

Secretariat of the Commission for Environmental Cooperation
Secretariat Determination in accordance with Article 24.28(1) of the
United States-Mexico-Canada Agreement

Submitter:	Prodefensa del Nazas, A.C.
Party:	United Mexican States
Original submission:	2 September 2025
Revised submission:	8 October 2025
Date of determination:	10 April 2026
Submission No.:	SEM-25-001 (<i>Nazas River Lower Basin</i>)

Executive Summary

On 2 September 2025, Prodefensa del Nazas, A.C. (the “Submitter”), an organization constituted in accordance with the laws of Mexico, filed a submission with the Secretariat of the Commission for Environmental Cooperation (the “Secretariat”) pursuant to Article 24.27(1) of the United States-Mexico-Canada Agreement (USMCA/CUSMA). The submission* asserts that Mexico is failing to effectively enforce its environmental laws with respect to the protection of the Nazas River, particularly its riparian areas and lower basin located in the states of Durango and Coahuila, Mexico. The Submitter asserts that the lower basin of the Nazas River has deteriorated at an accelerated rate in recent years due to the management and operation of hydraulic infrastructure and points to reduced water levels as one of the main consequences. The Submitter maintains that dams have caused water shortages, dried the riverbed, and reduced groundwater recharge. The Submitter further argues that these water reservoirs have impacted local ecosystems, caused a loss of riparian vegetation, and triggered emergency conditions within the Principal–Región Lagunera aquifer.

On 2 October 2025, the Secretariat determined that submission SEM-25-001 (*Nazas River Lower Basin*) did not meet all the admissibility requirements set out in Article 24.27 of the USMCA/CUSMA and notified the Submitter accordingly in its determination pursuant to Article 24.27(2) and (3).†

On 8 October 2025, the Secretariat received supplementary information that it noted was missing in its first determination‡ and, following its analysis, on 7 November 2025, the Secretariat determined that the submission met all the applicable admissibility requirements established in paragraphs (1) and (2) of Article 24.27 of the USMCA/CUSMA. Pursuant to paragraph (3) of that same Article, the Secretariat concluded that the submission warranted a response from the Government of Mexico regarding the apparent damage caused to the Nazas River in its lower basin and its interdependent ecosystems resulting from the alteration of the river’s natural flow.

* SEM-25-001 (*Nazas River Lower Basin*), Submission under USMCA/CUSMA Article 24.27(1) (2 September 2025), at: <<http://bit.ly/46aCEil>> [Submission].

† SEM-25-001 (*Nazas River Lower Basin*), Determination in accordance with USMCA/CUSMA Article 24.27(2) and (3) (2 October 2025), at: <<https://bit.ly/4ofTWm7>> [First Determination].

‡ SEM-25-001 (*Nazas River Lower Basin*), Submission under USMCA/CUSMA Article 24.27(1) (8 October 2025), at: <<https://bit.ly/4hSQIYR>> [Revised Submission].

The Secretariat also requested that the Party response focus on the administration and operation of hydraulic infrastructure works, the measures to protect, restore, and sustainably use ecosystems, natural resources, environmental goods and services, the management of the water resources of the Nazas River, and the apparent exclusive use of its waters for agricultural purposes, based on provisions of the National Waters Act (*Ley de Aguas Nacionales*—LAN), the General Act on Ecological Balance and Environmental Protection (*Ley General del Equilibrio Ecológico y la Protección al Ambiente*—LGEEPA), and the General Sustainable Forestry Development Act (*Ley General de Desarrollo Forestal Sustentable*—LGDFS).[§]

In its response dated 9 February 2026, the Party argues that the submission suffers from procedural and substantive defects that undermine its admissibility.

The Party maintains that the submission is inadmissible under Chapter 24 of the USMCA/CUSMA, as it neither alleges nor demonstrates any effect on trade and/or investment among the Parties. Mexico maintains that a submission's link to trade and investment is a core requirement for jurisdiction under Chapter 24 and describes the USMCA/CUSMA as “an instrument of economic and commercial integration” whose environmental dimension is intrinsically linked to its commercial nature. The Party suggests that Chapter 24 does not constitute an autonomous environmental regime but rather a mechanism designed to prevent the weakening of environmental legislation in order to obtain a competitive advantage.

In response to this assertion, the Secretariat recalls that the SEM process and the dispute resolution mechanisms established under the USMCA/CUSMA serve different functions. The procedures aimed at resolving commerce-related disputes between States under the treaty do indeed involve issues of trade and/or investment. However, the SEM process and the admissibility and review procedures established under it were not intended or designed to solve trade and/or investment-related disputes. Instead, SEM submissions and their treatment by the Secretariat are aimed at promoting transparency, accountability, and public participation in the enforcement of environmental law. Any other interpretation would necessarily change the essence of the treaty, with regard to the SEM process.

The Party response also adds that the matter raised in the submission is *res judicata*, as amparo proceeding 1767/2023 was dismissed, a decision that was upheld by the Mexican Supreme Court (*Suprema Corte de Justicia de la Nación*—SCJN) in judicial review (*amparo en revisión*) 169/2025. The Party maintains that by resorting to the SEM process, the Submitter seeks a more favorable forum to its cause and that, by admitting the submission, the Secretariat interferes with and contradicts a final judicial decision. To this assertion, the Secretariat recalls that it is not an adjudicatory body nor an authority exercising broad legality review as conceived by the Party in its response. The legal basis for the Secretariat's decision to admit or to reject a submission is grounded entirely on the procedures established by the USMCA/CUSMA, rather than on the Party's domestic law, to which it has no relation. The Party's judicial system and the SEM process pursue different objectives, are framed under independent and different legal orders, and operate with different procedural requirements, as established by their respective and distinct structures.

[§] SEM-25-001 (*Nazas River Lower Basin*), Determination in accordance with USMCA/CUSMA Article 24.27(2) and (3) (7 November 2025), at: <<https://bit.ly/4ano3U5>> [Second Determination].

After conducting its analysis of the submission, in light of the Party response, the Secretariat finds that the submission does not warrant the preparation of a factual record.

The Secretariat sets out below the reasons for its determination and hereby notifies the Council accordingly, pursuant to Article 24.28(1) of the USMCA/CUSMA.

I. INTRODUCTION

1. On 1 July 2020, the United States–Mexico–Canada Agreement (USMCA/CUSMA) and the Environmental Cooperation Agreement (ECA or “the Agreement”) entered into force. As of that date, the Submissions on Enforcement Matters (SEM) process—originally established under Articles 14 and 15 of the North American Agreement on Environmental Cooperation (NAAEC)—is governed by Articles 24.27 and 24.28 of the USMCA/CUSMA, while the terms governing its implementation and operation by the Secretariat of the Commission for Environmental Cooperation (CEC or “the Commission”)¹ are now set out in the ECA.²
2. The SEM process allows any person or entity legally established in Canada, the United States, or Mexico to file a submission asserting that a Party is failing to effectively enforce its environmental laws.³ The CEC Secretariat (the “Secretariat”) initially reviews submissions based on the requirements set out in paragraphs (1) and (2) of Article 24.27 of the USMCA/CUSMA. When the Secretariat finds that a submission meets those requirements, it proceeds to determine whether, in accordance with Article 24.27(3), the submission warrants a response from the Party in question. In light of the response provided by the Party, the Secretariat then determines whether the matter warrants the preparation of a factual record and, if so, informs the CEC Council and the Environment Committee,⁴ providing its reasons pursuant to Article 24.28(1); otherwise, it terminates the review of the submission.⁵
3. On 2 September 2025, Prodefensa del Nazas, A.C. (the “Submitter”), an organization constituted in accordance with the laws of Mexico, filed a submission with the Secretariat according to the USMCA/CUSMA Article 24.27(1).⁶
4. The Submitter asserts that Mexico (the “Party”) is failing to effectively enforce its environmental laws with respect to the protection of the Nazas River, particularly its riparian areas and lower basin

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

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

³ Article 24.27(1) of the USMCA/CUSMA provides that a submission may be filed by “any person of a Party,” understood—pursuant to the general definitions in Article 1.5—as “a national [a natural person having the nationality or permanent resident status] or an enterprise [any entity or organization, whether private, public, or social, established or constituted under applicable law] of a Party.”

⁴ Established pursuant to Article 24.26(2) of the USMCA/CUSMA, the Environment Committee is responsible for supervising the implementation of Chapter 24 of the Agreement.

⁵ For further details regarding the various stages of the Submissions on Enforcement Matters (SEM) process, the public registry of submissions, and the determinations and factual records prepared by the Secretariat, please consult the CEC website at: <www.cec.org/submissions-on-enforcement>.

⁶ SEM-25-001 (*Nazas River Lower Basin*), Submission under USMCA/CUSMA Article 24.27(1) (2 September 2025), at: <<http://bit.ly/46aCEil>> [Submission].

located in the states of Durango and Coahuila, Mexico. According to the Submitter, the Lázaro Cárdenas and Francisco Zarco dams, paired with the channelization of the Nazas River, have irreversibly altered the regional ecosystem. The Submitter maintains that the dams have caused water shortages, dried the riverbed, and reduced groundwater recharge. The Submitter further argues that these reservoirs have impacted local ecosystems, caused a loss of riparian vegetation, and triggered emergency conditions within the Principal–Región Lagunera aquifer.

5. According to the submission, the alteration of the Nazas River has led to the loss of estuaries and floodplains, as well as to the extinction of animal and plant species that depended on them. The Submitter also notes that growing water demands and the construction of hydraulic infrastructure reduced aquifer recharge rates and inflows from Nazas and Aguanaval rivers, which in turn dried-up the Mayrán, Viesca, and Tlahualilo lagoons.
6. The Submitter asserts that surface water management in the Nazas River through dams for agricultural irrigation is carried out without considering or complying with Mexico’s obligations to protect, restore, conserve, preserve, and sustainably use ecosystems, natural resources, environmental goods, and environmental services, in order to ensure ecological balance and the human right to a healthy environment.
7. The Submitter asserts that Mexico is failing to effectively enforce various legal provisions and regulatory instruments in force in Mexico, including the National Waters Act (*Ley de Aguas Nacionales*—LAN), the General Act on Ecological Balance and Environmental Protection (*Ley General del Equilibrio Ecológico y la Protección al Ambiente*—LGEEPA), and the General Sustainable Forestry Development Act (*Ley General de Desarrollo Forestal Sustentable*—LGDFS).
8. In its determination dated 2 October 2025, the Secretariat found that submission SEM-25-001 (*Nazas River Lower Basin*) did not meet all the admissibility requirements set out in Article 24.27 of the USMCA/CUSMA, and notified the Submitter accordingly in its determination pursuant to Article 24.27(2) and (3).⁷ Specifically, the Secretariat found that the original submission did not satisfy the admissibility criteria set out in paragraphs (c) and (e) of Article 24.27(2) of the USMCA/CUSMA.
9. With respect to Article 24.27(2) paragraph (c), the Secretariat considered that, although the submission provided a general overview of the situation, it did not precisely establish its objective. In its determination, the Secretariat noted the lack of clarity regarding the central concern of the submission and whether it related to an environmental impact assessment process associated with hydraulic infrastructure projects or to an obligation for Mexico to maintain ecological balance through the application of national legislation.⁸ The Secretariat also addressed the need to distinguish between the SEM process and the domestic remedies pursued by the Submitter, as the procedural requirements and recourses available before a court and with the Secretariat are inevitably different.⁹ With respect to the requirement set out in Article 24.27(2) paragraph (e), the Secretariat determined that it was not met, as the submission failed

⁷ SEM-25-001 (*Nazas River Lower Basin*), Determination in accordance with USMCA/CUSMA Article 24.27(2) and (3) (2 October 2025), § 48, at: <<https://bit.ly/4ofTWm7>> [First Determination].

⁸ Id. § 54.

⁹ Id. § 55.

to reference any written communication in the form of a letter or email addressed to the relevant authorities.

10. In its revised submission dated 8 October 2025, the Submitter demonstrated that the matter raised in the submission had been communicated to the Party via an email sent to several public officials of the Ministry of the Environment and Natural Resources (*Secretaría de Medio Ambiente y Recursos Naturales*—Semarnat) and the National Water Commission (*Comisión Nacional del Agua*—Conagua) dated 7 October 2025. With respect to the focus of the submission and the manner in which the assertions relate to the cited environmental law, the Submitter clarified “that the submission focuses on asserting that the Mexican State, by controlling the flow of water of the Nazas River and containing it within the Lázaro Cárdenas and Francisco Zarco dams in order to use those waters exclusively for agricultural purposes, has caused ecological damage to the Nazas River,” adding that the situation “has resulted in the inadequate management of the water resources of the Nazas River in its lower basin” and in the “failure to implement [mandatory] public policies” in order to restore ecological balance. The Submitter emphasizes that by diverting water from the Nazas River to agricultural use without sufficient consideration for environmental conservation, ecosystems in the lower basin have been lost.
11. On 7 November 2025, the Secretariat determined that the submission met all the applicable admissibility requirements—established in paragraphs (1) and (2) of Article 24.27 of the USMCA/CUSMA—and that, pursuant to paragraph (3) of that same Article, a response from the Party¹⁰ was warranted regarding the effective enforcement of the following legal instruments:¹¹
 - i. **LAN** Articles 7: paragraphs I, II, IV, and V; 7 bis paragraphs I, IV, V, VI, VII, and VIII; 9 paragraph XXVI; 41 paragraph III; 96 bis, and 100;
 - ii. **LGEEPA** Articles 5 paragraphs I, II, XI, XIX, and XX; 15: paragraphs I, II, III, V, VI, VII, IX, XI, XII, and XIX; 78, first paragraph; 78 bis, first paragraph; 89 paragraph XI; 98 paragraph V, and 99 paragraph VII; and
 - iii. **LGDFS** Articles 4 paragraph I and II; 10 paragraph I and XXXIV; 20 paragraph XIV, XV, XXI, XXIV, and XXX; 122, first paragraph, and 123, first paragraph.
12. On 9 February 2026, the Secretariat received the Party response.¹² In it, the Party addresses preliminary considerations regarding the admissibility and propriety of the submission, including the alleged need for a component of the submission’s subject matter to be trade and/or investment-related, the communication of the matter to the Party and the elements examined by the Secretariat under that criterion, the retroactive application of environmental provisions, Mexico’s effective enforcement of the cited environmental law, and the programmatic nature of certain of these provisions. The Party response also focuses on the judicial proceedings undertaken by the Submitter at the domestic level arguing that the matter raised in the submission

¹⁰ SEM-25-001 (*Nazas River Lower Basin*), Determination in accordance with USMCA/CUSMA Article 24.27(2) and (3) (7 November 2025), § 35, at: <<https://bit.ly/4ano3U5>> [Second Determination].

¹¹ Id. § 36.

¹² SEM-25-001 (*Nazas River Lower Basin*), Response under USMCA/CUSMA Article 24.27(4) (9 February 2026), at: <<http://bit.ly/4cVtBXw>> [Response].

was subject to a final judicial decision. According to the Party response, the principle of *res judicata* precludes the CEC Secretariat from considering the submission. Pursuant to Article 24.27(4)(a) of the USMCA/CUSMA, the Party response requests that the processing of the submission be terminated.¹³

13. The Party response also comments and passes judgement on the work and professionalism of the Secretariat and its staff, including raising questions regarding their motives, competence, and professional integrity. Such remarks, grounded on an erroneous interpretation of the USMCA/CUSMA's SEM provisions, presume that the Secretariat should have considered — among other factors— trade and/or investment dimensions of the submission but failed to do so, when in fact, the SEM process' primary aim is not to consider trade and/or investment angles, but rather to promote the enforcement of environmental law through transparency and access to information. Accordingly, assertions in the Party response relative to judgement and professionalism are unfounded. The Secretariat reiterates that its work is carried out in a reasoned manner, following the criteria established by the USMCA/CUSMA, and in accordance with international law, and grounded in long-standing practice and, where appropriate, with reference to the interpretation provided by the Council.
14. Pursuant to the USMCA/CUSMA Article 24.28(1), the CEC Secretariat has reviewed submission SEM-25-001 (*Nazas River Lower Basin*) in order to determine whether it warrants the preparation of a factual record in light of the Party response.
15. After its analysis, the Secretariat considers that the preparation of a factual record is not warranted with respect to submission SEM-25-001 (*Nazas River Lower Basin*). The Secretariat's reasons are set out below.

II. ANALYSIS

a. Subject-Matter Jurisdiction: The Absence of a Trade and/or Investment Nexus

Trade and the environment have coexisted since the NAAEC and the NAFTA

16. In the NAAEC regime, the Parties recognized the trade links derived from the North American Free Trade Agreement (NAFTA);¹⁴ they agreed to “promote sustainable development based on cooperation and mutually supportive environmental and economic policies”;¹⁵ they acknowledged the existence of “environmental goals and objectives of the NAFTA”;¹⁶ they emphasized the need to avoid creating “trade distortions or new trade barriers”;¹⁷ and adopted provisions to prevent disguising restrictions on trade as environmental regulation.¹⁸

¹³ Id. § 192.

¹⁴ North American Agreement on Environmental Cooperation, published by the Office of the United States Trade Representative in 1993, Preamble, at: <<https://bit.ly/4lySESsm>> [NAAEC].

¹⁵ Id. Article 1(b).

¹⁶ Id. Article 1(d).

¹⁷ Id. Article 1(e).

¹⁸ B. J. Condon (1994), “NAFTA and the Environment: A Trade-Friendly Approach”, *Northwestern Journal of International Law & Business*, vol. 14:3, at 528, at: <<https://bit.ly/4rzHnUa>>.

17. The Party response asserts that the SEM process, which is established within the trade agreement, subsequently requires that submissions address trade and/or investment-related conflicts. The Secretariat notes that while the provisions governing the SEM process are now contained in the USMCA/CUSMA, these do not list trade, investment or commercial issues as criteria for a submission's admissibility, a Party response, a decision on whether or not to recommend the preparation of a factual record or the production of such document following a Council members' decision. The submissions process is aimed at promoting transparency, accountability, and public participation in the enforcement of environmental law. In over three decades of operations, and after processing 119 submissions, only on two occasions has the Secretariat been asked to consider the trade dimension of a submission. In one case, the Secretariat was requested to consider "the enforcement of law to ensure that the objectives of the NAFTA and the NAAEC, including fair competition, are achieved."¹⁹ In that case, the Secretariat determined that the submission was aimed at obtaining economic advantages with respect to a competitor.²⁰ In another case, the Secretariat was asked to consider the application of Article 24.4(1) of the USMCA/CUSMA, in which instance the cited provision was found to be inadmissible.²¹
18. In sum, trade and/or investment concerns or dimensions are not necessarily relevant to transparency in the enforcement of environmental law under the SEM process. Moreover, resolution of trade- and/or investment-related disputes is not a function the Secretariat has within the SEM framework. As noted below, these are only matters enforceable by the Parties through other procedural mechanisms established by the treaty.

The trade and investment provisions invoked in the response do not constitute environmental law and are enforceable only between the Parties.

19. The Party response maintains that Article 24.4(1) of the USMCA/CUSMA establishes "the standard to be met in order for an alleged failure of effective environmental law enforcement to be relevant."²²
20. Article 24.4(1) of the USMCA/CUSMA provides that:

No Party shall fail to effectively enforce its environmental laws through a sustained or recurring course of action or inaction³ in a manner affecting trade or investment between the Parties,^{4,5} after the date of entry into force of this Agreement.

3. For greater certainty, a "sustained or recurring course of action or inaction" is "sustained" if the course of action or inaction is consistent or ongoing, and is "recurring" if the course of action or inaction occurs periodically or repeatedly and when the occurrences are related or the same in nature. A course of action or inaction does not include an isolated instance or case.

4. For greater certainty, a "course of action or inaction" is "in a manner affecting trade or investment between the Parties" if the course involves: (i) a person or industry that produces

¹⁹ SEM-11-001 (*PCB Treatment in Grandes-Piles, Quebec*), Revised Submission (7 March 2011), at: <<https://bit.ly/4rJOHgm>>.

²⁰ SEM-11-001 (*PCB Treatment in Grandes-Piles, Quebec*), Determination in accordance with NAAEC Article 14(1) (11 February 2011), § 25 at: <<https://bit.ly/4bp8A5d>>.

²¹ SEM-23-007 (*Vessel Pollution in Pacific Canada*), Determination in accordance with USMCA/CUSMA Article 24.27(2) and (3) (4 December 2023), §§ 24-27, at: <<https://bit.ly/4slthG6>>.

²² Response, § 18, at: <<http://bit.ly/4cVtBXw>>.

a good or supplies a service traded between the Parties or has an investment in the territory of the Party that has failed to comply with this obligation; or (ii) a person or industry that produces a good or supplies a service that competes in the territory of a Party with a good or a service of another Party.

5. For purposes of dispute settlement, a panel shall presume that a failure is in a manner affecting trade or investment between the Parties, unless the responding Party demonstrates otherwise.
21. In analyzing the applicability of Article 24.4(1) of the USMCA/CUSMA, the Secretariat bears in mind that, pursuant to the definition of environmental law in Article 24.1 and consistent with the interpretation given to this provision since the SEM process' inception, the Secretariat is only authorized to give effect to the Parties' obligations contained in international agreements and treaties when such obligations have been incorporated into domestic law through an act of Congress or a regulation pursuant to such act.²³ It is therefore not apparent that the Secretariat would be authorized to consider Article 24.4(1) as a parameter of interpretation in its admissibility analysis.²⁴
22. For over three decades, the Secretariat has never considered trade and/or investment as factors for the admissibility of submissions (nor has it ever been instructed to do so by the Council in the development of a factual record). Instead, the Secretariat and the Council have, as established under USMCA/CUSMA, consistently prioritized transparency in the effective enforcement of environmental law, recognizing the relevance and preeminence of such transparency. When the Secretariat has addressed such matters, it has established that arguments relating to trade and/or investment fall outside the scope of the SEM process. In one case, the Secretariat dismissed the submitter's claims concerning unfair competition, noting that a submission must relate to the effective enforcement of environmental law.²⁵ In another submission filed under the USMCA/CUSMA, the submitter presented arguments related to trade and investment;²⁶ however, the Secretariat preliminarily found that the USMCA/CUSMA provisions invoked were inadmissible because they did not qualify as environmental law, without discussing the merits of the submission's assertions relating to trade and/or investment-related issues.²⁷ It should be noted that at the time, the Parties (including Mexico)— did not raise any concerns regarding any alleged oversight in addressing trade and/or investment consideration, nor has this issue ever

²³ Agreement between the United States of America, the United Mexican States, and Canada, Chapter 24, Article 24.1, at: <<https://bit.ly/420Lb6x>> and <<https://bit.ly/4itON6R>>. [USMCA/CUSMA].

²⁴ SEM-22-002 (*Tren Maya*), Determination in accordance with USMCA/CUSMA Article 24.27(2) and (3) (22 August 2022), § 32, at: <<https://bit.ly/46WKi0Z>>; SEM-23-001 (*Residential Development in San Cristóbal de las Casas*), Determination in accordance with USMCA/CUSMA Article 24.27(2) and (3) (10 February 2023), § 22, at: <<https://bit.ly/4bjZoio>>; SEM-23-003 (*Agave Production in Jalisco*), Determination in accordance with USMCA/CUSMA Article 24.27(2) and (3) (11 May 2023), § 30, at: <<https://bit.ly/412ERKn>>; SEM-23-007 (*Vessel Pollution in Pacific Canada*), Determination, *supra* § 24, at: <<https://bit.ly/4slthG6>>; SEM-26-001 and SEM-25-002 (*Bridge of the Americas—BOTA II*) and (*Bridge of the Americas—BOTA*), Determination in accordance with USMCA/CUSMA Article 24.27(2) and (3) (13 January 2026), § 22, at: <<https://bit.ly/402AiiX>>.

²⁵ SEM-11-001 (*PCB Treatment in Grandes-Piles, Quebec*), Determination in accordance with NAAEC Article 14(1) (12 April 2012), at: <<https://bit.ly/40JHRes>>.

²⁶ SEM-23-007 (*Vessel Pollution in Pacific Canada*), Submission under USMCA/CUSMA Article 24.27(1) (30 October 2023), at 15-17, at: <<https://bit.ly/40CNsmT>>.

²⁷ SEM-23-007 (*Vessel Pollution in Pacific Canada*), Determination, *supra* § 24, at: <<https://bit.ly/4slthG6>>.

been raised or discussed by Council members in 32 years of SEM process implementation (see §§29-36 *infra*).

23. The Secretariat determined in response to previous submissions that enforcing obligations contained in international treaties may only be requested between the Parties through the consultation and dispute settlement mechanisms.²⁸ This argument is provided and reasoned on the basis that the CEC Secretariat should not interpret a Party's international obligations as if they were, in themselves, "environmental law" for the purposes of the SEM process. In fact, Mexico previously argued that the SEM process' scope is limited to laws or regulations whose primary purpose is to protect the environment or prevent risks to human life or health, and has maintained that, although international treaties form part of its national legal order, they are not equivalent to a law or regulation within the meaning of the NAAEC, considering such a possibility as "unacceptable" for the Party.²⁹
24. With respect to Article 24.4(1), the Secretariat has consistently stated that this provision stands separate from and is enforceable outside of the SEM process established under Articles 24.27 and 24.28 of the USMCA/CUSMA. The Secretariat recalls that a provision foreseeing that "[n]o Party shall fail to effectively enforce its environmental laws through a sustained or recurring course of action or inaction in a manner affecting trade or investment [...]"³⁰ is not considered environmental law,³¹ is enforceable only between the Parties, and is different from and independent of the SEM process.
25. The enforcement mechanism for Article 24.4(1) is available through a panel established pursuant to Chapter 31 of the USMCA/CUSMA, which also sets out the applicable standard: the failure to comply is presumed to affect trade or investment between the Parties and the burden of proof rests with the responding Party.³² The USMCA/CUSMA provides an alternative avenue for

²⁸ SEM-98-003 (*Great Lakes*), Determination in accordance with NAAEC Article 14(1) and (2) (8 September 1999), at: <<https://bit.ly/47cH1dZ>>; SEM-98-001 (*Guadalajara*), Determination in accordance with NAAEC Article 14(1) (13 September 1999), at 6-7, at: <<https://bit.ly/3NocVO2>> (The Submitters also cite Articles 5(1)(j)(l), 6, and 7 of the NAAEC [...]. "The Secretariat's view is that, as a general matter, to the extent that these articles create obligations on the part of the Parties (Canada, Mexico and the United States), the remedy provided under the Agreement for a Party's purported failure to fulfill its obligations lies with the other Parties.") Footnotes omitted.

²⁹ SEM-13-001 (*Tourism Development in the Gulf of California*), Response in accordance with NAAEC Article 14(3) (24 February 2014), at 104, at: <<https://bit.ly/47ur17h>> (where Mexico considered it "unacceptable" for the Secretariat to analyze the Party's international commitments); SEM-15-002 (*Management of Analog TV Waste*), Response in accordance with NAAEC Article 14(3) (30 May 2016), at: <<https://bit.ly/3N0FgKd>> (where Mexico maintained that international treaties are not, strictly speaking, a law of a Party, but rather a normative category within the international legal order with a constitutional nature and hierarchy distinct from statutory law, even when such norms are self-executing).

³⁰ USMCA/CUSMA, *supra* Article 24.4(1), at: <<https://bit.ly/420Lb6x>> and <<https://bit.ly/4itON6R>>. Footnotes omitted.

³¹ SEM-23-007 (*Vessel Pollution in Pacific Canada*), Determination, *supra* § 24, at: <<https://bit.ly/4slthG6>>.

³² J. H. Knox (2004), "The Judicial Resolution of Conflicts between Trade and the Environment", *Harvard Environmental Law Review*, 28:1, at 43-44 and footnotes 90 and 180, at: <<https://bit.ly/4rYdQUc>>. On NAFTA/GATT burden allocation: "[...] the party seeking to show that a measure is inconsistent with the agreement has the burden to establish the inconsistency." On SPS disputes (rejecting a panel's burden-shift to the respondent): "[...] even if a domestic measure is not based on an international standard, the

consultations and dispute settlement for the type of claims that the Party is suggesting in its response should be the focus of the SEM process; the CEC Secretariat does not possess a mandate allowing it to address with such claims.³³

26. The Party response ignores the dispute settlement mechanism established in Articles 24.29 (Environmental Consultations), 24.30 (Senior Representative Consultations), 24.31 (Ministerial Consultations), and 24.32 (Dispute Resolution) of the USMCA/CUSMA. These provisions culminate in the application of Article 31.6 (Establishment of a Panel), which provides the mechanism to enforce the obligation set out in Article 24.4(1)—a faculty that the SEM process does not possess.³⁴ This reading is also consistent with the nature of SEM, acknowledged by the Party, since the SEM process is not “a sort of parallel environmental auditing mechanism,”³⁵ nor a mechanism for the “general oversight system for the Parties’ environmental policies”³⁶ (see section c) *infra*).
27. The Party response misinterprets the nature of a mechanism designed to promote transparency in the effective enforcement of environmental law³⁷ with a court, quasi-tribunal, or oversight body issuing decisions “binding on the Parties or the submitters.”³⁸ Were this interpretation correct, it would imply that the SEM submission process act as a mechanism in which factual

burden of proof remains on the complaining party to show that the measure is inconsistent with the Agreement.” On “necessity/less trade-restrictive” type arguments (again placing the burden on the challenger): “the burden of proof is on the party challenging a measure to show that there is another measure that is significantly less trade restrictive [...]” Knox notes an exception-like contrast (Article XX defenses): “[...] the burden of proof [...] is on the challenging party under the SPS Agreement, but on the party defending the measure under Article XX.”

³³ SEM-21-002 (*Vaquita Porpoise*), Notification in accordance with USMCA/CUSMA Article 24.28(1) (1 April 2022), footnote 79, at 14, at: <<https://bit.ly/4lv19PS>> (“The Parties’ commitment to implement the SEM process in NAAEC Articles 14 and 15—and now under USMCA—is different from the obligation to effectively enforce environmental law in NAAEC Article 5(1). This obligation was replicated in USMCA Article 24.4(1). Compliance with NAAEC Article 5(1) and USMCA Article 24.4(1) obligations are enforceable among the Parties through compliance mechanisms set out in the relevant sections of each agreement. For NAAEC, this is Part Five: “Consultation and Resolution of Disputes”; for the USMCA, it is Article 24.29: “Environment Consultations” (et seq.)”)

³⁴ SEM-23-006 (*Illegal Logging in Jalisco*), Notification in accordance with USMCA/CUSMA Article 24.28(1) (16 October 2023), § 28, at: <<https://bit.ly/4ruuuK8>> (“In this regard, the provision of the USMCA invoked in the response refers to the obligations of the Parties within the framework of the commitments adopted upon the entry into force of the Treaty, enforceable between them through mechanisms such as *environmental consultations*; *consultations of senior representatives* (representatives of the Environment Committee of the consulting Parties); *ministerial consultations*; and *dispute resolution*.”) Footnotes omitted.

³⁵ Response, § 17, at: <<http://bit.ly/4cVtBXw>>.

³⁶ Id. § 26.

³⁷ Council Resolution 12-06 (11 July 2012), at: <<https://bit.ly/4lJoH2b>>; CEC (2013), *Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of the North American Agreement on Environmental Cooperation*, Commission for Environmental Cooperation, at 2, at: <<https://bit.ly/4bHZ6TQ>>; CEC (2026), “The CEC SEM Process”, What is the Submissions on Enforcement Matters Process?, Commission for Environmental Cooperation, at: <<https://bit.ly/47MbhwT>>; CEC (2026), “Mission”, Commission for Environmental Cooperation, at: <<https://bit.ly/47Cim2H>>.

³⁸ SEM-07-001 (*Minera San Xavier*) Determination in accordance with NAAEC Article 15(1) (15 July 2009), § 44, at: <<https://bit.ly/3Pb8cjl>>.

records would constitute “rulings or judicial opinions on an asserted failure of effective enforcement of environmental law.”³⁹ No *forum* exists under the CEC in which private persons may obtain “a more favorable ruling”, since the function of the Secretariat is to administer a non-adjudicatory process focused on environmental law enforcement information, transparency and public participation in a neutral and efficient manner.⁴⁰ The interpretation sustained in the Party response, if followed, would result in a non-sensical scenario where actors with trade and/or investment-related commercial/financial disputes (which nature is often confidential) are offered a non-binding/fact-finding/transparency mechanism that could only produce a factual record that would make their conflict public with no resulting verdict or binding decision related to a trade and/or investment-related dispute.

28. In reviewing the Party response vis-à-vis past statements issued by Mexico since the creation of the CEC and the SEM submission process in 1994 under the NAAEC, the Secretariat notes that the response represents a marked shift in the Party’s interpretation of the SEM process with regard to the trade and/or investment nexus as admissibility criteria for SEM submissions. Such an interpretation is more apt for State-to-State forums through which decisions enforceable *inter partes* may be obtained.

Customary international law, order of interpretation under the International Court of Justice, and the effect of acquiescence

29. This change of interpretation in the Party response of the USMCA/CUSMA on the supposed requirement of a trade and/or investment dimension as necessary criteria for the admissibility of submissions also marks a stark contrast with historical Council directions, including that of Mexico. Since the inception of the mechanism to date, the Parties have submitted a total of 79 responses, of which 14 have been submitted since the entry into force of the USMCA/CUSMA. Among these, Mexico has submitted 49 responses for the Secretariat’s consideration since 1994 and 11 responses since the USMCA/CUSMA entered into force. Mexico has never (until this Party response) sustained this trade and investment interpretative position.
30. Moreover, under the SEM process alone, the Parties have negotiated and adopted a total of 36 Council resolutions since 1994 and three since the entry into force of the USMCA/CUSMA, containing authoritative interpretative material on the SEM process nature and scope. In no case have the Council members raised the question or instructed the Secretariat to consider trade and/or investment elements in the preparation of factual records, nor has Mexico issued a separate reasoning statement of this nature. In particular, in the most recent Council resolutions (*Loggerhead Turtle, Vaquita Porpoise, and North Atlantic Right Whale*), which Mexico contributed to negotiating and drafting, and where trade and/or investment matters could have been raised, there is no mention of “trade” or “investment” in Council resolutions. Nor has the

³⁹ Id.

⁴⁰ See Id. § 32; Moreover, it has been emphasized that reference to prior Secretariat determinations may be useful, not by equating such reference with the principle of stare decisis, which would apply to a judicial forum, but rather in order to apply the rules of the SEM process in a consistent manner: SEM-97-001 (*BC Hydro*), Recommendation in accordance with NAAEC Article 14 and 15 (27 April 1998), at 7 and footnote 9, at: <<https://bit.ly/3NAdFzH>>.

Party ever expressed an interest in incorporating such elements through separate reasoning documents.⁴¹

—Confidential Section—

31. [Redacted]

32. [Redacted]

33. [Redacted]

41 [Redacted]
42 [Redacted]
43 [Redacted].
44 [Redacted]
45 [Redacted]
46 [Redacted]

[REDACTED]

34.

[REDACTED]

—End of confidential section—

35. This new position argued by the Party in its response, were it to be adopted, faces an operability issue in the international legal order, as it does not observe the hierarchy of sources of international law, namely: (i) international treaties; (ii) international custom; (iii) general principles of law; and (iv) judicial decisions and doctrine.⁴⁹ In this order, it follows that:
- i) With respect to the USMCA/CUSMA, the interpretation of Article 24.4(1) is reserved to the dispute settlement mechanism, expressly provided in Chapter 31 of the USMCA/CUSMA. Articles 24.27 and 24.28 do not expressly incorporate trade and/or investment criteria;
 - ii) With over 30 years of customary practice in implementing the SEM submission process, neither the Parties nor the Council have ever indicated that the USMCA/CUSMA requires that the admissibility of a SEM submission demonstrate relevance to trade and/or investment. As such, and following more than 30 years of implementing the SEM process, an international customary understanding of the SEM process is presumed established among the various actors involved to this effect;

47 [REDACTED]

48 [REDACTED]

49 UN (n.d.) “Statute of the International Court of Justice,” United Nations, at: <https://bit.ly/3PdnLqH>.

- iii) *Expressum facit cessare tacitum* (“what is expressed supersedes what is implied”) is a principle of legal interpretation according to which an interpretation must not be presumed where another is expressly established. The admissibility requirements for a submission are explicitly set out in the USMCA/CUSMA Article 24.27 excluding other elements deliberately omitted.⁵⁰ The tacit interpretation that the Party response suggests is superseded by explicit elements listed in the text of the treaty.
- iv) The extensive body of doctrine on the SEM process does not support the consideration of trade and/or investment criteria as a condition for admitting or rejecting submissions. Notable legal opinions have expressed that the USMCA/CUSMA constitutes an exception to practice in other jurisdictions requiring a demonstration of trade and/or investment relevance for the admissibility of submissions. The doctrine notes that “[w]hen [trade and sustainable development] provisions are enforceable, violations of obligations are generally required to have affected trade or investment between the Parties,” while clarifying that “[t]he USMCA[/CUSMA] is an exception.”⁵¹ The doctrine also clearly notes that “[c]itizen submissions do not need to demonstrate that enforcement failures have an effect on trade and do not have to demonstrate a persistent failure to enforce environmental law.”⁵² Even the most recent literature does not echo the arguments for a supposed need for trade and investment criteria advanced by the Party response, and, in contrast, “the two primary mechanisms” for addressing enforcement of environmental laws are the SEM process and the “Party-to-Party dispute resolution process”, which is “retained in that the prohibition in Article 24.4(1)...is subject to the dispute resolution process in Chapter 31”⁵³

36. In public international law, the doctrine of acquiescence refers to the tacit acceptance by a State of a legal situation, claim, or conduct attributable to another State, derived from its silence or inaction when, under the circumstances, a reasonable expectation existed that it would express

⁵⁰ The plain language of Article 24.27(1) which establishes the SEM process: “Any person of a Party may file a submission asserting that a Party is failing to effectively enforce its environmental laws.” The Parties declined to repeat the additional language from 24.4(1): “[...] through a sustained or recurring course of action or inaction in a manner affecting trade or investment between the Parties[...]” The Parties also declined to add this language to any of the requirements or criteria in Article 24.27 governing the admissibility of submissions and guiding the CEC Secretariat’s decision on whether to request a response from the Party in question. Moreover, it cannot be said that this phrase is implied in Article 24.27 based on the idea that Article 24.4(1) provides a definition of the phrase “fail to effectively enforce its environmental laws” to be used throughout Chapter 24. This interpretation of the USMCA/CUSMA would limit the SEM process based on a tenuous assumption and would supersede the plain language establishing the process in Article 24.27(1).

⁵¹ B. Velut et al. (2022), *Comparative Analysis of Trade and Sustainable Development Provisions in Free Trade Agreements*, London School of Economics and Political Science, at 19, at: <<https://bit.ly/4rK9slp>>.

⁵² D. J. Blair (2003), *The CEC’s Citizen Submission Process: Still a Model for Reconciling Trade and the Environment?*, *The Journal of Environment & Development*, vol. 12:3, footnote 4, at 299, at: <<https://bit.ly/4r7nBOE>>.

⁵³ G. Garver and C. Sbert (2021), “Looking at Nafta’s Replacement Through the Lens of Ecological Law”, *Vermont Law Review*, Vol. 46:200, at 217-218, at: <<https://bit.ly/48jnR6D>>.

opposition. In this sense, if a State has knowledge—or reasonably ought to have knowledge—of a claim affecting its rights or interests and nonetheless fails to lodge a protest within a timely period, such omission may be interpreted as implicit consent producing binding legal effects.⁵⁴ The Party’s silence since the entry into force of the NAAEC on a purported trade and/or investment relevance needed for the admissibility of submissions, continued in recent years since the entry into force of the USMCA/CUSMA, evidences that Mexico has consented to primacy of customary international law on this matter. Unless an explicit text is adopted, this new approach cannot be suddenly enforced without trilateral agreement.

Mexico’s argument must be made in the context of negotiations with its counterparts.

37. In one passage of its response, the Party expresses its desire to “initiate serious reflection on the adjustments necessary [to the SEM process] in order to restore the balance that characterized its original negotiation.”⁵⁵ The Secretariat notes that such adjustments are for the USMCA/CUSMA Parties to consider and decide should they concur to do so and not for the Secretariat or a single Party to establish and/or review new admissibility criteria for SEM submissions. The Secretariat can only continue to examine submissions in accordance with USMCA/CUSMA Articles 24.27 and 24.28 and the authoritative guidance provided by the Council.

b. Pursuit of Remedies Under the Party’s Law

38. Article 24.27(3)(c) of the USMCA/CUSMA requires the Secretariat to consider whether “private remedies available under the Party’s law have been pursued.” Moreover, Article 24.27(4)(a) provides that the Secretariat shall proceed no further with the review of matters subject to a pending judicial or administrative proceeding. It is inconsistent to require that a domestic remedy be pursued before filing a submission with the Secretariat and, as the Party response contends, consider both pending and closed matters to be inadmissible, the latter by reason of *res judicata*. This interpretation has the practical effect of depriving the SEM process of its purpose whenever a matter has been subject to a judicial or administrative decision.
39. The Party response maintains that, by resorting to the SEM process, the Submitter seeks a more favorable forum to its cause, since its claim was definitively settled by Mexico’s Supreme Court. The response argues that, under Mexican law, the Submitter was not considered to have a legitimate interest in the case (standing) to file its amparo motion. The response adds that by admitting the submission and requesting a response from Mexico, the Secretariat procedurally enabled claims that Mexican courts deemed inadmissible.⁵⁶ The Party response argues that the Secretariat’s determination transforms the SEM process into a mechanism that “circumvent[s] and, in practice, [...] contradict[s], a final judicial decision as to the Submitter’s lack of standing.”⁵⁷ The response conceives the SEM process as capable of challenging and conflicting with the domestic judicial structure, creating “an unacceptable institutional risk”⁵⁸ and

⁵⁴ N. S. Marques Antunes (2006), “Acquiescence”, Oxford Public International Law, at: <<https://bit.ly/4b3oMJb>>.

⁵⁵ Response, *supra* § 164, at: <<http://bit.ly/4cVtBXw>>.

⁵⁶ *Id.*, § 170.

⁵⁷ *Id.*, § 171.

⁵⁸ *Id.*

presenting “an attempt to circumvent the authority of the *res judicata*” by reopening “a debate that has been definitively resolved.”⁵⁹

40. The Secretariat has already underscored, and once again recalls,⁶⁰ that it is not conceived as a court or tribunal;⁶¹ that its determinations do not render any judgment;⁶² that it is not authorized to take actions that would have legal effect in the domestic order;⁶³ and that it does not assess regulatory deficiencies.⁶⁴ It further clarifies—once again—that its determinations are not binding on the Parties or the Submitters, and that factual records are not judicial opinions regarding the alleged failure to effectively enforce environmental law.⁶⁵ In sum, the Secretariat is not an adjudicatory body nor does it possess broad powers of judicial review as suggested in the Party response. Rather, its mission is to bring transparency and access to information regarding the enforcement of environmental law.⁶⁶
41. The Secretariat recognizes the right of any “person of a Party”⁶⁷ to file a submission pursuant to the USMCA/CUSMA. The criterion for this right under the USMCA/CUSMA is far broader than the standing test invoked by the Party in its response. The Party response assumes that the Secretariat’s assessment constitutes a lax application of the standing test applied by Mexico’s Supreme Court, thereby interfering with its domestic decisions. In practice, the Secretariat’s legal basis for admitting the submission rests on a criterion defined in the USMCA/CUSMA, and not in the Party’s domestic law. The Party’s judicial system and the SEM process pursue different objectives and operate under different procedural requirements. The Secretariat does not consider that, by resorting to the SEM process, the Submitter is seeking a more favorable forum. The SEM process fulfills functions of transparency and access to information without providing an opinion on the effective enforcement of national law and without its outcomes being assimilated to judicial decisions with binding force.

— Beginning of confidential section—

42.



⁵⁹ Id., § 179.

⁶⁰ SEM-09-001 (*Transgenic Maize in Chihuahua*), Determination in accordance with NAAEC Article 15(1) (20 December 2010), § 40 and footnote 113, at: <<https://bit.ly/4bs0Q26>>; See also: CEC (2023), *Submissions on Enforcement Matters: What Have We Learned?*, A Retrospective Review of Performance, Commission for Environmental Cooperation, Montreal, Canada, at 61, at: <<https://bit.ly/4usUdpr>>

⁶¹ SEM-07-005 (*Drilling Waste in Cunduacán*), Determination in accordance with NAAEC Article 14(3) (8 April 2009), § 24, at: <<https://bit.ly/47HUASP>>.

⁶² SEM-07-001 (*Minera San Xavier*) Determination, *supra* § 44, at: <<https://bit.ly/3Pb8cjl>>.

⁶³ Id. § 32.

⁶⁴ SEM-09-001 (*Transgenic Maize in Chihuahua*), Determination in accordance with NAAEC Article 14(1) (6 January 2010), § 16, at: <<https://bit.ly/4sItwuN>> (“the submissions on enforcement matters process is not oriented to analyze alleged deficiencies in environmental law”).

⁶⁵ SEM-23-006 (*Illegal Logging in Jalisco*), Notification, *supra* § 33, at: <<https://bit.ly/4ruuuK8>>.

⁶⁶ CEC (2013), *supra*, Preamble, at: <<https://bit.ly/4bHZ6TQ>>.

⁶⁷ See: USMCA/CUSMA, Article 1.4, at: <<https://bit.ly/4cQmks6>> and <<https://bit.ly/3N44XJW>>.



— End of confidential section —

c. The Alleged Retroactive Application of the USMCA/CUSMA

43. The Party response suggests that analyzing the submission in light of Mexican environmental legislation and the provisions of the USMCA/CUSMA would amount to applying a contemporary legal framework retroactively to the planning, authorization, and operation of hydraulic infrastructure constructed between 1936 and 1966.⁶⁹ The Party response indicates that when the Lázaro Cárdenas and Francisco Zarco dams were built, “there was no systematized body of environmental law in either the domestic or the international sphere.”⁷⁰ The Party relies on Article 28 of the Vienna Convention on the Law of Treaties and Article 24.4(1) of the USMCA/CUSMA, which respectively establish the principle of non-retroactivity and the date of entry into force of the USMCA/CUSMA as the reference point for the applicability of the international obligations arising from the treaty.
44. The Secretariat concurs with the Party’s argument in its response regarding the non-retroactivity of domestic legal instruments. Indeed, on other occasions the Secretariat has excluded from its analysis certain provisions cited by submitters where those provisions were adopted after the existence of the situation giving rise to the submission.⁷¹
45. However, the Secretariat must clarify that the retroactive application of legal instruments in this case would relate only to the planning, authorization, and construction of the dams—aspects that do not constitute the subject of the submission. As the Party response acknowledges, the issue addressed is defined in terms of “alleged failures relating to water management in the Nazas River and impacts on its ecosystems,”⁷² rather than the process for assessing the environmental feasibility of hydraulic infrastructure projects.
46. In fact, the Secretariat considered the lack of clarity in the object of the original submission, as well as the corresponding enforcement failure of the Party as elements warranting the

⁶⁸ [Redacted]

⁶⁹ Response, § 58, at: <<http://bit.ly/4cVtBXw>>.

⁷⁰ Id.

⁷¹ For example, in the Notification to Council regarding the submission *Hydraulic Fracturing in Nuevo León*, the Secretariat states the following in paragraph 86: “Regarding the alleged failure to enforce Articles 8, 16, and 18 of the National Waters Contamination Prevention Guidelines, applicable to the prevention of contamination of subsoil and aquifers, the Secretariat does not recommend the preparation of a factual record because, as Mexico argues, they cannot be given retroactive effect.” SEM-18-003 (*Hydraulic Fracturing in Nuevo Leon*), Notification to Council in accordance with NAAEC Article 15(1) (30 September 2020), at: <<https://bit.ly/4cQyktC>>.

⁷² Response, § 34, at: <<http://bit.ly/4cVtBXw>>.

submission's dismissal.⁷³ Had the Submitter focused on the environmental impact assessment process in the context of the construction of the Lázaro Cárdenas and Francisco Zarco dams, the Secretariat would have operated under the same reasoning put forward in the response and would have likely considered the submission inadmissible. The Secretariat determined that provisions concerning environmental impact assessment were inadmissible⁷⁴ and requested that the Submitter clarify whether its central concern related to environmental impact obligations for hydraulic infrastructure projects.⁷⁵

47. Upon clarifying the focus of its submission, the Submitter addressed issues concerning the regulation of water flow, the “inadequate management of the Nazas River’s water resources in its lower basin,” the exclusive use of waters for agricultural purposes, and corresponding ecosystem loss and impacts on water availability for other uses.⁷⁶ Management of national waters in the context of the submission is governed by provisions of the LAN, the LGEEPA, their respective regulations, and other applicable legal instruments currently in force, regardless of any infrastructure built prior to the Party’s current commitments to transparency in environmental law enforcement. Hydraulic infrastructure development is not subject to review within this submission. Consequently, the Secretariat respectfully considers that a submission centered on the environmental effects of water management, grounded in legislation currently in force, does not result in the retroactive application of environmental laws, either domestically or internationally.

d. The Alleged Inadmissibility of Programmatic Provisions

48. The response also indicates that “the majority of [the provisions cited in the Secretariat’s determination] are provisions of a programmatic nature: that they establish guiding principles of public policy, general institutional powers and responsibilities, management objectives, guiding criteria, and guidelines on governmental action, but do not contain concrete, specific, directly enforceable mandates whose non-fulfillment can be objectively verified.”⁷⁷ The Party response insists that the programmatic nature of these provisions prevents assigning specific obligations of result.⁷⁸
49. The Secretariat notes that the response qualifies *the majority* of the provisions retained by the Secretariat as programmatic, without specifying which provisions do not fall within that category. The response subdivides certain provisions considered programmatic into three categories: provisions declaring matters of public utility and public interest, provisions assigning jurisdiction, and principles of environmental policy.⁷⁹
50. To determine if a provision cited by a submitter warrants consideration within the framework of the SEM process, the Secretariat assesses whether the submission identifies “environmental law” within the meaning of the USMCA/CUSMA Article 24.1, taking into account the link between the provision and the assertions contained in the submission. The USMCA/CUSMA provides

⁷³ First Determination, § 54, at: <<https://bit.ly/4ofTWM7>>.

⁷⁴ Id., § 22.

⁷⁵ Id., § 54.

⁷⁶ Submission, 18-19, at: <<http://bit.ly/46aCEil>>.

⁷⁷ Response, § 71, at: <<http://bit.ly/4cVtBXw>>.

⁷⁸ Id., §§ 72-73 y 75.

⁷⁹ Id., § 72.

precise criteria for determining whether a provision qualifies as environmental law and establishes different admissibility requirements without excluding programmatic provisions. The response is not substantiated with reference to any of these elements, nor does it indicate whether, in any event, the USMCA/CUSMA excludes provisions declaring matters of public interest, provisions assigning jurisdiction, or principles of environmental policy.

51. By design, the SEM process precludes inferring a failure to comply with obligations contained in programmatic provisions of environmental legislation, since a factual record and the steps leading to its preparation are intended to allow the public to draw its own conclusions on the enforcement of environmental laws and regulations by a Party.⁸⁰ Factual records do not take position regarding alleged failures to effectively enforce environmental law, nor do they assess the effectiveness of the Party's enforcement actions.⁸¹ Requiring an obligation of result from the Party would, in any case, fall outside the Secretariat's mandate, thereby making the distinction advanced by the Party response regarding programmatic provisions without practical effect.
52. The Party response characterizes the following provisions as programmatic:
 - i. Articles 7 paragraphs I, II, IV and V and 7 bis paragraphs I, IV, V, VI, VII, and VIII, and Article 9 paragraphs XXVI of the LAN;
 - ii. Articles 5 paragraphs I, II, XI, XIX, and XX, and Article 15 paragraphs I, II, III, V, VI, VII, IX, XI, XII, and XIX of the LGEEPA; and
 - iii. Articles 4 paragraphs I and II, Articles 10 paragraphs I and XXXIV and 20: paragraphs XIV, XV, XXI, XXIV, and XXX of the LGDFS.
53. The Secretariat notes that several of these provisions have previously been considered in other submissions and have been persistently qualified as environmental law. In contrast, there is no record that the Party has adopted a consistent position on this issue.
54. Article 7 bis of the LAN was found to qualify as environmental law in the Secretariat's determinations in *Tren Maya* (SEM-22-002) and *Avocado Production in Michoacán* (SEM-23-002). As was Article 9 paragraph XXVI of the LAN in *Valle de Bravo-Amanalco Sub-Basin* (SEM-23-005) and in *Time Ceramics* (SEM-24-001).
55. With respect to the LGEEPA, the following provisions were found to qualify as environmental law: Article 5 paragraph II in *Avocado Production in Michoacán* (SEM-23-002); paragraph XI in *Tren Maya* (SEM-22-002); paragraph XIX in *Loggerhead Turtle* (SEM-20-001). Article 15 paragraphs I, III, and VI in *Sonora Railway Project* (SEM-24-003); paragraph IV in both *Sonora Railway Project* (SEM-24-003) and *Avocado Production in Michoacán* (SEM-23-002); paragraph IX in *Avocado Production in Michoacán* (SEM-23-002); and finally paragraph XII in *Sonora Railway Project* (SEM-24-003), *Avocado Production in Michoacán* (SEM-23-002), and *La Primavera Forest II* (SEM-23-004).
56. For its part, Mexico has provided responses to submissions in which it addresses various aspects concerning the application of these provisions, but it has never invoked their programmatic

⁸⁰ SEM-21-002 (*Vaquita Porpoise*), Final Factual Record (18 August 2025), Executive summary, at: <<https://bit.ly/4uywXpQ>>; CEC (2013), *supra* at: <<https://bit.ly/4bHZ6TQ>>.

⁸¹ *See, for example* the ongoing commitment to transparency in factual records in *Id.*, § 203.

character.⁸² The Secretariat also cannot overlook that provisions such as Article 5 paragraph XIX of the LGEEPA, that the Party now considers outside the scope of the SEM process, actually were part of the preparation of the factual record in *Loggerhead Turtle* (SEM-20-001).⁸³

57. With respect to provisions assigning jurisdiction, Mexico presented a similar argument in its response in *Sonora Railway Project*. Without specifically referring to their programmatic nature, the Party indicated that provisions whose primary “[...] object is to establish the organic structure, powers, and internal division of jurisdiction within Semarnat [...]” do not constitute “environmental law” for the purposes of the USMCA/CUSMA.⁸⁴

58. The Secretariat reiterates, as it did in its notification in *Sonora Railway Project*, that:

“[It] is consistent with previous analyses; moreover, it accords with reasoning according to which the distribution of powers within the environmental portfolio has as its purpose the protection of the environment through contributions to the efficiency, organization, order, and accountability of the state apparatus as regards its environmental functions. The distribution of powers, the assignment of duties, and delegation of environmental authority are not merely a matter of administration; the government’s environmental portfolio is organized in this way for the purpose of protecting the environment, which is consistent with the meaning of USMCA[CUSMA] Article 24.1.”⁸⁵

59. In sum, neither the parameters—indeed clearly restrictive—defining “environmental law” under the USMCA/CUSMA; nor the Secretariat’s determinations issued under the SEM process; nor the Party responses; nor the Council support the exclusion of a law or provision of programmatic nature whose primary purpose is protecting of the environment or preventing risks to human life or health from the SEM process.

e. The Secretariat’s Interpretation in Implementing the SEM Process

60. The Party response asserts that the Secretariat adopts a “lax” interpretation of the SEM process’ eligibility requirements. The response adds that by stating that the admissibility requirements do not constitute an insurmountable procedural screening device in accord with the objectives of Chapter 24 of the USMCA/CUSMA, the Secretariat is incorrectly and systematically applying an expansive interpretation of its provisions.⁸⁶

⁸² SEM-22-002 (*Tren Maya*), Response, *supra* § 80, at: <<https://bit.ly/4bhLu1G>>; SEM-23-002 (*Avocado Production in Michoacán*), Response under USMCA/CUSMA Article 24.27(4) (24 July 2023), §§ 6 and 78, at: <<https://bit.ly/47OtLMO>>; SEM-23-005 (*Valle de Bravo-Amanalco Sub-Basin*), Response under USMCA/CUSMA Article 24.27(4) (14 August 2023), § 94, at: <<https://bit.ly/4rDpd39>>; SEM-22-002 (*Tren Maya*), Response, *supra* § 61, at: <<https://bit.ly/4bhLu1G>>; SEM-20-001 (*Loggerhead Turtle*), Response under USMCA/CUSMA Article 24.27(4) (28 May 2021), at 3 and 17, at: <<https://bit.ly/4lwxi0Z>>; SEM-24-003 (*Sonora Railway Project*), Response under USMCA/CUSMA Article 24.27(4) (7 February 2025), §§ 77-81, at: <<https://bit.ly/4bw2P5C>>; SEM-23-004 (*La Primavera Forest II*), Response under USMCA/CUSMA Article 24.27(4) (16 October 2023), §§ 81-82, at: <<https://bit.ly/40wOHEp>>.

⁸³ Council Resolution *Loggerhead Turtle*, at 2, section B, at: <<https://bit.ly/4utcgLP>> [].

⁸⁴ SEM-24-003 (*Sonora Railway Project*), Response, *supra* § 19, at: <<https://bit.ly/4bw2P5C>>;

⁸⁵ SEM-24-003 (*Sonora Railway Project*), Notification under USMCA/CUSMA Article 24.28(1) (10 April 2025), § 21, at: <<https://bit.ly/4sr1ioA>>.

⁸⁶ Response, § 35, at: <<http://bit.ly/4cVtBXw>>

61. The Party response argues that “the Secretariat confuses procedural facilitation with a failure to verify where jurisdiction lies” with respect to trade and/or investment requirements,⁸⁷ that this premise creates a “procedural asymmetry” since the Secretariat “[...] nonetheless evaluates the actions of the Parties as to their detailed compliance with each environmental provision [...]”,⁸⁸ and that references to the objectives of Chapter 24 must be considered as a whole and not limited to those related to environmental protection and the effective enforcement of environmental laws.⁸⁹
62. In this regard, the argument concerning the “failure to verify where jurisdiction lies” is based on an incorrect premise, since flexibility does not amount to foregoing such verification. Instead, it ensures that in implementing the SEM process, the assessment of admissibility of a submission does not become an insurmountable burden which would, in turn, undermine the SEM process’ objective of increasing transparency and public participation.
63. “Verification of jurisdiction” has been applied, for example: when evaluating whether the cited provisions qualify as environmental law rather than, for instance, international commitments or norms unrelated to the allegations;⁹⁰ when considering whether the submission concerns the effective enforcement of law (and not the adequacy of standards and legislation);⁹¹ and when analyzing whether a submission is aimed at harassing an industry (rather than seeking a competitive advantage by filing a submission).⁹² This approach is consistent with the Secretariat’s long-standing interpretation of over three decades: avoid placing an undue and insurmountable burden in the initial review of submissions, a practice observed since the earliest determinations issued under the SEM process⁹³ and repeatedly upheld by the Parties and the Council.⁹⁴

⁸⁷ *Id.*, § 36.

⁸⁸ *Id.*, § 37-38.

⁸⁹ *Id.*, § 39.

⁹⁰ SEM-26-001 and SEM-25-002 (*Bridge of the Americas—BOTA II*) and (*Bridge of the Americas—BOTA*), Determination, *supra* § 22 and 24, at: <<https://bit.ly/402AiiX>>; SEM-23-007 (*Vessel Pollution in Pacific Canada*), Determination, *supra* §§ 26-27, at: <<https://bit.ly/4slthG6>>; SEM-23-001 (*Residential Development in San Cristóbal de las Casas*), Determination, *supra* §§ 20, 22-23, at: <<https://bit.ly/4bjZoio>>; SEM-23-003 (*Agave Production in Jalisco*), Determination, *supra* § 30, at: <<https://bit.ly/412ERKn>>; SEM-20-001 (*Loggerhead Turtle*), Determination in accordance with USMCA/CUSMA Article 24.27(2) and (3) (8 February 2021), §§ 14-15, at: <<https://bit.ly/3Nufhej>> [Determination Loggerhead Turtle].

⁹¹ SEM-98-003 (*Great Lakes*), Determination in accordance with NAAEC Article 14(1) (14 December 1998), at 3, at: <<https://bit.ly/4bNPaz1>> (the enforcement of the law does not encompass setting standards); SEM-15-002 (*Management of Analog TV Waste*), Determination in accordance with NAAEC Article 15(1) (2 December 2016), § 43, at: <<https://bit.ly/4sgAfmH>>.

⁹² SEM-11-001 (*PCB Treatment in Grandes-Piles, Quebec*), Determination (11 February 2011) and (12 April 2012), *supra*, §§ 26-28, at: <<https://bit.ly/4bp8A5d>> and §§ 30-35, at: <<https://bit.ly/40JHRes>>.

⁹³ At least from 1998 to the present (SEM-97-005 (25 May 1998)). Regarding the recognition of this practice, *see* SEM-99-001 (*Methanex*), Determination in accordance with NAAEC Article 14(1) and (2) (30 March 2000), at 2 and footnote 7, at: <<https://bit.ly/4lhrOOO>>; Regarding the recognition of a practice under the USMCA/CUSMA, *see* Determination Loggerhead Turtle, *supra* § 8, at: <<https://bit.ly/3Nufhej>>.

⁹⁴ SEM-21-001 (*Fairview Terminal*), Response under USMCA/CUSMA Article 24.27(4) (28 June 2021), at 3, at: <<https://bit.ly/4ssyaNE>> (“[...] Canada has supported the [SEM] process as a unique mechanism to

64. As previously noted, (see §§16–25 *supra*), neither under the NAAEC nor under the USMCA/CUSMA do admissibility requirements concerning trade and/or investment exist for submissions, as is the case for other obligations enforceable between the Parties through the consultation and dispute settlement mechanisms provided for in Articles 24.29, 24.30, and, in particular, Chapter 31 of the USMCA/CUSMA.⁹⁵
65. With respect to the alleged “procedural asymmetry,” the issue must be reframed, since the difference between a person of a Party and a Party State must be given recognition. The SEM process operates as a channel for transparency, public participation, and accountability regarding the effective enforcement of environmental law. The Parties and the Council have repeatedly emphasized that the SEM process is a unique mechanism for promoting such transparency and public participation.⁹⁶ In its admissibility analysis of the *Animal Alliance* submission, the Secretariat noted that the use of the word “assertion” “supports a relatively low threshold under Article 14(1).”⁹⁷
66. The Party response criticizes the Secretariat for conducting a “detailed” analysis of the effective enforcement of the Party’s environmental provisions. It cannot be overlooked that the Party—a modern State actor—possesses institutions, resources, authority, and legal responsibility for the effective enforcement of the law, unlike a person of a Party. Nor should it be disregarded that openness and transparency have been repeatedly recognized by the Parties and the Council as objectives in support of the implementation of the SEM process and the preparation and publication of factual records.⁹⁸
67. Historically, the Council has perceived the SEM as a three-dimensional process: a mechanism for transparency and public participation subject to review by the Commission’s constituent

promote transparency, public participation, and to ensure government accountability regarding the enforcement of environmental laws.”)

⁹⁵ N. M. Hart (2021), “USMCA: Legal Enforcement of the Labor and Environment Provisions”, Library of Congress, at: <<https://bit.ly/40sWjHT>> (“ The primary means through which the USMCA parties (i.e., Canada, Mexico, and the United States) may formally resolve potential issues is through the state-to-state dispute settlement mechanism established in Chapter 31 of the Agreement. Chapter 31 envisions two forms of disputes—one party brings a claim against another party or two parties bring a claim against the third party—and establishes procedures to address both scenarios.”).

⁹⁶ SEM-04-007 (*Quebec Automobiles*), Council Resolution 06-07 (14 June 2006), at: <<https://bit.ly/4utBD01>>. The Council has consistently underscored its “continued commitment to transparency and to the SEM modernization process.”, at: CEC (2014), “CEC Ministerial Statement – 2014”, Commission for Environmental Cooperation, Canada, 17 July 2014, at: <<https://bit.ly/4sIHmxs>>.

⁹⁷ SEM-98-003 (*Great Lakes*), Determination, *supra* at 3, at: <<https://bit.ly/47cH1dZ>>.

⁹⁸ SEM-18-003 (*Hydraulic Fracturing in Nuevo Leon*), Council Resolution 25-02 (1 July 2025), at: <<https://bit.ly/4ICISA7>> [Council Resolution Hydraulic Fracturing in Nuevo Leon 2025]; SEM-18-003 (*Hydraulic Fracturing in Nuevo Leon*), Council Resolution 23-05 (5 October 2023), at: <<https://bit.ly/4rEQ8M6>> [Council Resolution Hydraulic Fracturing in Nuevo Leon 2023]; SEM-19-002 (*City Park Project*), Council Resolution 21-05 (19 November 2021) [Council Resolution City Park Project 2021], at: <<https://bit.ly/3N6bXGc>>; SEM-19-002 (*City Park Project*), Council Resolution 23-04 (29 June 2023), at: <<https://bit.ly/476xwx7>><<https://bit.ly/3N6bXGc>>; Council Resolution Loggerhead Turtle, *supra* at: <<https://bit.ly/4sWcpWN>>; Council Resolution Vaquita Porpoise, at: <<https://bit.ly/3P6ss5J>>; Council Resolution North Atlantic right whale, at: <<https://bit.ly/4bw4ZIM>>.

bodies;⁹⁹ a transparent process available to the public;¹⁰⁰ and a process facilitating the exchange of information pertaining to the effective enforcement of environmental law.¹⁰¹ Both the Council resolutions issued within the framework of the SEM process,¹⁰² as well as the ministerial statements issued by the members of the Council,¹⁰³ and the factual records authorized by the Council confirm that the SEM process addresses the asymmetry between a submitter and a Party, consistently evoking the ongoing commitment to transparency in the effective enforcement of environmental law in North America.

68. With respect to the argument that the goals of Chapter 24 must be considered as a whole, the fact that the plural form is employed in the provision should not be interpreted to mean that the goals are cumulative and that each submission must demonstrate that it promotes all the goals of the chapter. The applicable criterion under Article 24.27(3)(b) is whether further study would *advance* the goals of the chapter. In analyzing submissions, the Secretariat explains *which* of those goals would be advanced. In practice, this typically involves “promot[ing] high levels of environmental protection and effective enforcement of environmental laws”.¹⁰⁴
69. Thus, it is not technically inaccurate to refer to the objectives of the USMCA/CUSMA in their entirety and to conclude that, in a given case, the submission contributes primarily to one or

⁹⁹ Council Resolution 00-09 (13 June 2000), at: <<https://bit.ly/3N6dUCw>> [Council Resolution 00-09].

¹⁰⁰ Council Resolution 01-06 (29 June 2001), at: <<https://bit.ly/4sOr6ef>> (regarding the Council’s commitment to provide reasons when it votes not to instruct the Secretariat to prepare a factual record) [Council Resolution 01-06].

¹⁰¹ Council Resolution 12-06, *supra* at: <<https://bit.ly/4lJoH2b>>.

¹⁰² Council Resolution 00-09, *supra* at: <<https://bit.ly/3N6dUCw>> (which authorizes the JPAC to conduct a public, periodic, and thorough review of the SEM process and urges the Secretariat to implement the process in an expeditious manner); Council Resolution 01-06, *supra* at: <<https://bit.ly/4sOr6ef>> (which supports the principles of transparency, public participation, timeliness, and efficiency of the SEM process); Council Resolution 12-06, *supra* at: <<https://bit.ly/4lJoH2b>> (adoption of the SEM process guidelines); SEM-10-002 (*Alberta Tailings Ponds*), Council Resolution 15-01 (27 January 2015), at: <<https://bit.ly/4rG8Piq>> (which authorizes the publication of a factual record and in which the Parties provide their reasons separately); SEM-15-001 (*La Primavera Forest*), Council Resolution 17-01 (4 April 2017), at: <<https://bit.ly/40xDAuO>> (which reaffirms the SEM process as a mechanism for raising concerns regarding the effective enforcement of environmental law and for bringing the facts underlying such concerns to light); SEM-16-001 (*Agricultural Waste Burning in Sonora*), Council Resolution 17-03 (9 June 2017), at: <<https://bit.ly/47Gdt8P>> (which characterizes the SEM process as a fundamental means of fostering public participation and transparency); SEM-17-001 (*Alberta Tailings Ponds II*), Council Resolution 18-01 (20 August 2018), at: <<https://bit.ly/3NEdsLT>>; SEM-18-002 (*Metrobús Reforma*), Council Resolution 20-05 (18 December 2020), at: <<https://bit.ly/3NEdGTf>>; Council Resolution City Park Project 2021, *supra* at: <<https://bit.ly/4rIvD0V>>; Council Resolution Loggerhead Turtle, *supra* at: <<https://bit.ly/4bsLlaj>>; SEM-18-002 (*Metrobús Reforma*), Council Resolution 23-03 (29 June 2023), at: <<https://bit.ly/4uA9tAC>>; Council Resolution Hydraulic Fracturing in Nuevo Leon 2023, *supra* at: <<https://bit.ly/4sQPf9>>; Council Resolution Vaquita Porpoise, *supra* at: <<https://bit.ly/4bOZxM8>>; Resolution North Atlantic right whale, *supra* at: <<https://bit.ly/4bzRq4R>>; Council Resolution Hydraulic Fracturing in Nuevo Leon 2025, *supra* at: <<https://bit.ly/4lHXmgY>>.

¹⁰³ CEC (2014), *supra*, at: <<https://bit.ly/4sIHmxs>>; CEC (2018), CEC Council Statement – 2018, Commission for Environmental Cooperation, United States, 27 June 2018, at: <<https://bit.ly/4bDu2Uj>>; CEC (2025), 2025 CEC Ministerial Statement, Commission for Environmental Cooperation, Mexico, 25 July 2025, at: <<https://bit.ly/3P6gRUe>>.

¹⁰⁴ USMCA/CUSMA, *supra* Article 24.2(2), at: <<https://bit.ly/420Lb6x>> and <<https://bit.ly/4itON6R>>.

several of them. The Secretariat recalls that under the NAAEC, ten objectives were listed¹⁰⁵—some of them closely related to trade (some not)—without any cumulative requirement for admissibility purposes, and without the Parties or the Council objecting to that interpretation.

f. Communication of the Matter to the Party’s Relevant Authorities

70. The Party response indicates that the matter was communicated to it by the Submitter on 7 October 2025 at 17:52 Central Mexico time,¹⁰⁶ in apparent compliance with Article 24.27(2)(e) of the USMCA/CUSMA. It adds that this communication from the Submitter to the Party’s authorities was sent by email less than 24 hours before the revised submission was filed with the CEC Secretariat.¹⁰⁷ The Party states that the lack of response from public officials “is fully understandable, since only a few hours elapsed between the sending of the email and the filing of the revised submission.”¹⁰⁸
71. The Party response further maintains that the purpose of the notification is “to ensure that the relevant authorities are aware of concerns regarding the alleged failure to enforce environmental law in relation to the object of a submission before it is filed with the Secretariat. It also provides an opportunity for the relevant authority to undertake actions within the administrative sphere.”¹⁰⁹
72. The Secretariat concurs with this argument and considers that the short period between the communication of the matter by email and the filing of the revised submission indeed did not allow sufficient time to fulfill the objective of the requirement set out in Article 24.27(2)(e) of the USMCA/CUSMA, justifying the Secretariat’s reexamination of the submission’s admissibility regarding this point.
73. However, as argued in the Party response, the Secretariat has previously stated that communication of the matter to the relevant authority is intended to ensure that these “authorities are aware of the matter”¹¹⁰ before a submission is filed with the Secretariat¹¹¹ and to provide those authorities with an opportunity to take action within the scope of their administrative powers.¹¹² While communication to the Party of the matters addressed in the submission is not time-defined, a reasonable timeframe should be given for authorities to respond.
74. While it cannot be ruled out that the relevant administrative authorities may be aware of the situation concerning the *Nazas River Lower Basin*, the Submitter does not demonstrate this. The Party’s argument is reasonable, since there is no evidence of the Party’s knowledge of the matter.

¹⁰⁵ NAAEC, Article 1, “The objectives of this Agreement are to: [...]”, at: <<https://bit.ly/4lySESm>>.

¹⁰⁶ Response, *supra* § 47, at: <<http://bit.ly/4cVtBXw>>.

¹⁰⁷ *Id.*, § 48.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.* § 45; SEM-24-001 (*Time Ceramics*), Determination in accordance with USMCA/CUSMA Article 24.27(2) and (3) (5 June 2024), § 10, at: <<https://bit.ly/4aTzgMs>>.

¹¹⁰ SEM-06-003 and SEM-06-004 (*Ex Hacienda El Hospital II and III*), Notification in accordance with NAAEC Article 15(1) (12 May 2008), at 18, at: <<https://bit.ly/4sLpvFZ>>.

¹¹¹ SEM-09-004 (*Quebec Mining*), Determination in accordance with NAAEC Article 14(1) (20 October 2009), at 8, at: <<https://bit.ly/4sqJjuv>>.

¹¹² SEM-24-002 (*Cadereyta Refinery*), Determination in accordance with USMCA/CUSMA Article 24.27(2) and (3) (6 June 2024), § 26, at: <<https://bit.ly/4lvIkuJ>>; SEM-24-001 (*Time Ceramics*), Determination in accordance with USMCA/CUSMA Article 24.27(2) and (3) (4 March 2024), § 29, at: <<https://bit.ly/4lhVBXE>>.

In light of the foregoing, the Secretariat must conclude that the requirement set out in Article 24.27(2)(e) of the USMCA/CUSMA has not been satisfied.

III. DETERMINATION

75. Having examined submission SEM-25-001 (*Nazas River Lower Basin*) in light of the response of the United Mexican States, the Secretariat finds that, for the reasons set out above in section II(f) of this determination, the preparation of a factual record is not warranted.
76. The CEC Council and the Submitter are hereby notified that the processing of the submission is terminated.

Respectfully submitted for your consideration,

Secretariat of the Commission for Environmental Cooperation

[*original signed*]

By: Jorge Daniel Taillant
Executive Director

cc: Camila Isabel Zepeda Lizama, Alternate representative of Mexico
Michael Bosner, Alternate Representative of Canada
Usha-Maria Turner, Alternate representative of the United States
Environment Committee Contact Points
Paolo Solano, Director of Legal Affairs and Head of the SEM Unit
Submitter