

From: Karla Paulina Hernández Mayor

To: Paolo Solano; SEM Unit

Subject: Submissions on Enforcement Matters, Articles 24.27 and 24.28 of the United States-Mexico-Canada Agreement (CUSMA/USMCA)

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Submissions on Enforcement Matters Mechanism

**Articles 24.27 and 24.28 of the United States-Mexico-Canada Agreement
(CUSMA/USMCA)**

PART I: IDENTIFICATION OF THE PERSON FILING THE SUBMISSION

A. Submitter (Individual capacity)

1. Last name(s): Hernández Mayor
2. First name(s): Karla Paulina
3. Citizenship / Permanent residence: Mexican (Resident of Tuxtla Gutiérrez, Chiapas, Mexico)
4. Address: Tuxtla Gutiérrez, Chiapas, Mexico
5. Telephone: [redacted]
6. Email: [redacted]

Disclosure of name: [X] The Secretariat MAY publicly disclose my name.

(Note: Personal contact details are kept confidential in accordance with the Secretariat's rules.)

I hold two certificates

Certificate for the course on Technology Foresight and Monitoring for Science, Technology and Innovation Policies (issued on 4 June 2026).

Certificate for the course "Innovar para la complejidad. Estrategias del sector público para abordar el cambio climático en América Latina" [Innovating for Complexity: Public Sector Strategies to Address Climate Change in Latin America] (issued on 22 August 2026).

Standing (*Locus Standi*)

The Submitter acts in full exercise of the broadened standing enshrined in Article 24.27(1) of the CUSMA/USMCA, which expressly authorizes "[a]ny person of a Party" (regardless of their place of residence or nationality with respect to the country complained against) to assert that one of the Parties is failing to effectively enforce its environmental laws.

PART II: REPRESENTATIVE(S) / COORDINATING ORGANIZATION

(Filed directly in an individual capacity as a natural person/law graduate and citizen representative in social auditing and environmental protection.)

PART III: THE SUBMISSION

E. Party of Concern (Box 26)

The United States of America, including:

Federal Implementing Agencies:

U.S. Department of the Interior.

U.S. Fish and Wildlife Service (USFWS).

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F. Environmental Law Not Effectively Enforced (Box 27)

Federal Statute/Law Instrument: Endangered Species Act of 1973 (ESA) (16 U.S.C. § 1531 et seq.).

Specific Substantive Provisions Not Enforced:

Section 9(a)(1)(B) (16 U.S.C. § 1538(a)(1)(B)): Absolute legal prohibition on carrying out any act of capture, injury, killing, or drastic alteration of habitat (*take*) of species listed as endangered.

Section 10(a)(1)(B) (16 U.S.C. § 1539(a)(1)(B)): Requirement to apply for and obtain Incidental Take Permits linked to Habitat Conservation Plans (HCP) with mandatory environmental mitigation and compensation measures.

Section 4(f) (16 U.S.C. § 1533(f)): Legal duty to implement and enforce Binational Recovery Plans for threatened transboundary species.

Formal Mechanism of the Failure to Enforce the Law: The USFWS issuance and implementation of administrative interpretive rules and memoranda that unlawfully redefine the legal definition of *take*, making it subject to the requirement of proving a “direct purpose or principal objective” on the part of the actor. [Translators note: the quoted language is not cited but appears to echo the USFWS internal guidance memorandum “Scope of the Endangered Species Act’s “take” prohibition following the Harm Rule (91 Fed. Reg 43300)”. This redefinition systematically excludes from oversight, sanction, and any prior mitigation requirement the “incidental” mortality, injury, or habitat destruction resulting from industrial, agricultural and livestock, logging, energy, and road infrastructure activities in the U.S. Southwest.

G. Statement of Facts (Box 28)

(Paragraphs numbered to facilitate the Secretariat’s review, in accordance with the instructions.)

Paragraph 1. Binational Protection Status of the Mexican Gray Wolf. The Mexican Gray Wolf (*Canis lupus baileyi*) is the most threatened canid in North America and enjoys top-priority status

under the Binational Recovery Program co-led by the Ministry of Environment and Natural Resources (SEMARNAT/CONANP) in Mexico and the USFWS in the United States. [The species'] long-term biological viability depends on the unrestricted ecological and genetic connectivity of the biological corridors between the Sierra Madre Occidental ["Western Sierra Madre"] (Mexico) and the Southwestern United States (Arizona and New Mexico).

Paragraph 2. Cause and Effect of U.S. Incidental Deregulation. By administratively exempting production, energy, mining, and road infrastructure developments from applying for Incidental Take Permits under Section 10 of the ESA, the United States government eliminates the prior legal obligation to implement structural mitigation infrastructure (wildlife crossings, containment fences, adaptive fencing, and telemetry monitoring).

Paragraph 3. Genetic Vulnerability and Irreversible Transboundary Harm. The total free-ranging population in the binational corridor has a severely restricted gene pool. The removal, habitat fragmentation, or unmitigated "incidental" mortality of alpha individuals in U.S. territory dismantles entire packs, will deepen the genetic bottleneck, and directly undermines the prior public investments and reintroduction efforts carried out by the Mexican State.

Paragraph 4. Linkage to Trade and Environmental Competition (CUSMA/USMCA Art. 24.27(2)). The de facto deregulation of incidental takings unduly reduces operating and environmental compliance costs for the extractive, agricultural and livestock, and infrastructure industries located in the southwestern U.S. By contrast, equivalent projects in Mexico are required to comply with Environmental Impact assessments ("MIA") and Management Plans under the General Wildlife Act ("Ley General de Vida Silvestre") and under [Official Mexican Standard promulgated by PROFEPA] NOM-059-SEMARNAT-2010. This creates an unfair competitive advantage derived from weakened environmental law enforcement, in direct contravention of Article 24.2 of the CUSMA/USMCA.

Paragraph 5. Formal Proof of Prior Communication to the Party of Concern (U.S.) and Exhaustion of Remedies. In specific compliance with the observations issued by the SEM Unit and pursuant to Article 24.27(2) of the CUSMA/USMCA:

Notification of U.S. Authorities: Prior to resubmitting this submission, the undersigned sent a formal written communication addressed to the U.S. Fish and Wildlife Service (USFWS) and the U.S. Department of the Interior (DOI) setting out in detail the failure to enforce Sections 9 and 10 of the ESA with respect to incidental impacts on the habitat of the Mexican Gray Wolf (the formal acknowledgment of receipt and a printout of the letter are attached as Annex 1-D).

Actions before Mexican Co-Administering Authorities: Formal requests were filed with SEMARNAT and the SRE in Mexico, requesting the activation of transboundary environmental consultations (attached as Annex 1-B).

Lack of *Locus Standi* before Foreign Courts: Given that the Submitter resides in Tuxtla Gutiérrez, Chiapas, Mexico, she lacks direct procedural standing (*locus standi*) to bring judicial review actions under the Administrative Procedure Act (APA) before a U.S. Federal District Court contesting federal agency memoranda. Accordingly, the SEM mechanism within the CEC constitutes the only accessible international avenue for protecting this transboundary legal interest.

Paragraph 6. Independence from Press Reports. It is hereby certified that this submission is not based exclusively on news reports or media coverage, but rather on technical-legal analyses of administrative directives, ESA provisions, and biological assessments of the species.

H. List of Accompanying Documents / Evidentiary Annexes (Box 29)

(Consolidated in a single filing together with this form.)

Annex 1-A: Copy of the USFWS Memorandum / Administrative Directive concerning the redefinition of the interpretive scope of *take* under Section 9 of the Endangered Species Act (ESA).

Annex 1-B: Formal letter filed with, and stamp/acknowledgment of receipt from, the Ministry of Environment and Natural Resources (SEMARNAT) in Mexico.

Annex 1-C: Technical-biological dossier on genetic diversity, mapping of transboundary ecological corridors, and the Recovery Plan for the Mexican Gray Wolf (*Canis lupus baileyi*).

Annex 1-D (Incorporated in response to the request to cure deficiencies): Complete copy of the formal communication addressed to the U.S. Fish and Wildlife Service (USFWS) and the U.S. Department of the Interior (DOI) reporting the failure to enforce the ESA, together with proof of delivery/electronic acknowledgment of receipt by the U.S. authority.

I. Statement on the Use of Artificial Intelligence (AI) (Box 30)

Option checked: ☒ AI tools were used to organize ideas and information, as well as to draft and translate sections of the submission and to identify the relevant environmental regulations. All content generated or structured with AI assistance was thoroughly reviewed, verified, and validated by a person (the Submitter).

Details of human involvement (explanation for the final box): The generative AI tool was used as support for structuring the official format of the SEM Form, translating U.S. legislative citations (Endangered Species Act), and systematizing the facts. The Submitter, in her capacity as a law graduate, carried out the legal verification, the evidentiary cross-checking, the legal grounding of the provisions violated, and the final authorship of the document.

LEGAL REQUESTS AND REQUEST FOR A FACTUAL RECORD

FIRST: That this Submission on Enforcement Matters be deemed filed in a timely manner and in due form and admitted for processing, as it fully meets all the formal and evidentiary requirements of Article 24.27 of the CUSMA/USMCA and the Secretariat's guidelines.

SECOND: That this submission and its annexes be formally transmitted to the Government of the United States of America so that it may respond within the time frame provided for in Article 24.27(4) of the Agreement.

THIRD: That, in due course, and in view of the risk of irreversible transboundary ecological harm to a critically endangered binational species, it be determined that a Factual Record be prepared in accordance with Article 24.28 of the CUSMA/USMCA.

I solemnly declare, as required by law.

Karla Paulina Hernández Mayor
Citizen Representative / Biocentric Defence
Tuxtla Gutiérrez, Chiapas, Mexico
[redacted]

Memorandum

<https://www.fws.gov/laws/endangered-species-act/section-9?hl=es-US>
[Images, technical dossier, and certificates not reproduced]