

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: San Diego Coastkeeper
Party: United Mexican States
Original submission: 26 January 2026
Revised Submission: 27 April 2026
Date of determination: 28 May 2026
Submission No.: SEM-26-002 (*Tijuana Wastewater Management*)

I. INTRODUCTION

1. On 1 July 2020, the United States-Mexico-Canada Agreement (USMCA/CUSMA) and the Environmental Cooperation Agreement (ECA) 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”)¹ remains responsible for implementing the SEM process, as stipulated in the ECA.²
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

¹ 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).

² The Secretariat takes the view that although the provisions governing the SEM process are set forth in Chapter 24 of the USMCA/CUSMA, 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.” Environmental Cooperation Agreement, Articles 2(3); 4(1)(l)–(m); 4(4); and 5(5).

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 then determines whether the matter warrants the preparation of a factual record and, if so, it informs the CEC Council and the Environment Committee,³ providing its reasons as prescribed by USMCA/CUSMA Article 24.28(1); otherwise, it terminates the review of the submission.⁴

3. On 26 January 2026, San Diego Coastkeeper ("the Submitter") an organization established in the United States, filed a submission with the Secretariat, in accordance with Article 24.27(1) of the USMCA/CUSMA (the "original submission").⁵ In it, the Submitter asserts that Mexico is failing to effectively enforce its environmental laws relating to wastewater management, public health, transboundary notification procedures, and overall management of the water resource, leading to what the Submitter refers to as a transboundary sewage crisis in the area, with potential civil and/or criminal liability implications.
4. On 25 February 2026, the Secretariat determined that the original submission did not meet all the admissibility requirements and notified the Submitter accordingly.⁶ Specifically, the Secretariat found that the Submitter did not demonstrate that private remedies available under the Party's laws had been pursued, as per USMCA/CUSMA Article 24.27(3)(c). In that regard, the Secretariat observed that the original submission did not reference any complaints or other filings before judicial or administrative forums and in connection with the Submitter's assertions. Alternatively, the Submitter did not elaborate on why it would have been impossible to pursue private remedies in this situation.
5. The Secretariat also found that the Submitter cited environmental law within the meaning of USMCA/CUSMA Article 24.1 but noted that certain provisions listed in the original submission were nonexistent or unrelated to the Submitter's assertions.
6. In its determination dated 25 February 2026, the Secretariat notified the Submitter that, in order for the process to continue, the submission required supplementary information in the form of a revised submission regarding the pursuit of private remedies under Mexican law or the reasons preventing the pursuit of such remedies. The Secretariat also informed the Submitter that in order to proceed, the submission would require clarifications on nonexistent or unrelated environmental law provisions cited in the original submission.
7. On 27 April 2026, the Secretariat received a revised submission from the Submitter with additional information ("the revised submission").⁷ Upon assessing the revised

³ 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.

⁴ 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/>.

⁵ SEM-26-002 (*Tijuana Wastewater Management*), Submission under USMCA/CUSMA Article 24.27(1) (26 January 2026), at: <https://bit.ly/4adUUJt> [Original Submission].

⁶ SEM-26-002 (*Tijuana Wastewater Management*), Determination under USMCA/CUSMA Article 24.27(2) and (3) (25 February 2026), at: <https://bit.ly/4fgg6CK> [First Determination].

⁷ SEM-26-002 (*Tijuana Wastewater Management*), Submission under USMCA/CUSMA Article 24.27(1) (27 April 2026), at: <https://bit.ly/4uzdOmC> [Revised Submission].

submission, which now includes the noted missing information necessary for the submission to proceed, the Secretariat finds that it meets the admissibility requirement set out in the USMCA/CUSMA Article 24.27(3) at subparagraph (c).

8. The Secretariat determines that, pursuant to the USMCA/CUSMA Article 24.27(3), the submission warrants a response from the Party in question for the reasons set out below. Pursuant to USMCA/CUSMA Article 24.27(4), the Party may provide a response to the submission within the 60 days following receipt of this determination, or no later than **27 July 2026**.⁸

II. ANALYSIS

9. 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 that the requirements of the USMCA/CUSMA Article 24.27(1), (2) and (3) are not intended to be an insurmountable procedural screening device⁹, and therefore must be given a broad interpretation in accordance with Chapter 24.¹⁰ Likewise, the Secretariat must apply a consistent—and therefore predictable—interpretation in implementing the SEM process.¹¹ The Secretariat reviews the submission with that perspective in mind.

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 may notify the Secretariat in advance, and the count shall be adjusted to end on the next business day for that Party.

⁹ SEM-97-005 (*Biodiversity*), Determination under NAAEC Article 14(1) (26 May 1998), at 2-3, at: <<https://bit.ly/4tcFY71>>; SEM-98-003 (*Great Lakes*), Determination under NAAEC Articles 14(1) and (2) (8 September 1999), at 2-3, at: <<https://bit.ly/4hxfCHP>>; SEM-20-001 (*Loggerhead Turtle*), Determination under 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 (*Nazas River Lower Basin*), Determination under USMCA/CUSMA Article 24.28(1) (10 April 2026), at §§62-64, at: <<https://bit.ly/4sLhl0c>>.

¹⁰ See Agreement between the United States of America, the United Mexican States, and Canada, 2020, Chapter 24, Article 24.2, at: <<https://bit.ly/420Lb6x>> and <<https://bit.ly/4itON6R>> [USMCA/CUSMA].

¹¹ SEM-97-001 (*BC Hydro*), Recommendation under NAAEC Articles 14 and 15 (27 April 1998), at footnote 9, at: <<https://bit.ly/4vpRf5r>>; SEM-98-001 (*Guadalajara*), Determination under NAAEC Article 14(1) (13 September 1999), at 5, at: <<https://bit.ly/3RoFKel>>; SEM-98-004 (*BC Mining*), Notification under NAAEC Article 15(1) (11 May 2001), at footnote 55, at: <<https://bit.ly/4caGdJx>>; SEM-07-001 (*Minera San Xavier*), Determination under 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 under NAAEC Article 15(1) (5 September 2014), §§17-18, at: <<https://bit.ly/4vvlAzq>>.

10. In its determination dated 25 February 2026, the Secretariat noted that the original submission met the requirements of the USMCA/CUSMA Article 24.27(2) at subparagraphs (a), (b), (c), (d) and (e).¹² Furthermore, the Secretariat found that the submission met the criteria at subparagraphs (a), (b) and (d) of Article 24.27(3), but notified the Submitter that certain additional information would be required to proceed, and that this information could be submitted in a revised submission in order to satisfy the criteria at subparagraph (c) of that same Article. Given that the Secretariat's admissibility analysis of the submission is set out in that first determination, only the additional information provided in the revised submission is examined herein.

A. USMCA/CUSMA Article 24.27(3)(c) Analysis

11. The Secretariat has found that pursuing private remedies has been interpreted broadly and this criterion can be met by filing information related to a complaint or referencing a complaint filed by another person, organization, or entity.¹³ The Secretariat found in past determinations that this criterion is evaluated according to a standard of reasonableness, keeping in mind that in some cases barriers exist to pursuing such remedies.¹⁴
12. In this sense, the Secretariat considers that it is sometimes impossible to initiate judicial or administrative proceedings in relation to a multiplicity of violators,¹⁵ so litigation may not be a convenient strategy to adequately address certain alleged violations;¹⁶ that seeking specific remedies available to individuals with respect to the alleged widespread failure to enforce environmental law may be onerous;¹⁷ that when the alleged failure to effectively enforce is of a generalized nature, the burden on the submitter to pursue remedies in relation to all violations is an important

¹² USMCA/CUSMA, Article 24.27(2).

¹³ SEM-21-001 (*Fairview Terminal*), Determination under USMCA/CUSMA Article 24.27(2) and (3) (27 April 2021), §§ 30-31, at: <<https://bit.ly/4bv5dvj>> (finding that filing a complaint with the Canadian Transportation Agency met the criterion of USMCA/CUSMA Article 24.27(3)(c)).

¹⁴ SEM-18-001 (*Transboundary Agricultural Burning*), Determination under NAAEC Article 14(1) and (2) (19 February 2018), at: <<https://bit.ly/4uLAsOa>> (“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.”); SEM-23-002 (*Avocado Production in Michoacán*), Determination under USMCA/CUSMA Article 24.27(2) and (3) (6 March 2023), §§ 74-77, at: <<https://bit.ly/3ZF2gAU>> (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); SEM-23-007 (*Vessel Pollution in Pacific Canada*), Determination under USMCA/CUSMA Article 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).

¹⁵ SEM-97-003 (*Quebec Hog Farms*), Notification under NAAEC Article 15(1) (29 October 1999), at 9, at: <<https://bit.ly/4type9y>>.

¹⁶ SEM-98-003 (*Great Lakes*), Determination, *supra*, at 10, at: <<https://bit.ly/4hxfCHP>>.

¹⁷ SEM-98-004 (*BC Mining*), Notification, *supra* at 16, at: <<https://bit.ly/4caGdJx>>.

element in determining that “reasonable actions” have been taken,¹⁸ and that a legal explanation may be available.¹⁹

13. The additional information received by the Secretariat contains nine appendices which, according to the Submitter, demonstrate that private remedies have been pursued in relation to the subject matter of the submission. The documents submitted comprise (1) a citizen complaint (*denuncia popular*) filed by environmental organizations in Mexico before the National Water Commission (*Comisión Nacional del Agua – Conagua*);²⁰ (2) Conagua’s response to the citizen complaint;²¹ (3) a response from the Federal Attorney for Environmental Protection (*Procuraduría Federal de Protección al Ambiente – Profepa*) in relation to the citizen complaint;²² (4) an acknowledgement of receipt following an access to information request directed at the Baja California State Environmental Protection Agency (*Procuraduría de Protección al Ambiente para el Estado de Baja California – Propae*);²³ (5) Propae’s response to the information request;²⁴ (6) an access to information request directed at Profepa;²⁵ (7) Profepa’s response to the information request;²⁶ (8) an access to information request directed at Conagua;²⁷ and (9) Conagua’s response to the information request.²⁸
14. The first three items relate to a citizen complaint filed in February 2019, and in which the filing organizations denounce to Conagua and to the State Public Service Commission of Tijuana (*Comisión Estatal de Servicios Públicos de Tijuana – CESPT*) the contamination of coastal waters and beaches of San Antonio del Mar in Tijuana, Mexico. The citizen complaint alleges that the San Antonio de los Buenos wastewater treatment plant is exceeding its capacity, resulting in infrastructure failures and in the discharge of untreated sewage into the ocean.²⁹ According to the Submitter, this citizen complaint is “the formal invocation of a remedy available to private persons. It is a written citizen complaint submitted to competent public authorities in Mexico requesting official action in respect of contamination attributed to wastewater discharges.”³⁰ The Submitter adds that “the 2019 complaint chain [...] shows that a complaint-based remedy available to private persons was invoked before Mexican authorities, and that it generated official written acts by the competent federal authorities.”³¹

¹⁸ SEM-09-005 (*Skeena River Fishery*), Determination under NAAEC Articles 14(1) and (2) (18 May 2010), § 44, at: <https://bit.ly/DET14_1_2_09-005>.

¹⁹ Id.

²⁰ Revised submission, annex 1.

²¹ Revised submission, annex 2.

²² Revised submission, annex 3.

²³ Revised submission, annex 4.

²⁴ Revised submission, annex 5.

²⁵ Revised submission, annex 6.

²⁶ Revised submission, annex 7.

²⁷ Revised submission, annex 8.

²⁸ Revised submission, annex 9.

²⁹ Revised submission, at 2.

³⁰ Id., at 2.

³¹ Id., at 5.

15. The Secretariat considers that a citizen complaint on the subject matter raised in the submission qualifies as a private remedy under the Party's law. The responses from Conagua and Profepa corroborate this claim and further demonstrate the Party's responsiveness to the complaint.
16. Regarding the documents obtained as a result of formal access to information requests, the Secretariat reiterates that, while the requests themselves do not satisfy the criterion of USMCA/CUSMA Article 24.27(3)(c),³² the information revealed as a result of these requests does demonstrate that private remedies have been pursued by a range of actors under the Party's internal legal framework.
17. The Submitter obtained information from Propae on complaints filed between 2024 and 2025 relating to wastewater disposal, inspections, administrative proceedings, and redress measures resulting from those complaints.³³ Specifically, the information shared by Propae accounts for 21 complaints filed in the referenced timeframe and in connection with wastewater discharges.
18. The Submitter also provides a table shared by Profepa which lists one complaint related to wastewater discharge filed in 2025 and currently under processing. The table also lists three inspections carried out in connection with the submission's subject matter. The Secretariat considers that only the complaint filed before Profepa qualifies as a private remedy pursued under the Party's law.
19. Lastly, the Submitter also provides Conagua's response to an information request which lists inspection and verification records in connection with the above-mentioned complaints. While this information further corroborates the existence of complaint files, it does not demonstrate that private remedies other than those already accounted for have been pursued.
20. Considering the above, the Secretariat finds that the submission meets the criterion of USMCA/CUSMA Article 24.27(3)(c).

Clarifications on provisions raised in the original submission

21. The Secretariat notes that the Submitter did not clarify inconsistencies related to environmental law in question cited in the original submission, specifically in relation to nonexistent or irrelevant provisions. The Secretariat relies on the provisions that it initially qualified as relevant environmental law in its first determination.

III. DETERMINATION

22. For the foregoing reasons, following the review and analysis of the revised submission, the Secretariat finds that submission SEM-26-002 (*Tijuana Wastewater Management*) meets the eligibility requirements of USMCA/CUSMA Article 24.27(2) and merits a response from the Government of Mexico pursuant to USMCA/CUSMA Article 24.27(3) regarding the effective enforcement of the following environmental laws:

³² SEM-26-002 (*Tijuana Wastewater Management*), Determination under USMCA/CUSMA Article 24.27(2) and (3) (25 February 2026), § 105 at: <<https://bit.ly/4fgg6CK>> [First Determination].

³³ Revised submission, annex 5.

- i. Article 4 (paragraphs 6 and 8) of the **Political Constitution of the United Mexican States**;
 - ii. Articles 15 (Sections IV and XVII), 88 (Sections I, II, and IV), 89 (Sections II, V, and VI), 92, 93, 117 (Sections I, II, III, and IV), 118 (Section V), 121, 122 (Section I), 123, 124, 129, 130, 132, 133, 161, 170 (Sections I and II, and last paragraph), 171, 172, and 182 of the **General Act on Ecological Balance and Environmental Protection**;
 - iii. Articles 44 (paragraph 3), 86 (Sections IV and V), 88 (paragraph 1), 88 Bis (Sections I, II, IX, and X), 89 (paragraph 3), 91 Bis 1, 92 (Sections I, II, and its last two paragraphs), 93, 94, 95, 96 Bis, 96 Bis 1, 118 Bis 2, 118 Bis 3, 119 (Sections I, XV, and XVII), 120 (paragraph 1), 122 (Section I), and 123 Bis 1 of the **National Waters Act**;
 - iv. Articles 416 and 421 (Sections I, II, and V) of the **Federal Penal Code**, and;
23. Articles 1 (paragraphs 1 and 2) and 10 of the **Official Mexican Standard NOM-001-SEMARNAT-2021**.
24. Pursuant to USMCA/CUSMA Article 24.27(4), the Party may provide a response to the submission within the 60 days following receipt of this determination, or no later than **27 July 2026**.

Respectfully submitted for your consideration,

Secretariat of the Commission for Environmental Cooperation

(original signed)

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(original signed)

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