

Secretariat of the Commission for Environmental Cooperation
Secretariat determination in accordance with Article 24.27(2) and (3) of the United States-Mexico-Canada Agreement

Submitters: MOCE Yax Cuxtal, A.C. et al.
Party: United Mexican States
Submission date: 21 July 2022
Determination date: 22 August 2022
Submission no.: SEM-22-002 (*Tren Maya*)

I. INTRODUCTION

1. On 1 July 2020, the United States-Mexico-Canada Agreement (USMCA or “the Agreement”) and the Agreement on Environmental Cooperation among the Governments of the United States of America, the United Mexican States, and Canada (ECA) entered into force. After this date, the Submissions on SEM Enforcement Matters (SEM) process originally established by Articles 14 and 15 of the North American Agreement on Environmental Cooperation (NAAEC) is governed by USMCA Articles 24.27 and 24.28. The Secretariat of Commission for Environmental Cooperation (“CEC Secretariat”)¹ remains responsible for implementing the SEM process, as stipulated in the ECA.²
2. The SEM mechanism allows any person established in Canada, the United States, or Mexico to file a submission asserting that a Party is failing to effectively enforce its environmental laws. The CEC Secretariat initially reviews submissions based on the requirements set out in USMCA Article 24.27(1) and (2). Where the Secretariat finds that a submission meets these requirements, it then determines, in accordance with the criteria of Article 24.27(3), whether the submission merits a response from the Party in question. In light of the Party’s response, the Secretariat then determines whether the matter warrants the preparation of a factual record and, if so, so informs the CEC Council and the Environment Committee,³

¹ The Commission for Environmental Cooperation was created in 1994 under the North American Agreement on Environmental Cooperation (NAAEC), signed by Canada, the United States, and Mexico (the “Parties”). Pursuant to ECA Article 2(3), the Commission for Environmental Cooperation (CEC) “will continue to operate under the modalities in place as of entry into force of [the ECA].” The constitutive bodies of the CEC are the Council, the Secretariat, and the Joint Public Advisory Committee (JPAC).

² While the provisions governing the SEM process are now in Chapter 24 of the USMCA, some related procedures are also set out in the ECA, namely: the role of the Secretariat in the implementation of the submissions process; the role of the Council in exchanging information with the Environment Committee; the preparation and publication of factual records; and the Council’s cooperative activities arising from such records. ECA, Articles 2(3), 4(1)(l), 4(1)(m), 4(4) and 5(5).

³ The Environment Committee was established by USMCA Article 24.26(2) and its role is to supervise the implementation of Chapter 24 of the Agreement.

providing its reasons as prescribed by USMCA Article 24.28(1); otherwise, it terminates the review of the submission.⁴

3. On 21 July 2022, a group consisting of Moce Yax Cuxtal A.C., Grupo Gema del Mayab A.C., Red de Formadores Socio Ambientales, Sélvame del Tren, Cenotes Urbanos, Jaguar Wild Center A.C., and 18 individuals (the “Submitters”) filed a submission with the Secretariat in accordance with USMCA Article 24.27(1).⁵
4. Having reviewed the submission SEM-22-002 (*Tren Maya*) according to USMCA Article 24.27, the Secretariat finds that the submission does not meet all of the eligibility requirements and hereby notifies the Submitters. The Submitters need to provide information clarifying the legal status of the organizations signing the submission, as well as information identifying the persons and organizations filing the submission; electronic copies of the technical documents cited in the submission or links to download them. The Submitters may provide more information about and/or copies of other citizen complaints or remedies pursued in relation to the matter raised in the submission or other documentation in support of their assertions.
5. The Submitters have 60 calendar days, i.e. by 21 October 2022 in which to file a revised submission including the above-mentioned information. If the Secretariat does not receive a revised submission, it will terminate processing of SEM-22-002 (*Tren Maya*). The Secretariat’s reasoning is set out in section III, “Analysis,” of this determination.

II. SUMMARY OF THE SUBMISSION

6. The submitters assert that Mexico is failing to effectively enforce its environmental law with respect to the construction of Section 5 South of the “Tren Maya” (Maya Train) project being carried out by the National Tourism Fund (*Fondo Nacional de Turismo—Fonatur*) and the company Fonatur Tren Maya, S.A. de C.V. According to the Submitters, Mexico is failing to effectively enforce its environmental law with respect to the clearing, grading, and filling work on Section 5 South, which is allegedly being done “without any prior environmental assessment or corresponding approval.” In addition, the Submitters question “the manner in which this section was assessed and approved, without the strict enforcement of federal and international environmental provisions.”⁶
7. Section 5 South of the Tren Maya will cross the municipalities of Solidaridad and Tulum, Quintana Roo, which, according to the Submitters, “are characterized by possessing natural riches and significant biodiversity allowing for the generation of important environmental services for all their communities.”⁷ They further contend that this region has been impacted by poorly planned tourism development because the environmental authorities have

⁴ More details on the various stages of the Submissions on Enforcement Matters process, the public registry of submissions, and previous Secretariat determinations and factual records can be found on the CEC website at <<http://www.cec.org/submissions-on-enforcement>>.

⁵ SEM-22-002 (*Tren Maya*), USMCA Article 24.27(1) Submission (21 July 2022) [Submission], online at <http://www.cec.org/wp-content/uploads/wpallimport/files/22-2-sub_es.pdf>.

⁶ Id. at 2.

⁷ Ibid.

permissively allowed multiple development projects without conducting prior studies, and these projects are later “legalized.”⁸

8. The Submitters state that the Yucatán Peninsula is characterized as a karst region due to the presence of a large number of fractures and faults. This topography includes closed depressions ranging in size from millimetric forms to large areas. The terrain is characterized by rapid water infiltration into the ground, a shallow groundwater system involving many caves and caverns, and almost no surface water. According to the submission, rapid rainwater infiltration favors the development of interconnected karst systems which, when they collapse, create sinkholes that form cenotes.⁹ According to the Submitters, the state of Quintana Roo harbors one of the most extensive and important flooded cave systems in the world: Sac Actun-Dos Ojos. This system, the Submitters state, is 347 km long and would form a system of up to 1000 km if it were found to be connected to other adjacent systems.¹⁰ A total of 248 cenotes have been located along this system along with 198 archaeological sites, 138 of which are believed to correspond to the Maya civilization. In at least two cases, there are fossil remains of preceramic humans dating back at least 9,000 years.¹¹
9. The Submitters assert that Mexico is failing to effectively enforce various legal provisions and standards that are applicable to both the environmental impact assessment of the Tren Maya and the execution of the project:
 - a. Articles 1, 4, 6, 14, 16, 26, and 35 paragraph III of the Political Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos—CPEUM*);
 - b. Articles 1, 8.1, and 25 of the American Convention on Human Rights (**ACHR**);
 - c. Articles 1, 3, 4.1, 4.3, 5.1, 5.2, 5.3, 6.1, 6.3, 6.5, 6.10, 6.12, 7.1, 7.2, 7.3, 7.4, 7.5, 7.6, 7.7, 7.10, 7.13, 8.1, 8.2, 8.3, and 8.4 of the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (**Escazú Agreement**);
 - d. Articles 1, 2, and 11 of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (**Protocol of San Salvador**);
 - e. Articles 2 and 14 of the International Covenant on Civil and Political Rights (**ICCPR**);
 - f. Articles 2 and 12 of the International Covenant on Economic, Social and Cultural Rights (**ICESCR**);
 - g. principles 8, 10, 15, and 17 of the **Rio Declaration**;
 - h. Articles 5 paragraphs III, VIII and XI, 15 paragraph XII, 28 paragraphs I and VII, 34, 162, 170, 189, 192, 193, and 194 of the General Ecological Equilibrium and Environmental Protection Act (*Ley General del Equilibrio Ecológico y la Protección al Ambiente—LGEEPA*);

⁸ Ibid.

⁹ Id. at 3.

¹⁰ Id. at 4.

¹¹ Id. at 5.

- i. Articles 93, 97, 154, and 155 paragraphs VII and XII of the General Sustainable Forestry Development Act (*Ley General de Desarrollo Forestal Sustentable—LGDFS*);
 - j. Articles 5 paragraph I, 58(a), 107, and other applicable provisions of the General Wildlife Act (*Ley General de Vida Silvestre—LGVS*), and
 - k. Articles 7 *bis* paragraph I and 14 *bis* 5 paragraphs I, IX and XX of the National Waters Act (*Ley de Aguas Nacionales—LAN*).
10. The Submitters assert that the execution of the clearing, grading, and filling work on Section 5 South of the Tren Maya is being carried out without prior environmental impact assessment and corresponding approval.¹² They state that the project was assessed and approved without applying the environmental provisions relevant to the project.¹³
11. The Submitters contend that in November 2021, the head of the Federal Executive Branch (*Poder Ejecutivo Federal*) instructed all federal authorities through an administrative decree to grant any needed “provisional approvals” to projects relating to the construction of railways and railroads (the “Presidential Decree”), and thus to the Tren Maya.¹⁴ The Submitters contend that the Presidential Decree violates constitutional provisions recognizing the human right to a healthy environment, is contrary to the principles of prevention and precaution, and violates the principles of progressive realization and non-regression of human rights. They contend that the Presidential Decree violates the principle known as *reserva de ley*, which reserves powers not expressly vested in the federal government to lower orders of government, because it intends to supplant and/or circumvent environmental laws, particularly the LGEEPA, the LGDFS, the LAN, and their respective regulations.¹⁵ The Submitters contend that the concept of “provisional approval” does not exist in Mexican environmental law and that the Presidential Decree infringes the rule of law and the division of powers.¹⁶
12. The Submitters state that instead of “provisional approvals,” the Tren Maya project should have obtained prior environmental impact and forested land use change approvals, which require the filing of an environmental impact statement (EIS) and a technical study (*estudio técnico justificativo—ETJ*), respectively.¹⁷ The Submitters state that on 7 and 8 December 2021, the Environmental Impact and Risk Branch (*Dirección General de Impacto y Riesgo Ambiental—DGIRA*) and the Forests and Soils Management Branch (*Dirección General de Gestión Forestal y de Suelos—DGGFS*) granted “provisional environmental impact

¹² Id. at 2.

¹³ Ibid.

¹⁴ President of the United Mexican States, Decree instructing the agencies and entities of the Federal Public Administration to carry out the actions indicated, in relation to the projects and works of the Government of Mexico considered to be of public interest and national security, as well as priority and strategic for national development, Official Gazette of the Federation (*Diario Oficial de la Federación—DOF*) (22 November 2021).

¹⁵ Submission at 6.

¹⁶ Ibid.

¹⁷ Ibid.

- approval”¹⁸ and “provisional forest approval,”¹⁹ respectively. They contend that these approvals are not publicly available and cannot be viewed by citizens.²⁰
13. The Submitters contend that on 18 May 2022, after work had already commenced, the EIS (regional modality) for Section 5 South of the Tren Maya project was published in the Environmental Gazette (*Gaceta Ecológica*) of Semarnat.²¹ The following day, the DGIRA decided to hold a public consultation on the project and established a period of 20 working days in which to submit observations and comments on it.²² The Submitters attached to their submission a copy of the comments that they submitted on the project in question.²³
14. The Submitters contend that on 20 June 2022, the DGIRA granted environmental impact approval (*autorización de impacto ambiental—AIA*) for the works and activities relating to Section 5 South of the Tren Maya. The text of this approval is not publicly available.²⁴ The Submitters contend that the Tren Maya project was improperly fragmented during the assessment process and should have been assessed as a whole; that the carrying capacity, resilience, and functional integrity of the affected ecosystems were not considered; that the significant, cumulative, synergistic, direct, indirect, and residual impacts should have been identified along with the impacts on fragile ecosystems and ecosystems of high environmental value, with special consideration given to endangered species such as jaguar and spider monkey, in the project area.²⁵ They state that the Mexican Supreme Court (*Suprema Corte de Justicia de la Nación*) has ruled against improper fragmentation of a project’s environmental impacts, holding that only a “holistic and comprehensive” assessment can lead to the conclusion that a project is environmentally viable.²⁶
15. The Submitters assert that the Tren Maya project was declared national security infrastructure by means of the Presidential Decree but that this is baseless in the light of Article 3 of the National Security Act (*Ley de Seguridad Nacional*), which defines national security as “measures whose immediate and direct purpose is to maintain the integrity, stability, and permanence of the Mexican state.” The Submitters state that the Tren Maya has no role in protecting the country from external risks and threats or in defending national sovereignty, and that it is not indispensable to the constitutional order or the unity of the Federation. They assert that neither Fonatur nor the company Fonatur Tren Maya, S.A. de C.V. are entities forming a part of the National Intelligence Center (*Centro Nacional de Inteligencia*) or the National Security System (*Sistema de Seguridad Nacional*) and that the National Security Act provides that where an action is invoked as being, or proclaimed to be, a matter of national security, it must be governed by the principles of “legality,

¹⁸ Semarnat, DGIRA, file no. SGPA/DGIRA/DG-05891-21 (7 December 2021) [“Provisional Approval”].

¹⁹ DGGFS, file no. SGPA/DGGFS/712/2070/21

²⁰ Submission at 8.

²¹ Semarnat, *Extraordinary Ecological Gazette*, publication no. DGIRA/22/22 (18 May 2022).

²² Semarnat, *Ecological Gazette*, publication no. DGIRA/23/22 (19 May 2022).

²³ Submission: Observaciones Colectivo, n.d.

²⁴ Submission at 10.

²⁵ Id. at pp. 11-13.

²⁶ Mexican Supreme Court, First Chamber, amparo motion 54/2021 (9 February 2022).

responsibility, transparency, efficiency, and respect for the fundamental human right to protection and to individual and social guarantees.”²⁷

16. Moreover, the Submitters maintain that in any case, stewardship of water —“an asset within the public domain of the federation, vital, vulnerable and finite, with a social, economic and environmental value”— should have been given priority as a matter of national security, for this will be negatively affected by the construction of Section 5 South of the Tren Maya where it passes through the Sac Actun-Dos Ojos system.²⁸
17. The Submitters allege that the Office of the Federal Attorney for Environmental Protection (*Procuraduría Federal de Protección al Ambiente*—Profepa) “did not exercise its constitutional and legal powers and obligations to conduct inspections, order safety measures and, as applicable, apply sanctions and order the repair of harm” in accordance with environmental law.²⁹ The Submitters contend that on 28 February 2022, they became aware of land clearing work taking place at Playa del Carmen, municipality of Solidaridad, Quintana Roo, in connection with the construction of the Tren Maya.³⁰ After this discovery, residents of the locality filed various citizen complaints with the Profepa office in Quintana Roo and requested that procedures be undertaken to secure the urgent application of security and corrective measures, since this work was not covered by the environmental impact and land use change approvals prescribed by the LGEEPA and the LGDFS, respectively.³¹ The Submitters state that while Profepa consolidated the citizen complaints,³² the clearing has continued to this day without the authority taking steps to stop the work and prevent irreparable harm to the environment.³³

III. ANALYSIS

18. The CEC Secretariat may consider any submission asserting that a USMCA Party is failing to effectively enforce its environmental laws. The Secretariat reiterates that the requirements of USMCA Articles 24.27(1), (2), and (3) are not intended to be an insurmountable procedural screening device³⁴ and must therefore be given a broad interpretation consistent with the objectives of Chapter 24 of the Agreement.³⁵ The Secretariat reviewed the submission with that perspective in mind.

a. Article 24.27(1)

19. USMCA Article 24.27(1) allows any person of a Party to file a submission asserting that a Party is failing to effectively enforce its environmental laws.

²⁷ Submission at 7.

²⁸ Id. at 8.

²⁹ Id. at 4.

³⁰ Id. at 9.

³¹ Id. at 9.

³² Profepa, administrative file no. PFPA/5.3/2C.28.2/00011-20.

³³ Submission at 9.

³⁴ SEM-97-005 (*Biodiversity*), Article 14(1) Determination (26 May 1998); SEM-98-003 (*Great Lakes*), Article 14(1) and (2) Determination (8 September 1999); SEM-20-001 (*Loggerhead Turtle*), Article 24.27(2) and (3) Determination (8 February 2021).

³⁵ USMCA Article 24.2.

20. USMCA Article 1.5³⁶ defines the term “person of a Party” as “a national of a Party or an enterprise of a Party”; it defines an “enterprise” as “an entity constituted or organized under applicable law, whether or not for profit, and whether privately-owned or governmentally-owned or controlled, including a corporation, trust, partnership, sole proprietorship, joint venture, association or similar organization,” while an “enterprise of a Party” is to be construed as “an enterprise constituted in accordance with the laws of a Party.”
21. While the submission appears to be signed by various organizations and individuals, the legal status of the organizations that signed the submission is not entirely clear. In order to substantiate their legal existence in Mexico, the submitting organizations can, in a revised submission, include information about their legal constitution, such as their federal taxpayer identification (*Registro Federal de Contribuyentes*); the official registration of their company name (*registro de denominación o razón social*); their registration number as a civil society organization, or their articles of incorporation.

b. Environmental law in question

22. USMCA Article 24.1 stipulates that:

environmental law means a statute or regulation of a Party, or provision thereof, including any that implements the Party’s obligations under a multilateral environmental agreement, the primary purpose of which is the protection of the environment, or the prevention of a danger to human life or health, through:

- a) the prevention, abatement, or control of the release, discharge, or emission of pollutants or environmental contaminants;
- b) the control of environmentally hazardous or toxic chemicals, substances, materials, or wastes, and the dissemination of information related thereto; or
- c) the protection or conservation of wild flora or fauna,¹ including endangered species, their habitat, and specially protected natural areas,²

but does not include a statute or regulation, or provision thereof, directly related to worker safety or health, nor any statute or regulation, or provision thereof, the primary purpose of which is managing the subsistence or aboriginal harvesting of natural resources.³⁷

¹ The Parties recognize that “protection or conservation” may include the protection or conservation of biological diversity.

² For the purposes of this Chapter, the term “specially protected natural areas” means those areas as defined by the Party in its law.

³⁶ The Secretariat bears in mind the adoption of the *Protocol of Amendment to the United States-Mexico-Canada Agreement* (the “Protocol”), whereby provisions were added to Chapters 1 and 24, causing a renumbering of certain articles thereof. This is the case of Article 1.5, “General Definitions,” which was initially numbered 1.4. In the case of the Spanish version, both the T-MEC and the Protocol must be consulted.

³⁷ USMCA Article 24.1.

In addition, a **law or regulation** means:

- b) for Mexico, an Act of Congress or regulation promulgated pursuant to an Act of Congress that is enforceable by action of the federal level of government.³⁸

23. The Secretariat sets out its reasoning below regarding the eligibility of the legal provisions cited by the Submitters.

i) Constitution

24. The Submitters cite **CPEUM Article 1**, which provides that all persons shall enjoy the fundamental rights recognized by the Constitution and by any international treaties to which Mexico is a party, as well as guarantees of their protection. It further provides that those provisions relating to human rights shall be interpreted in such a manner as to afford the broadest possible protection to persons at all times, and that all authorities under its jurisdiction are obligated to promote, respect, protect, and guarantee human rights in accordance with the principles of universality, interdependence, indivisibility, and progressive realization. This article also provides that slavery is forbidden in the United Mexican States.

25. The Secretariat finds that the cited provision does not qualify as environmental law because its primary purpose is not the protection of the environment or human health in the manner stipulated by USMCA Article 24.1. Nevertheless, the Secretariat may make reference to the protection of the human right to a healthy environment and to water as recognized by Article 4 of the Constitution, which is reviewed in the next paragraph.

26. **CPEUM Article 4** establishes the human right to equality between women and men; the freedom to decide on the number of children desired and the timing between them; the rights to sufficient, nutritious, quality food, to health, to a healthy environment for development and well-being, to water access, disposal, and sanitation, to live in dignified and decorous housing; to identity, and to be issued a birth certificate at birth. The Secretariat finds that only the fifth and sixth paragraphs qualify as environmental law, since they recognize the human rights to a healthy environment, to water, and to sanitation and correspond to the definition of environmental law given in USMCA Article 24.1.

27. **CPEUM Article 6** provides that the expression of ideas shall not be the object of any judicial or administrative inquiry and that everyone is entitled to freedom of information. This provision makes it possible for citizens to assert their right to access to information. The Secretariat finds that this provision is not environmental law because its primary purpose is not the protection of the environment or human health as specified in USMCA Article 24.1.

28. **CPEUM Article 14** provides that no law may be enforced *ex post facto* to the detriment of any person, nor may anyone be deprived of his or her freedom, property, possessions, or rights without trial. The Secretariat finds that this provision is not environmental law because its primary purpose is not the protection of the environment or human health as specified in USMCA Article 24.1.

29. **CPEUM Article 16** provides that no one may be disturbed in his person, family, home, papers, or possessions except by written order of a competent authority. In addition, it

³⁸ Ibid.

provides that everyone has the right to the protection of his or her personal data and to access, rectify and cancel them. It also provides that exceptions to the principles of data treatment may be determined by law for reasons of national security, the regulation of public order, public safety and health, or the protection of third-party rights. The Secretariat finds that this provision is not environmental law because its primary purpose is not the protection of the environment or human health as specified in USMCA Article 24.1.

30. **CPEUM Article 26** provides that the state shall organize a system of democratic planning for national development and a national statistical and geographical information system under the responsibility of an agency with technical and management autonomy, legal personhood, and its own assets. Moreover, this article provides that the state shall have a national social development policy assessment council organized as an autonomous body and responsible for the measurement of poverty and the assessment of social development policy. The Secretariat finds that this provision is not environmental law because its primary purpose is not the protection of the environment or human health as specified in USMCA Article 24.1.
31. **CPEUM Article 35** establishes the right of citizens to freedom of association and to peaceful participation in the country's political affairs (**paragraph III**). The Secretariat finds that this provision is not environmental law because its primary purpose is not the protection of the environment or human health as specified in USMCA Article 24.1.

ii) International instruments

32. The submission cites provisions of the ACHR, the Escazú Agreement, the Protocol of San Salvador, the ICCPR, the ICESCR, and the Rio Declaration. As the Secretariat has found in the case of other USMCA chapter 24 submissions,³⁹ the Secretariat is only authorized to consider the obligations of a Party under a multilateral environment agreement where they are implemented in a law enacted by Congress or a regulation promulgated under such a law and are enforceable by federal authorities.
33. Therefore, the following provisions of the international instruments cited in the submission are not considered environmental law under the USMCA and are not evaluated in the enforcement review: **ACHR** Articles 1, 8.1, and 25; Articles 1, 3, 4.1, 4.3, 5.1, 5.2, 5.3, 6.1, 6.3, 6.5, 6.10, 6.12, 7.1, 7.2, 7.3, 7.4, 7.5, 7.6, 7.7, 7.10, 7.13, 8.1, 8.2, 8.3, and 8.4 of the **Escazú Agreement**; Articles 1, 2, and 11 of the **Protocol of San Salvador**; Articles 2 and 14 of the **ICCPR**; Articles 2 and 12 of the **ICESCR**, and principles 8, 10, 15, and 17 of the **Rio Declaration**.

iii) General Ecological Equilibrium and Environmental Protection Act

34. **LGEEPA Article 5** lists the powers of the Federation, including addressing matters that affect ecological equilibrium on the nation's territory or in zones under the nation's sovereignty and jurisdiction and originating within them or in areas beyond the jurisdiction of any state (**paragraph III**); the establishment, regulation, administration, and surveillance of federal protected natural areas (**paragraph VIII**), and the regulation of sustainable use, protection, and preservation of national waters, biodiversity, fauna, and other natural resources under federal jurisdiction (**paragraph XI**). The Secretariat finds that LGEEPA

³⁹ SEM-20-001 (*Loggerhead Turtle*), Article 24.27(2) and (3) Determination (8 February 2021).

Article 5 paragraphs III, VIII, and XI qualify as environmental law, since their primary purpose is the protection of the environment through managing protected natural areas, and preserving national waters, biodiversity, flora, and fauna under federal jurisdiction, in accordance with USMCA Article 24.1.

35. **LGEEPA Article 15 paragraph XII** establishes the principles for the formulation and administration of environmental policy and the enactment of Mexican official standards and other standards contemplated in the LGEEPA in relation to the preservation and restoration of ecological equilibrium and the protection of the environment; for example, that everyone is entitled to enjoy an environment adequate to his or her development, health, and well-being and that the authorities shall take measures to guarantee the realization of this right. The Secretariat finds that LGEEPA Article 15 paragraph XII is environmental law since its primary purpose is the protection of the environment and the prevention of a danger to human life or health through the prevention, abatement, or control of the release, discharge, or emission of environmental pollutants; the control of hazardous or toxic chemicals, substances, materials, or wastes; and protecting or conserving wild flora or fauna and their habitat pursuant to the definition in USMCA Article 24.1.
36. **LGEEPA Article 28** establishes the environmental impact assessment procedure, which imposes conditions on the execution of works or activities that may cause ecological disequilibrium or exceed the limits and conditions set out in the legal provisions applicable to the protection of the environment and the preservation and restoration of ecosystems, with a view to preventing or minimizing the negative effects of the works and/or activities on the environment. In addition, it provides that the regulation to this act shall establish those works or activities requiring prior environmental impact approval, such as hydraulic works, works carried out on roads, oil pipelines, gas pipelines, coal pipelines, and multi-use pipelines (**paragraph I**) and those necessitating land use changes in forested areas, tropical wet forest, or arid areas (**paragraph VII**).
37. The Secretariat finds that Article 28 paragraphs I and VII qualify as environmental law under USMCA Article 24.1 because their primary purpose is the protection of the environment by means of the environmental impact assessment procedure which evaluates the potential prevention, abatement, or control of the release, discharge, or emission of pollutants or environmental contaminants and the control of environmentally hazardous or toxic chemicals, substances, materials, or wastes, and the protection or conservation of wild flora or fauna.
38. **LGEEPA Article 34** provides that when Semarnat receives an environmental impact statement and opens the corresponding file, it shall make the file publicly available for viewing by any person. It states that project developers may request that information added to the file be withheld from the public where its publication could affect industrial property rights or the confidentiality of information. In addition, LGEEPA Article 34 provides that Semarnat, at the request of any person from the community in question, may hold a public consultation according to the established procedure. This includes publication of the environmental impact application in the Environmental Gazette and a summary of the project in a widely-circulated newspaper (**paragraph I**); requests for access to the EIS by any person (**paragraph II**); the holding of a public information meeting by Semarnat where it will explain the technical, environmental aspects of the project or activity in question (**paragraph III**); the possibility for interested parties to propose additional prevention and

mitigation measures and to make observations as they see fit (**paragraph IV**), and the inclusion of such observations and proposals deriving from the consultation process and its outcomes in the environmental impact decision (**paragraph V**).

39. The Secretariat finds that LGEEPA Article 34 qualifies as environmental law under USMCA Article 24.1, since its primary purpose is the protection of the environment by establishing the rules for the implementation of the environmental impact assessment procedure and for civic participation in such procedures which evaluate the potential prevention, abatement, or control of the release, discharge, or emission of pollutants or environmental contaminants and the control of environmentally hazardous or toxic chemicals, substances, materials, or wastes, and the protection or conservation of wild flora or fauna.
40. **LGEEPA Article 162** provides that the competent authorities may conduct inspection visits, without prejudice to other prescribed measures for verification of compliance with the LGEEPA. This article qualifies as environmental law under USMCA Article 24.1 because its primary purpose is the protection of the environment by means of inspection visits for the enforcement of environmental law in order to prevent, abate, control the release, discharge, or emission of pollutants or environmental contaminants and to control environmentally hazardous or toxic chemicals, substances, materials, or wastes, and to protect or conserve of wild flora or fauna and their habitats.
41. **LGEEPA Article 170** provides that where there exists an imminent risk of ecological disequilibrium or of serious harm to or deterioration of natural resources, or in cases of contamination with dangerous consequences for ecosystems, their components, or public health, Semarnat may order safety measures such as the temporary partial or total closing of contamination sources (**paragraph I**); the seizure of hazardous materials and wastes as well as specimens, products, or subproducts of wildlife species or their genetic material, and forest resources (**paragraph II**), and neutralization or any similar measure to prevent hazardous materials or wastes from having effects on the environment (**paragraph III**). In addition, it authorizes Semarnat to coordinate with the competent authority to apply any safety measure prescribed by other provisions. The Secretariat finds that the cited provision qualifies as environmental law under USMCA Article 24.1, since its primary purpose is the protection of the environment through the application of safety measures in order to prevent, abate, control the release, discharge, or emission of pollutants or environmental contaminants and to control environmentally hazardous or toxic chemicals, substances, materials, or wastes, and to protect or conserve of wild flora or fauna and their habitats.
42. **LGEEPA Article 189** provides that any person, social group, non-governmental organization, association, or society may complain to Profepa or other authorities of any fact, act, or omission that causes or could cause ecological disequilibrium or harm to the environment or natural resources, or that violates provisions of the LGEEPA or other provisions governing the protection of the environment and the preservation and restoration of ecological equilibrium. In addition, it provides that where there is no Profepa office in the locality in question, the complaint may be filed with the municipal authority or with nearby Profepa offices, and that where the complaint is under federal jurisdiction and is filed with a municipal authority, the latter must relay it to Profepa. The Secretariat finds that the provision in question qualifies as environmental law under USMCA Article 24.1, since its primary purpose is the protection of the environment through the pursuit of legal remedies consisting of complaints against acts committed in violation of environmental provisions in

order to prevent, abate, control the release, discharge, or emission of pollutants or environmental contaminants and to control environmentally hazardous or toxic chemicals, substances, materials, or wastes, and to protect or conserve of wild flora or fauna and their habitats.

43. **LGEEPA Article 192** provides that where Profepa allows a complaint, it shall identify the complainant and give notice of the complaint to relevant persons or authorities or to those who are able to affect the outcome in order to allow them to file documents and evidence in response within 15 days of the notice. It further provides that Profepa shall then take action to ascertain the existence of the acts, facts, or omissions stated in the complaint and may, in those cases prescribed by the LGEEPA, initiate inspection and surveillance procedures. The Secretariat finds that the provision in question qualifies as environmental law under USMCA Article 24.1, since its primary purpose is the protection of the environment through the pursuit of legal remedies allowing for complaints against acts committed in violation of environmental provisions in order to prevent, abate, control the release, discharge, or emission of pollutants or environmental contaminants and to control environmentally hazardous or toxic chemicals, substances, materials, or wastes, and to protect or conserve of wild flora or fauna and their habitats.
44. **LGEEPA Article 193** provides that the complainant may assist Profepa by providing evidence, documentation, and information as it sees fit, and that Profepa must, when ruling on the complaint, state its considerations with respect to the information presented. The Secretariat finds that the cited provision is environmental law under USMCA Article 24.1, since its primary purpose is the protection of the environment by means of mechanisms whereby complainants can take part in the enforcement of environmental law in order to prevent, abate, control the release, discharge, or emission of pollutants or environmental contaminants and to control environmentally hazardous or toxic chemicals, substances, materials, or wastes, and to protect or conserve of wild flora or fauna and their habitats.
45. **LGEEPA Article 194** provides that Profepa may commission studies and expert reports on matters raised in complaints from academic and research institutions and from public- and private-sector bodies. The Secretariat finds that the provision qualifies as environmental law in that it provides for the gathering of information with a view to carrying out acts of environmental law enforcement in order to prevent, abate, control the release, discharge, or emission of pollutants or environmental contaminants and to control environmentally hazardous or toxic chemicals, substances, materials, or wastes, and to protect or conserve of wild flora or fauna and their habitats.

iv) General Sustainable Forestry Act (*Ley General de Desarrollo Forestal Sustentable—LGDFS*)

46. **LGDFS Article 93** provides that Semarnat may, on an exceptional basis, authorize land use changes on forested land according to a technical opinion from the members of the State Forest Council (*Consejo Estatal Forestal*) and on the basis of technical studies demonstrating that the biodiversity of the ecosystems to be affected will be maintained and that soil erosion, carbon storage capacity, water quality degradation, and reduced water supply are mitigated in the areas affected by removal of forest vegetation. Semarnat must respond to the technical opinions issued by the State Forest Council in its forested land use change approvals, and Semarnat may issue criteria and guidelines for forested land use

changes. The authorizations must include a program for the rescue and relocation of affected flora and fauna species, in addition to complying with the provisions of the corresponding ecological management programs and other applicable regulatory provisions. In addition, in the case of land located in indigenous territories, the authorization must be accompanied by prior, free, informed, culturally appropriate and good faith consultation measures. The Secretariat finds that the provision qualifies as environmental law under USMCA Article 24.1, since its primary purpose is the protection of the environment by means of mechanisms allowing for the approval of forested land use changes in order to protect or conserve of wild flora or fauna and their habitats.

47. **LGDFS Article 97** provides that forested land use changes may not be approved where the loss of forest cover was caused by fire, felling, or clearing, unless at least 20 years have passed, and proof is provided to Semarnat that the affected forest vegetation has been regenerated by means of the mechanisms prescribed by the LGDFS Regulation. The Secretariat finds that the cited provision qualifies as environmental law under USMCA Article 24.1, since its primary purpose is the protection of the environment by means of conditions on the approval of forested land use changes in order to protect or conserve of wild flora or fauna and their habitats.
48. **LGDFS Article 154** provides that Profepa is responsible for preventive and surveillance measures related to forests and has a duty to safeguard and patrol forest resources and to carry out technical research, inspection, surveillance, and verification of compliance with applicable law. Research may be conducted in response to a complaint or during inspection and surveillance, operations, or verification of legal compliance. This article further provides that the technical research shall include diagnostic studies of critical forested areas. Finally, it requires furthering forest-related professionalization and training of personnel who participate in inspection visits and operations. The Secretariat finds that the provision in question qualifies as environmental law under USMCA Article 24.1 because its primary purpose is the protection of the environment by means of acts of inspection and surveillance for the effective enforcement of the LGDFS in order to protect or conserve of wild flora or fauna and their habitats.
49. **LGDFS Article 155** lists the offenses under the LGDFS, among them that of changing forested land use without the corresponding approval (**paragraph VII**) and causing serious harm or deterioration to forest ecosystems (**paragraph XII**). The Secretariat finds that the provision qualifies as environmental law in accordance with the definition in USMCA Article 24.1 since it establishes the situations in which it is appropriate to apply sanctions in order to regulate the management of forest lands for the purpose of protecting or conserving wild flora or fauna and their habitat.

v) **General Wildlife Act (*Ley General de Vida Silvestre*—LGVS)**

50. **LGVS Article 5** provides that conservation is the goal of national policy on wildlife and its habitat by means of protection and the requirement that its sustainable use be kept within optimal bounds. It provides that the formulation and administration of national wildlife policy shall adhere to the principles set out in LGEEPA Article 15 and that the competent authorities shall provide for the conservation of genetic diversity and for the comprehensive protection, restoration, and management of natural habitats as a primary factor in the conservation and recovery of wild species (**paragraph I**). The Secretariat finds that the cited

provision qualifies as environmental law, since its primary purpose is the protection of the environment through the protection and conservation of wild fauna including endangered species and their habitat by means of wildlife conservation objectives to protect wildlife and assure that its sustainable use is kept at optimal levels.

51. **LGVS Article 58** provides that species and populations at risk include those identified as endangered; meaning, those whose biological viability is at risk due to a drastic decrease in their range or population size, as a result of factors including habitat destruction or drastic habitat modification (**paragraph a**). The Secretariat finds that the provision qualifies as environmental law under USMCA Article 24.1, since its primary purpose is the protection of the environment through the protection and conservation of wild fauna including endangered species and their habitat.
52. **LGVS Article 107** establishes the right of any person with knowledge of harm caused to wildlife or its habitat to complain to Profepa. In addition, this provision authorizes Profepa, exclusively, to bring an action in liability for harm to wildlife and its habitat. Where the respondent is a body of the federal public administration or a company in which the state owns a majority share, the action in liability for harm to wildlife and its habitat may be brought by any person before the competent tribunal. The Secretariat finds that the provision qualifies as environmental law because its primary purpose is the protection of the environment through mechanisms for assigning responsibility for harm to the environment that result in the protection and conservation of wild fauna including endangered species and their habitat.

vi) National Waters Act (*Ley de Aguas Nacionales*—LAN)

53. **LAN Article 7 bis** declares watersheds and aquifers, as the basic territorial units for the integrated management of water resources, to be matters of public interest (**paragraph I**). The Secretariat finds that the cited provision qualifies as environmental law, since its primary purpose is the protection of the environment through the prevention, abatement, or control of the release, discharge, or emission of pollutants or environmental contaminants by means of the designation of the comprehensive protection and management of water resources as a matter of public interest.
54. **LAN Article 14 bis 5** establishes the principles underlying national water policy by providing that water is a vital, finite, environmental good within the federal public domain whose preservation and sustainability is a fundamental task of the state and society as well as a priority and a matter of national security (**paragraph I**). It provides that the conservation, preservation, protection, and restoration of water quantity and quality is a matter of national security, so that the unsustainable use of water and its associated adverse ecological effects must be avoided (**paragraph IX**). It also notes that the informed and responsible participation of society is the foundation for water resource management and conservation, which is why environmental education, especially on the subject of water, is essential (**paragraph XX**). The Secretariat finds that the article and the paragraphs in question qualify as environmental law under USMCA Article 24.1, since their primary purpose is the protection of the environment through the establishment of provisions to guarantee the preservation and sustainability of water quality and quantity and the participation of society in its conservation.

c. USMCA Article 24.27(2) review

55. Article 24.27(2) of the USMCA provides five requirements that a submission must meet to be admissible. Having examined submission SEM-22-002 (*Tren Maya*), in accordance with the provisions of USMCA Article 24.27(2), the Secretariat has determined that it satisfies some, but not all of the requirements, as explained below.

a) is in writing in English, French, or Spanish

56. The submission is written in Spanish, so it meets the requirement of USMCA Article 24.27(2)(a).

b) clearly identifies the person making the submission

57. The submissions includes the names of the organizations and individuals submitting it, but not their addresses, e-mail addresses, and telephone numbers. While the submission includes contact information that allows the Secretariat to identify and communicate with the Submitters' representative, it lacks information clearly identifying each of the organizations and individuals submitting it.

58. Therefore, the submission does not meet the requirement of USMCA Article 24.27(2)(b).

59. As mentioned at the beginning of the Secretariat's review, in paragraphs 8 and 9, the Submitters can submit a revised version of their submission. It is necessary to include complete information to identify the organizations and individuals submitting the submission, as well as—in the case of organizations—any of the following elements to determine their legal existence in Mexico: federal taxpayer identification; registration of the name or corporate name; registration number as a civil society organization, or articles of incorporation. The Secretariat will duly preserve the confidentiality of the personal information that could identify the Submitters in accordance with ECA Article 16(1)(a).

c) provides sufficient information to allow for the review of the submission including any documentary evidence on which the submission may be based and identification of the environmental law of which the failure to enforce is asserted

60. The submission is based in part on various technical and scientific documents relating to the geomorphological conditions of the Yucatán Peninsula. In particular, the submission refers to the following sources: M. Villasuso and R. Méndez (2000); de Waelle, et al. (2011); Monroy Ríos (2019); Bocco et al. (1996); Bautista et al. (2004); Frausto and Ihl (2005); Aguilar et al. (2010); Fragoso et al. (2014), and Lugo et al. (1992). Without additional reference details, the Secretariat was unable to identify more information on the sources cited in the submission or its annexes.

61. Therefore, the Secretariat finds that the submission does not meet the requirement of USMCA Article 24.27(2)(c).

62. A revised submission could include electronic versions of the cited documents or links to download them. In addition, the Submitters may opt to include other documentary information in support of their assertions.

d) appears to be aimed at promoting enforcement rather than at harassing industry

63. The Secretariat finds that the submission meets the requirement of USMCA Article 24.27(2)(d) since, based on the information and documentation included in the submission and its appendices, it is evident that it is not aimed at harassing industry, but rather at the effective enforcement of the environmental law applicable to environmental impact assessment of Section 5 South of the Tren Maya project.

e) indicates whether the matter has been communicated in writing to the relevant authorities of the Party and the Party's response, if any

64. The Submitters refer to documentation indicating that the matter has been communicated to the relevant authorities of the Government of Mexico. The submission includes information on technical observations with respect to the EIS for Section 5 South of the Tren Maya project, presented in the context of the public consultation held on this matter, and provided the corresponding document, addressed to the director of the DGIRA who was responsible for environmental impact assessment and approval of the project, which makes various comments and observations on the project EIS.⁴⁰

65. In relation to communication in writing to the relevant authorities of the Party, the director of the DGIRA was informed that the regional environmental system was not defined in terms of methodological criteria and tools appropriate for determining the presence of caves, caverns, and cenotes, that there is insufficient information on the characterization of biodiversity and its components, and that the person responsible for preparing the environmental impact statement for the project, had also established incorrect environmental scenarios.⁴¹ In addition, it was stated that the concept of “microbasins” does not apply to karstified land; mention was made of the improper adaptation of a risk plan from the state of Kentucky and of errors in the figures given in the EIS, since they either do not correspond to Section 5 South, or they present erroneous information on the Sac Actun and Ox Bel Ha water systems and a deficient determination of “karst hazards.”⁴² The document states that an incomplete presentation was made of the basic studies, such as the ETJ (*estudio técnico justificativo*). It points out the existence of obvious contradictions in the EIS, which states on the one hand that monitoring plans were implemented for works taking place over caverns, yet in another section that “there is no plan to carry out works or structures over caverns.” It emphasizes the lack of information on the interaction between the Tren Maya project and the Sac Actun system and the failure to consider the cumulative impacts within the regional environmental system, the absence of wildlife monitoring in the marine area, the failure to adopt a systemic focus, and the failure to identify the ecosystems the Tren Maya project will impact.⁴³

66. The document attached by the Submitters further notes the lack of financial information on the project and its relationship to the economic value of biodiversity; the lack of a geohydrological study of the regional environmental system to determine the impact on

⁴⁰ Submission: Observaciones Colectivo, n.d.

⁴¹ Id. at 1–2.

⁴² Ibid.

⁴³ Id. at 2–5.

groundwater, and the failure to describe the biota associated with the caves and caverns on the project site.⁴⁴ The document further states that “the geomorphological information contained in the EIS constitutes a bibliographic compilation produced at a desk and contains no field data,” and that this alone would be sufficient to deny environmental impact approval to the project.⁴⁵

67. The Secretariat finds that the submission meets the requirement of Article 24.27(3)(c) because the matter has been communicated in writing to the relevant authority of the Party.

d. USMCA Article 24.27(3) review

68. Article 24.27(3) provides four more criteria that are part of the review process:

a) whether the submission alleges harm to the person making the submission

69. The Submitters assert that the construction of Section 5 South of the Tren Maya project will cause irreparable harm to fragile ecosystems of high environmental value and to endangered species.⁴⁶ They contend that the trajectory of the project will cross one of the world’s most extensive flooded cave systems, the Dos Ojos-Sac Actun system;⁴⁷ that the fragility of the peninsula’s karst soils has given rise to fractures and faults forming cenotes, caves and caverns;⁴⁸ that 248 cenotes and 198 archaeological sites dating from the Maya civilization have been found in the area, in addition to human remains dating back at least 9000 years;⁴⁹ that the Tren Maya project endangers the integrity and life of persons;⁵⁰ that it jeopardizes the human right to water for local communities;⁵¹ that the fragility of the soil makes the ground susceptible to collapsing and cracking, and ultimately vulnerable to contamination of underground rivers, caves, aquifers, and cenotes;⁵² that the project threatens the habitat of endangered species because ecosystems will be fragmented,⁵³ and that the Tren Maya project will give rise to new real estate and commercial developments and irregular settlements associated with the project.⁵⁴

70. The Secretariat has previously found that when considering the question of harm, it must ascertain whether the asserted harm is due to the alleged failure to effectively enforce the environmental law and whether the harm is related to environmental protection.⁵⁵ Consistent

⁴⁴ Id. at 2–6.

⁴⁵ Id. at 4.

⁴⁶ Submission at 1.

⁴⁷ Ibid.

⁴⁸ Id. at 3.

⁴⁹ Id. at 4.

⁵⁰ Id. at 13.

⁵¹ Id. at 8 and 14.

⁵² Id. at 14.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ SEM-19-004 (*Barred Owl*), Article 14(1) and (2) Determination (21 November 2019), § 28; SEM-11-002 (*Sumidero Canyon II*), Article 14(1) and (2) Determination (6 September 2012), § 36; SEM-13-001 (*Tourism Development in the Gulf of California*), Article 14(1) and (2) Determination (23 November 2013),

with past practice in the implementation of the SEM mechanism, the Secretariat finds that the submission meets the criterion of USMCA Article 24.27(3)(a).

b) whether the submission, alone or in combination with other submissions, raises matters about which further study would advance the goals of this Chapter

71. USMCA Article 24.2(2) provides that the objectives of Chapter 24 are “to promote mutually supportive trade and environmental policies and practices; promote high levels of environmental protection and effective enforcement of environmental laws; and enhance the capacities of the Parties to address trade-related environmental issues, including through cooperation, in the furtherance of sustainable development.”
72. The submission raises important questions around environmental impact assessment and approval procedures in Mexico for a major project that crosses multiple regions and ecosystems that include endangered species, and unique geological features and water systems. The Secretariat finds that the study of the matters raised in the submission would help promote high levels of environmental protection as well as the effective enforcement of environmental laws in connection with the environmental impact assessment and approval procedure for Section 5 South of the Tren Maya project.
73. The Secretariat concludes that the submission meets the criterion of USMCA Article 24.27(3)(b).

c) whether private remedies available under the Party’s law have been pursued

74. The Submitters state that citizen complaints have been filed in an attempt to elicit action from the federal authorities. Specifically, they contend that on 28 February 2022, they learned that construction work on the Tren Maya project had commenced in Playa del Carmen, municipality of Solidaridad, Quintana Roo and that the residents of the locality accordingly filed various citizen complaints before the state office of Profepa; however, no action has yet been taken to impose urgent corrective measures to stop these activities.⁵⁶
75. The submission includes a copy of the citizen complaint filed by various persons against construction work and activities allegedly being carried out by Fonatur and the company Fonatur Tren Maya, S.A. de C.V.⁵⁷
76. The complaint states that the route of the Tren Maya project is unknown; that information published in the media indicates that it would be parallel to the highway, and that the project will apparently cross the Maya jungle in the state of Quintana Roo.⁵⁸ In addition, the complainants state that on 28 February 2022, residents of Playa del Carmen, municipality of Solidaridad, Quintana Roo, detected “the clearing of vegetation being done with the support of heavy machinery at two sites located in the jungle” along a 17-km cut line estimated to

§ 62. Cf. *Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of the North American Agreement on Environmental Cooperation*, Guideline 7.4.

⁵⁶ Submission at 9.

⁵⁷ Submission: Citizen complaint filed with the Profepa office in the state of Quintana Roo (7 March 2022) [Complaint].

⁵⁸ Id. at 2.

be 50–60 meters wide.⁵⁹ The complainants included photographic materials as well as a georeferenced image to locate the sites of interest.⁶⁰ The complainants stated that no environmental impact approval or forested land use change approval has been issued and that this work poses a threat of grave and irreversible harm to biodiversity in the region.⁶¹

77. The complainants contend that the project is endangering more than 1,257 wildlife species in the state of Quintana Roo; 19 endemic species listed in Mexican Official Standard NOM-059, and seven on the International Union for the Conservation of Nature (IUCN) Red List of Threatened Species.⁶² The complainants state that Quintana Roo possesses abundant underground rivers and springs and that the soil characteristics, biodiversity, and underground systems of the Yucatán Peninsula make the construction and operation of the Tren Maya unviable.
78. The Submitters include with their submission a document from the Profepa office in the state of Quintana Roo indicating that the citizen complaint was referred to the Branch of Environmental Complaints, Grievances, and Social Participation of Profepa located in Mexico City (*Dirección General de Denuncias Ambientales, Quejas y Participación Social*).⁶³
79. The Secretariat finds that the submission meets the criterion of USMCA Article 24.27(3)(c) in that the Submitters pursued remedies with respect to the matter raised in the submission.
80. The Secretariat notes that the Submitters may opt to submit copies of other citizen complaints filed in relation to the matter as part of a revised submission, since they indicate that a number of these have been filed.

d) whether the submission is not drawn exclusively from mass media reports

81. Regarding USMCA Article 24.27(3)(d), the Secretariat finds that the submission *is not* based on media reports. While the submission does refer to such reports, what this reflects is the public attention given to a matter of concern to the community. The submission is based on documentation and information concerning the environmental situation that the Submitters gathered in large part from official sources, technical documentation, and the citizen complaint filed by persons and organizations belonging to the group of Submitters.
82. Therefore, the Secretariat concludes that the submission meets the criterion of USMCA Article 24.27(3)(d).

IV. DETERMINATION

83. For the reasons set out above, the Secretariat finds that submission SEM-22-002 (*Tren Maya*) does not meet all the eligibility requirements of Article 24.27(2) and that more information is required for the submission to proceed and to request a response from the

⁵⁹ Id. at 2–3.

⁶⁰ Id. at 3–7.

⁶¹ Id. at 7.

⁶² Id. at 7–8.

⁶³ Profepa office in the state of Quintana Roo, file no. PFPA/29.7/2C28.2/0349/2022 (16 March 2022).

Government of Mexico. Therefore, a revised submission containing the following information is requested:

- a. information clarifying the legal status of the organizations signing the submission, as well as information identifying the persons and organizations filing the submission;
- b. copies of the technical documents cited in the submission or links to download them;
- c. information about and/or electronic copies of other citizen complaints or remedies pursued in relation to the matter raised in the submission and, if applicable, the corresponding links to download them;
- d. any other information that the Submitters may wish to include in the submission, or as appendices, in support of their assertions concerning the alleged failure to effectively enforce environmental laws in connection with Section 5 South of the Tren Maya project.

84. The Submitters have 60 calendar days, i.e. by 21 October 2022 in which to file a revised submission including the above-mentioned information.

Secretariat of the Commission for Environmental Cooperation

(original signed)

Per: Paolo Solano
Director of Legal Affairs and Submissions on Enforcement Matters

c.c.: Miguel Ángel Zerón, Alternate Representative, Mexico
Jeanne-Marie Huddleston, Acting Alternate Representative, Canada
Jane Nishida, Alternate Representative, United States
Environment Committee contact points
Jorge Daniel Taillant, Executive Director, CEC
Submitters