[*Unofficial Translation*]

RESPONSE OF THE UNITED MEXICAN STATES

SUBMISSION SEM-25-001 (NAZAS RIVER LOWER BASIN)

FILED WITH THE SECRETARIAT OF THE COMMISSION FOR ENVIRONMENTAL COOPERATION IN ACCORDANCE WITH ARTICLE 24.27(4) OF THE UNITED STATES-MEXICO-CANADA AGREEMENT (USMCA/CUSMA)

Ministry of the Environment and Natural Resources

Legal Affairs Coordinating Unit

Mexico City, 9 February 2026

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GLOSSARY

Term	Meaning
APRN	Natural Resources Protection Area (*Área de Protección de Recursos Naturales*)
CEC	Commission for Environmental Cooperation
CEC Secretariat	Secretariat of the Commission for Environmental Cooperation
Cenace	National Energy Control Center (*Centro Nacional de Control de Energía*)
CFE	Federal Electricity Commission (*Comisión Federal de Electricidad*)
chapter 24	chapter 24 (Environment) of the USMCA/CUSMA
Conabio	National Biodiversity Commission (*Comisión Nacional para el Conocimiento y Uso de la Biodiversidad*)
Conafor	National Forest Commission (*Comisión Nacional Forestal*)
Conagua	National Water Commission (*Comisión Nacional del Agua*)
Conanp	National Protected Natural Areas Commission (*Comisión Nacional de Áreas Naturales Protegidas*)
CPEUM	Mexican Constitution (*Constitución Política de los Estados Unidos Mexicanos*)
CTOOH	Technical Committee on Waterworks Operation (*Comité Técnico de Operación de Obras Hidráulicas*)
DGRA	Environmental Restoration Branch (*Dirección General de Restauración Ambiental*)
DOF	Official Gazette of the Federation (*Diario Oficial de la Federación*)
FAO	Food and Agriculture Organization of the United Nations
IMTA	Mexican Water Technology Institute (*Instituto Mexicano de Tecnología del Agua*)
IPN	National Polytechnic Institute (*Instituto Politécnico Nacional*)
LAN	National Waters Act (*Ley de Aguas Nacionales*)
LGDFS	General Sustainable Forestry Development Act (*Ley General de Desarrollo Forestal Sustentable*)
LGEEPA	General Ecological Equilibrium and Environmental Protection Act (*Ley General del Equilibrio Ecológico y la Protección al Ambiente*)
OCCCN	Cuencas Centrales del Norte Watershed Body (*Organismo de Cuenca Cuencas Centrales del Norte*)
Pemex	Petróleos Mexicanos
PJF	Federal Judicial Branch (*Poder Judicial de la Federación*)
PNA	protected natural area
PNRA	National Environmental Restoration Program (*Programa Nacional de Restauración Ambiental*)
Profepa	Federal Attorney for Environmental Protection (*Procuraduría Federal de Protección al Ambiente*)

Term	Meaning
RI-Semarnat	Internal Regulation of the Ministry of the Environment and Natural Resources (*Reglamento Interior de la Secretaría de Medio Ambiente y Recursos Naturales*)
Sader	Ministry of Agriculture and Rural Development (*Secretaría de Agricultura y Desarrollo Rural*)
SCJN	Mexican Supreme Court (*Suprema Corte de Justicia de la Nación*)
Sedena	Ministry of National Defense (*Secretaría de la Defensa Nacional*)
SEM	submissions on enforcement matters process
Semar	Ministry of the Navy (*Secretaría de Marina*)
Semarnat	Ministry of the Environment and Natural Resources (*Secretaría de Medio Ambiente y Recursos Naturales*)
SICT	Ministry of Infrastructure, Communications, and Transportation (*Secretaría de Infraestructura, Comunicaciones y Transportes*)
SSyPC	Ministry of Safety and Civil Protection (*Secretaría de Seguridad y Protección Ciudadana*)
Submission	submission on enforcement matters SEM-25-001 (*Nazas River Lower Basin*)
Submitter	Prodefensa del Nazas, A.C.
UAM	Universidad Autónoma Metropolitana
UNAM	Universidad Nacional Autónoma de México
USMCA/CUSMA	United States-Mexico-Canada Agreement
USTR	United States Trade Representative
VCLT	*Vienna Convention on the Law of Treaties*

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Appendix	Description of document
MX-001	*Vienna Convention on the Law of Treaties* (VCLT)
MX-002	USMCA/CUSMA, chapter 24 (Environment)
MX-003	Mexican Constitution (*Constitución Política de los Estados Unidos Mexicanos*—CPEUM)
MX-004	National Waters Act (*Ley de Aguas Nacionales*—LAN)
MX-005	General Ecological Equilibrium and Environmental Protection Act (*Ley General del Equilibrio Ecológico y la Protección al Ambiente*—LGEEPA)
MX-006	General Sustainable Forestry Development Act (*Ley General de Desarrollo Forestal Sustentable*—LGDFS)
MX-007	Internal Regulation of the Ministry of the Environment and Natural Resources (*Reglamento Interior de la Secretaría de Medio Ambiente y Recursos Naturales*—RI-Semarnat), published in the DOF on 14 March 2025
MX-008	Original submission SEM-25-001 (*Nazas River Lower Basin*), 2 September 2025
MX-009	CEC Secretariat, Determination A24.27(2)(3)/SEM/25-001/15/DET, 2 October 2025
MX-010	Revised submission SEM-25-001 (*Nazas River Lower Basin*), 8 October 2025
MX-011	CEC Secretariat, Determination A24.27(2)(3)/SEM/25-001/21/DET, 7 November 2025
MX-012	Indirect amparo no. 1767/2023, Seventh District Court in La Laguna (query of Judicial File Tracking System (*Sistema Integral de. Seguimiento de. Expedientes*—SISE))
MX-013	Judicial review no. 169/2025, Second Chamber of the SCJN (decision)
MX-014	Order declaring the "Ríos y Montañas de la Comarca Lagunera" Natural Resources Protection Area (DOF, 8 January 2024)
MX-015	Ramsar site no. 1747, Parque Estatal Cañón de Fernández, wetland of international importance (February 2008)
MX-016	Declaration of Cañón de Fernández State Park, Government of the State Durango (25 April 2004)
MX-017	National Environmental Restoration Program (PNRA) 2025–2030 — Environmental Restoration Branch (DGRA) of Semarnat
MX-018	Notification of pending proceedings in relation to submission SEM-22-002 (*Tren Maya*), filed by Mexico with the CEC Secretariat on 24 July 2024
MX-019	CEC Secretariat, Determination A24.27(2)(3)/SEM/24-001/12/DET in relation to submission SEM-24-001 (*Time Ceramics*)
MX-020	*2025 National Trade Estimate Report on Foreign Trade Barriers* (NTE), published by the United States Trade Representative (USTR)
MX-021	CEC Secretariat, Notification A24.28/SEM/24-003/24/ADV in relation to submission SEM-24-003 (*Sonora Railway Project*)
MX-022	Plenum of the SCJN, jurisprudence P./J. 50/2014 (10a.), in re standing
MX-023	Island of Palmas Case (1928), arbitration decision

A. BACKGROUND

1. On 2 September 2025, the organization Prodefensa del Nazas, A.C. (hereinafter, the "Submitter") filed a submission[1] with the Secretariat of the Commission for Environmental Cooperation (hereinafter, the "CEC Secretariat") in accordance with USMCA/CUSMA Article 24.27(1).

2. The submission asserted that the Mexican environmental authorities failed to effectively enforce Mexico's environmental law with respect to the protection of the Nazas River, specifically the shoreline areas and lower basin in the states of Durango and Coahuila, Mexico. The Submitter alleged that the lower Nazas River basin has rapidly deteriorated in recent years, due to water infrastructure projects (dams) that have reduced the natural flow in the river. The Submitter argues that the dams have caused water scarcity, drying of the watercourse, and decreased groundwater recharge. It further alleges that these dams have impacted local ecosystems, caused a loss of shoreline vegetation, and produced an emergency situation for the main aquifer in the Comarca Lagunera.

3. Further to its review of the submission, the CEC Secretariat, in Determination A24.27(2)(3)/SEM/25-001/15/DET,[2] issued 2 October 2025, found that the submission did not meet all the eligibility requirements of USMCA/CUSMA Article 24.27(2), particularly subparagraphs (c) and (e), and therefore notified the Submitter that in order for the process to continue, it would have to include the missing information in a revised submission.

4. On 8 October 2025, the Submitter filed a revised submission,[3] which the CEC Secretariat, further to its review, found in Determination A24.27(2)(3)/SEM/25-001/21/DET,[4] dated 7 November 2025, to meet all the eligibility requirements of USMCA/CUSMA Article 24.27(1) and (2); it therefore asked Mexico to file a Party response in regard to the effective enforcement of the following legal provisions:

   a) 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;[5]

[1] MX-008.
[2] MX-009.
[3] MX-010.
[4] MX-011.
[5] MX-004.

b) 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,[6] and

c) LGDFS Articles 4 paragraphs I and II; 10 paragraphs I and XXXIV; 20 paragraphs XIV, XV, XXI, XXIV, and XXX; 122, first paragraph, and 123, first paragraph.[7]

B. PARTY RESPONSE OF MEXICO PURSUANT TO USMCA/CUSMA ARTICLE 24.27(4)

I. CONSIDERATIONS ON THE ELIGIBILITY AND VALIDITY OF THE SUBMISSION

5. It is indispensable to specify that the intake and processing of **the *Nazas River Lower Basin* submission on enforcement matters suffer from intrinsic flaws that compromise their legal validity**, since neither the Submitter nor the CEC Secretariat substantiated that the alleged failures to effectively enforce the environmental laws **produced an impact on trade or investment between the Parties, as USMCA/CUSMA Article 24.4 mandatorily requires**. This fundamental omission affects the validity of the submission from the outset and thus compromises the validity of subsequent acts, including the request for a Party response.

6. Mexico warns that this case evidences recurrent patterns in the conduct of the submissions on enforcement matters process (hereinafter, the "SEM process") by the CEC Secretariat, **which interprets chapter 24 (Environment) of the USMCA/CUSMA[8] as if it were an autonomous environmental regime with no connection to the economic and trade logic constituting the very essence of the Agreement**. This practice, repeatedly denounced by Mexico in previous cases, reaches such a level in the *Nazas River Lower Basin* submission that it cannot be ignored.

7. To wit, this submission on enforcement matters exhibits a set of irregularities which, taken individually, would suffice to call the eligibility of the submission into question, but taken together, comprise a pattern of structural deficiencies that compromise not only the validity but also the very credibility of the SEM process, and of the CEC Secretariat as an institution.

8. Notable among these irregularities are: (i) the total absence of proof of a connection between the alleged environmental enforcement failures, on the one hand, and trade or investment between the Parties, on the other; (ii) the existence of *res judicata* deriving from the stay in amparo proceeding 1767/2023, upheld by the Mexican Supreme Court

[6] MX-005.
[7] MX-006.
[8] MX-002.

(*Suprema Corte de Justicia de la Nación*—SCJN) in judicial review (*amparo en revisión*) decision 169/2025;[9] (iii) the attempt to apply environmental laws retroactively to infrastructure built decades before those provisions existed; (iv) the merely formal communication of the matter to the Mexican authorities, just one day prior to the filing of the revised submission; and (v) the fragmented and biased interpretation of the USMCA/CUSMA by the CEC Secretariat.

9. The object of the considerations presented herein is to evidence these defects, not with the aim of eluding an analysis of the merits — which Mexico presents in the body of this Party response — but of highlighting that the CEC Secretariat has been overseeing the SEM process in an irregular and impartial manner and in open violation of the text of the USMCA/CUSMA, creating precedents that erode legal certainty and Mexico's confidence in the mechanism.

a. The USMCA/CUSMA is not an environmental agreement: the provisions of chapter 24 (Environment) operate within the trade logic of the Agreement, not outside of it.

10. The USMCA/CUSMA is, in essence, an instrument of economic and trade integration among the three nations of North America (Mexico, the United States, and Canada). Its normative architecture, stated objectives, and negotiating history confirm that it is an agreement whose fundamental purpose is to regulate trade and investment relations among its Parties, promoting trade liberalization, protection of investments, and stronger regional competitiveness.

11. Chapter 24 of the USMCA/CUSMA[10] establishes objectives aimed at integrating the environmental dimension into the framework of the trade relationship among the Parties, although this does not entail an alteration of the economic nature of the Agreement. That is, chapter 24 does not constitute an autonomous environmental agreement inserted into a trade agreement, but rather a recognition that the environmental dimension must be considered **in the context of trade relations**.

12. In particular, **Article 24.2 (Scope and Objectives)** states that the objectives of the chapter are to:

a) "promote mutually supportive trade and environmental policies and practices";

b) "promote high levels of environmental protection and effective enforcement of environmental laws"; and

[9] MX-013.
[10] MX-002.

c) "enhance the capacities of the Parties to address trade-related environmental issues, including through cooperation, in the furtherance of sustainable development."

13. A careful analysis of these objectives reveals that **each is tied, directly or indirectly, to the trade relationship between the Parties**. Subparagraph (a) expressly refers to "**trade** and environmental policies and practices"; subparagraph (c) refers to "**trade-related** environmental issues." Even subparagraph (b), which could be interpreted as a purely environmental objective, must be read in the context of chapter 24 and of the USMCA/CUSMA as a whole, which is an agreement of a trade-related nature.

14. It follows that the environmental dimension constitutes a relevant but non-autonomous component of the USMCA/CUSMA. The environment does not make up an independent sphere within the Agreement; its treatment is intrinsically linked to **trade and investment**. The main function of chapter 24 is **to prevent the weakening of environmental protection as a strategy to gain undue competitive advantages**, which would alter the conditions of competition in North American economic relations.

15. This logic is not exclusive to the USMCA/CUSMA. It is in keeping with an international trend in which modern trade instruments include environmental chapters as part of their normative design, not as autonomous annexes. The *Comprehensive Economic Trade Agreement* (CETA) between Canada and the European Union, the *Comprehensive and Progressive Agreement for Trans-Pacific Partnership* (CPTPP), and the *Dominican Republic-Central America-United States Free Trade Agreement* (CAFTA-DR) also include environmental chapters in the body of the text, following the same logic of tying environmental protection to trade relations.

16. Consequently, chapter 24 must be interpreted within the framework of the comprehensive architecture of the USMCA/CUSMA, not in isolation. To conduct the SEM process exclusively from an environmental standpoint and divorced from the economic and trade logic of the Agreement constitutes **an interpretive deviation altering the purpose of the USMCA/CUSMA** and violating the principles of treaty interpretation contemplated in the *Vienna Convention on the Law of Treaties* (VCLT),[11] particularly in that a treaty must be interpreted in the light of its object and purpose.

17. Mexico emphasizes this point because, as will be evidenced, the CEC Secretariat has been interpreting and applying chapter 24 **as if it were an autonomous environmental treaty**, allowing submissions that do not substantiate any effects on trade or investment, and systematically omitting any analysis of the trade component that constitutes the core of the USMCA/CUSMA. This practice is incorrect from a legal standpoint, but it also **alters**

[11] MX-001.

the SEM process, converting it into a sort of parallel environmental auditing mechanism, a function not assigned to it by the USMCA/CUSMA.

b. Without a trade nexus, the SEM process does not apply, and the *Nazas River Lower Basin* submission completely ignores this element

18. **Article 24.4 (Enforcement of Environmental Laws)** constitutes the cornerstone of chapter 24; it clearly establishes the standard to be met in order for an alleged failure of effective environmental law enforcement to be relevant within the framework of the Agreement. This article reads as follows: "No 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 between the Parties after the date of entry into force of this Agreement."

19. The clarity of the text does not allow for alternative interpretations. The USMCA/CUSMA **does not prohibit any failure to enforce environmental law**; what it prohibits is a failure occurring "in a manner affecting trade or investment between the Parties." This qualification is not incidental or dispensable; it is the element that distinguishes the SEM process from a purely environmental mechanism and inserts it into the trade logic of the USMCA/CUSMA.

20. The footnote to Article 24.4 specifies in detail what is to be understood by a **"course of action or inaction"** that occurs **"in a manner affecting trade or investment between the Parties"**: "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 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."

21. This means that in order for a submission on enforcement matters against Mexico to be valid, it must, at a minimum, indicate that the alleged failure to effectively enforce the environmental law directly affects a person or industry of the United States or Canada in their capacity as a competitor, investor, or supplier of goods or services in Mexico or in competition with Mexican goods or services.

22. The application of this definition is unequivocal: if Mexico's alleged failure to effectively enforce its environmental law does not involve US or Canadian persons or industries in the modalities described by the footnote to Article 24.4, **then the requirement of an effect on trade or investment between the Parties is not met**, and the matter therefore falls outside the jurisdiction of the SEM process.

23. In the case of the *Nazas River Lower Basin* submission, the Submitter **never substantiated nor even alleged in what manner the alleged enforcement failure concerning water management in the Nazas River affects trade or investment with the United States or Canada**. An exhaustive review of the original and revised submissions reveals that the Submitter addresses, among other issues:

• flow regulation in the Nazas River by means of the Lázaro Cárdenas and Francisco Zarco dams;

• drying of the watercourse in the lower basin since the 1970s;

• loss of riparian vegetation and river-associated ecosystems;

• impacts on the main aquifer in the Comarca Lagunera;

• alleged failure to reserve a volume of water for environmental conservation purposes;

• river water reserved preponderantly for agricultural use.

24. However, **nowhere does the *Nazas River Lower Basin* submission identify a US or Canadian person or industry producing goods, supplying services, or having investments that are affected by Mexico's alleged failures**.

25. The submission is, in essence, a local environmental demand focusing on water management in a watershed of northern Mexico and bears no relationship to the trade component constituting the core of the USMCA/CUSMA.

26. This defect is not minor, nor can it be remedied by expansive interpretations. On the contrary, it constitutes the defining feature that distinguishes the SEM process from a purely environmental mechanism. The USMCA/CUSMA did not establish a supranational environmental auditing institution or a general oversight system for the Parties' environmental policies; it created a limited and specific mechanism for documentation, in the form of a factual record, of alleged failures by a Party to effectively enforce its environmental law insofar as such enforcement has effects on trade or investment, e.g., where the weakening of such legislation is used as a strategy to gain competitive advantages.

27. It is relevant to note that US trade policy upholds this interpretation. The *2025 National Trade Estimate Report on Foreign Trade Barriers*,[12] published by the USTR, classifies the environment as a category of "barriers to external trade," referring to environmental practices that constitute significant distortions or barriers to US exports, investment, or

[12] MX-020.

electronic trade with **direct effects on its companies or workers**. This focus fully coincides with the logic of chapter 24: the environmental dimension is relevant insofar as it affects trade relations.

28. In sum, the *Nazas River Lower Basin* submission suffers from an insuperable intrinsic flaw in that **it does not substantiate, nor even allege, any effects on trade or investment between the Parties**. Without this element, the submission comes down to an environmental demand which, whatever its legitimacy from an ecological perspective, **falls outside the jurisdiction of the USMCA/CUSMA and is therefore ineligible for consideration as part of the SEM process**.

29. It is essential to state that although USMCA/CUSMA Article 24.27(2) does not expressly enumerate the trade-investment nexus as a formal eligibility requirement, Article 24.27(3)(b) does require the Secretariat to consider whether the submission "raises matters about which further study would advance the goals of this Chapter." Taken together, the goals (objectives) contained in Article 24.2 inseparably link environmental protection to trade relations between the Parties. Therefore, a submission that does not substantiate any effect on trade or investment by definition cannot advance these goals. The Secretariat omitted this essential analysis when determining the eligibility of the *Nazas River Lower Basin* submission.

c. The CEC Secretariat failed to verify the trade component constituting the essence of chapter 24

30. The analysis produced by the CEC Secretariat in Determination A24.27(2)(3)/SEM/25-001/21/DET[13] evidences selective disregard of the intrinsic relationship between the environmental component and its impact on trade or investment, a relationship constituting the very essence of chapter 24 of the USMCA/CUSMA. Indeed, the CEC Secretariat based its finding of the submission's eligibility exclusively on environmental considerations, without verifying compliance with the essential requirement of USMCA/CUSMA Article 24.4(1).

31. A review of the CEC Secretariat's determinations reveals that its analysis centered, among other aspects, around: (i) verifying whether the provisions cited by the Submitter qualify as "environmental law" under USMCA/CUSMA Article 24.1; (ii) ascertaining whether the submission contains sufficient information about the matters alleged; (iii) determining whether the matter was communicated to the Party's authorities; and (iv) determining whether the submission raises matters about which further study would advance the

[13] MX-011.

goals of chapter 24. However, at no time did it verify whether the submission substantiates any effect on trade or investment between the Parties.

32. This omission cannot be ascribed to ignorance or involuntary error. Mexico has repeatedly warned the CEC Secretariat about this systematic practice. For example, in its notification of pending proceedings relating to submission SEM-22-002 (*Tren Maya*),[14] filed with the CEC Secretariat on 24 July 2024, Mexico noted that the CEC Secretariat tends to justify eligibility decisions solely on the basis of "promoting high levels of environmental protection," as if the trade component of USMCA/CUSMA Article 24.2(2) could be elided at will.

33. To date, the Secretariat has maintained total silence about the relevance of that notification, contrasting notably with the celerity it has shown in allowing submissions that are environmentally motivated but unconnected with trade, which proves difficult to reconcile with the transparency that the SEM process seeks to promote.

34. In the case of the *Nazas River Lower Basin* submission, the CEC Secretariat repeats the exact same practice. It predicates the decision to allow the submission on environmental criteria — alleged failures relating to water management in the Nazas River and impacts on its ecosystems — **yet the Submitter did not establish how these failures, if true, would affect US or Canadian trade or investment**. This way of proceeding leads to a biased and partial interpretation of the USMCA/CUSMA.

35. Furthermore, the CEC Secretariat justifies its lax interpretation of the eligibility requirements for SEM submissions set out in USMCA/CUSMA Article 24.27 by means of a recurring phrase: it affirms that the eligibility requirements "are not intended as an insurmountable procedural screening device"[15] and "should therefore be given an expansive interpretation in accord with the objectives of chapter 24" of the Agreement. This affirmation, repeated in many determinations, calls for careful analysis for the reasons set out below.

36. First, the Secretariat confuses procedural facilitation with a failure to verify where jurisdiction lies. That the eligibility requirements are not intended as "an insurmountable procedural screening device" facing the Submitter does not mean that they may be waived or interpreted so flexibly that they lose their delimiting function. The eligibility requirements have a specific purpose: to mark out the scope of operation of the SEM process. Where the CEC Secretariat interprets these requirements so broadly as to allow submissions without verifying essential elements — such as effects on trade or investment

[14] MX-018.
[15] MX-011.

— it does not facilitate access to the mechanism; what it does is to exercise powers beyond those conferred by the Agreement, which is contrary to the principle of legality.

37. Second, the use of this phrase creates significant procedural asymmetry, for while the Secretariat, when determining eligibility, maintains that Submitters must not face "an insurmountable procedural screening device," it nonetheless evaluates the actions of the Parties as to their detailed compliance with each environmental provision invoked, with no predictability as to what level of detail or type of evidence will be considered sufficient to demonstrate compliance.

38. This double standard — flexibility on the question of eligibility, uncertainty as to the level of rigor that will be applied to responses — raises questions about the consistency and impartiality of the process and suggests that the principle of avoiding "an insurmountable procedural screening device" operates unidirectionally, favoring the acceptance of submissions without applying the same criterion of reasonability when assessing the Parties' actions.

39. Third, the reference to "the goals of chapter 24" as the basis for a broad interpretation deserves particular attention. USMCA/CUSMA Article 24.2 sets out three objectives that must be read as a totality: a) promote mutually supportive trade and environmental policies and practices; b) promote high levels of environmental protection and effective enforcement of environmental laws; and c) enhance the capacities of the Parties to address trade-related environmental issues. In practice, however, the Secretariat predominantly invokes the objective of subparagraph (b), without giving equal weight to subparagraphs (a) and (c), which expressly tie the environmental dimension to trade.

40. This practice reveals a systematic interpretive approach. Where the CEC Secretariat conveniently maintains that the requirements must be "given a broad interpretation," in practice it allows submissions without verifying the elements that delimit the scope of operation of the SEM process, and particularly the nexus with trade or investment between the Parties. This approach does not constitute a pro-access interpretation, but rather a de facto alteration of the scope of the SEM process, transforming it from an instrument delimited by the context of trade relations into a mechanism for verification of environmental compliance that is general in scope.

41. It is especially worrisome that the CEC Secretariat maintains that "the USMCA does not authorize the Secretariat to terminate a submission on the basis of economic, strategic, or social benefit considerations, nor for considerations relating to [urban] development."[16] This statement reveals that the CEC Secretariat itself does not know the

[16] MX-021.

meaning of "effective enforcement of environmental law" in the context of the USMCA/CUSMA. To overlook that chapter 24 necessarily requires substantiation of an effect on trade or investment between the Parties, and at the same time to disqualify any economic consideration as unauthorized, is not an error grounded in a legal technicality: it shows that the body in charge of implementing the SEM process operates as if the USMCA/CUSMA were an autonomous environmental agreement, ignoring its inherent trade logic.

42. Mexico reiterates that the omission of analysis of the trade component cannot be justified by any argument. It is settled law, pursuant to the VCLT,[17] that a treaty shall be interpreted in good faith, with reference to its text as a whole and in the light of its object and purpose. The object and purpose of the USMCA/CUSMA are unmistakable: to promote trade and investment between the Parties. To interpret chapter 24 as an autonomous environmental regime without connection to this trade logic contradicts the text, the context, and the purpose of the Agreement.

43. In short, while the CEC Secretariat evaluates Mexico's effective enforcement of its environmental law in a manner that, as stated above, places Mexico in a situation of legal uncertainty, it applies the provisions of the USMCA/CUSMA in a selective and piecemeal fashion, omitting any analysis of effects on trade, an essential element of the proper application of the SEM process. This contradiction not only compromises the credibility of the CEC Secretariat, but also violates Mexico's rights as a Party to the Agreement.

d. Apparent fulfillment: notification of an amparo proceeding is not equivalent to communication of the matter to the authorities pursuant to Article 24.27(2)(e)

44. USMCA/CUSMA Article 24.27(2)(e) requires a submission to indicate "whether the matter has been communicated in writing to the relevant authorities of the Party and the Party's response, if any."

45. As stated by the Secretariat itself in determination A24.27(2)(3)/SEM/24-001/12/DET[18] on the *Time Ceramics* submission on enforcement matters, this requirement has a clear purpose, which is to **"ensure that the relevant authorities are aware of the concerns about failures to enforce the environmental laws in relation to the matter raised in a submission before it is filed with the Secretariat. In addition, it gives the relevant authority an opportunity to take steps within the administrative sphere."**

[17] MX-001.
[18] MX-019.

46. This is not a mere formality, but rather a mechanism privileging the treatment of trade-related environmental matters domestically, and reserving the SEM process for cases in which the domestic authorities fail to respond adequately to citizens' concerns.

47. In the case of the *Nazas River Lower Basin* submission, the Submitter acknowledges in its revised submission that the matter was communicated to the Mexican authorities through the filing of an initial statement of claim with a district judge in an email sent 7 October 2025 at 5:52 p.m. Mexican Central Time.[19] Mexico points out that the CEC Secretariat did not provide the Party with this email for perusal, not even in its public version. The revised submission was filed 8 October 2025, only one day after the email was sent.

48. In paragraph 23 of the revised submission, the Submitter states that on the filing date of the submission, **"no response ha[d] been received from the aforementioned public officials."** This is fully understandable, since only a few hours elapsed between the sending of the email and the filing of the revised submission. It is unreasonable to expect the Mexican authorities to be able to respond in under 24 hours, particularly where complex matters of water management, environmental protection, and interinstitutional coordination are at issue.

49. Furthermore, it must be emphasized that the email mentioned by the Submitter did not constitute direct and independent communication of the matter to the competent administrative authorities; rather, it was sent in the context of an amparo motion. It is therefore a procedural act inserted into a jurisdictional remedy, with its own purpose and logic, which are distinct from those of a communication aimed at notifying the administrative authority of a specific environmental concern in order for it to be addressed within the administrative sphere.

50. Consequently, even if this email was addressed to public servants, it cannot be considered a genuine communication of the matter to the relevant administrative authority as prescribed by USMCA/CUSMA Article 24.27(2)(e). This communication was not objectively aimed at facilitating a substantive administrative response to the alleged failure to enforce environmental laws, but rather to meet the requirements of a jurisdictional proceeding.

51. This conclusion is consistent with the criterion adopted by the CEC Secretariat itself in the determination on the aforementioned *Time Ceramics* submission, where it notes that the revised submission mentions a citizen complaint filed 1 February 2024 with the National Water Commission (*Comisión Nacional de Agua*), as well as additional documents not

[19] MX-010.

included in the additional information. **Although the communications in question satisfy the requirement of Article 24.27(3)(c), indicating that private remedies available under Mexico's law have been pursued, these communications are not aimed at communicating the matter in question to the relevant administrative authority**, nor do they indicate the authority's response, if any.

52. It is therefore contradictory that the CEC Secretariat should, in this case, accept as satisfactory a communication which, in addition to having been sent only one day prior to the filing of the revised submission, falls within the context of an amparo proceeding, rather than a deliberate exercise of administrative communication aimed at obtaining a response from the competent authority.

53. In taking this communication to be sufficient to satisfy the requirements of Article 24.27(2)(e), the CEC Secretariat rendered this provision meaningless. If it suffices to send an email in the context of a constitutional dispute and to file the submission the next day, without affording a genuine opportunity for an administrative response, the requirement reduces to a pure formality, lacking substance, which thereby contradicts both the text and the object and purpose of the Agreement that the Secretariat "acknowledges." This procedure evidences a lack of uniformity and predictability in the conduct of the SEM process.

54. For Mexico, a good faith interpretation of USMCA/CUSMA Article 24.27(2)(e) demands that the communication of the matter to the authorities of the Party be substantive and not merely formal. This entails that the communication be direct, within the relevant administrative sphere, and with sufficient time to allow the domestic authorities to study the concern, evaluate it, and, as applicable, take any measures deemed relevant, in keeping with the right to petition enshrined in Article 8 of the Mexican Constitution.[20] A communication made in the context of a jurisdictional proceeding and only one day before the filing of the revised submission, with no real possibility to respond, does not meet this standard.

e. Improper retroactive application of environmental law: the doctrine of intertemporal law and the temporal limits of the USMCA/CUSMA

55. The analysis of this case requires revisiting the principle of non-retroactivity in the light of the doctrine of intertemporal law, according to which the acts, facts, and decisions of a state must be assessed with reference to the legal framework in force at the time they

[20] MX-003.

were conceived, authorized, and executed, not with reference to subsequent normative standards.

56. This principle, fully recognized in international law and in Mexico's domestic legal framework, does not exclude the existence of contemporaneous environmental obligations, but does precisely delimit their temporal and material scope of application, so that, for example, enforcement failures are not adduced with respect to provisions that did not exist at the time the facts occurred.

57. This principle is bolstered by **VCLT Article 28**,[21] which establishes the general rule of non-retroactivity of treaties in the following terms: "[the] provisions [of a treaty] do not bind a party in relation to any act or fact which took place or any situation which ceased to exist before the date of the entry into force of the treaty with respect to that party." Although this provision refers to obligations flowing from the treaty itself, the underlying principle — that legal provisions may not be applied retroactively to acts that concluded prior to the entry into force of such provisions — constitutes a general legal principle recognized in both Mexican law (CPEUM Article 14[22]) and international law.

Historical water infrastructure and applicable legal framework

58. In this regard, the waterworks addressed by the submission — in particular, the Lázaro Cárdenas dam (1936–1946) and the Francisco Zarco dam (1966) — were planned, approved, and executed in a radically different historical, political, social, economic, and legal context. At the time of their construction, there was no systematized body of environmental law in either the domestic or the international sphere.

59. As arbitrator Max Huber held in the well-known Island of Palmas Case (1928),[23] a classic foundation of the doctrine of intertemporal law: "A juridical fact must be appreciated in the light of the law contemporary with it, and not of the law in force at the time such a dispute in regard to it arises or falls to be settled."

60. This principle prevents decisions made under a legal framework that was fully valid in its day from being assessed, decades later, according to normative standards that did not then exist and could not have been reasonably foreseen.

61. It is illustrative that contemporary environmental law began to be consolidated only after the **United Nations Conference on the Human Environment, held in Stockholm in 1972**. In Mexico, the first systematic environmental legislation did not come into being until

[21] MX-001.

[22] MX-003.

[23] MX-023

1988 with the enactment of the LGEEPA, more than four decades after the commencement of construction on the Lázaro Cárdenas dam.

Time limits of the USMCA/CUSMA

62. This reasoning is bolstered by the **USMCA/CUSMA** itself. Article **24.4(1)** stipulates that no Party shall fail to effectively enforce its environmental laws **after the date of entry into force of the Agreement**, but that this only applies where the failure takes the form of a sustained or recurring **course of action or inaction that affects trade or investment between the Parties**.

63. This provision introduces a clear and explicit time limit: the effective enforcement of obligations under the USMCA/CUSMA **operates in an exclusively prospective manner**, as from **1 July 2020**, and may not be extended retroactively to previous facts, acts, or decisions.

64. In the case at hand, the acts alleged by the Submitter to have caused the drying of the Nazas River lower basin occurred **much before the entry into force of the USMCA/CUSMA**, the promulgation of the provisions invoked, and in fact the emergence of modern environmental law. Therefore, **they cannot legally be characterized** as a current or subsequent failure of effective environmental law enforcement, nor as a "sustained course of inaction" attributable to the Government of Mexico under the Agreement.

Impossibility of attributing current failures to past decisions

65. Therefore, it is invalid from a legal standpoint to maintain that the Mexican authorities have failed to fulfill their international environmental obligations by adducing water infrastructure designed and built under a different normative regime, for legitimate public purposes, according to technical and legal parameters applicable in their day.

66. This would entail a retroactive application of environmental law, which is prohibited by the general principles of law and by the text of the USMCA/CUSMA, in addition to imposing on Mexico an impossible standard of responsibility, by requiring it to have foreseen and applied, decades ago, environmental standards that had yet to exist.

67. Contrary to the Submitter's assertions, Mexico **has not remained inactive** in the face of the environmental challenges associated with water management in the region. Within the framework of the applicable law and time span, Mexico has taken **regulatory, administrative, and public policy measures** aimed at environmental protection, sustainable water management, and ecosystem conservation in the Nazas River basin.

68. Mexico anticipates that it could be argued that environmental protection obligations are "continuous" and that regardless of the construction date of the infrastructure, the

Government of Mexico has the ongoing obligation to enforce the applicable environmental law in order to protect the basin's ecosystems. Mexico disputes the claim that this ongoing obligation entails reversing the consequences of legitimately made historical decisions, or retroactively imposing environmental standards on infrastructure built under different normative regimes. Mexico's ongoing obligations are fulfilled through contemporary protection, conservation, and restoration measures that are documented below — not through retroactive evaluation of water engineering decisions made more than half a century ago. The USMCA/CUSMA does not obligate Parties to unmake their history, but rather to effectively enforce their environmental laws in prospective fashion, in the context of trilateral trade relations.

69. These measures, discussed later in this response, demonstrate that Mexico **is effectively enforcing its environmental law** with respect to decisions and situations that can and must be regulated by the contemporary legal framework, without this entailing — actually, or even possibly — the retroactive application of normative standards to infrastructure built and decisions made in different historical contexts.

f. The programmatic nature of the provisions invoked: public policy principles are not tantamount to concrete, directly enforceable obligations

70. In addition to the considerations concerning non-retroactivity and time limits as regards the USMCA/CUSMA, it is indispensable to examine the **legal nature of the provisions invoked by the Submitter**, since this circumstance has direct implications for the very possibility of characterizing alleged enforcement failures as failures of effective environmental law enforcement under USMCA/CUSMA Article 24.4(1).

71. A careful analysis of the provisions cited in CEC Secretariat determination **A24.27(2)(3)/SEM/25-001/21/DET**[24] reveals that the majority of them are **provisions of a programmatic nature**: they establish guiding principles of public policy, general institutional powers and responsibilities, management objectives, guiding criteria, and guidelines on government action, but **do not contain concrete, specific, directly enforceable mandates** whose non-fulfillment can be objectively verified.

72. The provisions invoked may be essentially divided into three categories: **(i) declarative provisions of public utility and public interest**, such as LAN Articles 7 paragraphs I, II, IV, and V and 7 bis paragraphs I, IV, V, VI, VII, and VIII, and LGDFS Article 4 paragraphs I and II, which declare certain property or activities as being of public utility or in the public interest, without establishing concrete obligations to do or refrain from doing anything; **(ii) provisions assigning jurisdiction**, such as LAN Article 9 paragraph XXVI, LGEEPA Article

[24] MX-011.

5 paragraphs I, II, XI, XIX, and XX, and LGDFS Articles 10 paragraphs I and XXXIV and 20 paragraphs XIV, XV, XXI, XXIV, and XXX, which assign to the authorities powers and duties that are nonetheless subject to administrative discretion; and **(iii) principles of environmental policy**, such as LGEEPA Article 15 paragraphs I, II, III, V, VI, VII, IX, XI, XII, and XIX, which establishes the principles guiding the formulation of the nation's environmental policy but does not impose specific obligations of result.

73. The relevance of this distinction is fundamental. USMCA/CUSMA Article 24.4(1) prohibits failures to effectively enforce "environmental laws" through a sustained or recurrent course of action or inaction. However, the "effective enforcement" of a programmatic provision **is not equivalent to achieving a specific environmental result**, but rather to incorporating the principles and criteria established by the provision into the design and implementation of the corresponding public policies. By their nature, programmatic provisions allow for multiple forms of enforcement, all equally valid, depending on the technical, budgetary, territorial, and temporal conditions of each case.

74. To take an example, when the Submitter invokes LGEEPA Article 15 paragraph I, which establishes the principle that "ecosystems are a common heritage of society, and their equilibrium depends on the life and economic opportunities of the country," it is not pointing out a failure to fulfill a concrete obligation, but rather invoking a guiding principle whose translation into specific measures is the role of the competent authorities, in the exercise of their technical and administrative discretion. Likewise, when the Submitter invokes LAN Article 7 bis paragraph VII — which declares "control of the extraction and of the exploitation, use, or enjoyment of surface water and groundwater" to be a matter of public interest — it is citing a declaration of public interest that Mexico implements through the instruments documented in this response: concessions, dam operation policies, water monitoring, and water management programs.

75. Mexico enforces its programmatic provisions not by achieving a particular environmental result dictated by a submitter, but by formulating and implementing policies, programs, and management instruments that reflect the principles and criteria set out in its legislation. As demonstrated in the following section, Mexico has deployed a comprehensive set of institutional measures that together constitute fulfillment of the principles and objectives contained in the provisions invoked, within the margin of discretion that the provisions themselves acknowledge.

76. The Submitter's claim that the cited programmatic provisions impose a concrete obligation on Mexico to reverse the hydrological condition of the Nazas River lower basin — which results from infrastructure built decades prior to the legislation invoked —

constitutes an interpretation that oversteps the normative content of these provisions, confounding principles of public policy with directly enforceable obligations of result.

g. Mexico is effectively enforcing its environmental law in the Nazas River basin

77. The measures described below show that Mexico has actively exercised its powers in relation to environmental protection and integrated water management in the Nazas River basin.

78. These measures **fall clearly within the temporal and material scope of the Government of Mexico's contemporary environmental obligations**, and must be distinguished from historical water infrastructure, whose planning, construction, and approval — as discussed in the previous section — answered to different normative and institutional contexts and does not admit of retroactive evaluation.

Conanp

79. Mexico, acting by Conanp, has implemented a comprehensive set of environmental conservation and protection measures in the Nazas River basin. The information presented below is based on official reports provided by the Conservation Branch (*Dirección General de Conservación*) and the Northern Regional and Western Sierra Madre Division (*Dirección Regional Norte and Sierra Madre Occidental*) of Conanp.

80. Hydrological Region VII, "Nazas-Aguanaval," currently comprises four federal PNAs. These areas, administered by Conanp as a deconcentrated body of Semarnat, cover different portions of the hydrological region:

Category – Name	Basin	Total area of PNA	Area of PNA in basin	% of PNA in basin	% of PNA in HR
Mapimí (BR)	Arroyo Cadena	342,387.99	10,108.81	2.95	
	Canal Santa Rosa		94,838.27	27.70	
Total			104,947.07	30.65	30.65
Semidesierto Zacatecano (APFF)	Laguna de Viesca	223,796.02	7,367.69	3.29	-
Total			7,367.69	3.29	3.29
CADNR 043 Estado de Nayarit (APRN)	Presa Santa Rosa	2,192,656.37	165.10	0.008	-
Total			165.10	0.008	0.008
-					
Ríos y Montañas de la Comarca Lagunera (APRN)	Canal Santa Rosa	172,924.10	42,617.59	24.65	-
	Los Ángeles		55,682.39	32.20	-
	Nazareno		2,200.91	1.27	-
	Presa Francisco Zarco		72,423.20	41.88	-
Total			172,924.09	100.00	100.00

81. Of these four PNAs, "Ríos y Montañas de la Comarca Lagunera" is the one with direct relevance to the Nazas River, since the river crosses the southern portion of this PNA.

82. Mexico created this PNA by means of an order published in the DOF on 8 January 2024.[25] The area covers about 172,924 hectares in northeastern Durango state, specifically in the municipalities of Lerdo, Nazas, Mapimí, Cuencamé, and Gómez Palacio.

83. The importance of this PNA is evident, for the order recognizes that the Nazas River supplies drinking water to approximately 1.65 million people in municipalities of two

[25] MX-014.

states. In Durango: Gómez Palacio, Lerdo, Tlahualilo, and Mapimí; in Coahuila: Torreón, Matamoros, Francisco I. Madero, San Pedro, and Viesca.

84. It must be emphasized that the lower part of the Nazas River, known as Cañon de Fernández (located in the municipality of Lerdo, Durango), already had international recognition. In February 2008, it was designated as a wetland of international importance for migratory bird conservation under the Ramsar Convention and assigned number 1747.[26]

85. The Ramsar sheet describes this site as a riparian wetland traversed by the Nazas River with predominantly drought-adapted vegetation and with various landscapes including gallery forest, aquatic habitats, floodplains, cliffs, and canyons. The site acts as an essential biological corridor connecting the Chihuahuan Desert with the temperate forests of the Western Sierra Madre, providing refuge for wildlife during droughts. It harbors 348 recorded species, including the critically endangered rainbow goodeid (*Characodon lateralis*) and the endangered Yaqui catfish (*Ictalurus pricei*).

86. Additionally, in an order of 25 April 2004, the Durango state government declared this same site a state park,[27] publishing its management program in 2017. This means that the area has a background of riparian ecosystem protection stretching back over 20 years.

87. Since the creation of the PNA in January 2024, Mexico has implemented specific conservation and restoration measures for riparian forest ecosystems, combining federal public funding with private financing. Documented measures include:

Community monitoring and prevention program (PROREST 2024–2025)

88. Mexico formed a 15-member monitoring brigade in the localities of Nuevo Graseros and Sapioris to prevent and detect environmental crimes. This brigade has conducted preventive tours of the protected area and can file complaints where necessary.

Contingency brigade for forest fires (PROCODES 2025)

89. An 11-member environmental contingency brigade was formed to prevent, detect, and address forest fires. This brigade conducted tours throughout the PNA, focusing especially on protection of riparian vegetation, mainly Montezuma cypress (*Taxodium mucronatum*).

Control of invasive species (IBERDROLA 2024 and Fondo de Agua de la Laguna)

90. Mexico implemented two projects specifically to control exotic invasive species:

[26] MX-015.
[27] MX-016.

• Control of giant reed (*Arundo donax*): A control manual was developed and effective control was achieved over an area of 18,255 square metres in Cañon de Fernández. This species displaces native plants and increases fire risk.

• Control of red swamp crayfish or mud bug (*Procambarus clarkii*): A best practices manual was developed for control of this exotic species in the Nazas River, along with information materials on preventing the presence of exotic species.

Low-impact tourism (Fondo de Agua de la Laguna 2024)

91. Mexico determined the carrying capacity and acceptable limits of change for two tourist sites in Cañon de Fernández: Paraje Rivera and Bajada de Reyes. The sites were zoned and tourism management strategies were developed based on low-impact principles.

Solid waste management (PROREST 2025)

92. Solid waste was collected over 65 km of Cañon de Fernández, helping maintain the quality of the riparian habitat.

Preliminary evaluation of results

93. Mexico emphasizes that the PNA was created in fiscal year 2024. Ecological restoration processes, such as recovery of forest structure, diversity, and ecological stabilization, require evaluation over medium- and long-term time horizons, typically between five and ten years. The results presented are preliminary and subject to ongoing monitoring.

Environmental law enforcement

94. In parallel with restoration efforts, Mexico has exercised regulatory powers within the protected natural area on the basis of RI-Semarnat Articles 90 and 91,[28] the LGEEPA,[29] its PNA and environmental impact regulations, and the LGDFS.[30] Documented measures include:

Regularization of tourism and commercial activities

95. Mexico has granted seven permits to regularize establishments engaged in commercial activities within the PNA, and six additional permits for tourism service providers engaged in recreational tourism activities. These regularizations are based on Articles 88 and 93 of the PNA Regulation to the LGEEPA and on the PNA declaration.

Filing of complaints

[28] MX-007.
[29] MX-005.
[30] MX-006.

96. Conanp has filed six complaints against unauthorized recreational tourism activities and one complaint against construction in a federal zone, exercising the powers conferred by RI-Semarnat Article 91 paragraph VII and LGEEPA Article 189.

Social participation mechanisms

97. An advisory council was formed as part of the creation of civic participation mechanisms pursuant to RI-Semarnat Articles 90 paragraph XXVII and 91 paragraph IX, LGEEPA Article 56 Bis, and Articles 10 to 30 of the PNA Regulation to the LGEEPA.

Interinstitutional coordination

98. Mexico has established formal coordination mechanisms between federal and state authorities:

Agreement with the Government of Durango (July 2024): Conanp signed a framework coordination agreement with the Durango State Ministry of Natural Resources and Environment (*Secretaría de Recursos Naturales y Medio Ambiente*) on 16 July 2024. This agreement established technical groups and operational coordination, including participation in the Holy Week 2025 operation.

Inspection and surveillance program (2025): Mexico implemented an inspection and surveillance program involving Semarnat, Conafor, Profepa, Conagua, and the management of the APRN. This program has led to criminal charges or complaints, personnel training, and the formation of surveillance committees.

Protected area advisory council: As mentioned, the advisory council was formed on 4 February 2025 and consists of 21 advisors. It has held regular sessions, the most recent one on 21 October 2025, at which strategic conservation lines of action were established.

Federal budgetary investment

99. The January 2024 PNA declaration required budgetary arrangements to be made with the Ministry of the Treasury and Public Credit (*Secretaría de Hacienda y Crédito Público*) for authorization of specific funding. Mexico assigned a federal budget for hiring and equipping 8 specialized consultants (FAO) assigned to:

- communication;
- biological and ecosystemic monitoring;
- collection of fees for use and enjoyment of the PNA;
- project identification and evaluation;
- nature tourism;

• ecological restoration;

• biodiversity monitoring and management.

100. These new staff positions were based on planning and programming processes, leading to implementation of direct conservation measures during 2024 and 2025, with funding from the authorized Conanp budget. Mexico regards this investment as "reasonable from a legal perspective and consistent from a budgetary perspective" with the applicable rules of operation and fiscal calendar.

Prohibitions for river protection

101. The declaration of the "Ríos y Montañas de la Comarca Lagunera" PNA[31] establishes specific prohibitions for protection of bodies of water, including the Nazas River. These prohibitions are primarily designed to protect the riparian vegetation and aquatic ecosystems of the area.

102. The following are prohibited in the core zones:

• dumping, throwing, allowing seepage of, or discharging organic waste, solid or liquid waste, or pollutants such as glyphosate, insecticides, fungicides and pesticides into the ground or bodies of water;

• interrupting, filling, drying, or diverting water flows;

• removing earth or vegetation;

• introducing exotic or invasive exotic species, species that are harmful to wildlife, or genetically modified organisms;

• altering or destroying wildlife feeding, gathering, nesting, refuge, or breeding sites;

• changing land use;

• opening quarries or quarrying rock or other construction materials.

103. The following are prohibited in the buffer zones:

• dumping, throwing, or discharging organic waste, solid or liquid waste, or pollutants such as insecticides, fungicides and pesticides on the ground or into bodies of water;

• filling, drying, or altering the course of rivers, aquifers, or flood-prone areas;

• throwing or leaving waste outside of authorized sites;

[31] MX-014.

• building confinement facilities for solid waste or for hazardous materials or substances;

• introducing exotic or invasive exotic species;

• altering or destroying wildlife feeding, nesting, refuge, or breeding sites;

• expanding the agricultural frontier through permanent removal of natural vegetation;

• final disposal of mining or metallurgical waste.

Conagua

104. According to information provided by the water administration, technical, agricultural water infrastructure, and water and sewer divisions of the Cuencas Centrales del Norte Watershed Body (*Organismo de Cuenca Cuencas Centrales del Norte*—OCCCN) of Conagua, work is being done with the state and local authorities on management and conservation of the Nazas River basin.

Lázaro Cárdenas and Francisco Zarco dams

105. In this regard, the Lázaro Cárdenas and Francisco Zarco dams are governed by floodgate operating policies that establish technical guidelines for management of surplus or flood water and protection of downstream infrastructure.

106. Their main objectives include:

• providing basic information for safe floodgate operation and guaranteeing adequate control of floodwaters under critical inflow conditions or intense precipitation;

• protecting downstream water infrastructure and socioeconomic interests, and

• operating in accordance with the recommendations of the Technical Committee on Waterworks Operation (*Comité Técnico de Operación de Obras Hidráulicas*—CTOOH) and in response to current water level and flow and weather conditions.

107. The CTOOH is a collegial body made up of specialists from several national institutions, including:

• **federal agencies** (Conagua, CFE, Pemex, Sader, Semar, Sedena, SICT, Conafor, and SSyPC);

• **research centers and universities** (IMTA, UNAM, IPN, UAM, Colegio de Ingenieros Civiles de Mexico), and

• **other technical bodies** (Cenace, federal and state civil protection agencies).

108. This committee issues technical recommendations for the adaptive operation of the dams. The dates of operation are:

• Rainy season: May 15–September 30.

• Winter: October 1–May 14.

• These periods may be adjusted according to prevailing weather conditions.

109. The operating policies of the Lázaro Cárdenas and Francisco Zarco dams constitute regulatory instruments designed to ensure safe floodwater management, infrastructure protection, and adaptation to hydrometeorological conditions, under the collegial supervision of the CTOOH.

110. Conagua's conservation work includes rehabilitation of river beds and banks; cleanup days in the Nazas River lower basin, with collection and removal of 150 tons of solid waste; and reforestation days in the Nazas River lower basin, with tree planting activities.

111. In addition, water management programs are being implemented with the aim of guaranteeing the human right to water, one of these being the "Healthy Water for La Laguna Project." The purpose of this water infrastructure in progress is to improve the quality of the water supply to the residents of the municipalities of Francisco I. Madero, Matamoros, San Pedro, Torreón, and Viesca in the state of Coahuila, and Gómez Palacio, Lerdo, Mapimí, and Tlahualilo in the state of Durango, through the development of infrastructure to bring better-quality sources of drinking water from the Nazas River.

112. The programs include management of the agricultural cycle to optimize the efficient use and application of Nazas River water drawn from the reservoir system.

113. Furthermore, there are a number of monitoring systems, including:

a) Network of hydrometric stations

• The Nazas River basin comprises a network of hydrometric stations made up of four operating sites (J. Salomé Acosta, Sardinas, El Palmito II, Cañón Fernández II) that have been installed to measure flow in the Nazas River basin, as a basis for issuing alerts in anticipation of extraordinary water levels caused by weather phenomena; determining water balances for water availability studies; monitoring drought; making decisions on the operation of existing water infrastructure, and planning new infrastructure (protection, channeling, storage, diversion).

• As part of the Ministry of the Treasury and Public Credit's investment program, the OCCCN manages a portfolio of projects titled "Acquisition and Supply of Automated Stations and Instrumentation for the Hydrological Network Located in the Nazas and Aguanaval River Basins," whose implementation will bolster the ongoing monitoring work.

b) Water quality monitoring:

• The OCCCN Technical Division has five water quality monitoring sites in the Nazas River basin: Sardinas in the upper basin, Palmito, Rodeo, and Agustín Melgar in the mid-basin, and Cañón de Fernández in the lower basin, where physicochemical, bacteriological, and arsenic testing are done.

• The results in terms of biochemical oxygen demand (BOD_5), chemical oxygen demand (COD), and dissolved oxygen (DO) yield a water quality classification of "Excellent (Uncontaminated)" according to the applicable criteria.

• The body of water supports the development of aquatic life and is fit for agricultural irrigation.

114. The Lázaro Cárdenas and Francisco Zarco dams, operated in accordance with CTOOH recommendations, fulfill multiple functions as part of the comprehensive management of water resources in the basin, including progressively guaranteeing the human right to water for residents of the region as well as supporting economic activities that contribute to the nation's food security.

115. The water infrastructure of the region, including Irrigation District 017 (Lagunera Region), forms a part of the system supporting agriculture in the states of Durango and Coahuila, within the framework of Mexico's power to administer and ensure the sustainable enjoyment of national waters pursuant to the National Waters Act (*Ley de Aguas Nacionales*).

Granting of concessions

116. It must be noted that Conagua's User Services Unit (*Gerencia de Servicios a Usuarios*) reported, in regard to the granting of concessions in the "Nazas-Aguanaval" hydrological region, which encompasses the "Nazas River-Torreón" basin, that mean annual water availability is taken into account, and that it is reviewed at least every three years, in accordance with water planning; water exploitation and usage rights recorded in the Public Registry of Water Rights (*Registro Público de Derechos de Agua*); existing watershed regulations; the legal provisions governing the control of water extraction, exploitation, use, and enjoyment; and the provisions governing regulated zones, bans, and reserves applicable to the national waters existing in the aquifer, basin, or hydrological region in question.

Conafor

117. Recalling that the purpose of Conafor is to develop, foster, and promote forest-related economic, protection, conservation, restoration, sustainable use, production, marketing, and technical education activities, as well as production chains and value networks, the

CEC Secretariat is hereby informed that Conafor enforces the LGDFS,[32] and in particular the provisions adduced by the Submitter, through the formulation and application of the following forestry policy instruments:

• Rules of operation of the "Sustainable Forestry Program for Well-Being," whose purpose is to provide support to landowners, legitimate occupants, and inhabitants of forested and preferentially forested areas in order for them to implement measures contributing to protection, conservation, restoration, and incorporation of sustainable forest management, on land fit for this purpose, in order to strengthen forest-sector value chains and contribute to climate change mitigation.

• The "Environmental Compensation Program for Land-Use Changes on Forested Land," which is implemented by means of its guidelines, and whose purpose is to achieve compensation for negative effects on forest ecosystems caused by land-use changes on forested land that are duly authorized by the Ministry of the Environment and Natural Resources (*Secretaría de Medio Ambiente y Recursos Naturales*), and thereby to effect their restoration and protection as well as to contribute to climate change prevention, adaptation, and mitigation in forest ecosystems.

118. With the application of these programs, Conafor has supported land conservation, restoration, and protection in the Nazas River basin. The table below summarizes the ongoing projects in the states of Durango, Zacatecas, and Coahuila, specifying the number of projects supported, the area that they cover, and the value of the support provided.

[32] MX-006.

Forest Restoration

Item	State	Projects supported	Area (ha)	Amount ($)
Forest restoration (RF.1)	Durango	4	90	$3,061,276.00
	Coahuila	1	30	$1,127,447.00
Restoration through environmental compensation	Durango	19	835.5	$27,792,422.00
	Coahuila	27	3,437	$75,529,111.20
Total		51	4,392.50	$107,510,256.20

Environmental services (conservation, preservation)

Item	State	Projects supported	Area (ha)	Conafor amount	Counterpart amount
Local mechanisms (SA.2)	Durango	6	6,810	$5,000,000.00	$5,000,000.00

Fire management (protection)

Item	State	Projects supported	Amount
Fire management and protection brigades – Environmental compensation	Coahuila	1	$1,348,150.00
	Durango	8	$10,785,200.00
	Zacatecas	1	$1,348,150.00
Total		10	$13,481,500.00

Forest health (protection)

Item	State	Projects supported	Amount assigned
Forest health brigades – Rules of operation (PF.2)	Coahuila	1	$410,000.00
	Durango	1	$421,000.00
Forest health brigades –	Coahuila	5	$1,916,050.00

Environmental compensation			
	Durango	18	$6,913,750.00
	Zacatecas	2	$660,000.00
TOTAL		27	$10,320,800.00

Environmental Restoration Branch (*Dirección General de Restauración Ambiental*)
The National Environmental Restoration Program (*Programa Nacional de Restauración Ambiental*—PNRA) and the Nazas River

119. In recent years, Mexico has undergone profound institutional transformation in the area of environmental restoration. On 14 March 2025, the Office of the Deputy Minister for Biodiversity and Environmental Restoration (*Subsecretaría de Biodiversidad y Restauración Ambiental*) was created by the publication of the RI-Semarnat[33] in the DOF, with the Environmental Restoration Branch (*Dirección General de Restauración Ambiental*—DGRA) reporting to it.

120. The mandate of this new administrative unit is to design, execute, and oversee national policies and strategies on environmental restoration, rehabilitation, and remediation in coordination with agencies and entities of the Federal Public Administration as well as with governments of the federative entities, municipalities, and territorial demarcations of Mexico City.

121. Pursuant to RI-Semarnat Article 11, the DGRA is responsible for developing a national strategic plan that defines priority areas for environmental restoration with reference to criteria concerning biodiversity, ecosystem services, watersheds, and areas degraded by human activities, as well as any other areas requiring environmental restoration.

PNRA 2025–2030

122. On 26 May 2025, the DGRA published the PNRA,[34] a public policy instrument resulting from extensive technical and scientific work coordinated with Conabio. The program is based on a multicriteria analytical methodology for scientifically identifying those areas of the nation's territory with the greatest need and potential for ecological restoration.

123. The program is public and can be viewed at https://www.gob.mx/semarnat/restauracionambiental/documentos/programa-nacional-de-restauracion-ambiental-2025-2030

[33] MX-007.
[34] MX-017.

124. The PNRA lays the groundwork for reversing environmental degradation in Mexico through an ongoing short-, medium-, and long-term process with a comprehensive focus on providing for horizontal responsibilities at each level of government and including the shared responsibility of civil society, academia, and the business sector. The program seeks to ensure compliance with domestic and international commitments in order to strengthen the country's environmental, social, and economic well-being.

125. The program represents a paradigm change in Mexican environmental policy. Environmental restoration is conceived of as foundational to guarantees of environmental justice, human well-being, and reduction of territorial inequalities, recognizing that ecological restoration processes are gradual, continuous, and cumulative, and do not respond to isolated or short-term interventions.

126. The PNRA operates by identifying and prioritizing strategic sites throughout the nation's territory with a view to reversing processes of ecological degradation through comprehensive environmental restoration aimed at recovering equilibrium, ecological functionality, and ecosystem services.

127. The program promotes institutional coordination among the three levels of government, local leaders, civil society organizations, and communities, incorporating community surveillance and monitoring systems in order to strengthen territorial governance and societal acceptance of restoration processes. In addition, it integrates ecosystem recovery with improvement of local living environments, promoting sustainable economic activities and an economic vision that recognizes and values natural capital and ecosystem services.

128. The PNRA is founded on a rigorous scientific analysis. Conabio developed a multicriteria analysis methodology, resulting in specialized maps that identify the areas with the greatest need and potential for restoration.

129. The result of the analysis is the identification of over 340 priority sites in need of restoration, staggered over different time horizons. Some sites began restoration processes in 2025, others in 2026, and additional sites were identified with horizons extending up to 2050.

130. It must be specified that these time horizons constitute a long-term national policy and do not represent rigid time windows or fixed dates on which work will commence. The horizons acknowledge the scientific realities of ecological restoration; namely, that the recovery of degraded ecosystems is a gradual, continuous, and cumulative process and does not respond to isolated or short-term interventions.

Application to the case of the Nazas River

131. Hydrological Region 36 coincides spatially with various priority sites identified in the PNRA, whose restoration projects have a direct or indirect impact on conservation of the Nazas River. Two of these sites are of particular relevance.

132. **Site 142 - La Laguna Metropolitan Area**: This site directly influences a section of the Nazas River and appears in the program with a time horizon of 2050. This horizon must be interpreted not as a deadline for commencement of work, but as part of a long-term strategy recognizing that the restoration of a complex metropolitan area requires continuous and sustained processes.

133. **Site 38 - Mapimí Biosphere Reserve**: This site encompasses part of the R. Nazas-C. Santa Rosa subbasin, one of the subbasins traversed by the river.

134. Work on strategic sites and adjacent areas, guided by an integrated watershed-centered vision, produces indirect positive effects that progressively contribute to restoration of the La Laguna metropolitan area, strengthening ecosystem functionality and accelerating environmental recovery processes beyond the site of direct intervention.

135. In operational terms, the restoration measures implemented in the La Laguna metropolitan area and surrounding areas serve to strengthen regional ecosystem functionality and accelerate environmental recovery processes beyond the site of direct intervention. The Nazas River benefits from both direct work on the river and comprehensive improvement of the basin through which it flows.

136. The PNRA is solidly based on both the domestic and international legal frameworks and systematized scientific evidence.

137. Regarding the legal aspect, the program harmonizes applicable domestic legal instruments with provisions flowing from Mexico's international environmental commitments. This harmonization serves to prioritize and organize efforts towards the gradual recovery of the country's natural heritage.

138. Regarding the scientific aspect, the program is based on the National Environmental Restoration Information System, a specialized repository of systematized scientific knowledge. The program also incorporates the experience acquired by federal environmental sector institutions, particularly Conafor and Conanp, in the course of implementing restoration projects throughout the nation's territory, as well as technical proposals and experiences presented by specialists consulted during its development.

139. The comprehensive enforcement of Mexico's environmental laws — not limited to the specific provisions mentioned by the Submitter, but rather comprising Mexico's systematic

set of legal, programming, and institutional instruments — has produced concrete and documented benefits for the Nazas River.

140. The Nazas River benefits directly from the restoration of the La Laguna metropolitan area (PNRA site 142) and indirectly from work on the Mapimí Biosphere Reserve (site 38).

141. Mexico emphasizes that from an environmental policy perspective and further to an administrative, social, and legal analysis, the Government of Mexico's efforts to conserve the ecosystems present on its territory are tangible, backed by concrete public policy instruments, and carried out through appropriate institutional mechanisms.

142. The PNRA is the result of broad interinstitutional and intersectoral coordination involving the federal, state, and municipal governments, local communities, academic institutions, civil society organizations, and the private sector. This public policy instrument positions environmental restoration as a cornerstone of the Mexican environmental agenda for the 2024–2030 period and lays the groundwork for long-term work ranging up to 2050.

h. The management of Mexico's water resources is protected by the Agreement and is not subject to review by the SEM process

143. Even assuming — which Mexico does not — that the CEC Secretariat should find the environmental provisions invoked by the Submitter to be retroactively enforceable, USMCA/CUSMA Article 24.4(2) constitutes an additional safeguard against the production of a factual record in the case at hand.

144. USMCA/CUSMA Article 24.4(2) reads as follows: "The Parties recognize that each Party retains the right to exercise discretion and to make decisions regarding: (a) investigatory, prosecutorial, regulatory, and compliance matters; and (b) the allocation of environmental enforcement resources with respect to other environmental laws determined to have higher priorities. Accordingly, the Parties understand that with respect to the enforcement of environmental laws a Party is in compliance with paragraph 1 if a course of action or inaction reflects a reasonable exercise of that discretion, or results from a bona fide decision regarding the allocation of those resources in accordance with priorities for enforcement of its environmental laws."

145. This provision constitutes a fundamental safeguard of the Parties' sovereignty over the enforcement of their environmental laws. The Parties retain a margin of appreciation in determining how to enforce their environmental law, and decisions made within this margin are legitimate as long as they reflect a reasonable exercise of the discretion recognized by the Agreement.

146. Article 24.4(4) further stipulates that: “Nothing in this Chapter shall be construed to empower a Party’s authorities to undertake environmental law enforcement activities in the territory of another Party.”

147. The management of domestic water resources — including both historical decisions about the construction of infrastructure and decisions concerning the present-day operation of the Lázaro Cárdenas and Francisco Zarco dams and the distribution of water from the Nazas River for various uses — constitutes an exercise of the sovereign discretion recognized and protected by the Agreement itself. Mexico is fully enforcing its environmental law as long as the taking of, or failure to take, any measure reflects the reasonable exercise of its discretion over the assignment of environmental resources and priorities.

148. A factual record in which the CEC Secretariat reviews water management decisions would necessarily have to assess the opportuneness, sufficiency, or relevance of these decisions in determining whether or not there is failure to effectively enforce Mexico’s environmental law. However, it is precisely such review that USMCA/CUSMA Article 24.4 excludes from outside scrutiny when it recognizes such decisions as the legitimate exercise of sovereign discretion. This structural impediment is particularly evident in the case at hand, where decisions relating to the construction and operation of the dams preceded the existence of the provisions invoked by the Submitter, rendering impossible any assessment of “effective enforcement” without encroaching upon the sovereignty protected by the Agreement.

149. Mexico underscores that the discretion recognized by Article 24.4 is not an arbitrary privilege, but rather the consequence of respect for the Parties’ sovereignty and the balance negotiated in the USMCA/CUSMA. Each country retains its own environmental decision-making institutions and mechanisms. As discussed earlier, the Agreement seeks only to prevent differences in environmental law enforcement from being used as a strategy to obtain competitive trade advantages.

150. To authorize a factual record under these circumstances would transform the SEM process into a mechanism for review of domestic administrative decisions, thereby altering its original purpose. Such a precedent would allow for any discretionary regulatory decision, from assignment of water resources to approval of infrastructure projects, to be subjected to the production of a factual record, converting the SEM process into a public policy review mechanism that the Parties never agreed to create.

151. Additionally, to allow a factual record in regard to infrastructure built decades before the existence of the provisions invoked would not only alter the SEM process, but also create

a pernicious precedent for retroactive invocations of modern law to question any historical infrastructure, converting the mechanism into an instrument for judicial review of past sovereign decisions that no government could adequately defend under contemporary standards.

i. The irregularities and deficiencies of the CEC Secretariat are no longer isolated cases but rather a pattern demanding correction

152. As Mexico has consistently indicated throughout this Party response and in previous cases, the determinations and recommendations issued by the CEC Secretariat within the framework of the SEM process reveal a situation that must be directly addressed: namely, that the SEM Unit's legal experts appear to have difficulty understanding both Mexican environmental law and the basics of the USMCA/CUSMA, chapter 24 thereof, and consequently, the SEM process that they are charged with administering. The situation is paradoxical: the body in charge of reviewing the Parties' effective enforcement of environmental law is systematically incapable of understanding the provisions governing its own operation.

153. In the case of the *Nazas River Lower Basin* submission, the irregularities identified in the foregoing discussion — analyzed now as a whole — constitute a pattern that raises serious questions about the eligibility process followed by the CEC Secretariat. To recapitulate:

- The submission does not substantiate any effect on trade or investment between the Parties, an essential element under USMCA/CUSMA Article 24.4(1).
- The same arguments were made in amparo proceeding 1767/2023, the stay of which was upheld by the Mexican Supreme Court (SCJN), creating a *res judicata* that the Submitter now seeks to circumvent by engaging in a species of international forum shopping.
- The submission proposes the retroactive application of environmental law to infrastructure built between 1936 and 1966, decades before these provisions existed, contradicting the fundamental principles of non-retroactivity.
- The matter was communicated to the Mexican authorities in an email sent in the context of an initial statement of claim only one day before the filing of the revised submission, with no real possibility for an administrative response.
- The CEC Secretariat interpreted the USMCA/CUSMA exclusively from an environmental perspective, omitting the trade component that constitutes the core of the Agreement.

154. Each of these defects has been analyzed in detail in the corresponding sections of this response. What must now be stated is that, taken together, these irregularities suggest one of two situations: either the CEC Secretariat is facing significant technical limitations in identifying fundamental legal defects, or it did identify them but opted not to consider them an obstacle to the processing of the Submission. In both scenarios, the concern arises that the CEC Secretariat is not rigorously fulfilling its duty to review submissions before requesting a Party response and, where applicable, recommending a factual record.

155. The eligibility review contemplated in USMCA/CUSMA Article 24.27(2) has a clear purpose: to ensure that only submissions meeting the established requirements are processed, thus avoiding the inefficient use of institutional resources and the creation of unnecessary burdens for the Parties.

156. Where the CEC Secretariat allows submissions characterized by the set of defects identified in this case, the risk is that the SEM process will be transformed into a practically unrestricted mechanism of access in which any environmental allegation can prosper, regardless of its ability to meet the requirements of the Agreement.

157. As we have demonstrated, the CEC Secretariat appears to be interpreting the USMCA/CUSMA from an exclusively environmental perspective, as if chapter 24 constituted an autonomous environmental protection agreement. This approach not only ignores the trade-related nature of the agreement, but also reveals a fundamental misunderstanding of the mandate conferred on the CEC Secretariat. The body that reviews whether Mexico is effectively enforcing its environmental law has difficulty understanding and applying the fundamental provisions of the Agreement that underlie its operation.

158. This situation compromises the credibility of the SEM process and creates legitimate concern as to the consistency of the SEM mechanism. When the body in charge of overseeing the application of an environmental legal framework has difficulty operating within that same framework, the system demands reflection and adjustment.

159. Mexico observes that this practice does not represent an isolated case, but rather reflects an observable pattern that has been documented on multiple occasions. As stated above, the CEC Secretariat has been adopting a methodology in which the eligibility requirements tend to be interpreted in a considerably flexible manner so as to favor the intake of submissions, whereas it reviews Party responses, those of Mexico in particular, using significantly more demanding and unpredictable standards. This imbalance raises questions about the procedural equity of the mechanism.

160. It is thus relevant to reiterate the considerations of section (a): **the CEC is not an autonomous international environmental body with general jurisdiction, but rather a commission created under what is, in its essence, a trade agreement**. Its mandate is not to review, in a general and abstract manner, the enforcement of the Parties' environmental law. In the case at hand, as exhaustively proven in section (b), there is no impact on trade or investment; consequently, it is questionable for the SEM process to be activated in the absence of this fundamental element.

161. It is paradoxical to observe that the concerns about legal certainty and stability of trilateral trade cooperation do not arise from the actions of Mexico — whose legal system operates in accordance with its internal standards and international treaties — but from the manner in which the CEC Secretariat has been interpreting its own powers. Interpretations that systematically overstep the bounds set out in the Agreement, added to an apparent failure to understand the mandate conferred, project a worrying image: instead of contributing to the balance intended by the Agreement, the body in charge of applying this legal framework could be itself turning into a factor of uncertainty for the environmental cooperation mechanism.

162. The irregularities documented herein transcend the individual case of the *Nazas River Lower Basin* submission. They raise questions about the institutional capacity of the CEC Secretariat to administer the SEM process consistently with the mandate conferred on it by the Parties.

163. Mexico has repeatedly expressed its commitment to trilateral environmental cooperation and acknowledges the value of the SEM process when it operates within the limits established by the Agreement. However, confidence in any institutional mechanism depends on **the consistency, predictability, and adherence to the legal framework with which it is administered**. The accumulation of cases in which the CEC Secretariat interprets chapter 24 in a manner that oversteps its mandate erodes this confidence and compromises the long-term viability of the SEM process.

164. The USMCA/CUSMA Parties are thus faced with a quandary, where they must either allow the SEM process to continue operating according to interpretations that systematically overstep the bounds of the Agreement, or initiate serious reflection on the adjustments necessary in order to restore the balance that characterized its original negotiation. Mexico regards the second option as the only one compatible with the preservation of the integrity of the USMCA/CUSMA and with the trilateral environmental cooperation that the three nations seek to strengthen.

II. WHETHER THE MATTER WAS PREVIOUSLY THE SUBJECT OF A JUDICIAL OR ADMINISTRATIVE PROCEEDING

a. *Res judicata*: the Second Chamber of the SCJN, in a final decision, upheld the stay

165. An aspect of considerable legal relevance, which the CEC Secretariat failed to assess in its eligibility review, is that **the same facts and claims raised by the Submitter in the *Nazas River Lower Basin* submission were already the object of an amparo proceeding that concluded with a stay, which the SCJN upheld**. This circumstance, which the Submitter itself acknowledges in its revised submission, creates a situation of *res judicata* that should prevent the processing of the submission in the international sphere.

166. To wit, the Submitter itself acknowledges in paragraphs 19 to 22 of its revised submission[35] that prior to pursuing the SEM process, it filed an amparo motion under number 1767/2023[36] with the Seventh District Court in La Laguna. In this proceeding, the Submitter presented exactly the same facts that it now submits to the scrutiny of the CEC Secretariat: the alleged failures by the Mexican authorities to protect the Nazas River, the management of its lower basin, and the effects on the associated ecosystems.

167. It must be emphasized that the CEC Secretariat had full knowledge and could observe that the submission is nearly an exact replica of the Submitter's amparo motion, and even so decided to process the submission. In fact, it may be observed that even the revised submission contains procedural references proper to the amparo proceeding, as may be seen in the following quote:

> "15. As shall be detailed in the **description of the violation**, and may be corroborated by the public documentary evidence that is offered and exhibited **in this amparo motion**, the responsible authorities have acknowledged the environmental harm caused to ecosystems and river health, the limitation, alteration, interruption, or blocking of the river's flow as a result of human activity, and consequently the environmental services that it provides to its beneficiaries…
>
> "Thus, as stated earlier, the interruption of the natural flow of the Nazas River through the construction and operation of works of water infrastructure that have caused the riverbed in the lower basin to run dry, leading to the verified environmental harm and ecological disequilibrium discussed **in this amparo motion**, ensues from the failure by the responsible authorities to fulfill their legal obligations as contained in national legislation in the form of principles, objectives, guidelines, and mandates governing their activities,

[35] MX-010.
[36] MX-012.

which they are obligated to observe and fulfill, as enumerated in SECTION F of this submission."

This shows that essentially the same document has been recycled for a new purpose.

168. This decision by the CEC Secretariat is highly questionable from the standpoint of procedural integrity. By allowing a submission that substantially reproduces an amparo motion upon which the Mexican courts have already ruled, the CEC Secretariat failed to notice that the SEM process was being used, deliberately or not, as a means of reigniting a dispute definitively resolved by the courts.

169. Irrespective of the Submitter's motivations, it was the Secretariat's duty to safeguard the integrity of the SEM process and avoid a situation in which, by requesting a response from the Party in regard to a submission raising the same facts, acts, and omissions that the courts had already declined to take up because of the Submitter's lack of standing, the possibility would be created that a factual record might materially collide with the final decision of the SCJN.

170. By allowing the submission and requesting this Party response, the Secretariat created a procedural pathway for demands that the Mexican courts have dismissed for lack of standing on the part of the Submitter. In this manner, the SEM process becomes a means of analyzing and potentially evaluating the enforcement of environmental law invoked by the Submitter with respect to matters about which the Mexican courts have already held that the Submitter has no legal standing.

171. This decision by the CEC Secretariat not only creates an unacceptable institutional risk for Mexico, but also allows the SEM process to circumvent and, in practice, to contradict a final judicial decision as to the Submitter's lack of standing.

172. As discussed above, the outcome of this procedure was definitive and unfavorable to the Submitter. As the Submitter itself acknowledges, the Seventh District Court in La Laguna issued a final judgment staying the matter, holding that "plaintiffs did not prove their standing to file the amparo motion." That is, Mexico's judiciary held that the Submitter lacked the procedural standing necessary to make the claims that it is now attempting to submit to the SEM process.

173. Dissenting from this decision, the Submitter filed an appeal, which fell to the **First Collegial Circuit Court of the Eighth Circuit for Penal and Administrative Matters**, with file number 32/2025. However, the relevance of the matter motivated the **Second Chamber of the SCJN** to exercise its authority to assert jurisdiction, and it heard the judicial review action under file number 102/2025.

174. In a **decision of 2 July 2025** on judicial review motion no. 169/2025,[37] the Second Chamber of the SCJN **upheld the stay** issued by the Seventh District Court in La Laguna. This decision, issued by the highest constitutional court, has the status of *res judicata* and constitutes the final, unassailable decision of the Mexican judiciary on the matter.

175. The relevance of this background is critical and cannot be sidestepped. The Submitter applied to the Mexican judicial system, submitting exactly the same claims that it is now submitting to the SEM process, and **the judiciary, up to the highest court, held against it**. The stay, for lack of standing, means that the Submitter did not demonstrate a legitimate interest in questioning the Mexican authorities' decisions in the area of water management in the Nazas River.

176. The SCJN decision demonstrates that the process took place with full adherence to law and due process. The Second Chamber applied the jurisprudence of Plenum P./J. 50/2014 (10a.)[38] in regard to standing, which established that this "entails a link between a person and a claim" that produces "a positive benefit or effect in its judicial sphere," requires "an identifiable legal situation arising from a specific relationship to the object of the claim," and must be "ongoing and real," not hypothetical. The Submitter had full access to all judicial bodies.

177. The SCJN held that the Submitter "did not succeed in demonstrating that they benefit, in any manner, from that lower part or lower basin of the Nazas River," writing that "they did not succeed in demonstrating that they used it for any purpose or environmental service, such as irrigation of their fields, a water source for their animals, or domestic use," and that "the drinking water in the urban area is not drawn from the river but from aquifers." These findings of fact are objective and verifiable.

178. The decision established that the Submitter's claim is "future, hypothetical, and uncertain," seeking to reverse water conditions that have existed for over five decades without demonstrating a direct, ongoing, and specific relationship to its individual legal situation.

179. To now ask the CEC Secretariat to reopen a debate that has been definitively resolved by the SCJN constitutes an attempt to **circumvent the authority of the *res judicata*** and alter the SEM process.

180. The preclusive effect of this judicial decision extends to any claim starting from the same factual premise: that the Submitter lacks standing to question decisions on water management in the Nazas River, as held by the SCJN. This decision cannot be overturned

[37] MX-013.
[38] MX-022.

or reviewed by an international body with a different function. This claim is unacceptable in law for several reasons.

181. In the first place, the SEM process **was not designed as an appeal or review mechanism for domestic court decisions**. USMCA/CUSMA Article 24.27 permits the filing of submissions asserting that a Party is failing to effectively enforce its environmental laws, but does not empower the CEC Secretariat to review, amend, or refuse to acknowledge domestic court decisions. To accept the contrary would be tantamount to holding up the CEC Secretariat as a supranational judicial review body, a function not conferred on it by the USMCA/CUSMA.

182. In the second place, the existence of *res judicata* means that the matter **was already definitively resolved by the competent authority**. The SCJN reviewed the Submitter's arguments and held that it had no standing to question the decisions of the Mexican authorities.

183. In the third place, to presume to use the SEM process in order to circumvent an unfavorable judicial decision violates the **principles of legal certainty and respect for the Parties' jurisdictional sovereignty**. The USMCA/CUSMA is built on the recognition that each Party has its own judicial system, with jurisdiction to resolve disputes arising on its territory. To refuse to recognize the decisions of the SCJN would be tantamount to unacceptable interference in Mexico's jurisdictional sovereignty.

184. This circumstance should by itself suffice to terminate the submission. The SEM process cannot be turned into a refuge for those who, having lost their cases in the domestic courts, seek a second opportunity in the international sphere. To allow this practice would not only alter the submissions mechanism, but also create a perverse incentive to circumvent domestic court decisions; it would convert the SEM process into an opportunity for forum shopping, thereby undermining the rule of law that the USMCA/CUSMA aims to strengthen.

185. Mexico underlines that the existence of *res judicata* constitutes an **absolute procedural impediment** that the CEC Secretariat should have noticed in its eligibility review.

186. Its failure to notice this confirms that the CEC Secretariat is not conducting rigorous reviews of the submissions it receives, but rather adopting lax eligibility criteria favorable to the intake of submissions without verification of their legal basis.

b. The USMCA/CUSMA protects discretion in judicial matters, and international mechanisms cannot review final judicial decisions

187. In addition to the procedural impediment of *res judicata*, USMCA/CUSMA Article 24.4(2) **recognizes the right of each Party to exercise discretion and to make decisions regarding** "investigatory, **prosecutorial**, regulatory, and compliance **matters**," establishing that "a Party is in compliance … if a course of action or inaction reflects a reasonable exercise of that discretion." The SCJN decision concerning the interpretation of "**standing**" in Mexican constitutional procedural law constitutes a judicial matter over which Mexico retains its discretion.

188. By initiating investigation and documentation in a possible factual record in regard to alleged enforcement failures in connection with matters in which the SCJN has already held that the Submitter lacks standing, the CEC Secretariat would be giving the Submitter, through an international channel, the legitimacy to demand the environmental oversight denied by Mexico's highest constitutional court. If the SCJN found that the Submitter lacks standing to demand action on the part of the authorities in regard to these matters, the Secretariat cannot open an investigation presupposing precisely that the Submitter does have such standing.

189. This limitation finds recognition in international law. International organizations, whether jurisdictional, quasi-jurisdictional, or administrative, recognize that they do not act as review bodies for final decisions handed down by competent domestic tribunals. In the Inter-American Human Rights System, for example, the Inter-American Commission has consistently held that "it is not the function of the IACHR to act as a quasi-judicial fourth instance and to review the holdings of the domestic courts," thereby acknowledging the subsidiarity of international protection with respect to domestic judiciaries.

190. Mexico recognizes that the USMCA/CUSMA is not a human rights agreement and that the SEM process is not a jurisdictional mechanism. However, the underlying principle — that international mechanisms cannot review definitive decisions by domestic courts — reflects a general understanding in international law as to the limits of these mechanisms with respect to the sovereign judicial functions of states. The SEM process was designed as an environmental cooperation mechanism, not as a system for reviewing judicial decisions concerning the interpretation of domestic law.

191. The existence of a final judgment by the SCJN resolving the same claims now submitted to the SEM process, in exercise of the jurisdictional function recognized by USMCA/CUSMA Article 24.4(2) as a "judicial matter," is cause for termination of the submission. Mexico respectfully asks the CEC Secretariat to acknowledge these limits and, in consequence, to proceed no further with the *Nazas River Lower Basin* submission.

III. CONCLUSIONS

192. For the reasons stated in this Party response, Mexico regards the *Nazas River Lower Basin* submission as **suffering from intrinsic defects compromising its legal validity**, such that, in strict adherence to the USMCA/CUSMA and the principles of international law, it should be terminated without further processing.

193. In summary, the defects affecting the submission are as follows:

a) **First**, the submission **never substantiated any effect on trade or investment between the Parties**, an essential requirement of USMCA/CUSMA Article 24.4. The Submitter did not identify any person or industry of the United States or Canada producing goods, supplying services, or having investments affected by Mexico's alleged enforcement failures. Without this commercial nexus, the submission is unfounded within the framework of the Agreement.

b) **Second**, the CEC Secretariat **interpreted the USMCA/CUSMA in a fragmented and biased manner**, omitting the trade component that constitutes the core of chapter 24. In allowing the submission without verifying the existence of effects on trade or investment, the Secretariat acted *ultra vires* and violated the principle of legality that must govern all operations by international bodies.

c) **Third**, the arguments in the submission were raised identically in **amparo proceeding no. 1767/2023, which was stayed for lack of standing, a decision upheld by the Second Chamber of the SCJN** on 2 July 2025. This decision has the status of *res judicata* and has preclusive effects that constitute an absolute procedural impediment to the processing of the submission. The SEM process cannot review or refuse to recognize the decisions of Mexico's highest constitutional court.

d) **Fourth**, the use of the SEM process as a mechanism for reactivating a dispute settled definitively by a court constitutes a **procedural abuse** that is incompatible with the object and purpose of the USMCA/CUSMA. According to the doctrine of the "fourth instance," widely recognized in international law, international mechanisms cannot function as appeals bodies for final domestic judicial decisions. The Submitter seeks to obtain through international channels the standing denied to it by the SCJN, thereby altering the SEM process and creating a perverse incentive for forum shopping.

e) **Fifth**, the submission calls for the **retroactive enforcement of environmental law to infrastructure built between 1936 and 1966**; that is, prior to the promulgation of the provisions invoked. This claim violates the principle of non-retroactivity enshrined in CPEUM Article 14 and recognized in international law.

f) **Sixth**, the submission predominantly invokes provisions of a programmatic nature — public policy principles, declarations of public utility, and provisions assigning jurisdiction — that do not contain concrete, directly enforceable mandates whose non-fulfillment could be characterized as a "failure of effective enforcement" in the sense of USMCA/CUSMA Article 24.4. Mexico enforces these provisions through the formulation and implementation of policies, programs, and management instruments.

g) **Seventh**, the matter was communicated to the Mexican authorities **in the form of an email sent only one day before the filing of the revised submission**, without affording a genuine opportunity for a response. This merely formal communication does not correspond to the purpose of USMCA/CUSMA Article 24.27(2)(e), which aims to privilege the resolution of disputes domestically before escalating them to the international level.

h) **Eighth**, the management of water resources in the Nazas River constitutes an exercise of sovereign discretion expressly recognized and protected by USMCA/CUSMA Article 24.4. Decisions about water distribution among various users — agricultural, urban, industrial, environmental — are the exclusive responsibility of the competent Mexican authorities; the SEM process cannot be turned into a review mechanism for regulatory decisions expressly excluded from outside scrutiny by the Agreement.

194. This Party response has evidenced that the *Nazas River Lower Basin* submission exhibits structural defects by which its validity is compromised from the outset. Nevertheless, and in compliance with the obligation of USMCA/CUSMA Article 24.27(4), Mexico has demonstrated in the body of this response that it is effectively enforcing its environmental law in relation to the management of the Nazas River basin. In particular, Mexico has documented:

1) The creation of the "Ríos y Montañas de la Comarca Lagunera" APRN, with an area of 172,924 hectares, by means of an order of January 2024.

2) The implementation of surveillance programs, invasive species control, forest restoration, and waste management through Conanp.

3) The operating policies of the Lázaro Cárdenas and Francisco Zarco dams under the supervision of CTOOH, with water quality monitoring reports indicating "Excellent (Uncontaminated)" quality.

4) Conafor's support for environmental restoration and services in the basin, with documented investments of more than 136 million pesos.

5) The integration of the region into the PNRA 2025–2030, with scheduled short-, medium-, and long-term work.

195. Mexico reiterates that the considerations presented herein demonstrate that the submission lacks legal basis from the outset, and that its intake by the CEC Secretariat constitutes a worrisome precedent that erodes the credibility of the SEM process. The USMCA/CUSMA was designed to guarantee the effective enforcement of environmental law where there are effects on trade or investment, not to become a parallel environmental tribunal that ignores the decisions of the Parties' judiciaries and that attempts to retroactively apply provisions to infrastructure built decades before they were enacted.

196. In view of the foregoing, Mexico respectfully asks the CEC Secretariat:

a) to consistently and rigorously apply the eligibility requirements of USMCA/CUSMA Article 24.27, including verification of the trade component that constitutes the essence of chapter 24 of the Agreement;

b) to terminate the *Nazas River Lower Basin* submission for failing to substantiate the trade-investment nexus required by USMCA/CUSMA Article 24.4 and for constituting an attempt to use the SEM process as a mechanism for appealing a final decision by the SCJN;

c) failing that, to find that the submission does not warrant the production of a factual record, taking note of the following:

1) the existence of *res judicata* further to judicial review no. 169/2025;

2) the invalidity of retroactively applying environmental law to infrastructure built decades before the law was promulgated;

3) the reasonable exercise of Mexico's sovereign discretion over the management of its water resources;

4) the predominantly programmatic nature of the provisions invoked, which do not contain directly enforceable mandates whose non-fulfillment could be documented in a factual record;

d) to revise and adjust its internal eligibility review procedures so that henceforth, all submissions filed under USMCA/CUSMA Article 24.27 are subjected to verification of the nexus between the alleged environmental enforcement failures and effects on trade or investment between the Parties, as required by USMCA/CUSMA Article 24.4(1), prior to requesting a Party response.