

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

Submitter: Name Withheld Pursuant to ECA Article 16(1)(a)
Party: United Mexican States
Date of the submission: 11 January 2023
Date of the determination: 10 February 2023
Submission No.: SEM-23-001 (*Residential Development in San Cristóbal de las Casas*)

I. INTRODUCTION

1. On 1 July 2020, the United States-Mexico-Canada Agreement (USMCA) and the Environmental Cooperation Agreement (ECA) entered into force. After this date, the Submissions on 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. Articles 24.27 and 24.28 of the USMCA provide a process for any national of a Party or entity organized under the laws of a Party to file a submission asserting that a Party to the USMCA 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, it informs the CEC Council and the

¹ The Commission for Environmental Cooperation (CEC) was established in 1994 under the North American Agreement on Environmental Cooperation (NAAEC), an instrument signed by Canada, Mexico, and the United States (the “Parties”). The constituent bodies of the CEC are its Council, Secretariat, and Joint Public Advisory Committee (JPAC).

² The Secretariat takes the view that although the provisions governing the SEM process are set forth in Chapter 24 of the USMCA, certain related procedures are also established under the Agreement on Environmental Cooperation among the Governments of the United States of America, the United Mexican States, and Canada (ECA), namely: the Secretariat’s role in the implementation of the Submissions on Enforcement Matters process, the Council’s role in exchanging information with the Environment Committee, the preparation and publication of factual records, and the Council’s cooperation activities. The Secretariat is mindful of ECA Article 2(3) which states in part: “The Commission will continue to operate under the modalities in place as of entry into force of this Agreement, including its rules, policies, guidelines, procedures, and resolutions, to the extent these modalities are consistent with this Agreement.” Environmental Cooperation Agreement, Articles 2(3); 4(1)(l)–(m); 4(4); and 5(5).

Environment Committee,³ providing its reasons as prescribed by USMCA Article 24.28(1); otherwise, it terminates the review of the submission.⁴

3. On 11 January 2023, a Submitter filed a submission with the CEC Secretariat, asserting that Mexico is failing to effectively enforce several national and international legal instruments, including the Mexican Constitution, the General Law of Ecological Balance and Environmental Protection (*Ley General del Equilibrio Ecológico y la Protección al Ambiente*—LGEEPA); the General Law of Sustainable Forestry Development (*Ley General de Desarrollo Forestal Sustentable*); General Law of Wildlife (*Ley General de la Vida Silvestre*); Federal Law of Environmental Responsibility (*Ley Federal de Responsabilidad Ambiental*) among others to protect forest resources and bird species in relation to housing developments around San Cristóbal de las Casas, Chiapas, Mexico.⁵
4. Having reviewed submission SEM-23-001 (*Residential Development in San Cristóbal de las Casas*) according to USMCA Article 24.27, the Secretariat finds that the submission does not meet all of the eligibility requirements and hereby so notifies the Submitter. The Submitter cites almost the entirety of LGEEPA without explaining how relevant provisions are failing to be effectively enforced. While most provisions qualify as environmental law, the Submitter needs to provide more information on the environmental impacts caused by developments in San Cristóbal and explain how these are connected with the alleged lack of effective enforcement of environmental law.
5. The Submitter has 60 days from the date of this determination to file a revised submission. If the Secretariat does not receive a revised submission by 10 April 2023, it will terminate processing of submission SEM-23-001 (*Residential Development in San Cristóbal de las Casas*). The Secretariat's reasoning is set out below.

II. SUMMARY OF THE SUBMISSION

6. In submission SEM-23-001 (*Residential Development in San Cristóbal de las Casas*), the Submitter asserts that Mexico is failing to effectively enforce its environmental laws to protect forest resources and birds, including an endangered species, in relation to four housing developments around San Cristóbal de las Casas, Chiapas, Mexico. The housing developments raised in the submission are *Santa María las Rocas*; *Peña Xulem*; *El Santuario*, and *Bosques del Sur*.⁶ The Submitter asserts that these developments are within an environmental management unit (*unidad de gestión ambiental*—UGA) with restrictions on these types of development activities. In one case, the Submitter asserts that “there is no zoning change, no environmental impact statement” for the *Bosques del Sur* development.⁷

³ The Environment Committee is established by USMCA Article 24.26(2) and its role is to “oversee the implementation” of USMCA Chapter 24.

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-23-001 (*Residential Development in San Cristóbal de las Casas*), Submission pursuant to USMCA Article 24.27(1) (11 January 2023), [Submission] online at: http://www.cec.org/wp-content/uploads/wpallimport/files/23-1-sub_redacted_en.pdf.

⁶ Submission, Statement of Facts at 6.

⁷ Id. at 2.

7. The Submitter asserts that as a result of unregulated residential development, Mexico is failing to protect various bird species in the area of San Cristóbal de las Casas, specifically the Blue-throated Motmot (*Aspatha gularis*), which is in danger of extinction; the Ruby-throated (*Archilochus colubris*), Violetear (*Colibri thalassinus/Colibri delphinae*), and Black-chinned (*Archilochus alexandri*) hummingbirds; and the Canyon Wren (*Catherpes mexicanus*).⁸ The Submitter claims that Mexico is failing to uphold provisions of the Mexican Constitution and various federal laws focused on environmental impact assessment, forestry conservation, and environmental protection.⁹
8. The Submitter further alleges burning of construction waste and an absence of municipal waste management within the UGA and general ecological damage resulting from residential development activities.¹⁰ The Submitter also mentions other claims relating to property and other private matters as well as Indigenous rights.
9. The Submitter claims to have communicated at least some of this information to federal, state and municipal authorities in several communications since 2014.¹¹

III. ANALYSIS

10. Under Article 24.27(2), the CEC Secretariat may consider any submission asserting that a Party is failing to effectively enforce its environmental laws, provided that the eligibility requirements are met. The Secretariat reiterates, as it has stated previously in determinations issued in accordance with NAAEC Articles 14 and 15¹² and the USMCA¹³ that the requirements of USMCA Articles 24.27(1), (2), and (3) are not intended to be an insurmountable procedural screening device, and they must therefore be given a broad interpretation consonant with Chapter 24 of the Agreement.¹⁴ The Secretariat reviews the submission with that perspective in mind.

A. Article 24.27(1)

11. Article 24.27(1) allows “[a]ny person of a Party” to file a submission with the CEC Secretariat “asserting that a Party is failing to effectively enforce its environmental laws.”
12. Article 1.5 of the USMCA¹⁵ defines the term *person of a Party* as “a national of a Party or an enterprise of a Party.” In turn, *national* means “a natural person who has the nationality of the Party...or a permanent resident of a Party.”

⁸ Id. at 5.

⁹ Submission, Environmental Law Section.

¹⁰ Submission, Statement of Facts at 2-3, 5-6.

¹¹ Id. at 1.

¹² SEM-97-005 (*Biodiversity*), Determination pursuant to Article 14(1) of the NAAEC (26 May 1998); SEM-98-003 (*Great Lakes*), Determination pursuant to Articles 14(1) and (2) of the NAAEC (8 September 1999).

¹³ SEM-20-001 (*Loggerhead Turtle*), Determination in accordance with Articles 24.27(2) and (3) of the USMCA (8 February 2021), §8, online at <https://bit.ly/DET_20-001_en> ; SEM-21-001 (*Fairview Terminal*), Determination in accordance with Articles 24.27(2) and (3) of the USMCA (9 March 2021), §6, online at <https://bit.ly/DET_21-01en> ; SEM-21-002 (*Vaquita porpoise*) Determination in accordance with Articles 24.27(2) and (3) of the USMCA (8 September 2021) , §8, online at <https://bit.ly/DET_21-02en>.

¹⁴ Cf. USMCA Article 24.2.

¹⁵ The Secretariat is mindful of the adoption of the Amending Protocol to the Agreement between the United Mexican States, the United States of America and Canada (“the Protocol”), by which provisions were added to

13. The Submitter, whose name and identifying information are confidential pursuant to Article 16(1)(a) of the ECA, is a citizen of the United States of America and a permanent resident of the United Mexican States.
14. The Secretariat finds that the Submitter qualifies as a person of a Party for the purposes of Article 24.27(1) of the USMCA.

B. Environmental Law

15. The next criterion in Article 24.27(1) is whether the submission identifies an “environmental law” within the meaning of the USMCA.
16. USMCA Article 24.1 provides the following definition:

[E]nvironmental 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.¹⁶

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.

[S]tatute 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.”¹⁷

17. The Secretariat evaluates whether the individual provisions of the laws and regulations cited in the revised submission are environmental laws within the meaning of the USMCA.¹⁸ The Secretariat outlines its reasoning below regarding the eligibility of the legal provisions cited

chapters 1 and 24, so that the numbering of some articles of the Protocol was revised. This is the case with Article 1.5, “General definitions”, initially Article 1.4, but then renumbered in accordance with the Protocol. Thus, in the case of the Spanish version, it is necessary to consult the USMCA and its Protocol.

¹⁶ USMCA Article 24.1.

¹⁷ Id.

¹⁸ Guidelines at 5.1(c) instructs the Secretariat to analyze the primary purpose of cited provisions individually: “The primary purpose of a particular statutory or regulatory provision...shall be determined by reference to its primary purpose, rather than to the primary purpose of the statute or regulation of which it is part.”

by the Submitter. The Secretariat found that some, not all, of the provisions cited by the Submitter qualify for analysis.

18. The Submitter cites numerous provisions that range from the Constitution to international treaties and federal laws (see Table 1).¹⁹

Table 1. Legal instruments and provisions cited in the submission

Title	Acronym or abbreviation	Provisions cited above
Political Constitution of the United Mexican States	Constitution	Articles 1; 2; 3; 4; fifth paragraph; 24 and 133.

International Meetings and Instruments

15 th Conference of the Parties to the United Nations Convention on Biological Diversity	COP 15
27 th Conference of the Parties to the United Nations Framework Convention on Climate Change	COP 27
Convention on the Conservation of Migratory Species of Wild Animals	Bonn Convention

General and Federal Laws

General Law of Ecological Balance and Environmental Protection	LGEEPA	Articles 1(I), (VII), (VIII), (X); 2(I), (II), (III), (IV), (V); 3(III), (IV), (V <i>bis</i>), (V <i>ter</i>), (VIII), (IX), (X), (XI), (XII), (XIII), (XIV), (XVI), (XVIII), (XVIII), (XIX), (XX)(a-e), (XXI), (XXIII), (XXV), (XXVI), (XXVII), (XXXI), (XXXIV), (XXXVI), (XXXVII), (XXXVIII), (XXXIX); 4; 5(VI), (IX), (X), (XV), (XVI), (XVIII), (XIX), (XXI); 7(I), (II), (VI), (VII), (VIII), (XIII), (X), (XI), (XVIII), (XVI), (XVII), (XVIII), (XIX), (XX), (XXI); 8(I)-(XVII); 10; 11(III)(e)(f)(h)(m), (IV), (VI), (VII), (VIII), (IX); 12 (I-XII); 13 <i>bis</i> ; 14 <i>bis</i> ; 15(I-XX); 16, 17, 17 <i>bis</i> , 18, 19(I-VII); 19 <i>bis</i> (I-III); 20(I-III); 20 <i>bis</i> ; 20 <i>bis</i> 1; 20 <i>bis</i> 2; 20 <i>bis</i> 3; 20 <i>bis</i> 4; 20 <i>bis</i> 5; 20 <i>bis</i> 6, 20 <i>bis</i> 8, 20 <i>bis</i> 8; 21(I-V); 22; 22 <i>bis</i> (I-III), (V); 23(I-X); 28(V), (VII), (X); 29; 30; 31(I-II); 32; 33; 34(I-V); 35; 35 <i>bis</i> 1; 35 <i>bis</i> 2; 35 <i>bis</i> 3; 36(I), (II), (III), (IV), (V); 38(I-IV); 38 <i>bis</i> (I-VI); 38 <i>bis</i> 1; 39; 40; 41; 44; 45(I-VII); 45 <i>bis</i> ; 46(I-XI); 53; 54; 55; 55 <i>bis</i> ; 59; 60(I-VI); 75; 77 <i>bis</i> (I)(subparagraphs A-H), (II-VI); 78; 78 <i>bis</i> (I-V); 79(I-X); 83;
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¹⁹ The submission cites sections of the law in question using Arabic numerals; the Secretariat confirmed that the Submitter referred to roman numerals.

87(V)[sic]; 88(I-IV); 98(I-V); 99(I-XII); 100; 101(V); 105; 110 *bis*(a-d); 111(XV), (XVI); 112(V), (VI), (VII),(X); 120(VI); 121; 124; 135(I-II); 136(IV); 155; 156 *bis*; 158(I-VI); 159 *bis* 1; 159 *bis* 2; 159 *bis* 3; 159 *bis* 4; 159 *bis* 5; 159 *bis* 6; 161; 162; 163; 164; 165; 166; 167 *bis* 1; 167 *bis* 2; 167 *bis* 3; 167 *bis* 4; 168(I-IV)[sic]; 171(I-V); 73(I-V); 174; 174 *bis*(I-III); 182; 189; 190(I-IV); 191; 192; 194; 195; 196; 197; 198; 199(I-IV); 200; 202; 203; and 204.

General Wildlife Act	LGVS	Article 76
General Law on Sustainable Forest Development	LGDFS	Articles 2; 3; 7; and 42.
Federal Environmental Liability Act	LFRA	The entire law

Other Legal Instruments

Decree Declaring Reforestation in the State of Chiapas of Public Interest (<i>Decreto que señala de interés público la reforestación en el estado de Chiapas</i>).	The entire decree
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US Laws

Neotropical Migratory Bird Conservation Act	NMBCA	The entire law
Migratory Bird Treaty Act	MBTA	The entire law

a) International Meetings and Instruments

19. The Submitter cites the following international meetings and instruments:
 - i. COP 15
 - ii. COP 27
 - iii. Bonn Convention
20. A Conference of the Parties is the decision-making body of an international agreement which meets regularly to review implementation of the agreement.²⁰ These meetings of the parties are not considered an “environmental law” within the meaning of Chapter 24 of the USMCA. Therefore, COP 15 and COP 27 are not considered environmental law under the USMCA.
21. The definition of “environmental law” under Chapter 24 of the USMCA includes a statute or regulation “that implements the Party’s obligations under a multilateral environmental agreement.”²¹

²⁰ See, e.g., UN Framework Convention on Climate Change, *Conference of the Parties (COP)*, <<https://bit.ly/UNFCCCcop>>.

²¹ USMCA Article 24.1.

22. The Secretariat has found that it is only authorized within the USMCA framework to consider a Party's obligations under a multilateral environmental agreement where such obligations are implemented through a law of Congress or its regulations under the jurisdiction of federal authorities.²²
23. Without expressing an opinion on the validity of the Bonn Convention in Mexico, an international agreement itself is not considered environmental law for the purpose of the SEM process. Therefore, the Bonn Convention is not considered environmental law for the purpose of analyzing this submission.

b) Political Constitution of the United Mexican States

24. The Submitter cites several constitutional provisions (Constitution, Articles 1; 4 paragraphs 4–5; and 25, paragraph 7). The Supreme Court has reiterated that “the content of this human right implies the obligation of all State authorities to ensure the existence of a healthy environment conducive to human development and the well-being of individuals.”²³ In this regard, the Secretariat has already determined that the constitutional provisions for the recognition of the human right to a healthy environment cited in a submission may guide the Secretariat's analysis, but they do not qualify as environmental law.²⁴
25. **Article 1** acknowledges the human rights that everyone enjoys in the territory of the United States of Mexico;²⁵ it establishes the *pro homine* principle for the enforcement of human rights²⁶ norms and sets forth the duty of the State to promote human rights²⁷ which serve as a guide for the Secretariat's analysis. These are however, not considered environmental law. Provisions related to the abolition of slavery and non-discrimination fall outside the mandate of the CEC and are not considered as part of the analysis.²⁸
26. **Article 2** states that the nation is multicultural and based originally on its indigenous peoples; it recognizes the right to self-determination for indigenous peoples; it promotes equality of opportunity for indigenous peoples and eliminates discriminatory practices; and it recognizes Afro-Mexican peoples and communities as a multicultural part of the nation. The Secretariat determines that the above provision does not qualify as environmental law because it is not primarily intended to protect the environment or human health, per Article 24.1 of USMCA.

²² SEM-20-001 (*Loggerhead Turtle*), Determination in accordance with Articles 24.27(2) and (3) of the USMCA (8 February 2021); SEM-21-003 (*North Atlantic right whale*), Determination in accordance with Articles 24.27(2) and (3) of the USMCA (4 November 2021).

²³ “RIGHT TO A HEALTHY ENVIRONMENT. ITS CONTENT”, thesis 1a. CCXLVIII/2017 (10a.), *Journal of the Judicial Weekly of the Federation*, Tenth Epoch, Book 49, t. I, December 2017, p. 1. 411; available at: <<https://sjf2.scjn.gob.mx/detalle/tesis/2015825>>.

²⁴ SEM-15-002 (*Analog TV Waste Handling*), Determination pursuant to Article 14(1) of the NAAEC (22 September 2015), § 14.

²⁵ Political Constitution of the United Mexican States, Article 1, paragraph 1 [Constitution].

²⁶ Id. at Article 1, paragraph 2. (“Human rights norms shall be interpreted in conformity with this Constitution and with the relevant international treaties, favoring at all times the widest protection for individuals.”).

²⁷ Id. at Article 1, paragraph 3.

²⁸ Id. at Article 1, paragraphs 4–5.

27. **Article 3** provides for the right to education, the State's guarantee to provide early childhood, pre-school, primary, secondary, middle and higher education, recognizing it as a child's right, and states that the State is responsible for the management of education and that the provision of education shall be compulsory, universal, inclusive, public, free, and secular. The Secretariat determines that the above provision does not qualify as environmental law because it is not primarily intended to protect the environment or human health, per Article 24.1 of USMCA.
28. Regarding **Article 4**, the Secretariat has previously found that the fifth paragraph of that article may be considered if it is supplemented by an analysis of the environmental law in question²⁹ that focuses on the fifth paragraph of that article since it incorporates the human right to a healthy environment.³⁰
29. **Article 24** provides that everyone has the freedom to hold beliefs and to participate, individually or collectively and publicly or privately, in acts of worship or devotion, provided that it does not constitute a criminal offense. Furthermore, it provides that no laws shall be passed establishing or prohibiting any religion. This article also stipulates how public worship acts are to be performed. The Secretariat determines that this provision is not an environmental law because it does not have as its main purpose the protection of the environment or human health, per Article 24.1 of the USMCA.
30. **Article 133** provides that the Constitution, the laws of the Congress of the Union and all treaties made and executed by the President of the Republic with the approval of the Senate, shall be the Supreme Law of the Union. It also provides that the judges of each federal entity are bound by the Constitution, laws, and treaties. The Secretariat determines that this provision is not an environmental law because it does not have as its main purpose the protection of the environment or human health, per Article 24.1 of the USMCA.

c) **General Law on Ecological Balance and Environmental Protection**

31. Only some of the provisions of the LGEEPA cited by the Submitter are considered environmental law under the USMCA. Although a law may be intended to protect the environment or human health, it may also lack the necessary specificity to be enforced directly or it may not be related to the matter raised in the submission.
32. The following provisions of the LGEEPA, although they may have the character of environmental law as being aimed at the protection of the environment or human health, are not considered relevant for analysis since they are not linked to the Submitter's assertions:
 - i. **Article 5(VI), (IX), (XXI)**, which contain provisions concerning the powers of the Federation not related to the matters raised in the submission;

²⁹ See SEM-06-006 (*Los Remedios National Park*), Determination pursuant to Article 14(1) of the NAAEC (19 January 2007), pp. 4-5. SEM-15-002 (*Management of Analog TV Waste*), Determination pursuant to Article 14(1) of the NAAEC (22 September 2015), § 14.

³⁰ Constitution, Article 4, paragraphs 4–5. (“Everyone has the right to a healthy environment for his or her development and well-being. The State shall ensure respect for this right. Environmental damage and deterioration will generate liability for the person who causes it in terms of the provisions of the law.”).

- ii. **Articles 11(III)(e)(f)(h)(m), (IV), (VI)–(IX) and 12(I)–(XII)**, which concern the authority of Semarnat to conclude agreements or coordination agreements for the transfer of powers;
- iii. **Article 14bis**, which relates to the establishment of a body from federal and state environmental authorities that will meet regularly to coordinate efforts in environmental matters;
- iv. **Articles 15(I)–(XX) and 16**, which relate to the development and operation of environmental policy and the issuance of Official Mexican Standards;
- v. **Articles 16, 17, 17bis, and 18**, which cover environmental planning as an instrument of national environmental policy;
- vi. **Articles 19(I)–(VII), 19bis(I)–(III), 20(I)–(III), 20bis1, 20bis2, 20bis3, 20bis4, 20bis5, and 20bis6**, which set out the criteria to develop ecological planning of the territory; the categories of programs; the preparation of the general ecological planning program of the territory and its linkage to the Planning Act; the performance of consultations; the issuance of programs at the regional or local level; the content of such programs; the preparation of local management programs and procedures for their issuance, the development of marine ecological management programs, and the procedure for prior informed consent and consultation of indigenous and Afro-Mexican communities;
- vii. **Articles 21(I)–(V) and 22bis(I)–(III), (V)**, which concern the development and implementation of economic instruments, as well as their various categories, and fiscal stimulus;
- viii. **Article 23(I), (IV), (VI)–(VIII), (X)**, which concerns the environmental regulation of human settlements;
- ix. **Article 28(V)**, which concerns forest use in tropical forests and species of difficult regeneration;
- x. **Article 28(X)**, which relates to projects and activities in wetlands, coastal ecosystems, lagoons, rivers, lakes and estuaries connected to the sea, as well as in their coastlines or federal areas;
- xi. **Article 29**, which establishes that those projects or activities under federal jurisdiction that are not required to undergo the environmental impact assessment (EIA) procedure shall be subject to the provisions of the LGEEPA, regulations, official Mexican environmental regulations, as well as permits, licenses, authorizations and concessions;
- xii. **Article 32**, which concerns the EIA procedure for partial plans or programs for urban development or ecological planning of the territory including projects or activities provided for in Article 28 of the LGEEPA;
- xiii. **Article 33**, which concerns hazardous and radioactive waste;
- xiv. **Article 35bis1**, which concerns responsibility for preventive reports, environmental impact statements and risk studies vis-à-vis Semarnat;
- xv. **Article 36(I)–(V)**, which provides for the process of development of Official Mexican Standards;

- xvi. **Articles 38bis(I)–(VI) and 38bisI**, which concern the processes of industry self-regulation and implementation of environmental audits;
 - xvii. **Articles 39, 40, and 41**, which relate to ecological research and education;
 - xviii. **Articles 44; 45(I)–(VII); 45bis; 46(I)–(XI); 53; 54; 55; 55bis; 59; 60(I)–(VI); 75; 77bis(I)(A)–(H), (II)–(VI); 78; and 78bis(I)–(V)**, which relate to natural protected areas (NPAs). The area in question does not fall within an NPA of federal jurisdiction, thus these provisions are not relevant to the submission;
 - xix. **Articles 79(I) – (X) and 83**, which concern the taking of wildlife and the sustainable use of natural resources in areas that constitute the habitat of wildlife species;
 - xx. **Article 88(I)–(IV)**, which relate to the sustainable use of water and aquatic ecosystems;
 - xxi. **Articles 98(I)–(V), 100, 101(V), and 105**, which relate to the sustainable use of soil and related resources;
 - xxii. **Articles 110bis(a)–(d); 111(XV)–(XVI); and 112(V)–(VII), (X)**; which relate to provisions for the prevention and control of air pollution;
 - xxiii. **Articles 120(VI), 121, and 124**, which concern water contamination and protection of aquatic ecosystems;
 - xxiv. **Articles 135(I)–(II) and 136(IV)**, which relate to the prevention and control of soil contamination;
 - xxv. **Article 155**, which concerns noise pollution, vibration, thermal energy, intrusive light and the generation of visual pollution;
 - xxvi. **Articles 158(I)–(VI), 159, 159bisI, 159bis2, 159bis3, 159bis4, and 159bis5**, which relate to social participation and environmental information;
 - xxvii. **Article 182**, which establishes various federal offenses against the environment;
 - xxviii. **Articles 156 and 156bis**, which concern the issuance of official Mexican regulations on noise pollution, vibration, thermal energy, odors and intrusive light;
 - xxix. **Article 202**, which relates to the actions of the Profepa when dealing with acts that may constitute offenses and provisions on collective action; and
 - xxx. **Article 204**, which addresses the preparation of a technical opinion on environmental matters.
33. The following provisions of the LGEEPA, although they may qualify as environmental law because their purpose is to protect the environment and/or human health, are not considered for analysis since they lack the necessary specificity to be applied directly:
- i. **Article 1**, which sets out the regulatory nature of the law, its object and the basis on which it is based;
 - ii. **Article 2**, which establishes the concepts of public benefit (*utilidad pública*), and
 - iii. **Article 3**, which establishes definitions for the interpretation of the law;
34. The following provisions referred to by the Submitter could not be identified in the cited law:

- i. Article 13 bis (*sic*)
 - ii. 87: section V (*sic*), and
 - iii. 168: sections I-IV (*sic*).
35. The following provisions, while intended to protect the environment or human health, are not considered for analysis because the Secretariat can only consider provisions that are enforceable by federal authorities:
 - i. **Article 7**, which establishes state powers;
 - ii. **Article 8**, which establishes municipal powers;
 - iii. **Article 10** which relates to state and municipal powers to issue environmental regulations;
 - iv. **Article 35 bis2**, which provides that projects and activities not covered by Article 28 shall be evaluated by the authorities of the federal entities with the participation of municipalities and territorial districts of Mexico City when by location, size or characteristics they produce significant impacts on the environment and are expressly indicated in local environmental legislation and providing for local regulations; and
 - v. **Article 200**, which provides the procedure for citizen complaints implemented by the states.
36. With regard to the general rules on the distribution of authority in **Article 4**, the Secretariat considers that the main purpose of the regulation is the protection of the environment, which is only considered as a guide when considering the submission.
37. The Submitter cites provisions related to **environmental impact** which qualify as environmental law under Article 24.1 of the USMCA since they are aimed at protecting the environment through the implementation of the EIA procedure. Subject to a revised request providing further information on alleged failure to enforce these provisions, the Secretariat presents its analysis:
 - i. **Article 5(X)** states that the EIA for activities referred to in LGEEPA Article 28 and the issuance of corresponding authorizations, falls within the authority of federal authorities, the Secretariat determines that it qualifies as an environmental law because it has as its main purpose the protection of the environment or human health through the exercise of federal authority in the realm of EIA;
 - ii. **Article 28** provides that EIA is the procedure that establishes conditions to which the execution of projects and activities that may cause ecological imbalance, as well as projects or activities that require environmental impact authorization, in particular, those that deal with land use change in forest, forest and arid areas (**section VII**). The Secretariat determines that this provision qualifies as an environmental law because its main purpose is the protection of the environment, through the EIA procedure in forestry areas subject to land use change;
 - iii. **Article 30** states that in order to obtain the environmental impact authorization referred to in Article 28, they must submit an environmental impact manifest (*Manifestación de Impacto Ambiental—MIA*) to Semarnat containing a description of the possible effects on the ecosystem(s) that may be affected by the project or activity, taking into account all the elements of the affected ecosystems, preventive measures, mitigation and other necessary

- actions to avoid and minimize negative effects on the environment. It states that in the case of high-risk activities, the MIA must include the risk study and provides that the content of the preventive report (*informe preventivo*), characteristics and modalities of the MIAs and risk studies shall be established by the LGEEPA regulations. The Secretariat determines that this provision qualifies as an environmental law because its main purpose is the protection of the environment or human health through a MIA and land use change in forestry areas, as defined by Article 24.1 of the USMCA;
- iv. **Article 31** establishes that the projects and activities referred to in sections I to XII of Article 28 of the LGEEPA will require a preventive report and not a MIA when there are Official Mexican Standards or other provisions that regulate all the environmental impacts that the projects or activities may produce (**section I**); or, if the projects or activities are provided for in a partial urban development plan or ecological management program (**section II**). The Secretariat determines that this provision qualifies as an environmental law because its main purpose is the protection of the environment, as stipulated in Article 24.1 of the USMCA, through EIA tools;
 - v. **Article 34** states that once a MIA has been received and the file has been integrated, Semarnat shall make the document available to the public. It states that the promoters of the project or activity may request protection of confidential information in the file, and it provides that a public consultation may be carried out on the basis of and according to the procedure established in this provision when there is a request from any person from the community in question. The Secretariat determines that this provision has as its main purpose the protection of the environment, as stated in Article 24.1 of the USMCA, since it regulates public consultation within the EIA procedure;
 - vi. **Article 35** provides that once the MIA has been submitted, Semarnat shall initiate the evaluation procedure and create the respective file. In order to issue the authorization of projects and activities, Semarnat will be subject to the regulations, urban development and ecological planning programs of the territory, the declarations of protected natural areas and other applicable legal provisions. The authorization issued by Semarnat must assess the possible effects of the projects or activities on the ecosystem(s), considering all the elements that make them up and not only those that will be affected. Once the environmental impact statement has been evaluated. Semarnat may issue the decision in which it may: authorize the realization of the project or activity (**section I**); authorize in a conditional manner (**section II**); or deny the authorization (**section III**). The Secretariat determines that this provision has as its main purpose the protection of the environment, as stipulated in Article 24.1 of the USMCA, through the EIA procedure; and
 - vii. **Article 35 bis3** states that projects and activities referred to in Article 28 of the LGEEPA must have an authorization to initiate work before beginning, in addition to the authorization on environmental impact. The Secretariat determines that this provision has as its main purpose the protection of the environment, as stipulated in Article 24.1 of the USMCA, through the EIA procedure.
38. The Submitter cites some **inspection and monitoring** provisions which qualify as environmental law under Article 24.1 of the USMCA since they are aimed at protecting the environment through inspection, monitoring and other law enforcement actions. Subject to a revised submission providing further information on alleged failure to effectively enforce the law, the Secretariat presents its analysis:

- i. **Article 161** provides that Semarnat shall carry out inspection and monitoring of compliance with the provisions of the LGEEPA and those deriving therefrom;
 - ii. **Article 162** provides that the competent authorities may carry out inspection visits with authorized personnel, without prejudice to other measures provided for by law. Authorized personnel at the time of inspection must have an official document certifying or authorizing them to carry out the inspection or verification, together with a reasoned, written order specifying the place or area to be inspected and the purpose of the inquiry;
 - iii. **Articles 163, 164, and 165** provide for the formalities for carrying out the inspection;
 - iv. **Article 166** concerns the assistance of security forces in carrying out inspections;
 - v. **Article 167** concerns corrective action or urgent enforcement;
 - vi. **Articles 167 167bis, 167 bis1, 167 bis2, 167 bis3, 167 bis4** relate to notifications of administrative procedures; and
 - vii. **Article 168** concerns the submission of pleadings as part of an administrative procedure.
39. The Submitter cites **administrative sanctions** regulations which qualify as environmental law under Article 24.1 of the USMCA since they are aimed at protecting the environment through the imposition of sanctions for breaches or lack of enforcement of environmental law. Subject to a revised submission providing further information on the alleged failure to effectively enforce the law, the Secretariat presents its analysis:
- i. **Article 171** provides that violations of LGEEPA, regulations, and the provisions arising therefrom shall be punishable by a fine, temporary or permanent closure, in whole or in part; administrative arrest for up to 36 hours; confiscation of tools, copies, products or by-products; suspension or revocation of concessions, licenses, permits or authorizations. In addition, it provides that the authority shall provide a deadline for remedying the offense(s), and in the event of the continuation of the offense, fines may be imposed for each day of the offense without obeying the mandate, in the event of a repeat offense the amount of the fine may be increased up to three times the original amount;
 - ii. **Article 173** sets out the factors to be considered for the imposition of sanctions, including elements such as: the gravity of the violation, the economic conditions of the offender, any recidivism, the intentional or negligent character of the actions, and the economic benefit obtained by the perpetrator;
 - iii. **Article 174** relates to how law enforcement actions are carried out; and
 - iv. **Article 174bis** concerns confiscated property.
40. The Submitter cites **citizen complaint** (*denuncia popular*) provisions which qualify as environmental law according to USMCA Article 24.1 since they are aimed at protecting the

environment through the implementation of mechanisms to report breaches or omissions to environmental law. Subject to a revised submission providing further information on alleged failure to effectively enforce the law, the Secretariat presents its analysis:

- i. **Article 189** provides that any person, social groups, non-governmental organizations, associations and societies may report to Profepa or to other authorities any act, act or omission that causes or may cause ecological imbalance or damage to the environment or natural resources, or contravenes the provisions of the LGEEPA or other legal systems that regulate matters related to the protection of the environment and the preservation and restoration of ecological balance;
 - ii. **Article 190** addresses the elements and requirements for a citizen complaint;
 - iii. **Article 191** concerns the procedure to be followed for a citizen complaint, such as registration, accumulation of complaints and notification to the complainant;
 - iv. **Article 192** establishes the procedure to be followed for any citizen complaint submitted to Profepa, as well as requirements to undertake the necessary steps to determine violations to the law as well as requirements to undertake inspections;
 - v. **Article 195** provides that if the result of the investigation carried out by Profepa indicates that the acts, acts or omissions of federal, state or municipal authorities are involved, it shall issue recommendations necessary to promote the execution of actions;
 - vi. **Article 196** determines that when a citizen complaint does not involve violation of environmental laws or affect matters of public order and social interest, Profepa may submit the complaint to a mediation procedure;
 - vii. **Article 197** provides that if it is not established that the reported acts, facts or omissions cause or are likely to cause ecological imbalance or damage to the environment or natural resources or contravene LGEEPA, Profepa shall inform the complainant, so that he can make his comments;
 - viii. **Article 198** concerns non-interference with the complainant's exercise of other procedural rights; and
 - ix. **Article 199** provides the grounds for completing a citizen complaint file.
41. Regarding **Article 203**, which relates to the responsibility to repair damage to the environment, the Secretariat determines that it qualifies as environmental law because its main purpose is the protection of the environment, through liability for damage.

d) General Law on Sustainable Forest Development

42. **Articles 2 and 3** identify the general and specific goals of the law which, while they may constitute environmental law under USMCA, are not considered for analysis since they do not contain provisions that are specifically applicable to the issues raised by the Submitter.

- 43. **Article 7** contains definitions. Consistent with thereasons given above regarding the definitions in the LGEEPA, they are not considered for analysis.
- 44. **Article 42** establishes the National Forest Register as well as the elements to be registered in it. In this respect, it is not considered for analysis since there are no assertions in the submission related to the implementation of the Register.

e) Federal Environmental Liability Act

- 45. The Secretariat cannot consider the law as cited by the Submitter because the entire law is cited without pointing to specific, relevant provisions. The Submitter should identify the specific provisions relating to the alleged lack of enforcement of environmental law in connection with residential developments in San Cristóbal de las Casas in a revised submission.

f) Other Legal Instruments

- 46. The Submitter cites the *Decree Declaring Reforestation in the State of Chiapas of Public Interest*. This Decree declares reforestation in the state of Chiapas to be of public interest, with the purpose of supporting ecological restoration and preservation of forests and rainforests.³¹ While this may qualify as environmental law, it does not create any of the categories of natural protected areas, as alleged by the Submitter. Thus, the Secretariat does not consider it for further analysis.

g) United States laws

- 47. The Submitter cites the Neotropical Migratory Bird Conservation Act (NMBCA) and the Migratory Bird Treaty Act (MBTA) in the submission.
- 48. The NMBCA “authorizes grants for the conservation of neotropical migratory birds in the United States and Latin America and the Caribbean....”³² The NMBCA “encourages habitat protection, education, researching, monitoring, and capacity building to provide for the long-term protection of neotropical migratory birds” through a grant program administered by the Fish and Wildlife Service.³³
- 49. The MBTA implements four separate international conservation treaties between the U.S. and Canada, Mexico, Japan, and Russia. The MBTA “is intended to ensure the sustainability of populations of all protected migratory bird species.”³⁴
- 50. Both the NMBCA and MBTA are US laws and are not relevant to the submission’s assertions that Mexico is failing to effectively enforce its environmental laws. The Secretariat declines to analyze whether these laws are environmental laws within the meaning of Article 24.1 of the USMCA.

³¹ Decree Declaring that Reforestation in the State of Chiapas is of Public Interest (*Decreto que señala de interés público la reforestación en el estado de Chiapas*), Federal Register (*Diario Oficial de la Federación*) 1 October 1990.

³² U.S. Fish & Wildlife Service, *Neotropical Migratory Bird Conservation Act*, <<https://www.fws.gov/law/neotropical-migratory-bird-conservation-act>>.

³³ Id.

³⁴ U.S. Fish & Wildlife Service, *Migratory Bird Treaty Act of 1918*, <<https://www.fws.gov/law/migratory-bird-treaty-act-1918>>.

C. Article 24.27(2) Requirements

51. Article 24.27(2) provides five more requirements for a submission to be eligible for consideration by the CEC Secretariat:
 - a. *is in writing in English, French, or Spanish;*
52. The Secretariat finds that the submission meets USMCA Article 24.27(2)(a), given that the submission is in writing in English.
 - b. *clearly identifies the person making the submission;*
53. The submission provides the name, address, email address, and phone number of the Submitter which is sufficient to identify and communicate with the Submitter and evaluate whether they meet the requirements of Article 24.27(1). The Secretariat finds that the submission meets USMCA Article 24.27(2)(b).
 - 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;*
54. The submission mentions hummingbird species in the area and asserts that “[t]he destruction of these habitats threatens the extinction of this incredible tiny bird as well as every other migratory and endemic bird that depend on what is left of this forest for their survival during their individual migrations.”³⁵
55. The submitter asserts that “there is no zoning change, no environmental impact statement” for the *Bosques del Sur* development. A revised submission should clarify the assertions regarding residential developments, environmental impacts, and change in land use.
56. The Secretariat finds that the submission does not meet USMCA Article 24.27(2)(c).
 - d. *appears to be aimed at promoting enforcement rather than at harassing industry; and*
57. The Secretariat finds that the submission satisfies USMCA Article 24.27(2)(d) since it is apparent from the information included in the submission and its annexes that it is not aimed at harassing an industry but seeks the effective enforcement of applicable environmental laws regarding land use changes for residential development in the area around San Cristóbal de las Casas. The submission discusses concerns about forest habitat for bird species in connection with impacts caused by residential development.
 - e. *indicates whether the matter has been communicated in writing to the relevant authorities of the Party and the Party’s response, if any*

³⁵ Submission, Statement of Facts at 5-6.

58. The Submitter provides copies of correspondence with relevant municipal, state and federal authorities in Mexico that demonstrate that they have received letters from the Submitter and/or the Submitter has filed complaints about some of the issues raised in the submission. Responses from the authorities are also provided.
59. Only the correspondence related to alleged violations of federal law is relevant for the SEM process due to the definition in Article 24.1 of the USMCA which limits the process to reviewing allegations of a failure to effectively enforce statutes and regulations that are “enforceable by action of the federal level of government.”³⁶
60. In 2018, there is a letter from the Municipality of San Cristóbal de las Casas about a complaint filed by the Submitter regarding a plan to build a convenience store over a dry lake and subterranean stream that connects with wetlands in the area. Another letter from the Municipality in 2020 references that the complaint is being handled by the Office of the Federal Attorney for Environmental Protection (*Procuraduría Federal de Protección al Ambiente—Profepa*) and questions about the wetland are being handled by the National Water Commission (*Comisión Nacional del Agua - Conagua*).
61. There is correspondence from the Office of the Federal Attorney for Environmental Protection (*Procuraduría Federal de Protección al Ambiente—Profepa*) regarding a citizen complaint (*denuncia popular*) filed by the Submitter on 23 November 2021. The complaint was related to a development known as “Bosques del Sur” and alleged that the development was occurring without proper authorization, in violation of Article 76 of the LGVS (*Ley General de la Vida Silvestre*) and Article 42 of the LGDFS (*Ley General de Desarrollo Forestal Sustentable*). The complaint was resolved by Profepa on 28 February 2022. Profepa explained that it tried to visit the site for an inspection on 29 November 2021, but there were difficulties locating the site. While looking for the site, the inspectors saw a sign notifying them that federal authorities were not welcome in the area, a woman asked them what they were doing in the area and said they did not have permission to be there, and a man told them that the indigenous communities in the area did not like people from outside the community and that they were at personal risk if they continued. The inspectors concluded that “it is materially impossible to attend to the present case, therefore it is not considered suitable to generate an inspection order.”³⁷ Due to the impossibility of performing the inspection and verifying the facts in the complaint, Profepa closed the proceeding.³⁸
62. The Secretariat finds that the submission meets USMCA Article 24.27(2)(e).

D. Article 24.27(3) Criteria

63. Article 24.27(3) provides four more criteria that are part of the Secretariat’s review process:
 - a. *the submission alleges harm to the person making the submission;*

³⁶ Article 24.1 USMCA

³⁷ Resolution Agreement (*Acuerdo Resolutivo*), Profepa, 28 February 2022 (“...se concluye que existe imposibilidad material para dar atención a la presente, por lo que no se considera conveniente generar orden de inspección.”).

³⁸ Id.

64. The Secretariat has found in previous determinations that, when considering the question of harm, it must determine whether the harm asserted is due to the alleged failure to effectively enforce the environmental law and whether the harm is related to environmental protection.³⁹
65. The submission mentions that, as a result of unregulated residential development in San Cristóbal de las Casas, the habitat of several hummingbird and bird species is being destroyed and that this “threatens the extinction of this incredible tiny bird as well as every other migratory and endemic bird that depend on what is left of this forest for their survival during their individual migrations.”⁴⁰
66. The submission also asserts that “[t]he forests in question are all under threat of total destruction by unregulated and irregular housing developments in conservation areas.”⁴¹ And also notes that the lack of enforcement of environmental laws to these new housing developments amounts to “... giv[ing] a green light to the advance of unsustainable development in the era of Climate Change.”⁴² The submission includes a study on the potential effects of climate change on the distribution of hummingbirds.⁴³
67. The Secretariat finds that the submission meets the criterion of USMCA 24.27(3)(a).
b the submission, alone or in combination with other submissions, raises matters about which further study would advance the goals of this Chapter;
68. USMCA Article 24.2(2) establishes 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.”
69. The submission raises questions about environmental protection related to residential development in forested areas and the impacts on flora and fauna. The submission suggests that these housing developments are an example of “unsustainable development.”⁴⁴ These issues fit squarely into the goals of Chapter 24. Accordingly, the Secretariat finds that the submission meets the criterion of USMCA 24.27(3)(b).
c. private remedies available under the Party’s law have been pursued; and

³⁹ SEM-19-004 (*Barred Owl*), Determination pursuant to Articles 14(1) and (2) of the NAAEC (21 November 2019), §28; SEM-11-002 (*Sumidero Canyon II*), Determination pursuant to Articles 14(1) and (2) of the NAAEC (6 September 2012), §36; SEM-13-001 (*Tourism Development in the Gulf of California*), Determination pursuant to Articles 14(1) and (2) of the NAAEC (23 November 2013). *See also* SEM-20-001 (*Loggerhead Turtle*), Determination pursuant to Articles 24.27(2) and (3) of the USMCA, §58.

⁴⁰ Submission, Statement of Facts at 5-6.

⁴¹ *Id.* at 6.

⁴² *Id.*

⁴³ Carlos Lara, Teresa Feria-Arroyo, Jon Dale, Jesús Muñoz, Maria Arizmendi, Juan Ornelas, Raúl Ortiz-Pulido, Claudia Rodríguez-Flores, Román Díaz, Vanessa Martínez-García, Anaïd Díaz-Palacios, Ruth Partida, Paula Enríquez, José Luis Rangel-Salazar, and Jorge Schondube. (2012). *Potential effects of the climate change in the distribution of hummingbirds: a study case with hummingbirds from the genus Amazilia and Cynanthus*, ORNITOLOGIA NEOTROPICAL 23: 57–70, 2012.

⁴⁴ Submission, Statement of Facts at 6.

70. The Secretariat has found that pursuing private remedies can be interpreted broadly and this criterion can be met by filing a complaint or referencing a complaint filed by another person, organization, or entity. This criterion is evaluated according to a standard of reasonableness, keeping in mind that in some cases barriers exist to pursuing such remedies.⁴⁵
71. The submission does not provide information on private remedies under Mexico's law with respect to some of the assertions made in the submission.
72. The Submitter provides correspondence demonstrating that complaints have been filed with municipal, state and federal authorities:
- A citizen complaint (*denuncia popular*) filed with the Office of the Federal Attorney for Environmental Protection (*Procuraduría Federal de Protección al Ambiente—Profepa*) addressing the Bosques del Sur residential development. The Submitter does not include a copy of this complaint apparently filed in November 2021;
 - A complaint filed with the Chiapas Secretariat of the Environment and Natural History (*Secretaría de Medio Ambiente e Historia Natural—Semahn*) in 2014 related to burning of wood chips (*aserrín*);
 - A complaint filed with the Municipality of San Cristóbal de las Casas in 2018 requesting restoration of a water body and a forest and protection of migratory birds in relation to the construction of a convenience store. Based on the correspondence, it seems like this complaint was also filed with or was referred to Profepa;
73. Of the above complaints, only the November 2021 complaint filed before Profepa meets the requirements under USMCA, as this is the relevant authority charged with enforcement of federal laws cited in the submission.
74. The Submitter should provide a copy of the November 2021 citizen complaint and any other relevant complaints filed with Profepa involving federal laws and/or regulations so the Secretariat can examine those allegations directly. The submission includes correspondence about the 2021 and 2018 complaints, which discusses the subject matter of the complaints and includes excerpts from them, but the complaints themselves are needed for the Secretariat's analysis.
75. The submission does not meet the criterion of USMCA 24.27(3)(c).
- d. *the submission is not drawn exclusively from mass media reports*
76. The Secretariat finds that the submission is not based on mass media reports but is instead based on the Submitter's first-hand knowledge of the area and the environmental situation, as well as information gathered by the Submitter.
77. The Secretariat finds that the submission satisfies the criterion of USMCA 24.27(3)(d).

⁴⁵ SEM-18-001 (*Transboundary Agricultural Burning*), Determination pursuant to Articles 14(1) and (2) of the NAAEC (19 February 2018) ("In similar situations, the Secretariat has considered if reasonable actions were taken prior to file a submission. It has also considered that in some cases, the lack of resources may limit a submitter's ability to undertake private remedies before filing a submission. The Secretariat considers that a barrier to a private remedy may include economic and social factors.").

IV. DETERMINATION

78. For the foregoing reasons, the Secretariat finds that submission SEM-23-001 (*Residential Development in San Cristóbal de las Casas*) does not meet the eligibility requirements of USMCA Articles 24.27(1), 24.27(2), and 24.27(3).
79. A revised submission should clarify the assertions regarding residential developments, explain whether environmental impact assessment and change in land use are the focus of the submission and provide more information on the environmental impacts of the developments and on the remedies pursued with respect to the residential developments.
80. Also, a revised submission should provide a copy of the citizen complaint (*denuncia popular*) filed by the Submitter on 23 November 2021 and any other relevant citizen complaints filed with Profepa involving federal laws and/or regulations.
81. The Submitter may file a revised submission within 60 days from the date of this determination (i.e. by **13 April 2023**) using the SEM form available online <www.cec.org>, as well as any additional information in electronic form, to the following email address: <sem@cec.org>. The Submitter need not include the documents already enclosed with the original submission. The Secretariat will then re-consider the eligibility of the submission.

Respectfully submitted for your consideration,

Secretariat of the Commission for Environmental Cooperation

(original signed)

By: Paolo Solano
Director, Legal Affairs and Submissions on Enforcement Matters

(original signed)

By: Caitlin McCoy
Legal Officer, Legal Affairs and Submissions on Enforcement Matters

cc: Miguel Ángel Zerón, Alternate Representative of Mexico
Stephen de Boer, Alternate Representative of Canada
Jane Nishida, Alternate Representative of the United States
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Submitter