

**Reasons for Council Instructions
Regarding Submission SEM-18-002 (*Metrobús Reforma*)**

Pursuant to its commitment to transparency and in its capacity as the governing body of the Commission for Environmental Cooperation (CEC), responsible for overseeing the implementation of the North American Agreement on Environmental Cooperation (NAAEC) in relation to Submissions on Enforcement Matters predating 1 July 2020, the Council of the CEC hereby makes public its reasons to instruct the Secretariat to prepare a factual record in relation to submission SEM-18-002 (*Metrobús Reforma*).

1. Secretariat's NAAEC Article 15(1) notification

In its NAAEC Article 15(1) notification of 17 December 2018, the Secretariat notified the Council that the development of a factual record was warranted regarding the Submitters' assertions with respect to the failure to effectively enforce Articles 44; 46 paragraphs IV(a), VIII, and IX; 47; and 53 of the Environment Act for Land Protection in the Federal District (*Ley Ambiental de Protección a la Tierra en el Distrito Federal—LAPT*), as well as Articles 6(D) paragraph II (no. 131); 41; 44; 50; 52; 54; and 62 of the Mexico City Environmental Impact and Risk Bylaw (*Reglamento de Impacto Ambiental y Riesgo—RIAR*) due to deficiencies relating to the Environmental Impact Statement (EIS) submitted by the Mexico City Department of Works and Services (*Secretaría de Obras y Servicios—Sobse*).

2. Council's instructions to the Secretariat

In the attached Council Resolution 20-05, the Council unanimously instructed the Secretariat to prepare a factual record in regard to submission SEM-18-002 (*Metrobús Reforma*) with respect to LAPT Articles 47 and 53 and RIAR Articles 41, 44, 50, 52, 54, and 62. Pursuant to paragraph 10.4 of the *Guidelines for Submissions on Enforcement Matters Under Articles 14 and 15 of the North American Agreement on Environmental Cooperation*, the Council hereby presents its reasons for this instruction.

a) LAPT Articles 44 and 46 paragraphs IV(a), VIII, and IX, and RIAR Article 6(D) paragraph II (no. 131)

With respect to LAPT Articles 44 and 46 paragraphs IV(a), VIII, and IX, and RIAR Article 6(D) paragraph II (no. 131), the Council observes that these are provisions whose main purpose is to lay out the general goals of Environmental Impact Assessment (EIA); to stipulate the stages of the EIA procedure that must be followed when reviewing the plans, works, and activities proposed as part of a project, and to determine the modalities in which environmental impact studies must be conducted.

The Council concludes that these legal provisions were not violated in the *Metrobús Reforma* project, since a) the obligation to produce an EIS was fulfilled; b) an EIS was conducted for the construction and operation of public works, facilities, and activities for the provision of a service (specifically, public transportation), and c) the preparation of the EIS followed the required procedures under these provisions.

Therefore, the Council considers that the development of a factual record is not warranted with respect to the above-noted provisions.

b) LAPT Articles 47 and 53, and RIAR Articles 41, 44, 50, 52, 54, and 62

With respect to LAPT Articles 47 and 53, and RIAR Articles 41, 44, 50, 52, 54, and 62, the Submitters assert that Sedema failed to effectively enforce the law by issuing an EIA that did not adequately determine the prevention, mitigation, and compensation measures to address the environmental impacts identified at each stage of the EIA procedure.

The Council agrees with the Secretariat that a factual record should be developed under these provisions. As submitted, the EIS for the Metrobús Reforma project was incomplete and piecemeal, lacking due assessment of impacts on water, air, and soil; impacts arising from the generation of air emissions and noise; and alteration of topography, the urban landscape, and/or green space, among other alleged deficiencies.

It is evident from Sedema's final decision of 30 November 2016 that Sobse did not fully comply with the requirements specified in the administrative decision of 20 September 2016. These omissions, which were included in the final decision as conditions to be fulfilled prior to commencement of the project, should have been completed in order for the EIS to be approved.

In view of the foregoing considerations, the Council hereby resolves that the development of a factual record is warranted with respect to LAPT Articles 47 and 53, and RIAR Articles 41, 44, 50, 52, 54, and 62.