



RESPONSE FROM THE UNITED MEXICAN STATES

SUBMISSION SEM-23-002 (AVOCADO PRODUCTION IN MICHOACÁN)

**SUBMITTED TO THE SECRETARIAT OF THE COMMISSION FOR ENVIRONMENTAL
COOPERATION IN TERMS OF ARTICLE 24.27.4 OF THE AGREEMENT BETWEEN THE
UNITED MEXICAN STATES, THE UNITED STATES OF AMERICA AND CANADA (USMCA)**

Note: Unofficial translation for reference purposes

Mexico City, July 24, 2023.

TABLE OF CONTENTS

GLOSSARY.....	3
INDEX OF DOCUMENTARY ANNEXES	4
A. BACKGROUND	5
B. PRELIMINARY ANALYSIS.....	6
C. RESPONSE BY MEXICO PURSUANT TO ARTICLE 24.27 (4) OF THE USMCA.....	7
(a) If the matter in question is the subject of a pending judicial or administrative proceeding, in which case the CEC Secretariat will not proceed further.	8
i) Lack of protection of forest ecosystems and water quality from adverse environmental effects of avocado production in Michoacán, Mexico.	8
ii) Adequacy of the legal framework regulating avocado production.....	14
(b) Any other information that the Party wishes to provide:	16
iii) If the matter has previously been the subject of a judicial or administrative proceeding.....	16
iv) Other information.....	26
D. CONCLUSIONS.	28

GLOSSARY

Term	Meaning
ECA	Agreement on Environmental Cooperation between the Governments of the United Mexican States, the United States of America and Canada
CEC	Commission for Environmental Cooperation.
CONAFOR	National Forestry Commission.
CONAGUA	National Water Commission.
CPEUM	Political Constitution of the United Mexican States.
DGGFSOE	Address General Management of Soils and Ecological Management.
LAN	National Waters Act.
LDRS	Sustainable Rural Development Act.
LGCC	General Climate Change Act.
LGDFS	General Act on Sustainable Forest Development.
LGEEPA	General Act of Ecological Balance and Environmental Protection.
LGTAIP	General Act on Transparency and Access to Public Information.
LGVS	General Wildlife Act.
MEXICO	United Mexican States.
AVOCADO PRODUCTION SUBMISSION	Submission SEM-23-002 (Production of Avocado in Michoacán), filed with the Commission for Environmental Cooperation on February 2, 2023.
SUBMITTER	Natural person whose identity is confidential
PROFEPA	Federal Attorney General's Office for Environmental Protection.
PROTOCOL	Protocol Replacing the Free Trade Agreement. The Company is a member of the North American Free Trade Agreement (NAFTA) by the Treaty between the United States of America, the United Mexican States and Canada.
RI-SEMARNAT	Internal Regulations of the Ministry of Environment and Natural Resources, published in the Official Gazette of the Federation on July 27, 2022.
SADER	Ministry of Agriculture and Rural Development.
SAGARPA	Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food Safety.
CEC SECRETARIAT	Secretariat of the Commission for Environmental Cooperation.
SEMARNAT	Ministry of Environment and Natural Resources.
NAFTA	North American Free Trade Agreement.
USMCA	Agreement between the United Mexican States, the United States of America and Canada.

INDEX OF DOCUMENTARY ANNEXES

Annex	Description of the document
MX-001	Political Constitution of the United Mexican States.
MX-002	General Act on Ecological Balance and Environmental Protection.
MX-003	General Wildlife Act.
MX-004	General Act on Sustainable Forest Development.
MX-005	National Waters Act.
MX-006	Sustainable Rural Development Law.
MX-007	General Climate Change Act.
MX-008	Internal Regulations of the Ministry of Environment and Natural Resources.
MX-009	Official Document No. 1.0.1.-01164-2023-response.
MX-010	Collaboration and Coordination Agreement between SAGARPA and SEMARNAT.
MX-011	APEAM Actions
MX-012	Official Document No. B00.915.00.1.-0102-response.
MX-013	Official Document No. B00.3.-029-response.
MX-014	Official Document SPARN/DGGFSOE/418/1997/2023-response
MX-015	Official Document SECMA-OS-155/2023-5
MX-016	Framework Coordination Agreement on Forestry Matters.
MX-017	Decrees of 04 Environmental Restoration Zones.
MX-018	Coordination Agreement related to the Ecological Management Program.
MX-019	Official Document B00.05.02.2233-2023-response.
MX-020	Official Document B00.05.02.2259-2023-response.
MX-021	Official Document CGJ/0722-2023-response.
MX-022	Official Document PFPA/5.3/2C.28.5.2/06938-response.
MX-023	Official Document SPARN/DGRNB/167/2023-response.
MX-024	Organic Law of the Public Administration of the State of Michoacán de Ocampo.

A. BACKGROUND

1. On February 2, 2023, a Mexican national (**Submitter**), who in terms of Article 16(1)(a) of the Environmental Cooperation Agreement (**ECA**) requested confidentiality of his information, filed a Submission with the Secretariat of the Commission for Environmental Cooperation (**CEC Secretariat**), pursuant to Article 24.27(1) of the United States-Mexico-Canada Agreement (**USMCA**).

2. This submission alleged that Mexican environmental authorities failed to effectively enforce environmental law in relation to avocado production in the state of Michoacán, Mexico. Based on what is stated in the Submission, the Submitters claim that the Mexican environmental authorities failed to enforce environmental legislation regarding: **1.** The lack of protection of forest ecosystems and water quality from the adverse effects on the environment derived from avocado production in Michoacán, Mexico, and **2.** The adaptation of the legal framework that regulates the production of avocado in Michoacán.¹

3. Derived from examination of the Submission, the CEC Secretariat in Determination A24.27(2)(3)/SEM/23-002/05/DET issued on March 6, 2023, concluded that the Submission did not meet the admissibility requirement outlined in Article 24.27(2)(e) of the USMCA; however, it requested the Submitter to submit a Revised Submission within 60 calendar days, including information regarding whether the matter has been communicated in writing to the competent authorities of the Party.²

4. In response to the request made by the CEC Secretariat, on April 25, 2023, the Submitter filed a Revised Submission, which was examined by the CEC Secretariat, who through its Determination A24.27(2)(3)/SEM/23-002/13/DET noted that it complied with the admissibility requirements listed in subparagraphs (1) and (2) of Article 24.27 of the USMCA and required the Government of Mexico to submit a Party Response on the application of the following legal provisions:

- a) Article 4, fifth and sixth paragraphs of the Political Constitution of the United Mexican States (**CPEUM**)³;
- b) Articles 5 sections II and IX, 15 sections III, IV, IX, and XII, 19 sections I, II, III, V, and VII, 20 bis 1, 21, 21, 78, 79 sections I, II, VI, and IX, 88 sections I, III, and IV, 89 sections II, III, V, and XI, 98, 99 sections IV, V, VII, IX, and XII, and 15 bis of the General Act on Ecological Balance and Environmental Protection (**LGEEPA**)⁴;
- c) Articles 1, 4, 5 sections II and V, 6, 9 sections I, II, IV, XVIII, and XXI, 18, 19, 20, 20, 70, and 106 of the General Wildlife Act (**LGVS**)⁵;
- d) Articles 93, 94, 96, 97, 97, 98 and 99 of the General Act on Sustainable Forest Development (**LGDFS**)⁶;
- e) Articles 7 bis section XI, 9 section XXXVI, 14 bis 5 sections IX, X, XI, and XII, 119 sections III, VIII, XVII and XVIII of the National Waters Act (**LAN**)⁷;
- f) Articles 165, 170 and 172 of the Sustainable Rural Development Act (**LDRS**)⁸; and

¹ Submission, p. 5, 9 and 16, paragraphs 3, 19 and 63.

² Determination A24.27(2)(3)/SEM/23-002/05/DET, pp. 26, para. 80-82.

³ MX-001.

⁴ MX-002.

⁵ MX-003.

⁶ MX-004.

⁷ MX-005.

⁸ MX-006.

g) Article 26 sections I, III, IV, and XI of the General Climate Change Act (**LGCC**)⁹;

B. PRELIMINARY ANALYSIS

5. Prior to the submission of the Party's response, it is considered of utmost importance to complete the pertinent clarification regarding several legal provisions that were considered by the CEC Secretariat, since they are not applicable to the matters indicated in the Submission itself.

- **Articles 7 bis Section XI; 9 Section XXXVI; 14 bis 5 Sections IX, X, XI and XII, 119 Sections III, VIII, XVII and XVIII of the National Waters Act and Article 89 sections II, III, V and IX of the General Act on Ecological Balance and Environmental Protection.**

6. It is considered that these provisions are not applicable to the submission at hand, since the purpose of the provisions is to regulate what is related to "National Waters," that is, all that is referred to in the fifth paragraph of Article 27 of the CPEUM, which is the following:

The waters of the territorial seas are the property of the Nation to the extent and under the terms established by International Law; inland marine waters; those of lagoons and estuaries that communicate permanently or intermittently with the sea; those of naturally formed inland lakes that are directly linked to constant currents; those of rivers and their direct or indirect tributaries, from the point of the riverbed where the first permanent, intermittent or intermittent waters begin; those of inland lakes of natural formation that are directly linked to constant currents; those of rivers and their direct or indirect tributaries, from the point of the channel where the first permanent, intermittent or torrential waters begin, until they flow into the sea, lakes, lagoons or estuaries of national property; those of constant or intermittent streams and their direct or indirect tributaries, when the bed of such streams in all or part of its extension, serves as a limit to the national territory or to two federative entities, or when it passes from one federative entity to another or crosses the dividing line of the Republic; that of lakes, lagoons or estuaries whose vessels, zones or banks are crossed by dividing lines of two or more states or between the Republic and a neighboring country, or when the limit of the banks serves as a boundary between two states or between the Republic and a neighboring country; those of the springs that spring from the beaches, maritime zones, beds, vessels or banks of lakes, lagoons or estuaries of national property, and those extracted from mines; and the beds, beds or banks of lakes and inland streams to the extent fixed by law.

7. In this regard, and taking as a reference the provisions of Articles 1 and 2 of the LAN, which specify the scope of application of such law, i.e., the "National Waters," it is important to point out that the referenced "water storage ponds" are structures made to capture rainwater, therefore, the waters used in the irrigation of avocado crops are not properly National Waters, in terms of the provisions of the aforementioned Article 27 of the CPEUM.

⁹ MX-007.

8. In addition to the foregoing, in relation to the enjoyment of water and its concession, Article 27, paragraph five of the CPEUM establishes that subsoil waters may be freely brought to use, that is to say, any interested party may build a water catchment and extract from it the volume of water they require, without the need for a permit or concession from the Water Authority in charge. For further reference, this constitutional provision establishes that subsoil waters may be freely brought to use by means of artificial works and appropriated by the owner of the land.

9. Based on the above, Article 89 sections II, III, V and IX of the LGEEPA, no longer applies, since its content is not related to the technique used in the irrigation of the avocado crop, since it comes from an artificial enjoyment of a natural process such as rainfall in the light of the free flow of water and not directly from national waters.

10. It should not go unnoticed to point out that, although upon completion of the examination of the Submission filed on February 2, 2022, the CEC Secretariat in its Determination A24.27(2)(3)/SEM/23-002/05/DET of March 6, 2023, concluded that the Submission did not comply with the admissibility requirement set forth in Article 24.27 (2)(e) of the USMCA, therefore, the Submitter was requested to submit a Revised Submission within 60 calendar days, including the information related to indicate whether the matter had been communicated in writing to the relevant authorities of the Party and, if there was the response of the same.

11. Subsequently, on April 25, 2023, the Submitters filed a Revised Submission, which once examined by the CEC Secretariat, through its Determination A24.27(2)(3)/SEM/23-002/13/DET, indicated that it complied with the admissibility requirements listed in paragraphs (1) and (2) of Article 24.27 of the USMCA, and therefore required the Government of Mexico to submit a Party Response.

12. In this regard, it should be noted that although the CEC Secretariat reviewed the submission in question with a broad interpretation perspective; it is also true that the information submitted in support of the initial Submission, specifically the e-mail dated March 15, 2023 from the coordinator of the group [REDACTED], addressed to the head of SEMARNAT and to the e-mail address of citizen affairs of SEMARNAT, requesting her intervention to address said problem, based on the right of submission enshrined in Article 8 of the CPEUM, which evidences that it was submitted at a later date; Nevertheless, the compliance with the procedural requirement observed by the CEC Secretariat was deemed to have been validated, without the authority having the opportunity to respond to said request in accordance with the assumptions set forth in the aforementioned constitutional article, in addition to the fact that in the event of a negative response, the corresponding national means of appeal should have been exhausted, which allows us to observe that the admission of the Submission in question is flawed to the detriment of Mexico. For this reason, the CEC Secretariat is requested that in accordance with the provisions of Article 24.27(3)(a) of the USMCA, the submission should not continue to be processed, since the procedural requirement established by Article 24.27(2)(e) is not satisfied.

C. RESPONSE BY MEXICO PURSUANT TO ARTICLE 24.27 (4) OF THE USMCA.

13. As noted by the CEC Secretariat in its response request to Mexico, the USMCA entered into force on July 1, 2020 in accordance with the Protocol replacing the North

American Free Trade Agreement with the Agreement between the United States of America, the United Mexican States and Canada (**Protocol**).

14. Under the terms of paragraph 1 of the Protocol, the provisions of the North American Free Trade Agreement were null and void, except for "those provisions set forth in the USMCA that refer to provisions of NAFTA."

15. Based on the foregoing, Mexico submits its response as a Party in accordance with its commitments under the USMCA, which are binding as of its entry into force, i.e., as of July 1, 2020,¹⁰ in order to comply with the provisions of paragraph 4 of Article 24.27 (Submissions on Enforcement Matters) of the USMCA.

(a) If the matter in question is the subject of a pending judicial or administrative proceeding, in which case the CEC Secretariat will not proceed further.

i) Lack of protection of forest ecosystems and water quality from adverse environmental effects of avocado production in Michoacán, Mexico.

- Weak environmental regulation and its applicability, as well as the absence of effective coordination mechanisms between state and federal authorities.**

16. The Submitter asserts that Mexico failed to effectively enforce its environmental law due to weak environmental regulation and its applicability, as well as the absence of effective coordination mechanisms between state and federal authorities, resulting in the lack of protection of forest ecosystems and water quality from the adverse environmental effects of avocado production in Michoacán, Mexico.¹¹

17. In this regard, the CEC Secretariat is informed that through official document number 1.0.1.- 01164- 2023, consisting of 13 pages, the General Directorate for the Promotion of Agriculture informed that SADER is in favor of the productive development of the national agricultural sector in a sustainable manner and in strict compliance with environmental legislation, in the particular case of avocado cultivation, it is highlighted that Michoacán is the main producer, thanks to the noble effort and work of more than 34,800 producers, most of them with landholdings of less than five hectares, distributed in 112 municipalities with an official surface area of 176,179 hectares.¹²

18. Given the importance of this sector, SADER has always worked jointly with producers, traders, exporters, industry, research centers, the three levels of government, as well as with foreign governments where this product is exported, so the avocado sector is one of the best organized, in addition to having the resources, public policy instruments, participation of all stakeholders and tools to overcome major challenges.

19. At least since 2016, the then-SAGARPA and other institutions established lines of action promoting inter-institutional work teams to consolidate the preliminary draft to

¹⁰ Article 24.4 (Enforcement of Environmental Laws) states that "[n]o Party shall cease to effectively enforce its environmental laws after the date of entry into force of this Treaty". This is further confirmed by Article 28 (Non-retroactivity of Treaties) of the Vienna Convention on the Law of Treaties, which states that "[t]he provisions of a treaty shall not bind a party in respect of any act or fact which took place prior to the date of entry into force of the treaty for that party or any situation which at that date ceased to exist..."

¹¹ Determination A24.27 (2)(3)/SEM/23-005/DET, p. 2, para. 2.

¹² MX-009.

reform provisions of the LGDFS, to ensure that no support or incentives would be granted in forest lands to carry out activities that increase the agricultural frontier to the detriment of the country's forest areas; likewise, in 2016 a Collaboration and Coordination Agreement was signed to preserve forests and jungles and strengthen food sustainability between SAGARPA and SEMARNAT, a fact that was highlighted in the framework of the work of the 13th United Nations Conference on Biodiversity (COP 13), the level of inter-institutional coordination to undertake actions in favor of agricultural productivity that does not mean the deterioration of ecosystems, nor of their biodiversity.¹³

20. Derived from the above and joint actions, on September 6, 2018, the Agreement establishing the information instrument was published in the Official Gazette of the Federation, to create a digital consultation platform that integrates the Land Cover Map of the Mexican Republic, as well as information systems, database and georeferenced data that allow identifying the properties that are susceptible to support and economic stimuli for the completion of agricultural activities that are located within forest land or with forest vegetation. Other systems have been strengthened through this system, such as the Protected Agriculture Consultation System, the Agricultural Surface Area Estimation System, Series IV of the Agricultural Frontier System, among others, using satellite images displayed on a Web Map System (WMS). Work also continues with other institutions to comply with Article 24 of the LGDFS; likewise, progress has been made in the development of the Avocado Producers' Register, with the participation of Federal and State Agencies and the avocado production chain, in order to guide public policy to strengthen avocado cultivation, as well as to make statistical information available to producers for better decision making.

21. At present, the Agreement by which the Operating Rules of the Program for the Promotion of Agriculture, Livestock, Fisheries and Aquaculture for fiscal year 2023 are published, does not grant support for the development of projects in deforested areas outside the agricultural frontier nor in protected natural areas that change the use of natural resources. For those that have a management program, support will not be granted for the core zone and for the zones of: a) preservation, b) special enjoyment, c) public inclusion, and d) recovery.

22. During the current administration there has been no incentive to establish new avocado plantations, since the programs are focused on basic food crops, such as Production for Wellbeing, Fertilizers for Wellbeing and Guarantee Prices, aimed at achieving food self-sufficiency in corn, beans, wheat and rice.

23. In this regard, since 2019, the National Avocado Product System Committee has undergone a renewal process, resulting in an updated Master Plan on aspects of productivity, sustainability, legislative agenda and standardization, occupational health and safety, bioeconomy and circular agriculture, financing, risk management, representativeness, and governance, in line with the current situation with a medium- and long-term approach. In addition, the Committee worked on a renewal project based on a diagnosis and comparison of regulatory and institutional developments in production chains in countries such as Argentina, Brazil, Colombia, and Spain.

24. Likewise, with respect to the detection of water contamination due to the use of agrochemicals, as well as the overuse of water by the orchards (2011-2012), this no longer corresponds to the current situation, the submission must specify the reasons that justify

¹³ MX-010.

this statement, pointing out that current research sources, based in reality. It is also worth mentioning that the municipalities of Tancítaro, Uruapan, Tacámbaro, Salvador Escalante, Ario, Peribán, Nuevo Parangaricutiro and Los Reyes are home to a concentration of 69% of the planted area (120,799 ha), of which 63% is rainfed (110,213 ha), so they do not depend on irrigation water. It is additionally worth mentioning that currently in the state of Michoacán 14% of the cultivated area is organic avocado, which contributes to reducing the excessive use of chemical synthesis products.

25. Similarly, from 2000 to 2010, the growth rate of the area planted with avocado was moderate, with an annual average of 3.6%; after 2010 to 2016, this rate increased to 6.4% annually; however, from 2016 the growth rate has decreased, so that in 2022, the growth rate was only 1%, as shown in Figures 1 and 2 from the relevant office. It should be noted that from 2018 to 2022 the growth rate went from 4.9 to 1.0, which also shows that during this administration, the area planted with avocado in Michoacán has stabilized.

26. Regarding avocados for export, there is an Operational Work Plan between Mexico and the United States of America, which operates under the cooperative service agreement between the United States Department of Agriculture, Animal and Plant Health Inspection Service, and the National Service of Health, Safety and Agri-Food Quality (*Servicio Nacional de Sanidad, Inocuidad y Calidad Agroalimentaria*—SENASICA), whose purpose is to specify the guidelines that allow the export of Hass avocados, under a systems approach to mitigate pests of quarantine concern, from the approved Mexican States to the United States of America.

27. The Association of Avocado Producers and Export Packers of Mexico, A. C. (*Asociación de Productores y Empacadores Exportadores de Aguacate de México*—APEAM), through trainers certified by Produce Safety Alliance, provides courses for producers and instructors in which they will learn to conserve the innocuity of the fruit among wildlife and domestic animals. The Association maintains institutional links with the Federal Government agencies associated with the crop, COFEPRIS, SEMARNAT, PROFEPA and SADER, in their respective areas of competence, highlighting that in 2020 meetings were held in Michoacán, between SADER, CONAFOR, INIFAP, SENASICA, State and Municipal Government, Michoacán's State Plant Health Committee, APEAM and the Product System Committee, where producers requested the support of the Federal and State Governments to disseminate the new avocado traceability system, among others, resulting in various agreements to form working groups to specifically address each problem raised.

28. For further reference, we share a document entitled "Actions of APEAM for Sustainable Development", consisting of 8 pages, which contains a list of contributions from APEAM, regarding the enforcement of the environmental law in Submission SEM-23-002 (*Avocado Production in Michoacán*); consequently, it is requested that any reference to this information, take into account that these are actions undertaken voluntarily by the industry associated with APEAM.¹⁴

29. In that tenor, we refer to what was pointed out by the Submitter, regarding the response completed by CONAFOR on the application of Article 99 of the LGDFS, this current ordinance was published in the DOF on June 5, 2018, and Articles 97 and 99 of the abrogated ordinance itself make no reference to a mechanism to prevent burned forest areas from being used for agricultural activities, making it incorrect to deduce that there is official irresponsibility and violation of Article 97 and other articles of the same ordinance, based

¹⁴ MX-011.

only on the response to a request for information, given that there are other actions and mechanisms to comply with such provisions. Finally, we point out that APEAM has reported some actions and projects that it has undertaken, which for further reference are listed in the body of the document itself, as well as the norms and standards related to avocados.

30. In this regard, CONAGUA, through the Michoacán Local Directorate, by means of Memorandum No. B00.915.00.1.0102, consisting of 2 sheets of paper, informed that within the framework of water-related actions, from 2010 to date, it has completed 71 inspection visits to properties with avocado plantations, detecting 41 visits with alleged violations to the National Waters Act (**LAN**), for which the regional office, within the scope of its competence, has initiated the respective administrative proceedings to impose sanctions for such violations.¹⁵

31. This memorandum also states that given the nature of the programs operated by this sub-directorate, with respect to the Federal Programs, no other actions are carried out that are not contemplated in the LAN and its Regulations to address the environmental problems caused by avocado production in Michoacán since the actions for this type of problem are not regulated.

32. Likewise, CONAGUA informed by official letter No. B00.3.-029, consisting of 11 useful pages, that the General Sub-Directorate of Hydro- Agricultural Infrastructure reported a series of findings derived from the integration and analysis of information associated with the evolution of avocado crop development in the state of Michoacán, as it relates to the scope of CONAGUA's competence. This in order to respond to the letter from [REDACTED], who requested the implementation of measures to environmentally regulate the avocado industry, as well as to contain and repair the environmental damages caused by avocado production in Michoacán.¹⁶

33. In relation to the above, the interaction and information provided by the River Protection Infrastructure and Rainfed Districts Directorship; Irrigation Districts Directorship and Irrigation Units Directorship, establishes, among other things, that there are no established Specialized Rainfed Districts in the state of Michoacán. According to the agricultural statistics of the Irrigation Districts of Michoacán, an extremely small area of avocado has been registered, less than 35 hectares in the last thirty years, as shown in Graph 1 of said document, being the area of said marginal crop, barely 16 hectares in the Irrigation District 097 Lázaro Cárdenas, which is why this area is grouped within these fruit trees.

34. It also reported that in the inventory of existing irrigation units, they found a total of 39 irrigation units, 27 of which are supplied by surface water, and the remaining 12 are supplied by groundwater (wells). It also provides the name of the irrigation unit, the type of enjoyment, concession title number, municipality, and the registered surface area. The registered surface area is 7,976.23 ha, representing 39 irrigation units, with a concession volume of 281,697,559.5 cubic meters.

35. In addition, there are about 256 irrigation units with some avocado area, 178 with surface water supply and 78 with groundwater supply. Similarly, an overlay of the location of the Irrigation Units and Irrigation Districts, with respect to the 22 main municipalities with avocado cultivation in Michoacán, shows an evolution of the avocado-growing municipalities in Michoacán (2005-2018), highlighting an increase in correlation with the irrigation units.

¹⁵ MX-012.

¹⁶ MX-013.

36. Finally, CONAGUA pointed out that according to data from the Agrifood and Fisheries Information System (*Sistema de Información Agroalimentaria y Pesquera*—SIAP, 2022), under the responsibility of SADER indicates that the registered avocado areas in Michoacán, in the last thirty years have gone from 70,756 hectares planted in 1991 to 174,442.35 hectares planted in 2021; the avocado area under rainfed conditions has increased 4.4 times more in the last 30 years., from 24,830 hectares in 1991 to 103,821 hectares in 2021.

37. For its part, the General Directorate of Forestry, Soil and Ecological Management (*Dirección General de Gestión Forestal, Suelos y Ordenamiento Ecológico*—DGGFSOE) through its official letter SPARN/DGGFSOE/418/1997/2023,¹⁷ consisting of 3 pages, stated that in accordance with the provisions of Article 16 of the RI-Semarnat,¹⁸ is only empowered to authorize, in accordance with the applicable legal provisions, the change of land use in forest land, provided that it is requested by agencies or entities of the Federal Public Administration, federal entities, municipalities or territorial districts of Mexico City; in this sense, no authorization issued by this administrative authority related to avocado production in said federal entity was located.

38. Regarding the Submitters' statements that Mexico is failing to protect forest and water resources affected by the environmental impact and deforestation that the uninterrupted expansion of plantations of this fruit has caused in Michoacán, arguing that provisions of the CPEUM and several federal laws focused on environmental impact assessment, forest conservation, sustainable development, among others, have not been respected, DGGFSOE states that it only has the authority to authorize changes in land use on forest land, by exception, to federal, state and municipal public administration agencies, and that it does not have the authority to supervise avocado plantations, nor to prevent and control forest clearing and logging caused by avocado orchards.

39. In that sense, with respect to the assertions made by the Submitters in relation to coordination with the Federation for attention to forestry matters, the ecological land use planning in the area of forests, as well as the failure to apply sanctions for the change of land use, the Ministry of the Environment of the Government of the State of Michoacán, through its official letter SECMA-OS- 155/2023-5,¹⁹ consisting of 2 useful pages, provided diverse information from which it can be seen, among other things, that the data referred to by the Submitter comes from outdated documents and certain assumptions, but not from a concrete basis on which to confirm their arguments. Since October 1, 2021, the date on which the current governmental administration of the state of Michoacán took office, a series of actions related to these statements has been completed.

40. In this context, among other actions, the Government of the State of Michoacán and the National Forestry Commission signed a Framework Coordination Agreement on Forestry Matters on December 17, 2021,²⁰ with the purpose of establishing coordination activities between the National Forestry Commission of the Federal Government and the Government of the State of Michoacán, to promote Sustainable Forestry Development, based on the sustainable utilization of forest resources, soil and ecosystems, the promotion, encouragement and execution of productive programs on protection, conservation and restoration, and in general, other initiatives that may arise in forestry matters, to promote the integral development of the sector in Michoacán, as well as to provide an effective

¹⁷ MX-014.

¹⁸ MX-008.

¹⁹ MX-015.

²⁰ MX-016.

institutional linkage and improve the development of institutional capacities to address the environmental sector.

41. It also points out that this coordination has resulted in a series of actions that have been completed between the state and federal governments, such as the combination of material, human, and economic resources to combat forest fires, specifically in those areas where it is intended to change the land use to establish avocado orchards; in follow-up to these actions, the Government of the State of Michoacán has informed the Public Prosecutor's Office of the State of Michoacán of those fires that have been detected as a result of land use changes for the establishment of avocado orchards.

42. Likewise, it states that due to the importance of the burned sites, 4 Environmental Restoration Zones were decreed in 2022,²¹ in areas that suffered forest fires, as a measure to preserve and restore the ecological balance, namely: "CERRO TACATZCUARO", belonging to the Municipalities of Tocumbo and Tingüindin; a property called "TARIAKERI", belonging to the Municipality of Tzintzuntzan; "CERRO LA ESTACADA", belonging to the Municipality of Tancitaro, and a property called "ATAPAN", belonging to the Municipalities of Tocumbo and Los Reyes. This has led to the identification of potential areas for soil conservation, indicating that during the current State Government administration, 200,000 hectares of the Michoacán's surface will be decreed as Natural Protected Areas, with the purpose of protecting them from land use change.

43. By virtue of the foregoing, the Ministry of the Environment of the Government of the State of Michoacán communicates that contrary to what the Submitter stated, there is close coordination between the Government of the State of Michoacán through the Ministry of the Environment and the Federal Government with its various agencies of the Environmental Sector. This collaboration has been in various aspects, such as the Ecological Land Management, as demonstrated by the Coordination Agreement that establishes the Bases of the Process for the Development and Execution of the Ecological Land Management Program for the area known as Duero River Basin ("Cuenca del Rio Duero"),²² signed between the Government of the State of Michoacán through the Ministry of Environment, the Delegation of the Ministry of Environment and Natural Resources of the Federal Government in the State of Michoacán and several City Councils of the State of Michoacán, whose purpose is to develop the Regional Ecological Land Use Planning Program for the Duero River Basin in accordance with the General Act on Ecological Balance and Environmental Protection and its Regulations on Ecological Land Use Planning, as well as the Law for the Conservation and Environmental Sustainability of the State of Michoacán de Ocampo, which will determine the areas of the basin that are suitable for avocado cultivation, with special emphasis on avoiding changes in land use; it is expected to be completed this year. The "Duero River Basin" is located in the northeastern part of the State of Michoacán, within the municipalities of Chilchota, Jaconá, Tangamandapio, Chavinda, Pajacuarán, Ixtlán, Zamora, Tlazazalca, and Purépero.

44. Therefore, in accordance with Article 24.27(3)(a) of the USMCA, the CEC Secretariat is requested not to proceed with the submission.

²¹ MX-017.

²² MX-018.

ii) Adequacy of the legal framework regulating avocado production.

45. The Submitter explicitly calls for modification of the legal framework regulating avocado production in Michoacán and the implementation of at least two actions: an environmental certification that establishes parameters for the property background; physical characteristics of the soil; water supply and wastewater; buffer zones; percentage of original woodland area; offset mechanisms; agricultural border; plastics management; and use of hail cannons, among others; as well as a state environmental tax on producers, dedicated exclusively to the remediation of ecological damage, as well as to encourage better agro-environmental practices.²³

46. In this regard, the CEC Secretariat is informed that the General Legal Directorate of SENASICA, by means of official letter B00.05.02.2233-2023,²⁴ consisting of 4 useful pages, states that although, in terms of Article 35, Section XII of the Organic Law of the Federal Public Administration, it is the responsibility of SADER, together with SEMARNAT, to participate in the conservation of agricultural soils, pastures and forests, and to apply the appropriate techniques and procedures, it is also true that these actions are carried out in a coordinated manner by the administrative units of SADER. It also states that in accordance with the applicable regulations, SADER, through SENASICA, has the authority to issue the International Phytosanitary Certificate for the export of goods, when requested by the interested party, once it proves compliance with the legislation in force in the importing country, the official Mexican standards, such as NOM-066-FITO-1995, "Specifications for the Phytosanitary Handling and Mobilization of Avocado", as well as the requirements of the country to which the goods are exported.

47. It also states that the main requirement for goods to be exported is that they come from pest-free zones, a condition for those participating in the Operational Work Plan for the Export of Hass Avocado to the United States of America, in compliance with the applicable regulations and the provisions of NOM-069-FITO-1995, "For the Establishment and Recognition of Pest-Free Zones".

48. Therefore, the issuance of the certificate is subject to compliance with the aforementioned, as well as with the SENASICA-05-001-A, International Phytosanitary Certificate for the export of plants, their products and by-products, prior compliance with the legal provisions on plant health and the requirements of the neighboring country, without this implying in any way that its issuance can be considered as a support, especially since Article 86-A, Section III of the General Law of Duties provides for the cost to be paid by individuals.

49. In addition, it points out that although SENASICA is the unit responsible for the Agri-Food Health and Safety Program, through which support, subsidies and incentives are granted; however, in terms of the Agreement whereby the Operating Rules of the Agri-Food Health and Safety Program of the Ministry of Agriculture and Rural Development for the 2023 fiscal year are published, there is no component, subcomponent or project in which support is earmarked for the issuance of the International Phytosanitary Certificate for export. This is due to the fact that under this program SENASICA contributes to keep the orchards free of pests and, therefore, to avoid cutting down trees in commercial orchards, protecting the economy and the avocado market, among other products.

²³ Submission, p. 16, paragraph 63.

²⁴ MX-019.

50. In this sense, although Article 24, antepenultimate paragraph of the LGDFS, establishes that no support or economic incentives will be granted for agricultural activities in deforested areas or for those that favor the change of use of forest land or increase the agricultural frontier, it is also true that, through the Health Program, no support or economic incentives are granted to producers directly, but through the establishment of phytosanitary campaigns, so that the application of the latter is not subject to land use, but to the presence or absence of pests or diseases affecting plants. This shows that although SENASICA contributes to the issuance and enforcement of environmental legislation, it does not have the authority to directly exercise power. Likewise, it does not grant incentives for the issuance of phytosanitary certificates for export, since this is a procedure that the producer completes upon submission, after payment of the corresponding fee and compliance with the legal provisions and requirements of the country to which they intend to export.

51. Finally, through official communication B00.05.02.2259-2023,²⁵ SENASICA shares the provisions referred to in B00.05.02.2233-2023, which may be consulted at the links indicated in the corresponding table, regardless of whether they may be consulted directly on the page of the Official Gazette of the Federation or the Institutional Standard Repository. In the case of the Work Plans, they are only available on their official pages and the referred procedure is available in the National Catalogue of Procedures of the National Commission for Regulatory Improvement (*Catálogo Nacional de Trámites de la Comisión Nacional de Mejora Regulatoria*—CONAMER).

52. In this context, CONAFOR, through its official letter No. CGJ/0722-2023,²⁶ consisting of 2 pages, stated that it operates the Environmental Compensation Program for Change of Land Use on Forest Land, which aims to compensate the negative effects caused in forest ecosystems by changes in land use on forest land, duly authorized by SEMARNAT, through its restoration and protection, as well as to contribute to take measures for the protection, adaptation and mitigation of climate change in forest ecosystems.

53. Likewise, CONAFOR points out that the Environmental Compensation Program is financed with resources that the project developers, of duly authorized changes in land use, deposit in the Mexican Forestry Fund, for which 42 projects are currently active in the state of Michoacán with a total area to be restored of 2,279 hectares, according to the list attached to the document itself, for better reference.

54. In this regard, the Ministry of the Environment of the Government of the State of Michoacán states that while the management of avocado cultivation has generated various environmental impacts, among the problematic ones: the change in the vegetation cover of native forests, the loss of biodiversity both agricultural and of flora and fauna, the reduction and contamination of aquifers and bodies of water, erosion, and soil contamination; it is also vitally important to create instruments to ensure that avocado crops are grown in suitable areas, without generating further changes in the use of forest land for crops, and to help promote a gradual change towards organic management of the orchards.

55. It is therefore important to promote good environmental practices in the avocado sector and recognize it through environmental certification in the six municipalities with the largest area of avocado cultivation, which are: Tancítaro, Uruapan, Tacámbaro, Salvador

²⁵ MX-020

²⁶ MX-021.

Escalante, Ario de Rosales and Peribán: Tancítaro, Uruapan, Tacámbaro, Salvador Escalante, Ario de Rosales and Peribán; hence, the Government of the State of Michoacán, seeks to create an environmental certification for avocado orchards that are located in places where the crop is compatible with the existing legal instruments, and where the certification qualifies the avocado orchards according to the different characteristics of management, the environmental context in which it is located, and the management of water for irrigation. This will determine the level of good environmental practices in orchard management.

56. The higher the level of good environmental practices in the management of the orchard, the lower the environmental compensation that will have to be paid as a requirement to obtain environmental certification. For this purpose, several committees have been created, in which the Federal Government participates through its various agencies, such as the Technical Scientific Committee, whose purpose is to establish the technical parameters for enforcement of the certification, as can be seen in the minutes dated July 15, 2022, in which the National Institute of Ecology A.C. (*Instituto Nacional de Ecología*—INECOL, participates under the National Council of Humanities, Sciences and Technologies, under the Federal Government, as well as the National Institute of Ecology and Climate Change (*Instituto Nacional de Ecología y Cambio Climático*—INECC).

57. Finally, the Ministry of the Environment of the Government of the State of Michoacán states that it is of utmost importance for the latter to establish mechanisms to help stop land use change in forest areas; therefore, establishing a certification for good practices in avocado cultivation is considered a mechanism to deter land use change by not obtaining this certification, which may be required by avocado exporting authorities. This certification is expected to become effective in October of this year.

58. Therefore, in accordance with Article 24.27(3)(a) of the USMCA, the CEC Secretariat is requested not to proceed with the submission.

(b) Any other information that the Party wishes to provide:

iii) If the matter has previously been the subject of a judicial or administrative proceeding.

59. Regarding the citizen complaints referred to in the Submission, the General Directorate of Crimes, Commutations, Complaints and Complaints of the PROFEPA through the oficio PFPA/5.3/2C.28.5.2/06938,²⁷ reported that only with respect to articles 4, paragraph five of the CPEUM, and 1, 9, sections IV and XXI and 19 of the LGVS, the competence of this Federal Attorney General's Office is evident. However, it is clear that it essentially deals with the increase of avocado production in forest lands in the state of Michoacán, a situation in which this Decentralized Body is responsible for exercising its powers to attend to citizen complaints and to carry out inspection and surveillance actions regarding compliance with the LGDFS and the LGEEPA, provisions of which the Submitter does not invoke any precept of which this Authority has the power to guarantee their enforcement.

60. In this context, said General Directorate reported the actions taken in order to deter clandestine logging on forest land for avocado plantations, in accordance with the powers

²⁷ MX-022.

granted in Article 43 of the RI- SEMARNAT, since PROFEPA operates the citizen complaint system, as well as inspection and surveillance visits to verify compliance with environmental obligations, within the framework of the provisions of Title Six of the LGEEPA.

61. Now, regarding the citizen complaints filed from 2012 to 2021, PROFEPA's Environmental Protection Representation Office initiated 35 citizen complaint files, which were processed as described below:

FILE	SUBJECT	STATUS
Citizen Complaint PFPA/22.7/2C.28.2/00017-12	Complaint for the clearing of land to plant avocado trees in the area called "El Encinal", located in Tingambato.	On May 10, 2012, the complaint file was closed due to the resolution within an administrative proceeding PFPA/22.3/2C.27.2/00066-12 . A fine was imposed and reforestation of the site was ordered as a corrective measure. The facts observed at the time of the inspection led to the filing of a criminal complaint before the then Attorney General's Office in the State of Michoacán.
Citizen Complaint PFPA/22.7/2C.28.2/00152-13	Complaint for the construction of a pond for capturing water, burning of undergrowth and planting of avocado trees on the property called "Rancho El Padre".	Closed since the complainant did not comply with the requirements established in Article 190 of the General Act on Ecological Balance and Environmental Protection.
Citizen Complaint PFPA/22.7/2C.28.2/00153-13	Complaint about avocado plantation under Los Pinos, on the Cienega property, within the boundaries of the <i>Ejido</i> Arandin.	On December 19, 2013, the complaint file was closed on the basis of the decision in the administrative file PFPA/22.3/2C.27.2/00409-13 , in which a fine was imposed.
Citizen Complaint PFPA/22.7/2C.28.2/00157-13	Complaint regarding the felling of trees in the "Los Cuates" area and avocado plantation in the "La Prensa" property and the felling of trees in the "La Brecha" area of the C.I. San Ángel Zorumucapio	On March 18, 2014, the Resolution Agreement was issued within the citizen complaint file, since the administrative proceeding PFPA/22.3/2C.27.2/00429-13 , was closed with a Resolution of December 18, 2012, in which a corrective measure was imposed of reforestation of the site and the removal of avocado plants.

Citizen Complaint PFPA/22.7/2C.28.2/00165-13	Complaint for cutting down trees on the property called Cerro de las Cuevas and for planting avocado trees between Los Pinos, <i>ejido</i> "Pueblo Viejo".	Resolved on March 18, 2014, since the resolution of the administrative file PFPA/22.3/2C.27.2/00449-13 , issued on March 3, 2014, in which a corrective measure was imposed of reforestation of the site and the removal of avocado plants.
Citizen Complaint PFPA/22.7/2C.28.2/00172-13	Complaint about the burning of trees and planting avocado trees in El Paso Seco and Las Mesitas, in the El Calabozo <i>ejido</i> .	Completed January 9, 2014, with a basis in the resolution of the administrative proceeding PFPA/22.3/2C.27.2/00447-13 , issued on January 9, 2014, in which a corrective measure was imposed of reforestation of the site and the removal of avocado plants.
Citizen Complaint PFPA/22.7/2C.28.2/00178-13	Complaint for the felling of trees and theft of timber, in which they requested the clearing of the avocado plantation in the "Uemalio" property, in the Indigenous Community of Capacuaro.	It was closed on July 17, 2014, by virtue of the issuance of the Resolution issued in the administrative proceeding PFPA/22.3/2C.27.2/00574-13 , issued on May 30, 2014, in which a fine was imposed.
Citizen Complaint PFPA/22.7/2C.28.2/00192-13	Complaint for cutting down and planting avocado trees on forest land in the indigenous community of Patamban.	Completed on March 20, 2014, under of the resolution of the administrative proceeding PFPA/22.3/2C.27.2/00502-13 , issued on February 24, 2014, in which a fine was imposed, and a corrective measure was issued of reforestation of the site and the removal of avocado plants. As a result of this complaint, a criminal complaint was filed with the then Attorney General's Office.
Citizen Complaint PFPA/22.7/2C.28.2/00204-13	Complaint for the felling of 2 pine trees and 1 capulín cherry tree for change of land use and avocado planting in the Indigenous Community of Francisco Serrato.	Closed on May 22, 2014, once the administrative proceeding PFPA/22.3/2C.27.2/00563-13 , was resolved on May 14 of 2014, imposing a fine as a sanction.
Citizen Complaint PFPA/22.7/2C.28.2/00060- 14	Complaint for the forest fire of mature pine trees, among the avocado orchard that were individually banded and burned.	Resolved on September 24, 2014, due to the resolution of administrative proceeding PFPA/22.3/2C.27.2/00094-14 , in which a fine was imposed, and a corrective measure of restoring the inspected area was issued.

Citizen Complaint PFPA/22.7/2C.28.2/00112-14	Complaint for ecocide in the forests of Zacapur, due to a change in land use for planting avocado at kilometer 30 of the Zamora-Zacapu highway.	Not admissible since the plaintiff did not comply with the provisions of Article 190 of the General Act on Ecological Balance and Environmental Protection.
Citizen Complaint PFPA/22.7/2C.28.2/00119-14	Complaint for the felling of oak trees to change the land use and plant avocado in the area called "Part of the Zitunal", located next to the road belonging to the <i>ejido</i> "Cherangueran".	Closed with a resolution of July 31, 2014, in which a fine was imposed, and a corrective measure was ordered to reforest the site, derived from the administrative proceeding PFPA/22.3/2C.27.2/00236-14.
Citizen Complaint PFPA/22.7/2C.28.2/00053-15	Complaint regarding the presence of avocado trees in an area of approximately 4 hectares in the "El Gachupín" area, which had been reforested with pine trees 60 centimeters tall.	On October 24, 2017, a Resolutive Agreement was issued, since a Resolution was issued within the administrative proceeding PFPA/22.3/2C.27.2/00151-15, to which the Resolution of September 9, 2019 was addressed, in which a fine was imposed and a corrective measure to reforest the area was issued.
Citizen Complaint PFPA/22.7/2C.28.2/00196-15	Complaint regarding the cutting of trees to plant avocado trees on the properties called "La Palma" and "Las Onubas" in the Pomacuaran Community.	On June 6, 2016, the citizen complaint file was closed, under administrative proceeding PFPA/22.3/2C.27.2/00318-15, for which the Resolution of June 17, 2016 was issued, in which a fine was imposed and the following was ordered as security measure to restore the area with the purpose of seeking the recovery, establishment and renewal of the vegetation cover through natural or induced regeneration.

Citizen Complaint PFPA/22.7/2C.28.2/00201-15	Complaint regarding the felling of forests and woodlands in the Santiago Tingambato C.I., and clearing of the hills to plant avocado orchards in the areas known as "Cerros Cuates", "La Tinaja Ramona", "Tarimacuaro", "Las lomas del Cerezo", "Cimarrón", "La loma Ancha", "El palo de la Virgen", "El Encinal", "El Laurel", "La Gotera", "Las Coronas" and others.	On January 2, 2017, a Resolution Agreement for the citizen complaint file was issued, by reason of the resolution of the administrative file PFPA/22.3/2C.27.2/00379-15 , for said administrative proceeding, a Resolution of December 13, 2016 was issued, in which a fine was imposed, and restoration of the affected area was ordered- the avocado plant had to be removed and the work changing the land use had to be suspended. Also, a criminal complaint was filed before the Attorney General's Office.
Citizen Complaint PFPA/22.7/2C.28.2/00208-15	Complaint of forest ecocide to plant an avocado orchard in the community of San Antonio.	Not admitted for processing since the plaintiff did not comply with a Article 190 of the General Act on Ecological Balance and Environmental Protection.
Citizen Complaint PFPA/22.7/2C.28.2/00217-15	Complaint for the change of land use in the properties called "Tapimba" and "El Caratacual", for the planting of avocado trees and logging of pine trees in the Jaral pasture, belonging to the community of Zirahuén y la Paja, in Agua Verde, next to the Indigenous Community of Zirahuén.	On February 29, 2016, a Resolution Agreement was issued within of the file of citizen complaint, due to the resolution of the administrative file PFPA/22.3/2C.27.2/00349-15 , which on February 11, 2016, a fine was imposed and an order was issued to refrain from further timber harvesting without obtaining the corresponding authorization.
Citizen Complaint PFPA/22.7/2C.28.2/00255-15	Complaint for cutting down pine trees to plant avocado trees in the southeast of the town of "La Laja" and northeast of the town of "El Tejocote."	Not admitted for processing since the plaintiff did not comply with a Article 190 of the General Act on Ecological Balance and Environmental Protection.

Citizen Complaint PFPA/22.7/2C.28.2/00006- 16	Complaint for logging and change of land use from forest to avocado orchards in the <i>ejido</i> "Ampliación Cuitzitan."	On February 25, 2016, a Resolution Agreement was issued, whereby, the citizen complaint file was closed, since there was a Resolution within the administrative file PFPA/22.3/2C.27.2/00006-16.
Citizen Complaint PFPA/22.7/2C.28.2/00055-16	Complaint for planting avocado, which harmed natural resources.	On February 2, 2017, the Resolution Agreement for the citizen complaint file was issued, based on the Resolution of the administrative proceeding PFPA/22.3/2C.27.2/00334-16, in which the resolution of April 27, 2017 provided imposition of a fine, as well as corrective measures consisting of refraining from continuing activities to change the land use and reforestation of said properties for the rainy season of 2017.
Citizen Complaint PFPA/22.7/2C.28.2/00132-16	Complaint for the change of land use to plant avocado trees and the burning of more than 60 hectares, as well as the felling of pine trees in the <i>ejido</i> "Casas Blancas."	On June 30, 2017, the citizen complaint file was closed since the administrative file PFPA/22.3/2C.27.2/00255-16 was resolved on July 7, 2017 and the file was closed with a resolution in which a fine was imposed and a corrective measure of reforestation of the site was ordered.
Citizen Complaint PFPA/22.7/2C.28.2/00049- 17	Complaint for the change of land use to establish an avocado orchard and the construction of a water storage pond in the area called "Mata de plátano", <i>ejido</i> "Tanhuejo".	On May 9, 2018, Resolution Agreement of the citizen complaint file was issued, based on the resolution of the administrative proceeding PFPA/22.3/2C.27.2/00084-17. issued on November 29, 2017, and it was determined not to sanction the inspected party, since, based on the evidence provided, the inspected party had not completed the rehabilitation of roads, and therefore there were not sufficient elements to prove the responsibility of the inspected party.

Citizen Complaint PFPA/22.7/2C.28.2/00076-17	Complaint for forest fire in the irregular settlement of Arroyo Colorado, tree felling and change of land use for an avocado orchard in the properties called "Joya Honda" and "Joya del Chivo".	Not admitted for processing since the plaintiff did not comply with the Article 190 of the General Act on Ecological Balance and Environmental Protection.
Citizen Complaint PFPA/22.7/2C.28.2/00083-17	Complaint for change of land use and cutting down trees to plant avocado trees on the road to Caratacua, property known as "Huerta la Hedionda".	On April 23, 2018, a Resolution Agreement was issued in the file of the of citizen complaint, given that the administrative proceeding PFPA/22.3/2C.27.2/00138-17 was closed, resulting from a Resolution of April 3, 2018, in which a fine was imposed.
Citizen Complaint PFPA/22.7/2C.28.2/00086-17	Complaint for the change of land use and cutting down of trees to plant avocado trees on the road to Caratacua, in the property known as Los Arroyos.	On October 3, 2018, the Resolution of the administrative proceeding PFPA/22.3/2C.27.2/00157-17 was issued, which imposed a corrective measure of reforestation of the site and removal of avocado plants.
Citizen Complaint PFPA/22.7/2C.28.2/00142-17	Complaint about the burning of hills by avocado growers in Zacapu.	Not admitted since the plaintiff did not comply with the provisions of Article 190 of the General Act on Ecological Balance and Environmental Protection.
Citizen Complaint PFPA/22.7/2C.28.2/00241-17	Complaint for cutting down trees and changing land use to plant avocado trees in the area called "Los Olivos", in the <i>ejido</i> Zicata.	The citizen complaint file was closed, based on the Resolution of the administrative proceeding PFPA/22.3/2C.27.2/00424-17 , which concluded with the issuance of a Resolution dated September 27, 2018, in which a fine was imposed.
Citizen Complaint PFPA/22.7/2C.28.2/00001-18	Complaint about the burning of the hills to plant avocado trees.	On January 10, 2018, an Agreement was issued informing the non-admission of the Complaint for not complying with the requirements established in Article 190 of the General Act on Ecological Balance and Environmental Protection.
Citizen Complaint PFPA/22.7/2C.28.2/00002-18	Complaint for cutting down and planting avocado trees in the El Rincón de Crescencio Morales forest.	The citizen complaint file was closed, based on the Resolution of the Administrative proceeding

		PFPA/22.3/2C.27.2/00482-17 that concluded with the issuance of the Resolution Agreement of May 28, 2021, in which a fine was imposed and removal of avocado plants in the inspected area was ordered as a corrective measure.
Citizen Complaint PFPA/22.7/2C.28.2/00033-18	Complaint for cutting down trees for the construction of a rainwater storage pond for planting avocado trees in the property called "El Pacheco".	The citizen complaint file was closed based on the following 3 administrative files: 1. Administrative file PFPA/22.3/2C.27.2/00109-18 , which concluded on June 18, 2018, and a fine was imposed, and the impacted area within the "Pacheco" site was temporarily closed, 2. Administrative file PFPA/22.3/2C.27.2/00120-18 , which concluded on June 18, 2018 and imposed a fine and the total temporary closure of the impacted area, as well as a corrective measure of reforestation of the area. 3. Administrative File PFPA/22.3/2C.27.2/00121-18 , which concluded on October 14, 2019 and imposed a fine and ordered the seizure in favor of the nation of the raw forestry material found at the time of the inspection visit.
Citizen Complaint PFPA/22.7/2C.28.2/00078-18	Complaint of illegal logging for avocado orchards in several areas of the indigenous community of Patamban.	The citizen complaint file was closed, based on the resolution of the administrative proceeding PFPA/22.3/2C.27.2/00133-18 which concluded with the issuance of the Resolution of March 17, 2022, in which fines were imposed and the removal of avocado plants in the inspected area was ordered as a corrective measure, as well as the total and definitive closure of forestry activities at the site.

Citizen Complaint PFPA/22.7/2C.28.2/00158-18	Complaint for a fire in an avocado orchard	The citizen complaint file was closed, based on the Resolution of the administrative proceeding PFPA/22.3/2C.27.2/00297-18 , concluded on March 4, 2019, in which a fine was imposed, and a corrective measure of reforestation was ordered for the inspected site.
Citizen Complaint PFPA/22.7/2C.28.2/00089-19	Complaint for cutting down trees in pine tree plots to plant avocado trees.	The citizen complaint file was closed, based on the Resolution of the administrative proceeding PFPA/22.3/2C.27.2/00196-19 , concluded on September 2, 2019, in which a fine was imposed and reforestation of the site and the removal of avocado plants were ordered as corrective measures.
Citizen Complaint PFPA/22.7/2C.28.2/0000127-21	Complaint for deforestation of a forest property and change of land use to plant avocado trees and the construction of a water storage pond in Cuanajo.	The citizen complaint file was closed, based on the Resolution of the administrative proceeding PFPA/22.3/2C.27.2/000212-21 , concluded on May 23, 2023, in which a fine was imposed, along with compliance with corrective action measures consisting of the presentation of authorizations for changes in land use and forest enjoyment, issued by the Ministry of Environment and Natural Resources.
Citizen Complaint PFPA/22.7/2C.28.2/000147-21	Complaint for cutting down trees to establish avocado orchards on forest land.	The administrative proceeding PFPA/22.3/2C.27.2/000241-21 continues.

62. Likewise, in addition to the above-mentioned actions to address logging in relation to avocado planting in Michoacán, **from 2018 to 2023**, the Representative Office in Michoacán has carried out **43 inspection operations** in the municipalities of Madero, Panindicuaró, Patzcuaro, Ario, Zacapu, Salvador Escalante, Morelia, Uruapan, Ziracuaretiro, Coeneo, Jiménez, Tacámbaro, Charo, Charapan, Taretan, Tzintzutzan, Tangancicuaro, Purépero, Nahuatzen, Peribán and Chilchota; from these actions, they derived **43 administrative proceedings**, of which **29 were concluded with a sanctions resolution and the imposition of corrective measures**, and **14 administrative proceedings are under technical legal analysis** in order to issue the appropriate legal actions. For further

information, a list is attached with a breakdown of the actions mentioned:

FILE	SUBJECT	STATUS
Citizen Complaint PFPA/2 2.7/2C.28.2/0011 4-22	Complaint for the change of land use in common lands of the <i>ejido</i> Fontezuelas, to establish an avocado orchard.	The administrative proceeding is still in progress.
Citizen Complaint PFPA/22.7/2C.28.2/0001 5-22	Complaint for attempting to plant avocado trees on land in the <i>ejido</i> Torrecillas.	The administrative proceeding is still in progress.
Citizen Complaint PFPA/2 2.7/2C.28.2/0012 8-22	Complaint for change of land use to establish an avocado plantation on land in the <i>ejido</i> Tarascón.	The administrative proceeding is still in progress.
Citizen Complaint PFPA/2 2.7/2C.28.2/0016 0-22	Complaint for the planting of avocado in the municipality of Zacapu.	The administrative proceeding is still in progress.
Citizen Complaint PFPA/2 2.7/2C.28.2/0018 2-22	Complaint for possible irregularities in the completion of forest clearing within in the lands of the Indigenous community of Santa María Hurumangaro, where establishment of avocado planting was detected.	The administrative proceeding is still in progress.
Citizen Complaint PFPA/22.7/2c.28.2/0016 6-22	Complaint for logging in the community of Tingambato, where avocado trees are being planted.	The administrative proceeding is still in progress.
Citizen Complaint PFPA/22.7/2C.28.2/0012 7- 22	Complaint for change of land use that has been gradually being completed in more than 200-00-00 hectares for the establishment of avocado orchards on land belonging to the <i>ejido</i> of Morelos, municipality of Zacapu.	The administrative proceeding is still in progress.
Citizen Complaint PFPA/22.7/2C.28.2/0018 5- 22	Complaint for pine logging to plant avocado trees in the municipality of Charo.	The administrative proceeding is still in progress.
Citizen Complaint PFPA/22.7/2C.28.2/000 64-23	Complaint for burning of hills known as Boca de la Barranca up to the top where it is called Pleatero, to plant avocado and pits for the demolition of green trees in the Hill "Ichatzcurini of the Barrio de Santo Tomas I" and demolition of green trees in the Hill "Uinuba of the Barrio de Santo Tomas II," as well as tree felling to the northwest of the Hill "las Estacas of the Barrio San Bartolo II."	The administrative proceeding is still in progress.

Citizen Complaint PFPA/22.7/2C.28.2/0001 5-23	Complaint for the clearing of mountain with heavy machinery on the property called "El Pedregal", municipality of Tancítaro.	The administrative proceeding is still in progress.
Citizen Complaint PFPA/22.7/2C.28.2/000 76-23	Complaint for a forest fire that occurred in common lands of the <i>ejido</i> Acaten, in the property called La Cueva del León, adjacent to an avocado orchard, Madero municipality.	The administrative proceeding is still in progress.
Citizen Complaint PFPA/22.7/2C.28.2/000 63-23	Complaint for burning of hills known as Boca de la Barranca up to the top of the hill where it was called Pleatero to plant avocado trees and water storage ponds, Municipality of Chilchota.	The administrative proceeding is still in progress.
Citizen Complaint PFPA/22.7/2C.28.2/000 04-23	Complaint for the deforestation of Cerro del Aguila for avocado orchards, as well as the drilling of wells in la Joya and Rincón de la Joya.	The administrative proceeding is still in progress.

63. In this context, the CEC Secretariat is informed that the aforementioned citizen complaints continue to be processed, i.e., they are pending resolution.

64. It is also reported that **23 criminal complaints** were filed with the Attorney General's Office in the state of Michoacán. Similarly, during the same period, **65 surveillance tours** were completed in areas considered to have a high incidence of logging for land use change in the state of Michoacán, such as, Zitácuaro, Coeneo, Angangueo, Salvador Escalante, Senguio, Ocampo, Hidalgo, Zinapecuaro, Aporo, Arteaga, Pátzcuaro, Ario, Uruapan, Charapan, Tzintzuntzan, Los Reyes, Morelia, Tlalpujahua, and Tancitaro.

65. It is also stated that this Attorney General's Office, through its Representative Office in Michoacán, participates in the Environmental Security Working Groups of the State of Michoacán, in which authorities such as CONAFOR, SEMARNAT, public security and environmental authorities of the Government of the State of Michoacán, among others, participate in order to establish actions to deter and control illegal logging and changes in land use in Michoacán. PROFEPA continuously performs forest inspection and surveillance activities in the state of Michoacán, in order to guarantee the enforcement of federal environmental law, as well as the proper integration of administrative files, which leads to the establishment of the citizen complaint file.

66. Therefore, in accordance with Article 24.27(3)(a) of the USMCA, the CEC Secretariat is requested not to proceed with the submission.

iv) Other information.

67. Regarding land use change, the DGGFSOE in its official letter SPARN/DGGFSOE/418/1997/2023, also mentioned that the authorizations for land use change in forest lands are granted by ensuring that biodiversity is maintained and soil erosion, water capture and carbon sequestration are mitigated; in this sense, the General Directorate has conducted 5 workshops and 10 evaluations on the subject, which aim to

comply with the environmental legal framework in Mexico.

68. In this regard, the DGGFSOE generated the Guide for the development of Technical Justification Studies, which is scheduled to be updated this year in accordance with current regulations. There is also an Agreement that establishes the equivalency levels for environmental compensation for land use change in forest lands, the technical criteria and the method to be followed for this determination, which is also scheduled to be updated this year. The evaluation criteria are being worked on to resolve the requests for land use change in forest lands in a formalized manner at a national level.

69. Likewise, with the new publication of the General Act on Sustainable Forest Development and its Regulations, and to address the issue of land use change in forest lands, the following was added to this legal framework:

- That carbon storage capacity is mitigated by the removal of forest vegetation.
- No change of forest land use may be authorized where the loss of forest cover has been caused by fire, logging or clearing.
- In forest lands of indigenous communities, an authorization must invariably be accompanied by prior, free, informed, culturally appropriate and good faith consultation measures.
- In the case of secondary forests (*acahuales*), the authorization for change of land use in forest land must be requested.
- No economic support or incentives may be granted for activities whose change of land use has not been authorized by the Ministry of Environment and Natural Resources.
- With respect to the National Forestry Registry, it is important to mention that authorizations for changes in land use on forest land are registered officially, as well as their modifications.

70. Finally, as mentioned in previous paragraphs, the DGGFSOE applies the environmental regulations on land use change in forest land, especially since the authorizations for land use change in forest land requested by individuals must be submitted by the interested party to the SEMARNAT Representative Offices in the States, as established in Articles 33 and 35, Section XIV of the RI-SEMARNAT.

71. In this context, the General Directorate of Natural Resources and Biodiversity of SEMARNAT, through official letter SPARN/DGRNB/167/2023,²⁸ consisting of one page, reported that, among other things, SEMARNAT completed improvements in 2018 to the National Forest Management System, an application that allows people to obtain cartographic information of the properties that have authorizations for timber and non-timber forest harvesting and plantations, and in this way, identify agricultural properties - such as those for avocado plantations- and forest lands. It also shared the document entitled "Feeding Mexico without deforesting", with a general purpose to establish mechanisms for aligning incentives to help conserve biodiversity and strengthen the country's food sustainability through the adaptation of legal instruments in this field and the use of high-precision geographic information systems.

72. On another note, the Ministry of the Environment of the Government of the State of Michoacán points out that on October 5, 2021, the State Congress approved the Organic Law of the Public Administration of the State of Michoacán de Ocampo.²⁹ The purpose of

²⁸ MX-023.

²⁹ MX-024.

this law is the creation of the Ministry of the Environment, which is granted a series of powers and abilities in matters of ecological balance, environmental protection, natural resources, ecological planning, environmental impact, air quality, waste, climate change, biodiversity and others, which justify the need for its creation in the State Public Administration.

73. Likewise, in order to reinforce prevention and reporting of land use changes, the current Governor has promoted the installation of an advanced satellite surveillance system for the protection of 6 million hectares of forest in the state, in collaboration with the private sector and international entities, to provide a monitoring tool that detects areas of deforestation and automatically issues alerts and reports when a change in land use is detected.

74. This monitoring system also provides an inventory of forest fires and the evolution of land use change in mountainous areas, forests, and jungles, which allows us to detect losses in order to stop environmental crimes and proceed, within the legal framework, against whoever is responsible. It also helps to maintain the integrity and conservation of natural resources, including biodiversity, water supplies, and fertile soils, as well as to promote sustainability and environmental responsibility on the part of producers and developers, which can have a positive impact on the economy and well-being of local communities.

75. In this sense, the Ministry of the Environment of the Government of the State of Michoacán refers to the fact that the viability of implementing this tool is necessary, so it will be incorporated into the law so that the function of surveillance and generation of automatic reports have legal recognition and validation by the Agency, who will inform the federal agencies that are competent to intervene in cases of change of land use.

76. On the other hand, it points out that as of the year 2023, the Installation of the Environmental Security Roundtable was carried out, which is an organization formed by the State and Federal agencies involved in the environmental sector. This roundtable deals with issues of importance for the state of Michoacán, which redoubles efforts to combat and prosecute environmental crimes, such as the illegal use of land for agricultural purposes, so there is close coordination between federal and state agencies, law enforcement agencies and prosecutors, paying attention to forestry crimes, in which the Government of the State of Michoacán in coordination with federal agencies carry out concrete actions on specific objectives, such as the change of land use in areas of high crime incidence.

77. Therefore, in accordance with Article 24.27(3)(a) of the USMCA, the CEC Secretariat is requested not to proceed with the submission.

D. CONCLUSIONS.

78. As specified in this Party's response, the accomplishment of activities related to forest prevention, inspection and surveillance have been the subject of various administrative proceedings; likewise, timely follow-up has been given to the citizen complaints made by various citizens, and there are currently administrative proceedings pending resolution. Through them, the effective enforcement of the following legal provisions is accounted for:

- Article 4, fifth paragraph of the CPEUM.
- Articles 5 sections II and IX, 15 sections III, IV, IX and XII, 19 sections I, II, III, V and VII,

21, 78, 79 sections I, II, VI, and IX of the LGEEPA.

- Articles 1, 9 sections IV and XXI, and 19 of the LGVS.

79. Similarly, regarding the problem of the lack of protection of forest ecosystems and water quality from the adverse effects on the environment derived from avocado production in Michoacán, Mexico, the authorities responsible for inspection initiated various administrative and criminal proceedings against those who failed to comply with environmental law, issuing the penalties that the offenders must comply with, in accordance with the environmental damage identified.

80. In view of the foregoing, it is reiterated that Mexico has effectively performed its functions in compliance with the following legal provisions:

- Article 4, sixth paragraph of the CPEUM.
- Articles 88 and 89 of the LGEEPA.
- Article 19 of the LGVS.
- Articles 9 section XXXVI and 119 sections III, VIII, XVII and XVIII of the LAN.

81. For the foregoing reasons, we respectfully request that the CEC Secretariat, in terms of the provisions of Article 24.27(4)(a), not continue with the present Submission, since the following has been detailed: **1.** The protection of forest ecosystems and water quality in the face of adverse environmental effects from avocado production in Michoacán, Mexico, and **2.** The adequacy of the legal framework regulating avocado production in Michoacán, there are pending administrative proceedings that relate to the central claims raised by the Submitter and to the effective enforcement of environmental laws, so the resolution of these pending administrative proceedings may also contribute to resolving the issue raised in the Submission.

82. Likewise, for the reasons set forth in paragraphs 10 through 12 of this document, the CEC Secretariat is requested not to continue with the processing of the Submission, in accordance with the provisions of Article 24.27(3)(a) of the USMCA.