

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

<b>Submitters:</b>	<i>Asociación Nacional de Importadores y Exportadores de la República Mexicana</i> , Chihuahua Chapter Marcelo Vázquez Tovar <i>Asociación de Transportistas de Ciudad Juárez A.C.</i> Pursuant to Article 16(1)(a) of the ECA, the identity of another Submitter is kept confidential
<b>Party:</b>	United States of America
<b>Original submissions:</b>	4 December 2025 and 2 January 2026
<b>Revised submission:</b>	13 March 2026 <sup>1</sup>
<b>Date of determination:</b>	14 April 2026
<b>Submissions No.:</b>	SEM-25-002 ( <i>Bridge of the Americas—BOTA</i> ) and SEM-26-001 ( <i>Bridge of the Americas—BOTA II</i> )

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## I. INTRODUCTION

1. On 1 July 2020, the United States–Mexico–Canada Agreement (USMCA/CUSMA) and the Environmental Cooperation Agreement (ECA or "the Agreement") entered into force. As of that date, the submissions on enforcement matters ("SEM") process—originally established under Articles 14 and 15 of the North American Agreement on Environmental Cooperation (NAAEC)—is governed by Articles 24.27 and 24.28 of the USMCA/CUSMA, while the terms governing its implementation and operation by the Secretariat of the Commission for Environmental Cooperation (CEC or "the Commission")<sup>2</sup> are now set out in the ECA.<sup>3</sup>

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<sup>1</sup> The CEC Secretariat received a revised submission with respect to submission SEM-25-002 (*Bridge of the Americas—BOTA*), which is the subject of this determination. Since a revised submission for SEM-26-001 (*Bridge of the Americas—BOTA II*) was not received within the required timeframe, it is hereby terminated.

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

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

2. The SEM process allows any person or entity legally established in Canada, the United States, or Mexico to file a submission asserting that a Party is failing to effectively enforce its environmental laws. The CEC Secretariat ("the Secretariat") initially reviews submissions based on the requirements set out in paragraphs (1) and (2) of Article 24.27 of the USMCA/CUSMA, which represent the only criteria for determining the admissibility of a submission.<sup>4</sup> When the Secretariat finds that a submission meets those requirements, it proceeds to determine whether, in accordance with Article 24.27(3), the submission warrants a response from the Party in question. In light of the response provided by the Party, the Secretariat then determines whether the matter warrants the preparation of a factual record and, if so, informs the CEC Council and the Environment Committee,<sup>5</sup> providing its reasons pursuant to Article 24.28(1); otherwise, it terminates the review of the submission.<sup>6</sup>
3. On 4 December 2025, the *Asociación Nacional de Importadores y Exportadores de la República Mexicana* (Chihuahua Chapter) and Marcelo Vázquez Tovar filed a submission with the Secretariat, SEM-25-002 (*Bridge of the Americas—BOTA*), in accordance with Article 24.27(1) of the USMCA/CUSMA;<sup>7</sup> On 23 December 2025, the *Asociación de Transportistas de Ciudad Juárez A.C.* and another submitter, whose identity is kept confidential pursuant to Article 16(1)(a) of the ECA, filed another submission, SEM-26-001 (*Bridge of the Americas—BOTA II*) (jointly referred to as "the Submitters").<sup>8</sup> On 2 January 2026, the Secretariat issued the corresponding acknowledgment of receipt<sup>9</sup> and subsequently, on 5 January 2026, decided to consolidate the submissions SEM-26-001 (*Bridge of the Americas—BOTA II*) and SEM-25-002 (*Bridge of the Americas—BOTA*) (the "consolidated submissions"), given that both presented the same facts and the asserted the same failure to effectively enforce environmental law.
4. According to the Submitters, the United States failed to effectively enforce its environmental law by failing to assess the environmental impacts resulting from its decision to permanently close all

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<sup>4</sup> Article 24.27(1) of the USMCA/CUSMA provides that a submission may be filed by "any person of a Party," understood—pursuant to the general definitions in Article 1.5—as "a national [a natural person having the nationality or permanent resident status] or an enterprise [any entity or organization, whether private, public, or social, established or constituted under applicable law] of a Party." Article 24.27(2) of the USMCA/CUSMA provides that "[The Secretariat] may consider a submission under this Article if it finds that the submission: (a) is in writing in English, French, or Spanish; (b) clearly identifies the person making the submission; (c) provides sufficient information to allow for the review of the submission including any documentary evidence on which the submission may be based and identification of the environmental law of which the failure to enforce is asserted; (d) appears to be aimed at promoting enforcement rather than at harassing industry; and (e) indicates whether the matter has been communicated in writing to the relevant authorities of the Party and the Party's response, if any."

<sup>5</sup> Established pursuant to Article 24.26(2) of the USMCA/CUSMA, the Environment Committee is responsible for supervising the implementation of Chapter 24 of the Agreement.

<sup>6</sup> For further details regarding the various stages of the Submissions on Enforcement Matters (SEM) process, the public registry of submissions, and the determinations and factual records prepared by the Secretariat, please consult the CEC website at: <[www.cec.org/submissions](http://www.cec.org/submissions)>.

<sup>7</sup> SEM-25-002 (*Bridge of the Americas—BOTA*), Submission under USMCA/CUSMA Article 24.27(1) (2 September 2025), at: <<https://bit.ly/4iQUyg2>> [Submission].

<sup>8</sup> SEM-26-001 (*Bridge of the Americas—BOTA II*) Submission under USMCA/CUSMA Article 24.27(1) (23 December 2025), at: <<https://bit.ly/4mlrzTi>>.

<sup>9</sup> Since the Secretariat's offices were closed when the submission was filed, it was not processed until 2 January 2026, when the Secretariat resumed operations.

commercial cargo operations at the Bridge of the Americas (BOTA) at the United States–Mexico border, in Ciudad Juárez (Chihuahua, Mexico) and the city of El Paso (Texas, United States).

5. The consolidated submissions assert that this decision, formalized in a Record of Decision and analyzed in an Environmental Impact Statement, disproportionately increases cargo traffic and air pollution in the southern area of the Zaragoza-Ysleta crossing in Ciudad Juárez, home to thousands of Mexicans. The Submitters argue that, by failing to evaluate the impacts on air quality on the Mexican side of the border, the United States has violated its obligations under the 1983 La Paz Agreement, which requires both countries to assess significant environmental impacts in the border area (100 km on each side) and to consider mitigation measures.
6. On 13 January 2026, the Secretariat determined that the consolidated submissions did not meet all the SEM admissibility requirements. Specifically, it found that the submissions did not cite an “environmental law” within the meaning of the USMCA/CUSMA Article 24.27(1), and did not satisfy all admissibility requirements set out in subparagraphs (c) and (e) of Article 24.27(2) and subparagraph (c) of Article 24.27(3).<sup>10</sup>
7. The Secretariat requested that the Submitters prepare revised submissions which cited environmental law in accordance with the USMCA/CUSMA; provided evidence of the asserted environmental harm; indicated whether the matter had previously been communicated in writing to the relevant authorities of the United States and their response, if any, or alternatively, explained why such correspondence was not feasible; and indicated whether remedies available to the Submitters under US law had been pursued.
8. On 13 March 2026, the Secretariat received a revised submission from the Submitters identified in submission SEM-25-002 (*Bridge of the Americas—BOTA*).<sup>11</sup> As for submission SEM-26-001 (*Bridge of the Americas—BOTA II*), it is hereby terminated because a revised submission was not received within the required timeframe.<sup>12</sup> Accordingly, the present determination addresses solely, from this point forward, the admissibility of submission SEM-25-002 (*Bridge of the Americas—BOTA*).
9. Upon assessment of the revised submission, the Secretariat found that it does not meet all the admissibility requirements set out in the USMCA/CUSMA Article 24.27(2) at subparagraphs (c) and (e) and Article 24.27(3) at subparagraph (c). Although the Submitters addressed certain deficiencies by: (i) identifying “environmental law” within the meaning of the USMCA/CUSMA; (ii) providing testimonial evidence in support of the submission's assertions; and (iii) providing evidence that the matter was communicated in writing to the Party's authorities, the Secretariat considers that the information provided does not satisfy all admissibility requirements. The Secretariat also cannot overlook the fact that the Submitters provided no information regarding remedies pursued under US law, or the impossibility of pursuing such remedies.

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<sup>10</sup> SEM-25-002 (*Bridge of the Americas—BOTA*) and SEM-26-001 (*Bridge of the Americas—BOTA II*), Determination in accordance with USMCA/CUSMA Article 24.27(2) and (3) (13 January 2026), at: <<https://bit.ly/3QbG3sM>> [First Determination].

<sup>11</sup> SEM-25-002 (*Bridge of the Americas—BOTA*), Submission under Article 24.27(1) of the CUSMA/USMCA (13 March 2026), at: <<https://bit.ly/4mqA7sc>> [Revised Submission].

<sup>12</sup> First Determination, *supra* at paragraph 60, at: <<https://bit.ly/3QbG3sM>> (Pursuant to the First Determination, the Submitters had 60 calendar days from the date of that determination (i.e., until 16 March 2026) to file a revised submission).

10. The Secretariat determines that, pursuant to the USMCA/CUSMA Article 24.27(3), the submission does not warrant a response from the Party in question for the reasons set out below.

## II ANALYSIS

11. The CEC Secretariat is authorized to review submissions asserting that a Party to the USMCA/CUSMA is failing to effectively enforce its environmental laws. The Secretariat reiterates, as it has stated in previous determinations, that the requirements of the USMCA/CUSMA Articles 24.27(1), (2) and (3) are not intended to be an insurmountable procedural screening device<sup>13</sup>, and therefore must be given a broad interpretation in accordance with Chapter 24.<sup>14</sup> Likewise, the Secretariat must apply a consistent—and therefore predictable—interpretation in implementing the SEM process.<sup>15</sup> The Secretariat reviews the submission with that perspective in mind.
12. In its determination dated 13 January 2026, the Secretariat noted that the submissions identified no “environmental law” within the meaning of the USMCA/CUSMA and that, while they met the requirements of the USMCA/CUSMA Article 24.27(2) at subparagraphs (a), (b) and (d),<sup>16</sup> they did not satisfy the requirements at subparagraphs (c) and (e).<sup>17</sup> Furthermore, the Secretariat found that the submissions met the criteria at subparagraphs (a), (b) and (d) of Article 24.27(3), but required that the Submitters file a revised submission with additional information satisfying the criteria at subparagraph (c). Given that the Secretariat’s admissibility analysis of the submissions is set out in that first determination, only the additional information provided in the revised submission is examined herein.

### A. Article 24.27(2)

13. With respect to the criteria set out in the USMCA/CUSMA Article 24.27(2) at subparagraphs (c) and (e),<sup>18</sup> the revised submission reiterates the facts giving rise to the submission;<sup>19</sup> argues the

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<sup>13</sup> SEM-97-005 (*Biodiversity*), Determination pursuant to NAAEC Article 14(1) (26 May 1998), at p. 2-3, at: <<https://bit.ly/4tcFY71>>; SEM-98-003 (*Great Lakes*), Determination pursuant to NAAEC Articles 14(1) and (2) (8 September 1999), at p. 2-3, at: <<https://bit.ly/4hxfCHP>> [Great Lakes]; SEM-20-001 (*Loggerhead Sea Turtle*), Determination pursuant to USMCA/CUSMA Articles 24.27(2) and (3) (8 February 2021), §8, at: <<https://bit.ly/3OEF5F1>>; For further information on the assessment of jurisdiction, the absence of requirements relating to trade and/or investment, and procedural asymmetry, see: SEM-25-001 (*Lower Nazas River Basin*), Determination pursuant to USMCA/CUSMA Article 24.27(1) (10 April 2024), at §§62-63, at: <<https://bit.ly/4sLhl0c>>.

<sup>14</sup> See Agreement between the United States of America, the United Mexican States, and Canada, Chapter 24, Article 24.2, at: <<https://bit.ly/420Lb6x>> and <<https://bit.ly/4itON6R>> [USMCA/CUSMA].

<sup>15</sup> SEM-97-001 (*BC Hydro*), Notification pursuant to NAAEC Articles 14 and 15 (27 April 1998), at footnote 9, at: <<https://bit.ly/4vpRf5r>>; SEM-98-001 (*Guadalajara*), Determination pursuant to Article 14(1) (11 January 2000), at p. 5, at: <<https://bit.ly/47ZEQen>>; SEM-98-004 (*BC Mining*), Notification pursuant to NAAEC Article 15(1) (11 May 2001), at footnote 55, at: <<https://bit.ly/4caGdJx>>; SEM-07-001 (*Minera San Xavier*), Determination pursuant to NAAEC Article 15(1) (15 July 2009), at §33, at: <<https://bit.ly/4vt0P7p>>; SEM-13-001 (*Tourism Development in the Gulf of California*), Notification pursuant to NAAEC Article 15(1) (5 September 2014), §§17-18, at: <<https://bit.ly/4vvlAzq>>.

<sup>16</sup> USMCA/CUSMA, *supra* at Article 24.27(2), at: <<https://bit.ly/420Lb6x>> and <<https://bit.ly/4itON6R>>.

<sup>17</sup> *Id.* At 24.27(3)

<sup>18</sup> It is reiterated that the sole admissibility requirements for a submission are set out in the text of Article 24.27(1) and in accordance with the requirements listed at Article 24.27(2) of the USMCA/CUSMA.

<sup>19</sup> Revised Submission, *supra* at: <<https://bit.ly/4mqA7sc>>.

applicability of provisions from the National Environmental Policy Act (NEPA) and the Clean Air Act (CAA);<sup>20</sup> and attaches documents demonstrating that the matter has been communicated to the relevant Party authorities.<sup>21</sup>

### **Environmental Laws in Question**

14. The Submitters cite NEPA and the CAA as the legal basis of the submission, arguing that these two instruments are environmental laws of the United States that “strictly comply with Chapter 24, Article 24.1 of the USMCA/CUSMA.”<sup>22</sup> The Submitters specifically cite the NEPA section 4332(2)(C) and the CAA section 7415.<sup>23</sup>
15. In the revised submission, the Submitters put forward various arguments supporting the admissibility of the cited provisions which the Secretariat analyzes as follows.

#### **a. National Environmental Policy Act**

16. The revised submission specifically cites section 4332(2)(C) of the NEPA which requires all federal agencies to include a detailed statement “in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment” that covers:<sup>24</sup>
  - (i) reasonably foreseeable environmental effects of the proposed agency action;
  - (ii) any reasonably foreseeable adverse environmental effects which cannot be avoided should the proposal be implemented;
  - (iii) a reasonable range of alternatives to the proposed agency action, including an analysis of any negative environmental impacts of not implementing the proposed agency action in the case of a no action alternative, that are technically and economically feasible, and meet the purpose and need of the proposal;
  - (iv) the relationship between local short-term uses of man’s environment and the maintenance and enhancement of long-term productivity; and
  - (v) any irreversible and irretrievable commitments of Federal resources which would be involved in the proposed agency action should it be implemented.”<sup>25</sup>
17. Subsection 4332(2)(C) also requires “the lead agency” to “consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved” before making the detailed statement.<sup>26</sup>
18. This NEPA provision meets the definition of environmental law under the USMCA/CUSMA. The NEPA is an act of Congress that is enforceable by action of the central level of government. Subsection 4332(2)(C) has a primary purpose of protecting the environment and preventing harm to human life or health through the prevention, abatement, or control of the release, discharge, or

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<sup>20</sup> Id. at p. 2-3.

<sup>21</sup> Id. at p. 9.

<sup>22</sup> Id. at p. 2.

<sup>23</sup> Id. at footnote 3.

<sup>24</sup> United States National Environmental Policy Act, U.S.C. 42, §4332(2)(C), at: <<https://bit.ly/4td7yks>> [NEPA].

<sup>25</sup> Id.

<sup>26</sup> Id.

emission of pollutants or environmental contaminants; the control of environmentally hazardous or toxic chemicals, substances, materials, or wastes, and the dissemination of information related thereto; and the protection or conservation of wild flora and fauna, including endangered species and their habitat.

19. The Submitters, in their revised submission, indicate that “[t]he term ‘human environment’ has been interpreted by United States federal courts to include impacts that cross international borders where there is a direct causal nexus.” Without expressing a view on that interpretation, the Secretariat finds *prima facie* that the provision is related to the matter raised in the submission.<sup>27</sup>

**b. Clean Air Act**

20. The CAA enables the United States Environmental Protection Agency (EPA) to set and enforce air quality standards. Some “[...] key provisions are designed to minimize pollution increases from growing numbers of motor vehicles [...]”.<sup>28</sup> Under the CAA, “States are required to adopt enforceable plans [which] must control emissions that drift across state lines [...]”.<sup>29</sup>
21. In their revised submission, the Submitters specifically cite the CAA Section 115, 42 U.S. Code §7415<sup>30</sup> which reads as follows:

**(a) Endangerment of public health or welfare in foreign countries from pollution emitted in United States**

Whenever the Administrator, upon receipt of reports, surveys or studies from any duly constituted international agency has reason to believe that any air pollutant or pollutants emitted in the United States cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare in a foreign country or whenever the Secretary of State requests him to do so with respect to such pollution which the Secretary of State alleges is of such a nature, the Administrator shall give formal notification thereof to the Governor of the State in which such emissions originate.<sup>31</sup>

22. In previous determinations, the Secretariat has considered the CAA to be “environmental law” as defined by Article 45(2) of the NAAEC, now reflected in 24.1 of the USMCA/CUSMA. This finding was based on the CAA’s “[...] purposes of protecting the environment and preventing danger to public health through pollution prevention and control measures.”<sup>32</sup> To this point, the CAA is incorporated under Title 42 of the United States Code entitled “The Public Health and Welfare”.

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<sup>27</sup> Revised Submission, *supra* at p. 2, at: <<https://bit.ly/4mqA7sc>>.

<sup>28</sup> United States Environmental Protection Agency (5 June 2025) “Clean Air Act Requirements and History”, Clean Air Act Overview, at <<https://bit.ly/4bXcDWq>>.

<sup>29</sup> *Id.*

<sup>30</sup> Revised Submission, *supra* at footnote 3, at: <<https://bit.ly/4mqA7sc>>.

<sup>31</sup> United States Clean Air Act, 42 U.S.C. §§ 7401-7671q., at §7415. International air pollution, at <<https://bit.ly/4sgSuBa>> [CAA]. Underlined sections are those cited by the Submitters.

<sup>32</sup> Citation from SEM-13-002 (*Louisiana Refinery Releases*), Determination in accordance with NAAEC Article 14(1) (12 August 2013) at paras 21-22, at: <<https://bit.ly/4sOYqIO>> and SEM-13-003 (*Refinery Releases in Shreveport, Louisiana*), Determination in accordance with NAAEC Article 14(1) (19 August 2013) at paras 15-16, at: <<https://bit.ly/47zOV1r>>; See also Great Lakes, *supra* at 7, at: <<https://bit.ly/47cH1dZ>>.

23. §7401 outlines the purposes of the CAA as follows:
- (1) to protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare and the productive capacity of its population;
  - (2) to initiate and accelerate a national research and development program to achieve the prevention and control of air pollution;
  - (3) to provide technical and financial assistance to State and local governments in connection with the development and execution of their air pollution prevention and control programs; and
  - (4) to encourage and assist the development and operation of regional air pollution prevention and control programs.<sup>33</sup>
24. The Secretariat therefore considers that §7415 on international air pollution of the CAA continues to qualify as environmental law in accordance with the USMCA/CUSMA Article 24.27(1), since it gives the EPA Administrator the power to require that a United States’ State review its air quality plans by giving formal notice to the Governor of the State in which these emissions originate.
25. In previous submissions “the Secretariat has determined that an assertion that a Party is failing to comply with a NEPA-type law satisfies the requirements [...]” for admissibility to the SEM process.<sup>34</sup> However, in this case, the cited provision does not relate to the matter raised in the submission.
26. The Submitters claim that the United States government’s decision to permanently close all commercial freight operations across the BOTA disproportionately increases freight traffic and air pollution in the south of the Zaragoza-Ysleta crossing, in Ciudad Juárez.<sup>35</sup> §7415 (a) of the CAA gives the EPA Administrator powers in regards to “pollutants emitted in the United States” and requires “formal notification thereof to the Governor of the State in which such emissions originate”.<sup>36</sup> Regardless of the impacts of the BOTA bridge closure invoked by the Submitters, the submission concerns pollutants emitted in Mexico—not the United States of America—which falls outside of the EPA Administrator’s jurisdiction. The matter raised therefore cannot be considered a failure to enforce §7415 on international air pollution of the CAA.
27. As such, the CAA §7415 is environmental law in the sense of the USMCA/CUSMA Article 24.27(1), but it does not relate to the matter raised in the submission.

### **c. The USMCA/CUSMA**

28. The Submitters cite Article 24.2.2 of the USMCA/CUSMA to argue that reducing pollution at one border crossing by saturating another is “not ‘improving levels of protection’, it only shifts the harm from one community to another.”<sup>37</sup> In applying Article 24.2.2 of the USMCA/CUSMA, the Secretariat bears in mind that, pursuant to the definition of environmental law set out in Article 24.1 and consistent with its interpretation since the SEM process’ inception, the Secretariat is only

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<sup>33</sup> CAA, *supra* at §7401 Congressional findings and declaration of purpose, subsection (b) Declaration, at <<https://bit.ly/4sgSuBa>>.

<sup>34</sup> Great Lakes, *supra* at 7, at: <<https://bit.ly/47cH1dZ>>.

<sup>35</sup> First Determination, *supra* at para 11, at: <<https://bit.ly/3QbG3sM>>.

<sup>36</sup> CAA, *supra* at §7415 (a), at <<https://bit.ly/4sgSuBa>>.

<sup>37</sup> Revised submission, *supra* at p. 3, at: <<https://bit.ly/4mqA7sc>>.

authorized to give effect to the Parties' obligations contained in international agreements and treaties when such obligations have been incorporated into domestic law through an act of Congress or a regulation pursuant to such act.<sup>38</sup> Moreover, as the Secretariat has determined in response to previous submissions, enforcing obligations contained in international treaties may only be requested between the Parties.<sup>39</sup> The Secretariat therefore determines that Article 24.2.2. of the USMCA/CUSMA does not qualify as environmental law in accordance with the USMCA/CUSMA Article 24.1.

**B. USMCA/CUSMA Article 24.27(2) Requirements**

29. On 13 January 2026, the Secretariat determined that the consolidated submissions did not satisfy all of the admissibility requirements set out in the USMCA/CUSMA Article 24.27(2) at subparagraphs (c) and (e). The revised submission is analyzed in light of those subparagraphs as follows.<sup>40</sup>

*(c) [P]rovides sufficient information to allow for the review of the submission including any documentary evidence on which the submission may be based and identification of the environmental law of which the failure to enforce is asserted*

30. In its first determination dated 13 January 2026, the Secretariat found that the Submitters' first submissions "adequately support the assertions related to certain stages of the environmental assessment process" and "the alleged failure to consider the environmental effects on the Mexican side of the border related to the closure of the commercial freight crossing."<sup>41</sup> However, the Secretariat determined that the concerns regarding deteriorating air quality in densely populated areas of Ciudad Juárez were not sufficiently supported by the evidence presented in the consolidated submissions. Notably, the submission ought to have identified the environmental impacts of the decision.<sup>42</sup> The Secretariat therefore determined that the consolidated submissions did not satisfy Article 24.27(2), subparagraph (c) of the USMCA/CUSMA.<sup>43</sup>
31. The revised submission now provides testimonial evidence intended to support the Submitters' assertions. This evidence includes written accounts and videos of filmed interviews explaining the impacts of closing the BOTA and associated detours. Specifically, the revised submission includes testimony from transport business operators and engineers working in Ciudad Juárez.
32. The Secretariat considers that, while this testimonial evidence elaborates on the Submitters' arguments and provides some explanations that clarify the issues raised, it essentially comes from the same transport organizations that made the submission to the CEC. The Secretariat considers that this testimony provides opinions rather than technical and/or scientific information substantiating the submission's asserted environmental impact on air quality.
33. While the documentation provided by the Submitters addresses their environmental concerns, it remains unclear how the reasoning set out in the Environmental Impact Statement and the

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<sup>38</sup> USMCA/CUSMA, *supra* at Article 24.1, at: <<https://bit.ly/420Lb6x>> and <<https://bit.ly/4itON6R>>.

<sup>39</sup> SEM-21-002 (*Vaquita Marina*), Notification pursuant to CUSMA/USMCA Article 24.28(1) (1 April 2022), footnote 79, at p. 14, at: <<https://bit.ly/4vzdw0E>>; SEM-25-001 (*Lower Nazas River Basin*), Determination pursuant to USMCA/CUSMA Article 24.27(1) (10 April 2024), at: <<https://bit.ly/4sLhl0c>>.

<sup>40</sup> First Determination, *supra* at: <<https://bit.ly/3QbG3sM>>.

<sup>41</sup> *Id.* §36.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.* §§36-39.

alternative selected by United States government agency constitutes a failure to effectively enforce United States environmental law. The Submitters themselves acknowledge that their organization “does not have technical data on the pollution generated in the Zaragoza-Ysleta area, but [the Submitters find their] submission very logical.” This assertion does not satisfy the SEM admissibility requirements.<sup>44</sup>

34. The Secretariat therefore concludes that the revised submission *does not* satisfy subparagraph (c) of Article 24.27(2) of the USMCA/CUSMA.

*(e) [I]ndicates whether the matter has been communicated in writing to the relevant authorities of the Party and the Party’s response, if any*

35. In their original submission, the Submitters attached a request for information which was sent to the Ministry of Environment and Natural Resources (*Secretaría de Medio Ambiente y Recursos Naturales*—Semarnat) and the response thereto. The Secretariat found that this did not constitute a written communication to the relevant authority, noting that in the context of this submission, the relevant authority was an agency of the Party in question, the United States.
36. The revised submission now clarifies that during “November 2024, dozens of public and private organizations directly warned the NEPA Program Manager that closing the freight crossing would not solve the pollution problem and that many of them maintain that, on the contrary, it would lead to more pollution in that region.”<sup>45</sup> They add that these communications were sent to the General Services Administration (GSA). The Submitters also refer to letters and other communications sent by the El Paso Metropolitan Planning Organization, the *Asociación de Maquiladoras*, the Border Trade Alliance, United States Customs and Border Protection officials, the Mayor of Ciudad Juárez, state and municipal government representatives, and local residents, warning the GSA that closing a border crossing would simply shift the environmental and traffic impacts from one place to another.<sup>46</sup>
37. Generally, communications to relevant authorities satisfying the admissibility requirement have taken the form of a letter or email describing the situation giving rise to a submission. Nothing in Article 24.27(2)(e) stipulates that the Submitters, and not a third party, must author the communication to the Party’s relevant authorities.<sup>47</sup> The Secretariat has reiterated that this requirement aims at ensuring that relevant authorities are aware of the alleged failure to enforce environmental law invoked by the submission before it is filed with the Secretariat.<sup>48</sup>
38. As such, the Secretariat considers that the revised submission satisfies the requirement of Article 24.27(2), subparagraph (e) of the USMCA/CUSMA.

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<sup>44</sup> Revised Submission, *supra* at p. 8, at: <<https://bit.ly/4mqA7sc>>.

<sup>45</sup> Revised submission, *supra* at p. 6, at: <<https://bit.ly/4mqA7sc>>.

<sup>46</sup> *Id.* at p. 6-7.

<sup>47</sup> SEM-06-003 and SEM-06-004 (*Ex Hacienda El Hospital II and III*), Notification to Council pursuant to NAAEC Article 15(1) (12 May 2008), at p. 17, at: <<https://bit.ly/4cb0L3m>>.

<sup>48</sup> *Id.* at p. 17 (“Clearly, the requirement of NAAEC Article 14(1)(e) is to demonstrate that the competent authorities are aware of the matter in question.”); See also, SEM-09-004 (*Quebec Mining*), Determination pursuant to NAAEC Article 14(1) (20 October 2009), at p. 8, at: <<https://bit.ly/4t3fS6k>> (“A letter, e-mail, fax, or similar form of communication from the Submitters or others directly to the relevant authorities is meant here, and such must regard the matters which are the subject of the submission, and be dated prior to the submission’s filing.”).

**C. USMCA/CUSMA Article 24.27(3) Analysis**

39. The Secretariat determines that the revised submission *does not* meet the criteria set out in subparagraph (c) of Article 24.27(3).
40. The Secretariat arrives at this conclusion because the revised submission does not mention whether private remedies available under the laws of the Party were pursued.

**III DETERMINATION**

41. Having not received a revised submission for SEM-26-001 (*Bridge of the Americas—BOTA II*) within the required timeframe, it is hereby terminated.<sup>49</sup> With respect to submission SEM-25-002 (*Bridge of the Americas—BOTA*), for the reasons set out in this determination, the Secretariat considers that it does not meet the admissibility requirements set out in Articles 24.27(1) and 24.27(2) of the USMCA/CUSMA and, pursuant to Article 24.27(3), does not warrant a response from the Government of the United States.
42. This determination is issued without prejudice to any of the Submitters filing a new submission that meets all the USMCA/CUSMA admissibility requirements.

Respectfully submitted for your consideration,

**Secretariat of the Commission for Environmental Cooperation**

*(signature in original)*

By: Paolo Solano  
Director of Legal Affairs and Head of the SEM Unit

Esteban Salcedo  
Legal Officer, Legal Affairs and SEM Unit

cc: Camila Isabel Zepeda Lizama, Alternate Representative of Mexico  
Michael Bonser, Alternate Representative of Canada  
Usha-Maria Turner, Alternate Representative of the United States  
Environment Committee Contact Points  
Jorge Daniel Taillant, Executive Director  
Submitters

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<sup>49</sup> First Determination, *supra* at paragraph 60, at: <<https://bit.ly/3QbG3sM>> (Pursuant to the First Determination, the Submitters had 60 calendar days from the date of that determination (i.e., until 16 March 2026) to file a revised submission).