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

Submitter:	Karla Paulina Hernández Mayor
Party:	United States
Date of Submission:	14 October 2026
Date of Determination:	13 November 2026
Submission No.:	SEM-26-010 (*Mexican Gray Wolf*)

I. INTRODUCTION

1. On 1 July 2020, the United States-Mexico-Canada Agreement (USMCA/CUSMA)[1] and the Environmental Cooperation Agreement (ECA)[2] entered into force. After this date, the Submissions on Enforcement Matters (SEM) process originally established by Articles 14 and 15 of the North American Agreement on Environmental Cooperation (NAAEC) is governed by USMCA/CUSMA Articles 24.27 and 24.28. The Secretariat of the Commission for Environmental Cooperation ("CEC Secretariat")[3] remains responsible for implementing the SEM process, as stipulated in the ECA.[4]

2. Articles 24.27 and 24.28 of the USMCA/CUSMA provide a process for any national of a Party or entity organized under the laws of a Party to file a submission asserting that a Party to the USMCA/CUSMA is failing to effectively enforce its environmental laws. The CEC Secretariat initially reviews submissions based on the requirements set out in USMCA/CUSMA Article 24.27(1) and (2). Where the Secretariat finds that a submission meets these requirements, it then determines, in accordance with the criteria of Article 24.27(3), whether the submission merits a response from the Party in question. In light of the Party's response, the Secretariat

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1 Agreement between the United States of America, the United Mexican States, and Canada (2020), at: <https://bit.ly/48dDrR8> [USMCA/CUSMA].

2 Agreement on Environmental Cooperation among the Governments of the United States of America, the United Mexican States, and Canada (signed 30 November–18 December 2018; entered into force 1 July 2020), at: <https://www.cec.org/files/documents/publications/sem-aec-en.pdf> [ECA].

3 The Commission for Environmental Cooperation (CEC) was established in 1994 under the North American Agreement on Environmental Cooperation (NAAEC), an instrument signed by Canada, Mexico, and the United States (the "Parties"). The constituent bodies of the CEC are its Council, Secretariat, and Joint Public Advisory Committee (JPAC).

4 The Secretariat takes the view that although the provisions governing the SEM process are set forth in Chapter 24 of the USMCA, certain related procedures are also established under the Agreement on Environmental Cooperation among the Governments of the United States of America, the United Mexican States, and Canada (ECA), namely: the Secretariat's role in the implementation of the Submissions on Enforcement Matters process, the Council's role in exchanging information with the Environment Committee, the preparation and publication of factual records, and the Council's cooperation activities. The Secretariat is mindful of ECA Article 2(3) which states in part: "The Commission will continue to operate under the modalities in place as of entry into force of this Agreement, including its rules, policies, guidelines, procedures, and resolutions, to the extent these modalities are consistent with this Agreement." ECA, Articles 2(3); 4(1)(l)–(m); 4(4); and 5(5), at: <https://www.cec.org/files/documents/publications/sem-aec-en.pdf>.

then determines whether the matter warrants the preparation of a factual record and, if so, it informs the CEC Council and the Environment Committee,[5] providing its reasons as prescribed by USMCA/CUSMA Article 24.28(1); otherwise, it terminates the review of the submission.[6]

3. On 14 October 2026, the CEC Secretariat received a submission (the "Submission")[7] from Karla Paulina Hernández Mayor, a Mexican national residing in Chiapas, Mexico (the "Submitter"), pursuant to USMCA/CUSMA Article 24.27(1). The Submitter consented to the public disclosure of her identity.

4. The Submitter asserts that the United States is failing to effectively enforce the Endangered Species Act (ESA), particularly its provisions against the "take" of an endangered species, the statutory carveout to such prohibitions with an Incidental Take Permit program, and, in the case of transboundary endangered species, mandatory compliance with international Recovery Plans.

5. After reviewing the Submission, the Secretariat finds that it does not meet all the eligibility criteria of USMCA/CUSMA Article 24.27(2) and 24.27(3). More specifically, the Submission does not meet the criteria set out in subparagraphs (c) and (e) of Article 24.27(2) and the criterion set out in subparagraph (c) of Article 24.27(3).

6. The Submitter may choose to file a revised submission providing additional information. The Submitter has 60 days from the date of this determination to file a revised submission. Accordingly, unless the Secretariat receives a revised submission by **14 January 2027**,[8] it will terminate processing of submission SEM-26-010 (*Mexican Gray Wolf*). The Secretariat's reasoning is set out below.

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5 The Environment Committee is established by USMCA/CUSMA Article 24.26(2) and its role is to "oversee the implementation" of USMCA/CUSMA Chapter 24.

6 More details on the various stages of the submissions on enforcement matters process, the public registry of submissions, and previous Secretariat determinations and factual records can be found on the CEC website at: <http://www.cec.org/submissions/>.

7 SEM-26-010 (*Mexican Gray Wolf*), Submission under USMCA/CUSMA Article 24.27(1) (14 October 2026), at: <https://bit.ly/4zKnHBa> [Submission].

8 For clarity purposes, please note that the following principles have been applied to calculate the USMCA/CUSMA deadlines applicable to the SEM process:

1. Deadlines are counted in calendar days, which means that holidays and weekends are included in the count.
2. The day on which the deadline begins to run is not counted, and the day on which the deadline ends is counted.
3. If a deadline falls on a weekend or holiday, it is extended to the next Monday or business day.
4. If a document is received on a non-business day, the first day of the count is moved to the next business day; therefore, if a document is received on a Saturday, Sunday, or holiday, it will be considered to have been received on the following Monday or next business day.
5. Holidays correspond to those observed at the location of the CEC Secretariat. However, if a Party's deadline falls on a holiday observed by that Party, it shall notify the Secretariat in advance, and the count shall be adjusted to end on the next business day for that Party.

II. SUMMARY OF THE SUBMISSION

7. The Submitter asserts the ESA formulates an "[a]bsolute legal prohibition on carrying out any act of capture, injury, killing, or drastic alteration of habitat," and asserts that the US Fish and Wildlife Service (USFWS) has "unlawfully redefine[d]" that prohibition via "administrative interpretive directives and memoranda" narrowing the definition of prohibited "take" of endangered species.[9]

8. The Submitter asserts that, by "administratively exempting production, energy, mining, and road infrastructure developments from applying for Incidental Take Permits," the United States government "eliminates the prior legal obligation to implement structural mitigation infrastructure."[10]

9. The Submitter asserts that the ESA requires the implementation and enforcement of Binational Recovery Plans for transboundary species. The Submitter asserts that the Mexican Gray Wolf's genetic viability depends upon biological corridors between the United States and Mexico.[11]

10. The Submitter asserts that habitat fragmentation and incidental mortality of the Mexican Gray Wolf in the United States threaten an already limited gene pool and undermine recovery and reintroduction efforts carried out by Mexican authorities.[12]

III. 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 expressed previously under NAAEC Article 14 and 15[13]— that the criteria set out in USMCA/CUSMA Article 24.27(1), (2) and (3) are not intended to be an insurmountable procedural screening device[14] and must therefore be interpreted broadly, in accordance with the objectives of Chapter 24 of the USMCA/CUSMA.[15] It is in this spirit that the Secretariat has reviewed the Submission.

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9 Submission, section F, at 2.

10 Id. § 2.

11 Id. § 1.

12 Id. § 3.

13 SEM-97-005 (*Biodiversity*), Determination under NAAEC Article14(1) (26 May 1998), at 2-3, atat: <https://bit.ly/4BQCLyu>; SEM-98-003 (*Great Lakes*), Determination under NAAEC Articles 14(1) and (2) (8 September 1999), at 2-3, at: <https://bit.ly/DET14_1_2_98-003>

14 SEM-20-001 (*Loggerhead Turtle*), Determination under USMCA/CUSMA Article 24.27(2) and (3) (8 February 2021), § 8, at: <https://bit.ly/4uZDqcy> [Determination, *Loggerhead Turtle*]; SEM-21-001 (*Fairview Terminal*), Determination under USMCA/CUSMA Articles 24.27(2) and (3) (9 March 2021), § |6, at: <https://bit.ly/4egjFbd>; SEM-21-002 (*Vaquita porpoise*), Determination under USMCA/CUSMA Articles 24.27(2) and (3) (8 September 2021), § 8, at: <https://bit.ly/4uj2pXW> [Determination, *Vaquita porpoise*].

15 *Cf*. USMCA/CUSMA, Article 24.2.

A. Analysis under Article 24.27(1)

12. USMCA/CUSMA Article 24.27(1) provides that "[a]ny **person of a Party** may file a submission asserting that a Party is failing to effectively enforce its **environmental laws**."

13. As the first central requirement of Article 24.27(1) above, USMCA/CUSMA Article 1.5[16] defines a "person of a Party" as "a national of a Party or an enterprise of a Party." In turn, "national" means a "natural person who has the nationality of a Party" as set out for each Party "or a permanent resident of a Party."[17]

14. The Submission states the name of the Submitter, her telephone number, email address, place of address, and nationality. As a Mexican national, the Submitter meets the definition of "person of a Party" within the meaning of Article 1.5 and therefore satisfies this requirement under USMCA/CUSMA Article 24.27(1).

B. Environmental Law in Question

15. As a second central requirement of Article 24.27(1) above, the Submission must concern "environmental laws." USMCA/CUSMA Article 24.1 provides as follows:

> **[E]nvironmental law** means a statute or regulation of a Party, or provision thereof, including any that implements the Party's obligations under a multilateral environmental agreement, the primary purpose of which is the protection of the environment, or the prevention of a danger to human life or health, through:
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> a) the prevention, abatement, or control of the release, discharge, or emission of pollutants or environmental contaminants;
> b) the control of environmentally hazardous or toxic chemicals, substances, materials, or wastes, and the dissemination of information related thereto; or
> c) the protection or conservation of wild flora or fauna,[1] including endangered species, their habitat, and specially protected natural areas,[2]
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> but does not include a statute or regulation, or provision thereof, directly related to worker safety or health, nor any statute or regulation, or provision thereof, the primary purpose of which is managing the subsistence or aboriginal harvesting of natural resources; and
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> **[S]tatute or regulation** means: [. . .] (c) for the United States, an Act of Congress or regulation promulgated pursuant to an Act of Congress that is enforceable by action of the central level of government.
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> [1] The Parties recognize that "protection or conservation" may include the protection or conservation of biological diversity.

[16] The Secretariat takes into account the adoption of the Protocol of Amendment to the Agreement between Canada, the United States of America and the United Mexican States ("the Protocol"), through which provisions were added to Chapters 1 and 24, resulting in the renumbering of certain articles of that instrument. Such is the case of Article 1.5 "General Definitions," initially Article 1.4, but subsequently renumbered in accordance with the Protocol.

[17] USMCA/CUSMA, Article 1.5.

[2] For the purposes of this Chapter, the term "specially protected natural areas" means those areas as defined by the Party in its law.

16. Even where a statute has the protection of the environment as its purpose, the provisions cited by a submitter may not show a sufficient connection with the matters raised in their submission. The Secretariat has assessed whether the provisions cited in submission SEM-26-010 (*Mexican Gray Wolf*) correspond to environmental laws within the meaning of USMCA/CUSMA and whether they bear a connection to the situation addressed by the Submitter. The Secretariat concludes that the provisions to which the Submitter refers are all environmental laws, but that the Submission does not connect Section 4(f) of the ESA, which governs Recovery Plans, with any omission by the USFWS in its implementation.

17. The Submitter cites Sections 9(a)(1)(B), 10(a)(1)(B), and 4(f) of the Endangered Species Act, codified at 16 U.S.C. §§ 1538(a)(1)(B), 1539(a)(1)(B), and 1533(f), respectively.

a) "Take" Prohibition of the Endangered Species Act

18. The Endangered Species Act was passed by US Congress and signed into law in 1973.[18] The ESA is administered by the U.S. Fish and Wildlife Service (USFWS) for terrestrial and freshwater species. Congress stated that the goals of the ESA include "provid[ing] a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, [and] to provide a program for the conservation of such endangered species…"[19]

19. The Submission cites ESA Section 9(a)(1)(B), codified at 16 U.S.C. § 1538(a)(1)(B). The cited passage provides that "[e]xcept as provided in sections 1535(g)(2) and 1539 of this title, with respect to any endangered species of fish or wildlife…it is unlawful for any person subject to the jurisdiction of the United States to…(B) take any such species within the United States."[20]

20. The Submission contains some of the language, but does not cite, that "take" is further defined in the ESA.[21] The Submission does not cite further implementing agency regulations.

21. The Submitter asserts that the USFWS has implemented "administrative interpretive directives and memoranda" that have narrowed the legal definition of "take" by "making it subject to the requirement of proving a 'direct purpose or principal objective' on the part of the actor." The quoted language appears to echo a USFWS internal guidance memorandum, but it is not cited explicitly.

22. The ESA is an Act of Congress that is enforceable by action of the central level of government, in this case, USFWS. Section 9(a)(1)(B) legally protects endangered species, thus it pertains to the "protection or conservation of wild flora or fauna, including endangered species" and therefore is an environmental law.

23. However, insofar as the Submission claims that the USFWS redefinition of "take" is "unlawful," the Submitter does not cite either the previous or the alleged redefinition of "take," nor describes such change in its Statement of Facts, therefore the Secretariat does not retain this particular aspect of the provision for analysis as it lacks the required connection with any

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[18] Endangered Species Act, 16 U.S.C. <https://bit.ly/4zcK80F> [ESA].

[19] Id. 16 U.S.C. § 1531(b).

[20] Id. 16 U.S.C. § 1538(a)(1)(B).

[21] Submission, section F, at 2. *Cf.* ESA, 16 U.S.C. § 1532(19) ("'[T]ake' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.").

matters raised in the Submission. The Submitter may address this deficiency in a revised submission.

b) Incidental Take Permit Program of the Endangered Species Act

24. The Submission cites ESA Section 10(a)(1)(B), codified at 16 U.S.C. § 1539(a)(1)(B). This provision allows the Secretary of the Interior to "permit…any taking otherwise prohibited by section 1538(a)(1)(B) of this title if such taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity."[22]

25. An Incidental Take Permit (ITP) may be sought when a non-Federal activity may result in the "take" of an endangered species in order to legally allow such activity and such take.[23] The ITP application must also include a habitat conservation plan, which aims to ensure that the authorized incidental take is minimized.[24]

26. The Submission cites the singular provision, and no further implementing regulations. Nor does the Submission cite the measure "administratively exempting" certain developments, allegedly deregulating and allowing, without an ITP, additional economic activity.[25]

27. In its Statement of Facts pertaining to the alleged lack of enforcement of the ITP scheme, the Submission mentions that the US Government is the implementing entity. Further, the Submitter notes that the US Government "eliminates the prior legal obligation to implement structural mitigation infrastructure" for developments exempted from applying for ITPs.

28. Section 10(a)(1)(B) of the Endangered Species Act, due to the reasons above, is thus considered an environmental law under USMCA/CUSMA Article 24.27(1), but a revised submission may provide more information on how this provision is not enforced, for example, measures taken to administratively exempt certain activities.

c) Binational Recovery Plans Obligation

29. The Submission cites ESA Section 4(f), codified at 16 U.S.C. § 1533(f), as its third cited law allegedly failing to be effectively enforced.

30. The Submission describes such provisions as a "legal duty to implement and enforce Binational Recovery Plans for threatened transboundary species." The cited provision contains the entire section outlining the US Government's obligation to create a Recovery Plan for all endangered species.[26]

31. The Submitter provides for the inclusion of the Mexican Gray Wolf Recovery Plan in Annex 1-C[27] but neither cites nor actually attaches the Recovery Plan currently in effect to the Submission. The Submitter does mention that a Binational Recovery Program is co-led by

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22 ESA, 16 U.S.C. § 1539(a)(1)(B).

23 US Fish and Wildlife Service (n.d.), "3-200-56: Incidental Take Permits Associated with a Habitat Conservation Plan," at: <https://bit.ly/4jbM2tB>.

24 Id.

25 Submission § 2.

26 It should be noted that ESA, 16 U.S.C. § 1533(b)(1)(B)(i) contains the only directive regarding an international agreement, in which the Secretary of the Interior Department must consider species which have been afforded protection "pursuant to any international agreement."

27 Submission at 4.

Mexico's Ministry of Environment and Natural Resources (*Secretaría de Medio Ambiente y Recursos Naturales*, Semarnat) and the USFWS, and describes the importance, from a scientific perspective, of the genetic flow of Mexican Gray Wolf individuals and packs among its habitat and across the international border, as well as the potential risk that incidental mortality and habitat fragmentation will have on the species' success.[28]

32. The Submitter makes an inferred connection between the Recovery Program and the administrative USWS enforcement action. The Submitter describes the Binational Recovery Program, and in the following paragraph describes the "cause and effect of incidental deregulation in the U.S." centered around alleged changes to the ITP scheme.

33. The legal provision creating and structuring Recovery Plans is indeed an environmental law because its primary purpose is the protection of endangered or threatened species. Yet, although on its face the Submitter has made a sufficient connection between the Recovery Plan, its importance to the species' survival, and the central imperative of the ESA, the Submission does not connect the obligation to develop and implement the Recovery Plan with any omission by the USFWS in implementing it. Thus, this provision is only retained for analysis if a revised submission address this deficiency.

C. Analysis under Article 24.27(2)

34. USMCA/CUSMA Article 24.27(2) sets out five additional requirements that a submission must meet to be eligible:

The CEC 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.

(a) is in writing in English, French, or Spanish;

35. The Submission is made in writing in Spanish; the Secretariat therefore finds that it satisfies the condition set out in USMCA/CUSMA Article 24.27(2)(a).

(b) clearly identifies the person making the submission;

[28] Submission §§ 1 y 3.

36. The Submission clearly identifies a Mexican national as its submitter and provides the details necessary to contact her and to establish her status as a national of a Party within the meaning of USMCA/CUSMA Article 1.5. Accordingly, the Secretariat finds that the Submission satisfies the criterion of USMCA/CUSMA Article 24.27(2)(b).

    (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;

37. The Submitter cites and/or annexes (a) the USFWS "Memorandum/Administrative Directive concerning the redefinition of the interpretive scope of *take*" (emphasis in original); (b) a formal letter filed with Semarnat in Mexico; (c) a "technical-biological dossier" relating to the Recovery Plan and species health of the Mexican Gray Wolf; and (d) a copy of the formal communication with the USFWS and the DOI, along with proof of receipt.

38. However, the Secretariat considers that materials annexed to the Submission do not appear to be properly attached. Additionally, the Submission lacks citation of key statutory and regulatory provisions. The Submission paraphrased but did not cite to the legal definition of "take" necessary to properly evaluate any ESA claims. The Submitter cited neither previous nor the alleged redefinitions for the regulatory interpretations of prohibited "takes."[29]

39. The Submitter asserts that protection of the species in question is being implemented via a Recovery Plan but —although it may be deducted— it does not directly assert that it is an endangered species.[30] Relatedly, it is unclear if the Submitter is alleging claims related to the species' entire range or to the implementation of the Recovery Plan and the defined corridor in which the US Government currently manages its Mexican Gray Wolf recovery strategy.[31] The Submitter did not cite nor include relevant information such as the U.S.-Mexico Letter of Intent for Mexican wolf related to claims of transboundary cooperation and impact.[32]

40. The Submission paraphrases but does not cite any facts regarding the current status of or threats to the Mexican Gray Wolf; the historic, current, or projected effects of incidental "takes"; the historic, current, or projected effects of ITP to the species throughout its range or within the designated Recovery Plan zone.

41. The Secretariat therefore considers that the information presented does not allow for an adequate review of the Submission and thus does not satisfy the criterion of USMCA/CUSMA Article 24.27(2)(c).

42. If the Submitter chooses to file a revised submission, she must provide information on the comprehensive regulatory suite necessary to evaluate a claim that USFWS is failing to enforce the ESA "take" and ITP provisions with regards to the Mexican Gray Wolf. The Submitter must

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29 The Submitter did not cite any relevant previous judicial decisions, which pertain to several aspects of administrative implementation of ESA protections. *See, e.g.,* U.S. Supreme Court (1995), "Babbitt v. Sweet Home Chapter of Communities for a Great Oregon 515 U.S. 687 (1995)," U.S. Case Law, opinions, & dissents, vol. 515, at: <https://bit.ly/48fW7zz>.

30 Submission, section F and Legal requests and request for a factual record, at 2 and 5.

31 *See* USFWS (2022), *Mexican Gray Wolf Recovery Plan,* second revision, U.S. Fish and Wildlife Service, at 12, at: <https://bit.ly/3XliqBy>.

32 *See* USFWS (2022), "U.S.-Mexico Letter of Intent for Mexican Wolf," U.S. Fish and Wildlife Service, 11 July 2022, at: <https://bit.ly/4iK2r79>.

also include scientific information, including the Recovery Plan, enabling a connection to be established between the changes to USFWS implementation and their impact on the species.

(d) appears to be aimed at promoting enforcement rather than at harassing industry;

43. The Submission concerns, in particular, the protection of natural environments and wildlife, and particularly addresses the conservation of a canid species that has been protected by United States Federal Law for fifty years. Further, the Secretariat notes that the Submitter is not a competitor of a company mentioned in the Submission and could not derive any economic benefit in the circumstances. The Submission does mention the enforcement of these laws as related to various business projects but focuses on the enforcement of the provision that *permits* legal industrial activity. Additionally, the Submission describes its goal of ensuring and promoting fair industry and economic competition between Mexican projects, allegedly facing stricter environmental protections for the Mexican Gray Wolf, and projects in the United States, which face allegedly deregulated environmental protections. The Secretariat thus finds that the Submission satisfies the requirement set out in USMCA/CUSMA Article 24.27(2)(d), since it aims to promote the effective enforcement of environmental laws.

(e) indicates whether the matter has been communicated in writing to the relevant authorities of the Party and the Party's response, if any.

44. According to this requirement, the Submitter must demonstrate that the matter raised in the Submission has previously been communicated in writing to the relevant authorities of the Party, so as to enable them to become aware of the situation,[33] and to take action within the scope of their respective mandates.[34] The Secretariat has repeatedly confirmed that the requirement set out in Article 24.27(2)(e) therefore has the purpose of ensuring that the relevant authorities are aware of the matter raised and have had the opportunity to act on it before the SEM submission is filed with the Secretariat.[35] Communication of the matter in writing required by Article 24.27(2)(e) is generally made by means of a letter or an email addressed directly to the relevant authorities,[36] clearly setting out the concerns relating to the assertions raised in the SEM submission.[37]

45. Here, the Submitter asserts that she has "sent a formal written communication" to the USFWS and the US Department of the Interior regarding the alleged failure to enforce ESA Sections 9 and 10. The Submitter also asserts that she has received acknowledgement of receipt. However, neither the original letter nor the acknowledgement of receipt was annexed to the Submission.

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33 SEM-26-002 (*Tijuana Wastewater Management*), Determination under USMCA/CUSMA Articles 24.27(2) and 24.27(3) (25 February 2026), § 91, at: <https://bit.ly/42PfM6H> [Determination, *Tijuana Wastewater Management*].

34 SEM-24-002 (*Cadereyta Refinery*), Determination under USMCA/CUSMA Articles 24.27(2) and 24.27(3) (6 June 2024), § 26, at: <https://bit.ly/4v2mCBU>.

35 Determination, *Tijuana Wastewater Management*, § 91.

36 SEM-25-001 (*Nazas River Lower Basin*), Determination under USMCA/CUSMA Articles 24.27(2) and 24.27(3) (2 October 2025), § 59, at: <https://bit.ly/3RoAXdy>.

37 Id.

46. The Submitter has not demonstrated that the relevant authorities of the Party were informed of the situation prior to the filing of the Submission and that a reasonable period of time was given to them to respond.[38] The Secretariat does not consider the requirement of Article 24.27(2)(e) to be satisfied.

D. Analysis under Article 24.27(3)

47. USMCA/CUSMA Article 24.27(3) establishes four additional criteria that frame the Secretariat's review process, namely whether:

(a) the submission alleges harm to the person making the submission;
(b) the submission, alone or in combination with other submissions, raises matters about which further study would advance the goals of this Chapter;
(c) private remedies available under the Party's law have been pursued; and
(d) the submission is not drawn exclusively from mass media reports.

(a) [whether] the submission alleges harm to the person making the submission;

48. As stated in its previous determinations, the Secretariat considers that the harm must be attributable to the alleged failure to effectively enforce the environmental law and must be related to the protection of the environment.[39]

49. The Submitter describes "irreversible" harm to the genetic diversity and the risks of the species' survival by increased mortality.[40] Thus, because the harm relates to environmental protection, the Secretariat finds that the Submission satisfies the criterion of USMCA/CUSMA Article 24.27(3)(a).

(b) [whether] the submission, alone or in combination with other submissions, raises matters about which further study would advance the goals of this Chapter;

50. USMCA/CUSMA Article 24.2(2) provides that the objectives of Chapter 24 are: "to promote mutually supportive trade and environmental policies and practices; promote high levels of environmental protection and effective enforcement of environmental laws; and enhance the capacities of the Parties to address trade-related environmental issues, including through cooperation, in the furtherance of sustainable development."

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38 SEM-25-001 (*Nazas River Lower Basin*), Determination under USMCA/CUSMA Article 24.28(1) (10 April 2026), § 73, at: <https://bit.ly/4ubTY1i>.

39 SEM-21-003 (*North Atlantic right whale*), Determination under USMCA/CUSMA Articles 24.27(2) and (3) (4 November 2021), § 79, at: <https://bit.ly/4iLHJnp>; Determination, *Vaquita porpoise*, § 42; Determination, *Loggerhead Turtle*, § 58; SEM-19-004 (*Barred Owl*), Determination under NAAEC Articles 14(1) and (2) (21 November 2019), § 28, at: <https://bit.ly/49bigzZ>; SEM-11-002 (*Sumidero Canyon II*), Determination under NAAEC Articles 14(1) and (2) (6 September 2012), § 36, at: <https://bit.ly/3RnBOuX>; SEM-13-001 (*Tourism Development in the Gulf of California*), Determination under NAAEC Articles 14(1) and (2) (12 November 2013), § 63, at: <https://bit.ly/3PuGU87>.

40 Submission § 3.

51. The Submission raises significant questions around how to effectively enforce the protections for the Mexican Gray Wolf in relation to various types of commercial operations and USFWS management. These issues are directly related to the effective enforcement of environmental laws and to the protection of the environment. The Secretariat considers that the Submission meets the criterion of USMCA/CUSMA Article 24.27(3)(b).

(c) [whether] private remedies available under the Party's law have been pursued;

52. In accordance with established practice, the Secretariat considers that the pursuit of private remedies may be interpreted broadly and that this criterion may be satisfied by filing a complaint or by referring to a complaint filed by another person, organization or entity.[41] This criterion is assessed under a reasonableness standard, keeping in mind that in some cases barriers exist to pursuing such remedies.[42]

53. In this regard, the Secretariat considers that it is sometimes impossible to initiate judicial or administrative proceedings against a multiplicity of violators,[43] and that litigation may not be a suitable strategy to deal with certain alleged violations[44]; that seeking remedies available to individuals may prove difficult[45]; that, in cases where the alleged failure to effectively enforce a law is of a widespread nature, the burden placed on the submitter by pursuing remedies for all violations is an important element in determining whether "reasonable steps" have been taken,[46] and that an explanation may be offered in that regard.

54. In the present case, the Submitter claims a lack of standing to bring forward an Administrative Procedure Act (APA) claim before a US Federal Court, as would normally be the recourse avenue when claiming that an administrative interpretation is "unlawful."

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41 *See* SEM-21-001 (*Fairview Terminal*), Determination under USMCA/CUSMA Articles 24.27(2) and (3) (27 April 2021), §§ 30 and 31, at: <https://bit.ly/4zdioZP>. (where the Secretariat concludes that the filing of a complaint with the Canadian Transportation Agency satisfies the criterion of USMCA/CUSMA subparagraph 24.27(3)(c)); SEM-23-007 (*Vessel Pollution in Pacific Canada*), Determination under USMCA/CUSMA Articles 24.27(2) and (3) (4 December 2023), §§ 49, at: <https://bit.ly/4trhNSP> (finding that a letter sent to the ministry was not sufficient to satisfy the criterion that private remedies have been pursued).

42 *See* SEM-18-001 (*Transboundary Agricultural Burning*), Determination under NAAEC Articles 14(1) and (2) (19 February 2018), §§ 27–28, at: <https://bit.ly/3PSFpAI> ("In similar situations, the Secretariat has considered if reasonable actions were taken prior to file a submission. It has also considered that in some cases, the lack of resources may limit a submitter's ability to undertake private remedies before filing a submission. The Secretariat considers that a barrier to a private remedy may include economic and social factors." Footnotes contained in the original text are omitted.); SEM-23-002 (*Avocado Production in Michoacán*), Determination under USMCA/CUSMA Articles 24.27(2) and (3) (6 March 2023), §§ 74–77, at: <https://bit.ly/3PejgwA> (finding that the submission complies with Article 24.27(3)(c) since the Submitter provided a reasonable explanation of the impossibility of seeking remedies in relation to the issue under Mexican law).

43 SEM-97-003 (*Québec Hog Farms*), Notification under NAAEC Article 15(1) (29 October 1999), at 9, at: <https://bit.ly/3RTKxFh>.

44 SEM-98-003 (*Great Lakes*), Determination under NAAEC Articles 14(1) and (2) (8 September 1999), at 10, at: <https://bit.ly/DET14_1_2_98-003>.

45 SEM-98-004 (*BC Mining*), Notification under NAAEC Article 15(1) (11 May 2001), at 18, at: <https://bit.ly/3QhXoRf>.

46 SEM-09-005 (*Skeena River Fishery*), Determination under NAAEC Articles 14(1) and (2) (18 May 2010), § 44, at: <https://bit.ly/4fkqWrG>; SEM-04-005 (*Coal-fired Power Plants*), Determination under NAAEC Articles 14(1) and (2) (24 February 2005), at 12, at: <https://bit.ly/4v2PkTh>.

55. The Submitter does not set out the reasons why it would be impossible to pursue private remedies bearing on the matters raised in the Submission. The ESA Citizen-Suit Provision states that "any person" without restricting that definition to US citizens, may commence a civil suit.[47] Furthermore, the APA allows judicial review for any "person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute" without restricting that definition by citizenship.[48]

56. If the Submitter chooses to file a revised submission, she must demonstrate the filing of a complaint, legal recourse or equivalent proceeding addressing the subject matter and the provisions cited in the Submission or explain why the filing of such a complaint or recourse with the Party was impossible or represents an unreasonable burden.

(d) [whether] the submission is not drawn exclusively from mass media reports.

57. Pursuant to Article 24.27(3)(d), this criterion is not met where a submission is drawn exclusively from mass media reports. This requirement is intended to ensure that the assertions made rest on sufficiently solid and verifiable evidence, beyond mere media coverage.

58. To the extent that the Submission does not rely at all, let alone exclusively, on information drawn from mass media, the Secretariat concludes that it satisfies the criterion set out in Article 24.27(3)(d).

IV. DETERMINATION

59. For the foregoing reasons, the Secretariat concludes that Submission SEM-26-010 (*Mexican Gray Wolf*) does not meet all the admissibility requirements and criteria set out in USMCA/CUSMA Articles 24.27(1), (2) and (3) and that a revised submission would be necessary in order to continue the process as well as any request for a response from the United States under Article 24.27(3). More specifically, the Submission does not meet the criteria set out in subparagraphs (c) and (e) of Article 24.27(2) and the criterion set out in subparagraph (c) of Article 24.27(3) of the USMCA/CUSMA.

60. If the Submitter wishes to continue the process, she must provide sufficient information to allow the submission to be reviewed in light of the assertions presented therein and the provisions cited.

61. The Submitter must also demonstrate that the matter raised in the Submission has been communicated in writing to the relevant authorities and demonstrate that a remedy provided under the Party's domestic law to the extent possible even as a foreign national, has been pursued, or that it is not possible in particular cases to pursue such a remedy.

62. The Submitter has 60 days from the date of this determination (that is, until **14 January 2027**) to file a revised submission containing the additional information in order to satisfy all the admissibility requirements and criteria. If it receives a revised submission, the Secretariat will then conduct a new review to determine whether Submission SEM-26-010 (*Mexican Gray*

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47 16 U.S.C. § 1540(g)(1).

48 5 U.S.C. § 702; see also 5 U.S.C. §§ 701(b)(2) and 551(2).

Wolf) satisfies the criteria set out in USMCA/CUSMA Articles 24.27(1), 24.27(2), and 24.27(3).

Secretariat of the Commission for Environmental Cooperation



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