

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES  
OF WILD FAUNA AND FLORA



Seventy-fifth meeting of the Standing Committee  
Panama City (Panama), 13 November 2022

Interpretation and implementation matters

General compliance and enforcement

Compliance matters

TOTOABA (*TOTOABA MACDONALDI*):  
REPORT OF THE SECRETARIAT

1. This document has been prepared by the Secretariat.

Background

2. At its 18th meeting (CoP18, Geneva, 2019), the Conference of the Parties adopted Decisions 18.292 to 18.295 on Totoaba (*Totoaba macdonaldi*), as follows:

***Directed to Parties***

**18.292** *Parties, in collaboration with relevant stakeholders, are encouraged to:*

- a) *communicate to the Secretariat and the CITES Authorities of relevant Parties information on seizures of specimens of totoaba, arrests of those engaged in illegal take and trade, results of any prosecutions, and actions taken to implement this Decision;*
- b) *engage in awareness-raising activities on the illegal trade in totoaba, and its severe implications for the conservation of vaquita (*Phocoena sinus*), including demand reduction campaigns;*
- c) *eliminate supply and demand for illegally sourced specimens of totoaba, and strengthen national policies and law enforcement measures to prevent and address their illegal trade;*
- d) *support efforts related to the recovery and monitoring of wild populations of totoaba and vaquita;*
- e) *support Mexico in the implementation of Decision 18.293, including support for gillnet retrieval programmes; and*
- f) *provide financial and in-kind support for the implementation of the study called for in Decision 18.294, paragraph c) to be presented before the 73rd meeting of the Standing Committee.*

**Directed to Mexico**

**18.293** Mexico is urged to:

- a) *take immediate and effective actions by 1 November 2019 in response to the threats to totoaba and vaquita posed by illegal trade by:*
  - i) *deploying governmental authorities with legal powers of seizure and arrest, together with the Navy, to effectively prevent fishers and vessels from entering the Vaquita Refuge area, and invite the Secretariat to assess the effectiveness and impact of these measures before the end of 2019;*
  - ii) *collecting and analysing information on organized crime groups involved in the illegal trade in totoaba, convening multi-disciplinary investigative teams to work in close collaboration with local authorities in key areas of concern, and undertaking intelligence-driven operations and investigations for addressing illegal trade in totoaba;*
  - iii) *providing regular (every six months) updates on these actions and their results to the Secretariat; and*
  - iv) *establishing and operationalizing, together with relevant Parties, the trilateral enforcement contact group called for in the outcomes of the 2017 “Trilateral Meeting China/United States/Mexico On The Combat Against Illegal Traffic Of Totoaba Fish (Totoaba macdonaldi) August 23-25, Ensenada, Mexico”;*
- b) *intensify efforts and to secure resources to expand gillnet removal efforts to maintain the Vaquita Refuge area as a net-free zone, and take all necessary measures to protect net removal teams and destroy confiscated nets;*
- c) *adhere to the implementation of Decision 43 COM 7B.26, adopted at the 43rd session of the World Heritage Committee (Baku, 2019); and*
- d) *submit a comprehensive report on the implementation of Decision 18.293, paragraphs a) to d) above, as well as the information required in Decision 18.292, paragraph a), to the Secretariat in time for it to convey this to the Standing Committee at its 73rd meeting, together with any recommendations it may have.*

**Directed to the Secretariat**

**18.294** The Secretariat shall:

- a) *subject to external resources and measurable progress made in implementing actions identified in Decisions 18.292 and 18.293, consider convening before the end of 2019 a meeting of range, transit and consumer States of totoaba, and selected organizations and stakeholders, to evaluate progress made in combating illegal fishing of totoaba, eliminating supply and demand for illegally-sourced specimens of totoaba, and strengthening law enforcement measures to prevent and address their illegal trade;*
- b) *engage with partner agencies of the International Consortium on Combating Wildlife Crime (ICWC) in support of activities that could facilitate the initiation of targeted joint investigations and enforcement action from source to destination across the entire illegal trade chain;*
- c) *subject to the availability of external resources and in consultation with organizations with relevant expertise, undertake the study on vaquita and totoaba outlined in Annex 2 to document CoP18 Doc. 89 (Rev. 1); and*
- d) *report the information communicated by Parties and Mexico in accordance with Decisions 18.292 and 18.293, as well as the outcomes of the meeting convened in accordance with paragraph a) above, to the Standing Committee at its 73rd meeting together with any recommendations it may have.*

## **Directed to the Standing Committee**

### **18.295** *The Standing Committee shall:*

- a) *review and assess any information and recommendations submitted by the Secretariat in accordance with Decision 18.294; and*
  - b) *based on its assessment, and if not satisfied with timely progress in the implementation of Decisions 18.292 and 18.293, make any appropriate recommendations within the mandate of the Standing Committee in accordance with Resolution Conf. 14.3 (Rev. CoP18) on CITES compliance procedures.*
3. The Secretariat prepared document [SC74 Doc. 28.5](#) on Totoaba (*Totoaba macdonaldi*) for the 74th meeting of the Standing Committee (SC74, Lyon, March 2022). In accordance with Decision 18.295, the Committee reviewed and assessed the information, including the implementation of the Decisions directed to Mexico adopted at CoP18, and agreed recommendations as outlined in summary record [SC74 SR](#).
4. The Committee requested the Secretariat to undertake a second mission to Mexico to evaluate progress on the implementation of Decision 18.293, with a particular focus on the areas of concern identified in document SC74 Doc. 28.5. The Committee further requested the Secretariat to continue to monitor Mexico's implementation of Decision 18.293, and to bring any matters of concern to its attention.
5. The Committee requested Mexico to include information on the measures implemented and activities conducted in accordance with the recommendations agreed at SC74, in its next regular six-monthly report to the Secretariat. The fifth regular six-monthly report from Mexico was submitted to the Secretariat on 30 April 2022, as required. The report outlines the activities conducted by authorities in Mexico during the period 1 November 2021 to 15 April 2022. The Secretariat assessed this report and elaborates in detail on this in document [CoP19 Doc. 29.2.1](#), which includes a summary in Annex 6 highlighting key aspects (in English only). The full report received from Mexico and its Annexes are available in Annex 7 of the same document, in the language it was received.
6. As reported in document CoP19 Doc. 29.2.1, from 30 May to 6 June 2022, the Secretariat undertook the mission to Mexico and also undertook revisions to Decisions 18.292 to 18.295 in consultation with the Chair of the Standing Committee, taking into consideration the mission findings and the 30 April 2022 report from Mexico, in accordance with the Standing Committee recommendations. The resulting draft decisions are presented in Annex 2 to document CoP19 Doc. 29.2.1 for consideration by the Conference of the Parties.
7. The purpose of the present document is to bring to the attention of the Committee matters of concern identified and other matters addressed during the mission by the Secretariat.

### Matters of concern identified during the mission to Mexico

8. It is important to note from the outset that the situation in the Upper Gulf of California is complex and multifactorial. The response by the Government of Mexico to deal with the trafficking of totoaba harvested illegally from the wild and the threat this poses to the vaquita therefore involves different aspects, such as support for community well-being and development; addressing substance abuse; promoting sustainable and responsible fishing; exploring development alternatives; improving governance and security, among others. In the light of this multifaceted response, the situation in which enforcement activities directed at preventing and detecting illegal fishing and trade are conducted is also complex. The fact that organized crime groups are deeply embedded in the region and have a strong presence further exacerbates the situation. These organized crime groups conduct their illegal activities through well-developed networks that facilitate an array of illegal activities, including drug trafficking, human trafficking and trafficking in wildlife specimens, without regard to the dignity and the rights of people and communities, the authority of officials, and the damage caused by their acts to livelihoods, conservation and nature. The significance of organized crime group involvement and the need for responses that will be sufficiently deterrent to address this cannot be overemphasized. Strong and consistent strict action against any unauthorized or illegal conduct to ensure that responses are commensurate to the threat is essential.

***Preventing fishers and vessels from entering the vaquita refuge area and maintaining it as a net-free zone***

9. The key action highlighted by the Standing Committee at SC74 was that Mexico should effectively prevent illegal fishers and unauthorized vessels from entering the vaquita refuge area and maintain it as a net-free zone. The Committee noted ongoing concerns about fishers illegally operating in the vaquita refuge and zero-tolerance areas and highlighted the urgency of addressing this.
10. During the technical mission, the Secretariat was able to confirm the substantial resources deployed by Mexico to address illegal fishing and trafficking of totoaba specimens and the associated threats it poses to the vaquita. This includes significant human resources from different authorities; vessels for patrols at sea; vehicles for land patrols; air support from the navy; and the deployment of specialized equipment. Whilst the daily deployment of these substantial resources is welcome and good progress is being made on some fronts, several matters of concern and areas of improvement were identified during the mission. These are particularly relevant in the context of the areas of concern identified in document SC74 Doc. 28.5 and addressing them should be pursued as a matter of priority.
11. A substantial part of the mission was spent in San Felipe, Baja California, where the naval base closest to the vaquita refuge and zero-tolerance areas is situated. During this time, several field visits were made, including to the vaquita refuge and zero-tolerance areas; inspection and verification points; navy facilities; the Malecon; and other access points. A new radar system developed in Mexico and operational since May 2022 was demonstrated to the mission team. This radar system enables the Secretariat of the Navy (SEMAR) to continuously monitor vessels with full-time monitoring of the vaquita refuge and zero-tolerance areas. SEMAR emphasized that, together with the other authorities concerned, they place priority on taking swift action against any fishing vessel entering the vaquita refuge zero-tolerance area to ensure that this area remains free of any unauthorized activity. This responds positively to the recommendation agreed by the Standing Committee at SC74, which encouraged Mexico to further scale up and expand maritime surveillance and patrol activities in the vaquita refuge and zero-tolerance area to ensure that authorities are present on a full-time basis to prevent fishers from engaging in illegal activities in these areas and take action to address any illegal activities detected.
12. During the mission, the Secretariat was also briefed by SEMAR on a project that was under consideration for improved retrieval of abandoned nets. This project entails strategically placing almost 200 large blocks each with a hook attached, to intercept abandoned nets placed and driven to the zero-tolerance area by winds and sea streams. It was emphasized that further research and an environmental impact study still needed to be completed. More recent information shows that the project was found to be feasible and that it [has been implemented](#). Although it is too soon to determine the deterrent effect and impact that the project will have, the progress made since the mission is welcome.
13. The Secretariat mission team visited the vaquita refuge and zero tolerance areas on 31 May 2022. This visit was undertaken both by sea and air, using a vessel and helicopter provided by the Navy. A welcome development observed is the new permanent buoys placed in March 2022 to clearly demarcate the zero-tolerance area. Authorities reported that fishers often said they did not know they were in the zero-tolerance area but with the buoys now in place this excuse is no longer valid. SEMAR reported that positive results are being observed and that the presence of vessels in the zero-tolerance area notably decreased since the buoys were placed. During its visit, the Secretariat did not observe any vessels or abandoned nets. However, it is difficult to draw conclusions based on a single one-day visit at the end of the fishing season. Data provided by Mexico shows that the presence of vessels in these areas continues to occur, especially during the height of the fishing season. The situation may be improving but continued vigilance and sustained efforts are needed. This is demonstrated by the reported 446 vessels carrying out commercial fishing activities and 53 nets with a total length of 14,603 metres recovered at sea in the period 1 November 2021 to 15 April 2022, as described in Mexico's fifth six monthly report.
14. The Secretariat also visited the inspection and verification post at the authorized site for departure and arrival of vessels located at the naval base in San Felipe, where activities undertaken by authorities were observed first-hand. The activities included physical inspection of all documentation and of the fishing vessel. Vessels that did not comply with all requirements, for example if their registration numbers were not clearly visible or their paperwork was not in order, were turned away and not allowed to launch. Awareness-raising work is also conducted as a standard practice, informing fishers of areas where fishing is prohibited. No vessels with unauthorized fishing gear were observed during the Secretariat's presence at the inspection point. On both 1 and 2 June 2022, when this inspection point was visited, the Secretariat noted that activity was limited. Very few fishers passed through the point, and authorities on duty said that on average during this time of the year, the number of fishing vessels that daily pass through the point was between five to ten.

15. On 1 June, a change to the mission programme was requested by the Secretariat, which was kindly agreed by the authorities. An unplanned morning visit was conducted to the boardwalk in San Felipe, also referred to as the Malecon. The Malecon is notoriously recognized and identified on mainstream and [social media](#) as a place where fishers launch their vessels without inspection and authorization. That morning, the Secretariat found that in a period of just over one hour spent at the Malecon, at least 15 vessels were launching unauthorized and without inspection. The Secretariat was not satisfied with the authorities' explanation that they were not headed to the Zero Tolerance Area. Informal interviews with some of the fishers at the Malecon confirmed that this is a daily occurrence. Some of them also presented their fishing permits stating that they do not see the point of using the authorized launching sites. They stated that this is because those operating illegally are doing it in plain sight without any consequence. The fishers expressed their frustration because they believe that they are operating legally and do not understand why they must comply with the multiple measures imposed, whilst those operating illegally can do so at will. These local fishers also held the view that the number of illegal fishers is increasing year after year, noting the lack of enforcement action as the reason.
16. During an official meeting with representatives from the fishing community, they expressed similar frustrations to those expressed by fishers informally interviewed at the Malecon. The fisher representatives said that fishing permits do not have value, since anyone who wants to engage in fishing can do so, with or without a permit. They noted that the legal fishermen need to comply with all the rules imposed, whilst those who operate illegally do what they want in plain sight without any consequence. The same views were held by members of civil society met during the mission, who unanimously held the view that a shift from a culture of widespread illegality to a culture of legality must be pursued, and that the current lack of effective action from authorities against illegal fishers is detrimental to those in the fishing community that are operating legally.
17. This, and other findings made during the mission, as elaborated upon in the paragraphs below, raises concerns about the effectiveness of implementation of the [Agreement regulating gears, systems, methods, techniques and schedules for the performance of fishing activities with smaller and larger vessels in Mexican Marine Zones in the Northern Gulf of California and establishing landing sites, as well as the use of monitoring systems for such vessels](#), or "the Agreement", by authorities in Mexico. The Secretariat notes that, in its reporting to date, Mexico presented "the Agreement" as one of the key instruments guiding activities in the Upper Gulf of California. The Secretariat further notes the recommendation agreed by the Standing Committee at SC74 encouraging Mexico to actively pursue the urgent implementation of all aspects of "the Agreement".

#### ***Authorized sites for departure and arrival of vessels***

18. In Article 9, "the Agreement" clearly defines the authorized sites for departure and arrival of vessels that must be used. Fishers however seem to circumvent these sites at will, with few vessels entering the sea through them. This means that most vessels entering the sea do so without being inspected as required by Article 8 of "the Agreement", which creates a favourable environment for fishers that operate illegally. At the same time, the lack of action against illegal fishers frustrates and demotivates the fishers who claim they are operating legally and are expected to comply with the rules established in accordance with "the Agreement". As also highlighted in document CoP19 Doc. 29.2.1, this situation calls into question the significant investment made by Mexico to deploy authorities daily to perform duties at the authorized sites, seemingly with little effect while unauthorized activities occur unhindered elsewhere at significant scale. The Malecon in San Felipe provides a good example. Although it is understandable that, as explained by authorities, it is not possible to check all possible launching sites continuously due to the vastness of the area, focusing on key places often used by fishers should be possible. How decisions are made on the sites where fishers are checked, and the lack of checks at places where irregular activities are known to frequently occur, might be indicative of corruption and that the activities of authorities at the local and provincial level are being influenced by the criminals. Mexico is encouraged to review the activities of the authorities deployed to determine why appropriate action is not being taken at sites where irregular activities are known to frequently occur, and to put in place corrective measures as a matter of priority.

#### ***Prohibition of gillnets in the area established by "the Agreement"***

19. Article 2 of "the Agreement" determines that all gillnets, including those actively or passively operated for fishing activities, are permanently prohibited in the marine area established by "the Agreement". From interaction with Mexican authorities, it became evident that this provision of "the Agreement" is not being implemented faithfully. SEMAR confirmed that all gillnets are prohibited in the zero-tolerance area, an area of approximately 20 x 22km within the vaquita refuge area. SEMAR, however, insisted that only totoaba gillnets are completely prohibited in the marine area established by "the Agreement". SEMAR held that the

use of other gillnets, such as those used for shrimp fishing, is allowed throughout the marine area established by “the Agreement”, except for the zero-tolerance area. SEMAR stated that this is because the mesh of the shrimp gillnets is smaller than that of the totoaba gillnets and therefore pose no danger to the vaquita. This was supported by representatives from the Ministry of the Environment and Natural Resources (SEMARNAT) International Affairs Coordination Unit and the Secretary of the Intergovernmental Group on Sustainability in the Upper Gulf of California (GIS),<sup>1</sup> who were present and accompanied the mission team. They noted that Mexico does not only work in accordance with “the Agreement”, and that there is a broad spectrum of matters, other than environmental aspects that need to be taken into consideration, which includes social aspects affecting local communities.

20. During a meeting with representatives from the National Commission for Aquaculture and Fisheries (CONAPESCA), it was however confirmed that no permits have been issued in recent years for the use of any type of gillnets in the marine area established by “the Agreement”. CONAPESCA representatives made it clear that no gillnet fishing is allowed, and that the only fishing gear allowed are trawling nets, suripera nets, lines with hooks, longlines, traps and others as outlined in “the Agreement”.
21. The view held amongst some authorities that certain types of gillnets are allowed in the marine area established by “the Agreement”, stands in direct contradiction of the provisions of “the Agreement”. It also seems contradictory to information provided by Mexico in its report to the Secretariat, as outlined in paragraph 17 of Annex 6 to document CoP19 Doc. 29.2.1. As noted by the Secretariat in document CoP19 Doc. 29.2.1, this inconsistency between the provisions of “the Agreement” and its application in practice not only undermines the effectiveness of activities aimed at addressing illegal fishing, but likely also causes confusion within the fisher community regarding what is allowed. It could potentially also undermine efforts aimed at supporting the transition to alternative vaquita friendly fishing gear.
22. From discussions with representatives from the SEMARNAT International Affairs Coordination Unit, it does not seem that the provisions of “the Agreement” imposing a complete ban of all gillnets across the marine area established by “the Agreement”, aligns well with the broader government policy on promoting sustainable fisheries, community engagement and working with local fishers. It is therefore urged that Mexico maintains, as a minimum, both the vaquita refuge area and the zero-tolerance area completely gillnet free, whilst urgently clarifying how this provision should be implemented by authorities to ensure consistency between the implementation of activities and the provisions of “the Agreement”.

#### ***Manufacturing, possession, selling and transporting of gillnets***

23. Article 2 of “the Agreement” also determines that no gillnets may be manufactured, possessed, sold, or transported in the marine area established by “the Agreement”, nor transported by any means within a perimeter of 10 kilometres around the marine area established by “the Agreement”, or between any city, town, community, or fishing camp.
24. From information gathered during the mission, it seems that much more could be done to ensure compliance with these provisions of “the Agreement”. Authorities indicated that contravention of the above would constitute an administrative offence. The Secretariat requested information on activities undertaken in this regard, for example to inspect possible places where manufacturing, possession or selling may occur, but none could be provided. The Secretariat also requested to be provided with records of administrative penalties imposed for any contraventions detected, but none were provided. The lack of effort to implement this aspect of “the Agreement” could be a further indication that criminals might be influencing activities of authorities at local level.
25. These provisions of “the Agreement”, if strictly implemented, could have a significant impact on the activities of illegal fishers, restricting their movements and activities, facilitating the seizure of their boats and prohibited nets, and discouraging practices of an illegal nature. Data provided by SEMAR confirmed that the circulation of totoaba gillnets in the marine area established by “the Agreement” continues, as the majority of nets found and seized at sea by authorities (as described in Mexico’s fifth six-monthly report) are totoaba gill nets.

#### ***Measures taken against fishers found operating in the restricted areas***

26. Discussions with authorities during the mission also confirmed that where irregularities are detected in the vaquita refuge and zero tolerance areas, the measures taken by authorities are not sufficiently firm to deter

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<sup>1</sup> *The main functions of the GIS are to coordinate permanently the work of the different authorities, support synergies, and create mechanisms for dialogue with civil society and local communities.*

illegal fishers and the activities of the criminals that recruit these fishers. These measures entail inviting vessels to immediately cease their activities, to lift their fishing gear and to withdraw from the restricted area. If they comply, there is no consequence. When instructions to leave the area are refused, the most severe consequence is that authorities seize the fishing gear. Authorities during the mission expressed that Mexico relies on a system of cooperation rather than sanction. SEMAR stated that this approach is delivering results and held the view that it is because nets are expensive to replace if seized and new nets take time to make. SEMAR noted that fishers therefore rather comply and avoid the restricted areas.

27. In document SC74 Doc. 28.5, the Secretariat concluded that the number of fishing vessels entering and operating unauthorized in the zero-tolerance area has decreased compared to previous years. The Secretariat also noted ongoing concern about vessels that continue to operate in the zero-tolerance area. The practice of asking them to leave and letting them go when they comply continues to be exploited by organized crime groups and the fishers they recruit. This seems evident during the height of the fishing season, when large numbers of illegal fishers are often found in these areas, as seen in social media and reported to the Secretariat. The Secretariat therefore continues to conclude that the actions of authorities are too lenient to have any permanent deterrent effect. The lenient approach provides an incentive for criminals to continue their activities, and rather than serving as a measure to prevent and put an end to illegal activity, it creates a situation of impunity.

### ***Conclusions based on mission findings***

28. The continued daily deployment of substantial resources by Mexico to respond to and address illegal fishing and trade of totoaba specimens and the associated threats it poses to the vaquita is welcome. Whilst acknowledging the significant resources deployed and the good progress that has been made by Mexico on some fronts, the work done by authorities and the complex nature of the situation confronting these authorities, the Secretariat is also conscious of the urgent need for action portrayed by Decision 18.293. Matters pointed out as being of concern in information document [SC2020 Inf. 14](#) and document SC74 Doc. 28.5, remain of concern based on the findings of the mission.
29. A central issue observed by the Secretariat was the lack of clarity among different institutions about the implementation of “the Agreement”. The different and often contradicting interpretations are conducive to impunity and lax enforcement of “the Agreement”. This, in turn, is fuelling illegal fishing, trafficking and social conflicts between legal and illegal fishers, with long-lasting negative repercussions for local communities and species concerned.
30. Further, the effective removal of the gillnets from the sea requires the removal of the criminal networks operating on land. These networks are powerful and deeply embedded in the areas where enforcement activities to address illegal fishing and totoaba specimen trafficking occur. Without dismantling those networks, the removal of the gillnets amounts to a vicious circle exercise without much impact. After the gillnets are removed, the illegal fishers will soon replace them with others.
31. Urgently addressing the remaining matters of concern is essential. This should be done by implementing a strict zero-tolerance policy concerning unauthorized fishing and fishing gear in the vaquita refuge and zero-tolerance areas; imposing strict penalties where irregularities are detected, including the seizure of both vessels and unauthorized fishing gear combined with administrative or criminal penalties as applicable; pursuing the urgent implementation of all aspects of “the Agreement”, including by effectively implementing the gillnet ban in Article 2 of “the Agreement”, taking strict action against fishers that use any sites other than the authorized sites for departure and arrival of vessels established by “the Agreement” and stepping up efforts to mobilize activities aimed at preventing, detecting and penalizing any manufacturing, possession, selling and transportation of gillnets in the marine area and surrounding areas as determined by “the Agreement”. These matters are well addressed by the revised and new draft decisions in Annex 2 to document CoP19 Doc. 29.2.1.
32. The decisions to be agreed at CoP19 will provide the roadmap for Mexico to follow during the next intersessional period. Effective implementation of these with a greater sense of urgency will be important. The Secretariat therefore proposes that, in accordance with paragraph 29.h) of Resolution Conf. 14.3 (Rev. CoP18) on *CITES compliance procedures*, the Committee request Mexico prepare a compliance action plan in consultation with the Secretariat. This compliance action plan should focus on the implementation of the provisions of the Decisions directed to Mexico agreed at CoP19 and the recommendations agreed by the Standing Committee at the present meeting; identify the steps that will be taken by Mexico to urgently progress implementation; provide a timetable for when those steps should be completed; and milestones to enable assessment of satisfactory implementation and completion. The Secretariat recommends that the Standing Committee request Mexico to submit its compliance action plan

to the Secretariat no later than 28 February 2023, and that the Committee request the Secretariat to monitor and assess implementation of the compliance action plan. The Secretariat further recommends that the Committee review Mexico's progress at its 77th meeting (SC77), and noting the urgency attached to implementation of the Decisions directed to Mexico proposed for adoption at CoP19, in the absence of sufficient progress consider compliance measures in accordance with Resolution Conf. 14.3 (Rev. CoP18).

#### **Other matters addressed during the mission to Mexico**

33. As noted in paragraph 7 above, the Secretariat also used the opportunity provided by the mission to observe and receive information on other relevant matters. This is elaborated upon in the paragraphs below.

#### ***Alternative livelihoods and aquaculture as possible tools to support and strengthen local population, businesses and academia involvement in conservation***

34. In its reporting to the Standing Committee and the Secretariat since CoP18, Mexico extensively elaborated on the importance it attaches to aquaculture. In its July 2020 comprehensive report to the Standing Committee and subsequent reports, Mexico addressed the matter of Wildlife Conservation Management Units (UMAs), stating that UMAs provide a solution for tangible *Totoaba macdonaldi* conservation efforts and that they are of great importance for the recovery of wild populations of totoaba. Mexico expressed the view that the breeding of totoaba in captivity allows for the sustainable management of the species, mainly for the purposes of reproduction, research, repopulation and commercial use, so that it can become a viable and sustainable productive alternative that does not affect wild populations of totoaba and in turn contribute to discourage the exploitation and illegal trade of the species.
35. Mexico also highlighted that through the Official Mexican Standard [NOM-169-SEMARNAT-2018](#), it established marking specifications for totoaba products produced in captivity, pioneering genetic marking at the individual level which allows for determining the parental specimens for each totoaba bred in captivity.
36. Mexico concluded in its reports that captive breeding of *Totoaba macdonaldi* should not be considered as an activity to solve the illegal trade in the species, but as part of a comprehensive strategy to identify development alternatives for local communities. Mexico noted that it considers captive breeding as a method to rebuild social fabric, and that it could provide a source of work for the inhabitants of the Upper Gulf of California and support the sustainable development of the community. It also noted that the highest operating standards are maintained and that it does not seek to trade the totoaba's swim bladder, but rather to sell the meat of this fish.
37. Mexico further reported that the National Commission for the Knowledge and Use of Biodiversity (CONABIO) was coordinating a project on "Evaluation of the impact and relevance of experimental releases of totoaba (*Totoaba macdonaldi*) produced in captivity as a strategy for the conservation of the wild population", implemented by researchers from the Autonomous University of Baja California. It was reported that the objectives of this project are:
- a) the evaluation of the impact of the experimental releases of captive-produced progeny into the wild population; and
  - b) the evaluation of the population demographic trend between 2008-2020 to determine whether illegal fishing has affected the genetic health of the population.
38. Mexico noted in its reporting that the results would help to determine whether the UMAs that reproduce totoaba in captivity and that release fingerlings (juveniles) annually, should adjust their strategies for the recovery of the wild population (e.g., adjust release areas, ages or sizes and minimum number of individuals to be released, etc.). Mexico further noted that releases are a requirement for UMAs that reproduce totoaba. In its reporting, Mexico also highlighted that specimens have been released into the wild from three UMAs (Earth Ocean Farms, S. de RL De CV; the Aquaculture Institute of the State of Sonora and the Autonomous University of Baja California, Unit of Biotechnology in Pisciculture).
39. During the mission of the Secretariat to Mexico, the University of Baja California in Ensenada and Earth Ocean Farms. S. de R.L. de C.V. in La Paz (Earth Ocean Farms) were visited. The visit to Earth Ocean Farms and matters relevant to deliberations at SC74 on the registration of Earth Ocean Farms, breeding *Totoaba macdonaldi*, in the *CITES Register of operations that breed Appendix-I animal species for commercial purposes*, are addressed in paragraphs 42 to 51 below.



40. The Secretariat is extremely grateful to the academic authorities and professors from the Autonomous University of Baja California (UABC) for their warm hospitality and the wealth of scientific information provided during its visit to the Unit of Biotechnology in Pisciculture at the Faculty of Marine Sciences at UABC. This included a visit to a modern laboratory where totoabas are bred and raised for two purposes: to be released into the wild and for sale to hatcheries. The results of genetic work done at UABC was of particular interest. The Secretariat was informed that, in addition to confiscated totoaba swim bladders received from authorities, the UABC also have local collaborators who collect dumped totoaba carcasses in San Felipe for research to be undertaken. A geneticist from UABC has been conducting studies related to seizures, supporting criminal investigations and also providing valuable scientific information about the totoaba population status.
41. The geneticist explained that, until recently, they were not allowed to take samples and use data from seized totoaba specimens. This has however been addressed and now the UABC has the permits required to undertake this work. At the time of the mission, an analysis of available data was being undertaken, which will feed into a publication that is being developed. Based on data obtained from the analyses of totoaba swim bladders seized during the period 2013-2020, it was determined that 7% of the fresh bladders seized were from adult sized fish (64/890). Regarding the biggest dried bladders seized, weighing from 200 to 590 g each, 11% were from adult sized fish (194/1758). The analysis of nearly 3,200 samples from seized totoaba specimen shipments has revealed 267 mitochondrial haplotypes and low relatedness (24 STR markers 342 alleles). It was reported that these values represent a high genetic diversity of the species which suggest that the species may be in a good condition. It was noted that these results are surprising for a species listed in Appendix I and considered endangered by the national legislation, noting that the International Union for Conservation of Nature has changed the status of totoaba from critically endangered to vulnerable.

#### ***Visit to Earth Ocean Farms during the mission***

42. At SC74, the Standing Committee considered an application by Mexico and agreed to the registration of Earth Ocean Farms in the *CITES Register of operations that breed Appendix-I animal species for commercial purposes* for breeding of *Totoaba macdonaldi*, taking into account the commitments made by Mexico. These commitments primarily centred around assuring that such activities do not contribute to illegal trade; to only trade in *Totoaba macdonaldi* meat; and to destroy all swim bladders from captive-bred totoaba. Detailed record of the deliberations that took place can be found in summary record SC74 SR.
43. The Committee requested Mexico to include information on the activities of the registered facility in its report to the Secretariat. Mexico included this information in its fifth regular six-monthly report submitted to the Secretariat on 30 April 2022. The report received from Mexico is available as Annex 7 to document CoP19 Doc. 29.2.1, and Annex 4 to this report provides information that concerns Earth Ocean Farms.
44. On 3 June 2022 the Secretariat mission team visited the Earth Ocean Farms facilities in La Paz to observe its operations first hand. Earth Ocean Farms operations involve three facilities, a hatchery and a fattening farm and processing plant. Due to the location of these facilities and time available, the mission team only conducted site visits at the Earth Ocean Farms hatchery and processing plant in La Paz. The fattening farm is more remotely located in the Sea of Cortez and was visited by the Secretariat during its mission to Mexico in 2019.
45. The Secretariat mission team was briefed on Earth Ocean Farms operations, the protocols put in place and ongoing work to amend its management plan taking into account the outcomes of SC74. It was emphasized that the amendment of the management plan will address putting in place appropriate procedures for the disposal of totoaba swim bladders. At the time of the mission, no destructions of totoaba swim bladders from the captive-breeding facility had taken place (see paragraph 51).
46. From the visit, it was evident that Earth Ocean Farms operates in accordance with high standards and well-developed protocol, conducting its operations in modern facilities and drawing upon modern technologies. This is also exemplified by the fact that Earth Ocean Farms have been awarded several certifications in relation to good aquaculture practices and managing food safety throughout the food supply chain.
47. A comprehensive traceability system is in place and the Official Mexican Standard NOM-169-SEMARNAT-2018 is applied. The traceability system enables determining the parental specimens for each totoaba bred in captivity. It covers the entire operational chain from parental stock, hatching, tracking through the fattening farm phase, processing and eventual sale and distribution. Parental breeding stock is identified through a coded microchip in the back of the fish behind its head. Larval tanks are assigned a batch number when stocked and parentship of all offspring can be determined using 24 micro satellite markers. Software developed for aquaculture is used to enable tracking during the fattening farm phase, and strict protocol is

in place for transport from the fattening farm to the processing plant. This is done by sealing the fish in bins with unique numbered tags that must remain intact from the time the bin was sealed at the fattening farm until it is verified and the bin opened at the processing plant.

48. At the processing plant, the fish are slaughtered and processed for sale as products which includes fresh and frozen gutted or filleted fish. The products produced are individually marked with a QR code that can be accessed electronically and verified.
49. At the processing plant where the fish are slaughtered and swim bladders removed, strict protocol and security measures are in place. Background checks, including criminal background checks, are done before staff are employed at the plant. All areas of the plant are under 24-hour video surveillance, which includes all entry and exit points. Strict access control measures are in place and applied to all staff and visitors. The movement and activities of staff within the facility is controlled and monitored at all times, whilst visitors are required to complete an access log and are only allowed to move around in the facility accompanied and under supervision. Entering the facility with items such as for example cell phones and cameras are prohibited, both for staff and visitors.
50. Comprehensive by-product sheets are maintained, including to ensure control over totoaba swim bladders from the time of slaughter up to storage. Swim bladders are sealed in packages that are each individually weighed and marked with a unique identification code. These packages are then further sealed in boxes, also uniquely marked. The mission team was afforded the opportunity to view and inspect the totoaba swim bladder stockpile, and it was able to confirm that a substantial totoaba swim bladder stockpile exists. For security reasons, it would not be appropriate to report in more detail about the stockpile and where it is kept.
51. As mentioned above, at the time of the mission, no destruction of totoaba swim bladders from the captive breeding facility has taken place. It was reported that engagement between SEMARNAT and Earth Ocean Farms was ongoing to discuss different options and agree the most suitable disposal method. The mission team prompted authorities to progress and conclude these discussions as a matter of priority for destruction to be done as indicated to the Standing Committee. The Committee may wish to request Mexico to provide an oral update on progress and activities undertaken in this regard as recommended by the Secretariat in paragraph 52 below.

### Recommendations

52. The Secretariat recommends that:

- a) the Standing Committee request Mexico to:
  - i) urgently address inconsistencies in the implementation of the different aspects of the [Agreement regulating gears, systems, methods, techniques and schedules for the performance of fishing activities with smaller and larger vessels in Mexican Marine Zones in the Northern Gulf of California and establishing landing sites, as well as the use of monitoring systems for such vessels](#) (the Agreement”), with a specific focus on addressing the matters of concern identified during the mission of the Secretariat to Mexico as outlined in document SC75 Doc. 7.5;
  - ii) through the Intergovernmental Group on Sustainability in the Upper Gulf of California (GIS), put in place transparent and comprehensive protocols that will facilitate consistent interpretation and implementation of all aspects of “the Agreement” by the different authorities concerned, and ensure effective oversight regarding activities to enable the identification of areas for improvement and the implementation of corrective measures where needed, as well as to facilitate adapting responses based on any newly identified trends;
  - iii) in accordance with paragraph 29.h) of Resolution Conf. 14.3 (Rev. CoP18) on *CITES compliance procedures*, and in consultation with the Secretariat, prepare a compliance action plan focusing on the implementation of the provisions of any decisions directed to Mexico to be agreed at CoP19, and recommendation a i) and ii) agreed at SC75. The compliance action plan should:
    - A) clearly outline the actions to be implemented and the steps that will be taken by Mexico to urgently progress implementation, in particular addressing the measures and activities that will be put in place to effectively prevent illegal fishers and unauthorized vessels from entering the vaquita refuge and zero-tolerance areas and maintain them as gillnet net-free zones;

- B) outline the timeframe for implementation of each step and when it should be fully achieved; and
  - C) include milestones to enable assessment of satisfactory implementation;
  - iv) finalize its compliance action plan described in recommendation a) iii), taking into consideration any inputs provided by the Secretariat, submit its finalized compliance action plan to the Secretariat no later than 28 February 2023, and immediately commence implementation of the plan upon confirmation of adequacy by the Secretariat; and
  - v) submit a report on progress with the implementation of its compliance action plan to the Secretariat 90 days in advance of the 77th meeting of the Standing Committee, for it to be made available to the Committee for consideration;
- b) the Standing Committee request the Secretariat to:
- i) assess the adequacy of Mexico's compliance action plan submitted in accordance with recommendation a) iv). If a finalized compliance action plan considered adequate by the Secretariat is not submitted by the 28 February 2023 deadline, the Secretariat shall publish a Notification to the Parties recommending a suspension of trade with Mexico, which will remain in effect until a compliance action plan assessed as adequate by the Secretariat is received; and
  - ii) monitor implementation of the compliance action plan by Mexico, and make the report submitted by Mexico to SC77 in accordance with recommendation a) v) available to the Committee together with any recommendations the Secretariat may have;
- c) the Standing Committee agree to review Mexico's progress with the implementation of its compliance action plan at SC77 and to, in the absence of sufficient progress, consider compliance measures in accordance with Resolution Conf. 14.3 (Rev. CoP18); and
- d) the Standing Committee request Mexico to provide an oral update at SC75, on progress made concerning the destruction of totoaba swim bladders from captive bred totoaba processed by Earth Ocean Farms.