution 20-05, and other information corresponding to submission SEM-18-002 (*Metrobús Reforma*) is available in the Registry of Submissions on the CEC website at <<http://www.cec.org/SEMregistry>>. These documents may also be requested from the Secretariat at <[sem@cec.org](mailto:sem@cec.org)>.

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<sup>2</sup> Guideline 11.1.

#### **IV. Where to send the information**

Relevant information for the preparation of the factual record should preferably be sent by e-mail to <[sem@cec.org](mailto:sem@cec.org)>. It may also be sent via cloud storage platforms such as SkyDrive, Google Drive, or Dropbox.

Where the information is not available in electronic format, please send it to the following address:

CEC Secretariat  
Legal Affairs and SEM Unit  
700 De la Gauchetière Street West  
Suite 1620  
Montreal, Quebec H3B 5M2  
Canada

Please mention the submission SEM-18-002 (*Metrobus Reforma*) in all relevant communications.