

**Yaque del Norte River II – DR**  
**Determination Article 17.7.4**  
**Courtesy Translation**

**CAALA/24/001**  
**Distribution: General**  
**Original: Español**

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**Determination pursuant to Article 17.7.4 of the Dominican Republic Central America United States Free Trade Agreement (CAFTA-DR).**

Submitter:	Ernesto Inoa on his behalf and on behalf of “Grupo Ecológico Mundo Libre”
Party concerned:	Dominican Republic
Date of receipt:	February 6, 2024
Date of this determination:	April 29, 2024
Submission number:	<b>CAALA/24/001 (Yaque del Norte River II – DR)</b>

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## **I. INTRODUCTION**

On February 6, 2024, Ernesto Inoa filed on his behalf and on behalf of “Grupo Ecológico Mundo Libre” an Environmental Submission with this Secretariat, asserting that the Dominican Republic is failing to effectively enforce its environmental laws resulting in the alleged contamination of the Yaque del Norte River as well as the deforestation in its surroundings<sup>1</sup>.

The Articles 17.7 and 17.8 of the Dominican Republic Central America United States Trade Agreement (CAFTA-DR or “the Agreement”) provide for a process allowing any person residing or established in the territory of a Party to the Agreement to file a submission asserting that a Party is failing to effectively enforce its environmental laws. Submissions shall be addressed to the CAFTA-DR Secretariat for Environmental Matters (“the Secretariat” or “the SEM”), which is responsible for administering said mechanism.

The SEM initially examines the Environmental Submissions filed pursuant to Article 17.7.2 of the CAFTA-DR and the *Working Procedures for Submissions on Environmental Law Enforcement Matters under Chapter 17 of the CAFTA-DR* (the “Working Procedures”) and if it is considered

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<sup>1</sup> Article 17.7.1 of the CAFTA-DR and 2.1 of the Working Procedures

that a Submission complies with the requirements therein contained, then determines that pursuant to Article 17.7.4, if the Submission merits a response from the Party.

## II. SUMMARY OF THE SUBMISSION

The Submitter asserts that the Dominican Republic is failing to effectively enforce its environmental laws resulting in the alleged contamination of the Yaque del Norte River caused by the waste being carried by the river, as well as by the deforestation of the surrounding areas.

In this regard, the Submitter stated that:

Since 2010, large masses of garbage have been observed in the Yaque del Norte River basin, and this problem has progressively escalated to an extreme. As a result, the basin is in danger, as well as the lives and health of people, animals, and plants<sup>2</sup>.

Likewise, it further stated that:

The causes of ecological damage include the urban influence of Santiago de los Caballeros, with its industrial activities and rapidly growing population, especially the poor waste management and the disposal of sewage<sup>3</sup>.

Specifically, the Submitter asserts that the Dominican Republic has allegedly failed, either by action or omission, to comply with its environmental legislation. They request that a response be sought from the Government of the Dominican Republic regarding the reasons for the non-compliance with environmental legislation and that the organization Grupo Ecológico Mundo Libre be facilitated in opening dialogue and participation. Additionally, they request that a Factual Record be compiled<sup>4</sup>.

The Submitter asserts that the Dominican Republic has allegedly failed, among other regulations, either by action or omission, to comply with Articles 82, 86, 87, 88, 89, 90, 91, 107, 126, 127, 128, 129, 130, 131, 132, 133, 134, and 138 of Law No. 64-00 on Environment and Natural Resources. Additionally, it is alleged that there has been non-compliance with Law No. 120-99, which prohibits any individual or entity from disposing of solid waste of any kind on streets, sidewalks, parks, roads, curbs, paths, bathing areas, seas, rivers, etc.<sup>5</sup>

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<sup>2</sup> Submission, p. 2

<sup>3</sup> Submission, p. 3

<sup>4</sup> Submission, p. 4

<sup>5</sup> Submission, p. 3

The matter has been communicated to the competent authorities of the Dominican Republic through various means. However, there has been no response.

### III. ANALYSIS OF THE SUBMISSION PURSUANT TO ARTICLE 17.7.4

In accordance with Article 17.7.4 of the Agreement, *“Where the SEM determines that a submission meets the criteria set out in paragraph 2, the Secretariat shall determine whether the Submission merits requesting a response from the Party. In deciding whether to request a response, the secretariat shall be guided by whether*

- (a) the submission is not frivolous and alleges harm to the person making the submission;*
- (b) the submission, alone or in combination with other submissions, raises matters whose further study in this process would advance the goals of this Chapter and the ECA, taking into account guidance regarding those goals provided by the Council and the Environmental Cooperation Commission established under the ECA;*
- (c) private remedies available under the Party’s law have been pursued; and*
- (d) the submission is drawn exclusively from mass media reports. Where the secretariat makes such a request, it shall forward to the Party a copy of the submission and any supporting information provided with the submission.”*

After the relevant analysis, the Secretariat has concluded that:

- (a) The *Submission* is not frivolous and alleges harm to the person making the submission;**

Section 9.3 of the SEM Working Procedures establishes that, *“In considering whether the submission alleges harm to the Submitter, the Secretariat shall examine such factors as whether the alleged harm:*

- (a) is asserted to be due, in whole or in substantial part, to the asserted failure to effectively enforce the Party’s environmental law; and,*
- a) relates to environmental protection or to the prevention of a danger to human, animal or plant life or health.”.*

After reading the *Submission*, the Secretariat notes that the Submitter has provided a detailed account of the facts and has identified the laws that, according to the Submitter’s assertions, the Party is failing to enforce.

Specifically, the Submitter asserts that the Dominican Republic has incurred in the alleged failure to effectively enforce, whether by action or omission, among other standards, Articles 82, 86, 87, 88, 89, 90, 91, 107, 126, 127, 128, 129, 130, 131, 132, 133, 134 and 138 of Law Number 64-00 about the Environment and Natural Resources. Moreover, the Submitter also claims the violation of Law Number 120-99 that prohibit any natural or legal person from throwing solid waste of any nature in streets, sidewalks, parks, highways, curbs, paths, beaches, seas, and rivers.

The Secretariat also notes that the Submitter has expressed its concern about establishing that the relevant Authorities of the Government of Dominican Republic should take specific actions aimed at enforcing its environmental laws to protect or prevent the continued damages being done to the environment and the consequential damages being caused to the Yaque del Norte River and its surroundings.

In view of the above, the Secretariat believes that the submission does not show any indication of being frivolous.

- (b) The submission, alone or in combination with other submissions, raises matters whose further study in this process would advance the goals of this Chapter and the ECA, taking into account guidance regarding those goals provided by the Council and the Environmental Cooperation Commission established under the ECA;**

This process could support and complement the primary goals of Chapter 17 of the CAFTA-DR and some of the priorities in the development of environmental cooperation activities contained in Annex 17.9.(3) of the same Chapter, such as building capacity for promoting public participation in the process of environmental decision making.

- (c) Private remedies available under the Party's law have been pursued; and**

In accordance with Section 6.6 of the SEM Working Procedures, "the Submission must indicate that the enforcement matter has been communicated in writing to the Party's relevant authorities, and must describe the Party's response, if any. The Submitter must include, with the submission, copies of its correspondence with the relevant authorities concerning the matter."

The Submitter provided the following: photographs showing the state of the Yaque River basins, where the accumulation of waste is observed; an environmental study on the pollution load from the city of Santiago de los Caballeros to the Yaque del Norte River, prepared by Vladimir A. Rodríguez Nuñez and Francisco Orgaz-Agüera; a report by the Grupo Ecológico Mundo Libre; a copy of a letter dated August 24, 2022, addressed to the Minister of Environment and Natural

Resources; and a copy of a letter dated June 2, 2021, addressed to the Director of Environment of the Municipality of San José Las Matas.

Through a Submission dated February 6, 2024 September 2020, the Submitter indicated that: [...] they have reported the pollution of the Yaque River on multiple occasions through various means. Additionally, the following communications were made: a letter dated August 24, 2022, addressed to the Minister of Environment and Natural Resources, and a letter dated June 2, 2021, addressed to the Director of Environment of the Municipality of San José Las Matas. There was no response to either of them.

The Secretariat is of the view that an eventual response by the Party could submit additional information with respect to the above-referenced correspondence and documents filed by the Submitter and the remedies available to it, in accordance with the domestic law of the Party.

**(d) The submission is drawn exclusively from mass media reports**

After the relevant analysis, the Secretariat considers that the Submitter has filed the necessary information for the analysis of the *Submission* as the Submitter have identified the specific standards deemed to have been breached by the Party and has provided a written account that constitutes the factual framework for the analysis.

To provide context to the case, the Submitter has attached several annexes and supporting documentation under the previous section of this determination.

Therefore, and for purposes of this Determination, this Secretariat finds that the Submission, in its entirety, provides sufficient information that enables its review, which allows us to conclude that the *submission* is not drawn exclusively from circumstantial mass media reports.

**IV. DETERMINATION**

After the above analysis and based on the considerations specified in Articles 17.7.2 and 17.7.4 of the CAFTA-DR, as well as the provisions set out in the SEM Working Procedures, the Secretariat **DETERMINES** requesting a response from the Dominican Republic, in accordance with Article 17.7.5 of the Agreement and the relevant Section of the SEM Working Procedures.

The Party concerned may submit a response to the assertions made on this *submission*, according to the terms and timeframes specified in Section 11.3 of the SEM Working Procedures.

The Submitters and the Environmental Affairs Council shall be notified accordingly for the purposes set out in Chapter 17 of the CAFTA-DR and the SEM Working Procedures.

A copy of the *submission*, as well as the determination 17.7.2 of this Secretariat, have been previously forwarded to all the members of the Environmental Affairs Council for appropriate action

**JORGE MAURICIO GUZMÁN VALDÉZ**  
**GENERAL COORDINATOR**  
**CAFTA-DR SECRETARIAT FOR ENVIRONMENTAL MATTERS**