**Submission Form**

**About this form**

This form guides you on how to prepare a Submission on Enforcement Matters (SEM) under Article 24.27 of the new [USMCA/CUSMA](http://www.cec.org/files/documents/sem/cec-sem-related-provisions_plus-eca.pdf) Trade Agreement, effective July 1, 2020. The SEM procedures are similar to the procedures contained in the North American Agreement for Environmental Cooperation (NAAEC), but there are some differences of which Submitters should be aware. The NAAEC procedures in Articles 14 and 15 no longer apply to new submissions filed on or after July 1, 2020.

To prepare your submission, **read carefully the** [**instructions**](#Instructions)on how tofill-out this form. Once completed, send it by email to sem@cec.org along with any attachments or links to download them.

You may also send your submission and attachments without using this form via email or to the following postal address:

 CEC Secretariat, Legal Affairs and SEM

 700, rue de la Gauchetière, Bureau 1620

 Montreal, Quebec Canada H38 5M2

Reference number and submission name (to be assigned by the Secretariat):

**Part I-Identification**

**Important:** If your submission is incomplete, you will receive a determination according to Article 24.27(3) of the Agreement detailing the missing information, in which case, you will need to resubmit your submission. You may use this form again as well.

[ ]  You may disclose my personal information. If you are an individual, your email and postal addresses will not be made public.

[ ]  I want my personal information to remain confidential.

Identification of the [Person of a Party](#_USMCA/CUSMA_Chapter_1) filing the submission.

**B. Submitter(s) (enterprise)**. Fill this section if you are an enterprise of a Party, including a NGO.

7. Name of the entity:

8. Represented by:

9. Place of incorporation, date and/or registration number:

10. Address:

11. Telephone:

12. E-mail:

**A. Submitter(s) (individual)**. Fill this section if you are an individual. If you are an enterprise, use **section B**.

1. Last name:

2. First name:

3. Citizenship (or country of permanent residency):

4. Address:

5. Telephone:

6. E-mail:

If there are more submitters, [**click here**](http://www.cec.org/files/documents/sem/109-additional-part-I.docx) to download another Part I form.

**Part II-Representative(s)**

If the Submitter(s) has no representative or no leading organization, please go to Part III.

**D. Representative of the Submitter(s)**. Fill below if you have a legal representative

**C. Leading organization**. Fill below if the Submission is led by one or more organizations.

19. Is the representative also one of the Submitters?

 [ ]  Yes [ ]  No

20. Last name:

21. First name:

22. Citizenship (or country of permanent residency):

23. Address:

24. Telephone:

25. E-mail:

13. Name:

14. Represented by:

15. Place of Incorporation, date and or registration:

16. Address:

17. Telephone:

18. E-mail:

Ple

If there is more than one leading organization, [**click here**](http://www.cec.org/files/documents/sem/109-additional-part-II.docx) to download Part II of this form.

**Part III-Your Submission**

26. To which Party(s) are you addressing your submission?

 [ ]  Canada.

 [ ]  Mexico.

 [ ]  United States.

**E. Party of Concern**. Please identify the location of the issues and environmental laws raised in your submission. Your submission could address more than one party and its environmental laws.

27. The Submitter must identify the applicable provision of the statute or regulation, as defined in [Article 24.1](#USMCA/CUSMA Chapter 24) of the Agreement. Prepare a numbered list of the statute(s) or regulation(s) and include the applicable provisions.

**F. Environmental law.**

28. Make sure that you make reference to the elements listed in this [checklist](#G. Statement of facts. In this section, your statement of facts should meet the following checklist and should be limited to 15 pages.).

Please ensure that the information you enter in this section does **not exceed the 15-page limit**. Review your text accordingly. Use the space below to include a succinct account of facts. Please number each paragraph for ease of reference. You may use hyperlinks to reference supporting information.

**G. Statement of facts.**

29. Include full and legible copies of documents referred in your submission. Hyperlinks to download the documents are admissible too. Use the space below to list the documents in the order cited in your submission. Do not include statutes or regulations cited in your submission.

**H. List of accompanying documents**.

**Submissions on Enforcement Matters Fillable Form**

# Instructions

These instructions are intended to serve as a guide in using our fillable form to file a submission under the new Submissions on Enforcement Matters (SEM) provisions contained in the new trade agreement ([USMCA/CUSMA](http://www.cec.org/files/documents/sem/cec-sem-related-provisions_plus-eca.pdf)) among Canada, Mexico, and the United States (“Agreement”), which enters into force on July 1, 2020. While a submitter may choose to file a submission using a different format (also sent via email or postal service if you choose to send a hard copy), the SEM Fillable Form ensures that you are aware of the admissibility requirements for filing a submission under the new Agreement’s Article 24.27. The primary differences in the new SEM procedures is a narrowing of the type of environmental law you can invoke in a submission and the expansion of those entities that are eligible to file submissions.

*Please note that the submission procedures contained in the North American Agreement on Environmental Cooperation (NAAEC) of 1994 are no longer applicable to submissions filed on or after July 1, 2020*. *They remain in effect for existing submissions filed prior to that date, however*.

The Secretariat may consider a submission if it meets the criteria set forth in Article 24.27 (2) of the Agreement. Failure to provide information demonstrating that the submission meets the criteria in Article 24.27 (2) of the Agreement will result in the CEC Secretariat terminating the submission. You may be able to file a new submission, however, depending on the reasons for the Secretariat’s determination.

**Definitions**

The following definitions in the Agreement are applicable and differ, in certain ways, from the definitions used in the NAAEC. When filling out this form, please be aware of the definitions below, from both Chapters 1 and 24 of the Agreement:

# USMCA/CUSMA Chapter 1

|  |
| --- |
| **Article 1.5: General Definitions** For the purposes of this Agreement, unless otherwise provided:**central level of government** means: (a) for Canada, the Government of Canada; (b) for Mexico, the federal level of government; and (c) for the United States, the federal level of government;**enterprise** means an entity constituted or organized under applicable law, whether or not for profit, and whether privately owned or governmentally owned or controlled, including a corporation, trust, partnership, sole proprietorship, joint venture, association or similar organization; **enterprise of a Party** means an enterprise constituted or organized under the law of a Party;**individual** means a natural person;**national** means a “natural person who has the nationality of a Party” as set out below for each Party or a permanent resident of a Party: (a) for Canada, a citizen of Canada; (b) for Mexico, a person who has the nationality of Mexico in accordance with its applicable laws; and (c) for the United States, a “national of the United States” as defined in the *Immigration and Nationality Act*;**person** means a natural person or an enterprise; **person of a Party** means a national of a Party or an enterprise of a Party; |

# USMCA/CUSMA Chapter 24

|  |
| --- |
| **Article 24.1: Definitions** For the purposes of this Chapter:**environmental law** means a statute or regulation of a Party, or provision thereof, including any that implements the Party’s obligations under a multilateral environmental agreement, the primary purpose of which is the protection of the environment, or the prevention of a danger to human life or health, through: 1. the prevention, abatement, or control of the release, discharge, or emission of pollutants or environmental contaminants;
2. the control of environmentally hazardous or toxic chemicals, substances, materials, or wastes, and the dissemination of information related thereto; or
3. the protection or conservation of wild flora or fauna,[[1]](#footnote-1) including endangered species, their habitat, and specially protected natural areas,[[2]](#footnote-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; and Environmental law **statute or regulation** means: 1. for Canada, an Act of the Parliament of Canada or regulation made under an Act of the Parliament of Canada that is enforceable by action of the central level of government;
2. 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; and
3. for the United States, an Act of Congress or regulation promulgated pursuant to an Act of Congress that is enforceable by action of the central level of government.
 |

**How to fill out the form**

**Part I – Identification**

Please check the applicable box as to whether you are requesting the Secretariat to safeguard from public disclosure any information which could identify you a Submitter. If you would like your identity to remain confidential, please check the box that applies to you on page 1 in the fillable form.

For individuals filing a submission, the Secretariat will automatically not make public your contact information.

1. **Submitter (individual).**If you are an individual filing the Submission, fill out section A on page 1 of the fillable form.

Please include the following information:

1. Your last name.
2. Your first name.
3. The country or countries of which you are a citizen or a permanent resident. This is important as you need be a national as defined in the Agreement in order to file a submission (see definition above in the box of USMCA/CUSMA Article 1.5 definitions).
4. Your address (street address, city, state/province/territory, zip/postal code).
5. Your telephone, including your country code and area code (include extension number, if applicable).
6. Your email address.
7. **Submitter (enterprise).** In case the submission is filed by one or more legal entities (an “enterprise”), complete section B of the form. Please note the definition of enterprise in the Agreement includes associations, organizations, whether or not for profit, and whether privately-owned or governmentally-owned or controlled. See complete definition above.

Please include the following information:

1. The name of your organization.
2. Name of the person representing your organization.
3. Place of incorporation, date and registration number of your organization. Please note that your organization needs to be legally constituted or organized under the applicable laws of Canada, Mexico or the United States.
4. The address of your organization (street address, city, state/province/territory, zip/postal code).
5. The telephone number of your organization, including your country code and area code (include extension number, if applicable).
6. The email of the main contact for organization. The Secretariat will use this email to communicate on updates and other relevant information. You may include more than one email.

**Part II – Representative(s)**

Please indicate whether you have someone serving as a representative for you (for example, an attorney). You may also indicate if the Submission is led by one or more persons or organizations in their capacity as a Submitter. In either case, the representatives or lead organization will be the main contacts for updates on your Submission. If you have no representative or leading organization, please go directly to Part III.

1. **Leading organization.** If your submission is led by an organization, please use section C of the form. The Secretariat will use this information to maintain contact with that organization as the main Submitter.

Please include the following information:

1. The name of the organization.
2. Name of the legal representative.
3. Place of incorporation, date and registration number of the leading organization. Please note that your organization needs to be legally constituted or organized under the applicable laws of Canada, Mexico or the United States.
4. The address of your organization (street address, city, state/province/territory, zip/postal code).
5. The telephone number of your organization, including your country code and area code (include extension number, if applicable).
6. The email of the main contact for the leading organization. The Secretariat will use this email to communicate on updates and other relevant information. You may include more than one email.
7. **Representative of the Submitter.** If you are an individual representing the Submitter(s) but not a Submitter per se, please fill out section D on page 2 in the fillable form. For example, if you are representing an individual, an organization, a group of organizations, or a combination of these, and you have been designated to file and process the submission.

Please include the following information:

1. Check “yes” if the representative is a Submitter, too; check “no” if the representative is not a submitter
2. Representative’s last name
3. Representative’s first name
4. Representative’s country of residence (Canada, Mexico, or the United States). This is particularly relevant if you are also one of the Submitters, in which case you need to be a national as defined in the Agreement (see definition above).
5. Representative’s address (street address, city, state/province/territory, zip/postal code).
6. Representative’s telephone (include extension number, if applicable).
7. Representative’s email. The Secretariat will use this email to communicate on updates and other relevant information. You may include more than one email.

If you have more than one leading organization, you may download the form by clicking on the link on page 2 of the fillable form.

**Part III – Your Submission**

**E. Party of concern.** Please check off in **box 26**, which party the Submission is addressed to (Canada, Mexico, or the United States, or more than one Party). You may address your Submission to one of the three Parties even if it is not your country of nationality.

**F. Environmental law.** In **box 27** of the fillable form, your submission must clearly identify the applicable statute (Act) or regulation that you assert a Party has not effectively enforced.

 The Secretariat may consider a submission only if it asserts that a Party is failing to effectively enforce its environmental law, which is defined in Article 24.1 of the Agreement. Please review the definitions of both “environmental law” and “statute or regulation” reprinted above in the box of USMCA/CUSMA Article 24.1 definitions. Please note that these definitions are narrower than the corresponding definitions in the NAAEC because the applicable statutes or regulations are now limited to those enacted or promulgated by, and enforceable by, the federal or central level of government. You will need to cite the federal law or regulation by name and list the specific applicable articles and paragraph numbers.

# G. Statement of facts. In this section, your statement of facts should meet the following checklist and should be limited to 15 pages.

[ ]  Inclusion of a succinct account of facts.

[ ]  Explain whether there is harm to the environment due to the failure to effectively enforce environmental law.

[ ]  Reference the communication of the matter to the relevant authorities and the response from the relevant authorities, if any.

[ ]  Describe whether reasonable actions have been taken to pursue private remedies prior to making the submission.

[ ]  Make sure your submission is not drawn from mass-media reports.

*Don’t forget to number your paragraphs in order to facilitate the analysis of your submission.*

*What does ‘inclusion of a succinct account of facts’ mean?*

The Submission must contain a brief account of the facts. You must demonstrate that a Party is failing to effectively enforce its environmental law, and provide sufficient information to allow the Secretariat to review the submission, including any documentary evidence on which the Submission may be based. You are encouraged to provide supporting documents or attachments, as they do not count against the 15-page limit in your statement of facts.

*What does ‘reference communication of the matter to the relevant authorities’ mean?*

The Submission must include any communication by you, your organization, or representative to agencies of the central level of government responsible under the law of the Party for the enforcement of the environmental law in question. The Secretariat may only consider a Submission on enforcement matters if the Submission indicates that the matter has been communicated in writing to the relevant authorities of the central level of government, whether there has been a response or not. You must include copies of all such written communications.

*What does “Describe whether reasonable actions have been taken to pursue private remedies prior to making the submission” mean?*

If you, your organization, or representative has pursued private remedies available under the Party’s law, you must provide a description of such actions in order to help the Secretariat determine if your Submission is admissible or not.

*What does ‘make sure your submission is not drawn from mass-media reports’ mean?*

It is imperative that the Submission is not drawn from mass-media reports, such as news articles, social media reports, etc., as these reports may not provide sufficient evidence for your case. Your Submission should be well-researched, and should include relevant reports and evidence to help strengthen your cause, and to help ensure admissibility.

**H. List of accompanying documents.** Please include all documents referenced in your submission. These documents should be complete and legible copies. It is admissible to use hyperlinks to refer to your annexes or attachments that are available online. Add a list of your accompanying documents in **box 29**, ideally in the same order as mentioned in the submission. If you need more space to list your documents, you may click on the link at the bottom of **box 29** to download another page of the form.

 Information, such as reports, official documents, copies of permits or authorizations, permit applications and environmental information that is publicly available, are very useful to include in your Submission and for the Secretariat in its review.

**How you should send your submission?**

 Your submission and supporting documents in digital format must be sent to: <sem@cec.org>. You do not need to include environmental laws or regulations as long as the citations are referenced. You don’t need to include references made to documents in hyperlinks. Alternatively, you may send your submission and annexes by regular mail to the following address:

CEC Secretariat

700 rue de la Gauchetière, bureau 1620

Montreal (Quebec), Canadá, H3B 5M2

**What Happens Next?**

The Secretariat will analyze your submission and make a determination of whether it meets the admissibility requirements of Article 24.27 (2) of the Agreement.

If the Secretariat determines that your submission does not meet Article 24.27(2) of the Agreement, we will inform you in writing and explain the reasons, in which case you may be able to file a revised submission.

The Secretariat may at any time notify you of any minor errors of form in the submission in order for you to rectify them. A minor error of form is not a determination on the admissibility of your submission, and you should rectify the error as soon as possible in order for the Secretariat to conclude its initial review process.

If the Secretariat finds that your submission meets the admissibility criteria of Article 24.27(2), we will directly proceed to consider whether your submission merits a response from the Party in question under Article 24.27(3). Both steps of this review will normally be completed within 30 working days of the filing of your submission.

**Do you have any questions on how to file a submission?**

Contact the SEM Unit at sem@cec.org or call us at (514) 350-4300. You may also visit our website and explore a [**video**](https://youtu.be/uibpvr5EcvQ) on the SEM Process or see more on [**past submissions**](http://www.cec.org/submissions-on-enforcement/registry-of-submissions/) filed before the CEC.

1. The Parties recognize that “protection or conservation” may include the protection or conservation of biological diversity [↑](#footnote-ref-1)
2. For the purposes of this Chapter, the term “specially protected natural areas” means those areas as defined by the Party in its law. [↑](#footnote-ref-2)