

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



Seventy-seventh meeting of the Standing Committee
Geneva (Switzerland), 6–10 November 2023

Compliance

Compliance matters

Totoabas (*Totoaba macdonaldi*)

REPORT OF THE SECRETARIAT

1. This document has been prepared by the Secretariat.
2. At its 19th meeting (CoP19; Panama City, 2022), the Conference of the Parties adopted Decisions 18.292 (Rev. CoP19) to 18.295 (Rev. CoP19) and 19.74 to 19.76 on *Totoabas* (*Totoaba macdonaldi*), as presented in Annex 1 to the present document.
3. In addition, at its 75th meeting (SC75; Panama City, November 2022), the Standing Committee agreed several recommendations on totoaba (*Totoaba macdonaldi*), as presented in Annex 2 to the present document.
4. In accordance with Decision 18.294 (Rev. CoP19), paragraph d), and SC75 recommendation b) ii) on totoaba (*Totoaba macdonaldi*), the Secretariat reports in the present document on the implementation of the Decisions and recommendations mentioned in paragraphs 2 and 3 above.

Parties affected by totoaba trafficking

Implementation of Decisions 18.292 (Rev. CoP19), paragraphs a) to c), 18.294 (Rev. CoP19), paragraphs a), b) and d), 19.75 and 19.76

5. In Decision 18.294 (Rev. CoP19), paragraph a), the Conference of the Parties directs the Secretariat to seek information from Parties on their implementation of Decision 18.292 (Rev. CoP19). In Decision 19.76, the Conference of the Parties encourages transit and destination countries affected by trafficking of totoaba specimens to report on their implementation of Decisions 18.292 (Rev. CoP19) and 19.75 to the present meeting. In this regard, the Secretariat issued [Notification to the Parties No. 2023/069](#) of 16 June 2023, inviting reports from Parties and specifically encouraging the Parties mentioned in [paragraph 37 of document SC74 Doc. 28.5](#) to report, i.e. Canada, China including Hong Kong Special Administrative Region (SAR) of China, Japan, Mexico, the Republic of Korea, the United States of America and Viet Nam.
6. Replies were received from Canada, China including Hong Kong SAR and Macao SAR, Mexico, the Republic of Korea and the United States of America. The Secretariat provides a brief summary of the replies received below. Parties are invited to consult the full replies for more detailed information. These are compiled in Annex 3 to the present document, in the language and format they were received.
 - a) Canada: The Party reports that, after reviewing its records, it can confirm that no violations involving totoaba (*Totoaba macdonaldi*) have been reported in Canada since 2016. Canada notes that it continues to be supportive of efforts to strengthen law enforcement measures where relevant and that, if required, it is open to explore additional joint efforts to curb illegal activities.

b) China including Hong Kong SAR and Macao SAR:

- i) The report provided by mainland China includes information on all measures taken regarding totoaba (*Totoaba macdonaldi*) in mainland China during the period January 2020 to May 2023. Information is provided on the legal framework in place in mainland China, noting that totoaba (*Totoaba macdonaldi*) is treated as a first-class key protected species in accordance with national law, which makes provision for strict penalties. The report also notes that stricter domestic measures are applied in China. Reporting is provided on national level joint law enforcement and interdepartmental coordination mechanisms put in place, as well as on joint law enforcement actions and operations undertaken. This includes operations undertaken in 2023 with a specific focus on targeting illegal trade in totoaba specimens. Information on the outcomes of these operations conducted in 2023 is however not provided. The report includes information on work undertaken by the Chinese Customs anti-smuggling department, highlighting that from January 2020 to May 2023, this department detected and investigated nine cases involving totoaba specimen smuggling, all of which occurred in Guangdong, China. Eight of these cases (two in 2020 and six in 2021) involved a total of 470 smuggled totoaba swim bladders originating from Mexico. In 2022, one case involved a total of nine smuggled totoaba swim bladders originating from the United States of America. Regarding market surveillance and public awareness raising, China reports that it organized and carried out market research activities regarding totoaba and that no trading of totoaba swim bladders was detected in its major domestic aquatic product wholesale markets or dry seafood markets. The Party further reports that in Guangdong, Hainan and other places in China, it carried out publicity and educational campaigns regarding totoaba and illegal trade in the species. This included using different approaches such as the use of posters in key places such as aquatic product markets, as well as raising awareness amongst the public and industry stakeholders regarding protection of totoaba and reducing consumption demand. The Party also reports that the China Aquatic Products Processing and Marketing Alliance, China Cuisine Association and the China Hotel Association launched a joint initiative continuously raising awareness amongst the public and restaurant industry to prevent illegal consumption and to protect totoaba by not selling, buying or eating totoaba swim bladders.
- ii) The report from Hong Kong SAR of China provides information on the measures implemented and activities undertaken regarding totoaba from January 2020 to April 2023. The report notes that the import, export, re-export and possession of totoaba specimens for commercial purposes is prohibited in Hong Kong SAR of China. The report also elaborates on the strict penalties that could be imposed for offences. In the reporting period, five cases involving the seizure of totoaba specimens occurred. The report includes a table providing further details regarding these five cases, which involved consignments from Mexico (one in 2020, two in 2021 and one in 2022) and the United States of America (one in 2020). It is reported that the alleged consignee in one of the cases was located in Hanoi, Vietnam, and that investigation findings in the other cases indicated that Hong Kong SAR of China was likely not the final destination of the seized specimens. The report highlights that case information has been shared via INTERPOL eco-messages, World Customs Organization (WCO) channels, or through direct communication with CITES Management Authorities of relevant Parties. Where possible, attempts were made to conduct controlled delivery operations, and one successful prosecution was secured as a result. Stricter sentencing is being pursued by Customs of Hong Kong SAR of China and drawing upon the Organized and Serious Crime Ordinance (OSCO) for this purpose is being explored. Regarding market surveillance, the Hong Kong SAR of China dried seafood market has been closely monitored during the reporting period. In 2020, TRAFFIC was commissioned by the Agriculture, Fisheries and Conservation Department (AFCD) to conduct a market survey regarding dried totoaba swim bladders. A total of 201 market outlets in Hong Kong SAR of China were surveyed and no dried totoaba swim bladders were found. TRAFFIC also conducted a survey on online platforms in Hong Kong SAR of China and did not find any advertisements regarding totoaba swim bladders during this survey. AFCD continues to conduct inspections at local markets from time-to-time to detect and deter illicit trade in totoaba swim bladder and 460 dried seafood shops were on average inspected per year throughout the territory, between 2020 and 2022. None of the inspected shops was found selling dried totoaba swim bladders. Further, AFCD also continues to monitor online trading and no dried totoaba swim bladders were found being sold online during the reporting period. The report also includes information on public awareness-raising activities undertaken, with examples provided in the Annex to the report by Hong Kong SAR of China.
- iii) The report from Macao SAR of China provides information on the legal framework that is in place, noting that trade in totoaba specimens is prohibited in Macao SAR of China, including the purchase, proposed purchase, sale and proposed sale for commercial purposes, as well as the use for profit-

making. From January 2020 to May 2023, no seizures involving totoaba specimens were made. The Economic and Technological Development Bureau and the Municipal Affairs Bureau of Macao SAR of China conducted sampling inspections at dried seafood shops, restaurants and catering establishments serving seafood, and no totoaba specimens were detected. Information gathered during these visits showed that demand for totoaba specimens is low in Macao SAR of China. In addition, it is reported that awareness raising activities regarding totoaba were also undertaken emphasizing that commercial trade in specimens from the species, as CITES Appendix I listed species, is prohibited.

- c) Mexico: Mexico indicated that, to optimize its resources and avoid duplication of work, it would include reporting on the matters outlined in the Notification in its report to the Standing Committee in accordance with Decision 18.293, paragraph f), and SC75 recommendation a) v) on *Totoabas* (*Totoaba macdonaldi*). The reporting received from Mexico is addressed in detail in paragraphs 15 to 31 of the present document.
- d) Republic of Korea: The Republic of Korea provided a very brief reply to the Notification, indicating that it does not have any information regarding totoaba and that there is no trade in the species on its territory.
- e) United States of America (US):
- i) The US expressed its strong commitment to implementing the measures and activities outlined in the Meeting of Range, Transit and Consumer States of Totoaba (*Totoaba macdonaldi*) outcome document. To strengthen law enforcement and international collaboration to address totoaba specimen trafficking, the US developed a coordination and cooperation protocol for enforcement authorities working at seaports, airports and the US / Mexico land border. US fisheries and wildlife enforcement personnel and personnel from the US Department of Justice participated in joint training sessions focused on providing information concerning the illegal trade and the identification of totoaba swim bladders.
 - ii) Regarding use of secure law enforcement communication channels and tools provided by INTERPOL and the WCO as outlined in Decision 18.292 (Rev. CoP19), paragraph b), the US reports that collaboration has taken place at the international level regarding illegal trade in totoaba swim bladders, for example through the publication of an INTERPOL Purple Notice. To support measures to combat organized crime associated with totoaba trafficking, US fisheries and wildlife enforcement personnel shared information with officials from China, Mexico and the Republic of Korea regarding wildlife trafficking methods and routes. Further, the US states that it has shared investigative information with Mexican officials when appropriate and that it will seek to jointly work on the related investigations. The US reported that its Customs and Border Protection (CBP) regularly shares seizure information with Mexico's National Customs Agency (ANAM) and the US Fish and Wildlife Service (FWS) Office of Law Enforcement's International Operations Unit stands ready to assist in investigations when requested. A search of FWS Office of Law Enforcement and CBP records from 2017 to 2022 provided information on seizures and investigations related to 26 cases involving totoaba specimens, collectively amounting to over 860 confiscated specimens (meat and bladders). For the first half of 2023, there have been nine seizures of totoaba swim bladders, six of which took place on the same day and originated from the same exporter in Mexico. On 13 April 2023, CBP officers at the Area Port of Nogales seized 242 pounds (approximately 110 kilograms) of totoaba swim bladders.
 - iii) Regarding awareness-raising activities on the illegal trade in totoaba and its severe implications for the conservation of vaquitas (*Phocoena sinus*), including demand reduction campaigns as outlined in Decision 18.292 (Rev. CoP19), paragraph c), the US reports that the FWS posts information regarding seizures and prosecutions on its Office of Law Enforcement website. With financial support from the US National Marine Fisheries Service (NMFS), the Environmental Investigation Agency (EIA) produced two public reports and a film to draw the attention of international stakeholders to the illegal totoaba trade and the plight of the vaquita. Regarding Decision 19.75, the US highlights technical expertise that the NMFS provided over the years. The US also reported that seized totoaba specimens were submitted to a US federal forensics laboratory for DNA verification and the results of analyses shared with Mexican authorities and academia. NMFS and FWS Offices of Law Enforcement provided training to Mexican wildlife officials regarding *modus operandi* concerning the methods and practices, based on US experiences, in detecting the concealment and smuggling of totoaba bladders. In addition, the US provides information on activities conducted under the *United States-Mexico-Canada trade agreement* (USMCA) and

highlights actions taken under its *Marine Mammal Protection Act*. The report highlights the *Pelly Amendment to the Fisherman's Protective Act of 1967*, noting that this law gives the US Department of the Interior, in consultation with the Department of State, the authority to hold governments accountable for diminishing the effectiveness of international conservation agreements or programmes. In May 2023, the Secretary of the Interior notified the US President that she had certified under the Pelly Amendment that nationals of Mexico are directly or indirectly engaging in trade or taking of totoaba and vaquita which diminishes the effectiveness of protections for those species under CITES. On 17 July 2023, in response to the certification, the US President directed a number of actions outlined in the US response to the Notification. Among them, the US President instructed the Secretary of the Interior, in coordination with the Secretary of Commerce, Secretary of State, and the US Trade Representative, and other agencies as appropriate, to monitor Mexico's enforcement actions and progress and provide the President with a report no later than one year from 17 July 2023 on whether these actions have reduced the illegal harvest and trafficking of totoaba and enhanced the conservation of vaquita. The US notes that the report will be used as the basis for assessing whether additional steps, including potential trade restrictions under the Pelly Amendment, will be necessary.

7. Japan and Viet Nam did not respond to Notification to the Parties No. 2023/069 and may wish to provide an oral update at the present meeting.
8. The Secretariat notes that the reporting received from Canada and the Republic of Korea suggests that information about totoaba trafficking cases that might potentially affect them did not reach their relevant authorities. In this regard, it should be noted that Mexico made extensive efforts to engage with all Parties that participated in the online *Meeting of Range, Transit and Consumer States of Totoaba* referred to in paragraph a) of Decision 18.292 (Rev. CoP19). In its report on the implementation of its compliance action plan on totoaba discussed further in paragraphs 15 to 31 below, Mexico highlights activities it conducted to implement Target 3.6 of the compliance action plan, including by formally reaching out through diplomatic channels to Canada, China, including Hong Kong SAR, Japan, the Republic of Korea, the US and Viet Nam, as well as to INTERPOL and the WCO. Based on reports from Mexico suggesting links between these Parties and totoaba related crimes detected, and considering the reference to the Republic of Korea in the US response to Notification to the Parties No. 2023/069, these Parties are encouraged to bilaterally engage with Mexico and the US to seek further information.
9. The Secretariat welcomes the efforts made by authorities in Hong Kong SAR of China to initiate controlled deliveries where possible, noting that these efforts resulted in an arrest and successful prosecution. Making efforts to pursue stricter sentencing by drawing upon the Hong Kong SAR of China OSCO is also welcomed. These activities are in line with the provisions of paragraphs 6 g) and 19 b) of Resolution Conf. 11.3 (Rev. CoP 19) on *Compliance and enforcement*, and Parties affected by totoaba specimen trafficking are encouraged to pursue similar activities whenever possible.
10. The Secretariat also takes this opportunity to thank the CITES Management Authority of China for the updated and corrected data it provided to the Secretariat regarding totoaba specimens seized in mainland China, to ensure that data recorded in the CITES Illegal Trade Database is accurate. Some swim bladder seizures previously reported by China in its Annual Illegal Trade Reports (AITRs) were after further investigation and analyses found to be from other species and not totoaba, whilst a review of seizure data by China also identified new additional seizures to be included in the database. This again emphasizes the importance of drawing upon official government verified data, to ensure that decision-making is based on analyses of data that is accurate and reliable.
11. The Secretariat notes the [significant seizure of totoaba swim bladders](#) made by CBP officers at the Area Port of Nogales reported upon by the US. This seizure represents one of the largest seizures of totoaba specimens ever made in the US and clearly demonstrates the need for close collaboration between Mexican and US authorities. Reporting provided by the US about the mechanisms put in place to strengthen law enforcement and international collaboration and the interaction between CBP and ANAM are welcomed.
12. Regarding the implementation of Decision 18.294 (Rev. CoP19), paragraph b), and the measures and activities outlined in the online *Meeting of Range, Transit and Consumer States of Totoaba* agreed outcome document, the Secretariat notes that it updated the outcome document to reflect the correct new paragraph numbers of Resolution Conf. 11.3 (Rev. CoP19) on *Compliance and enforcement* as revised at CoP19. The [updated outcome document](#) is available to Parties on the [Enforcement](#) webpage.
13. To facilitate stronger engagement and communication between authorities in different countries about totoaba trafficking related matters, the Secretariat also made available on the [Enforcement focal points](#)

webpage the details compiled in accordance with activity 1.6 in the agreed outcome document, regarding national focal points for totoaba specimen trafficking related matters. Parties concerned are kindly requested to communicate to the Secretariat any changes to focal points or updated information to be included

14. The Secretariat reminds Parties that INTERPOL agreed to serve as a central depository for information related to totoaba trafficking, as well as to assist with data analyses and exchange support. Parties are also reminded that the WCO established a totoaba closed user group. The closed user group provides an additional tool for Parties to share information quickly and securely; has a library that contains totoaba identification materials; and also includes the list of national focal points for totoaba specimen trafficking related matters mentioned above. To date, use of the closed user group has been limited and authorities from Parties affected by totoaba trafficking are encouraged to draw upon this resource and use it.

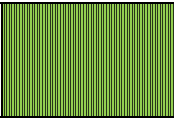

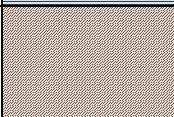
Mexico and implementation of its compliance action plan on totoaba

Implementation of Decisions 18.292 (Rev. CoP19), 18.293 (Rev. CoP19), 18.294 (Rev. CoP19), paragraph d) and the SC75 recommendations on totoaba (Totoaba macdonaldi)

15. At SC75, the Standing Committee agreed several recommendations on totoaba (*Totoaba macdonaldi*) addressed to Mexico. This included that Mexico prepare a compliance action plan in accordance with paragraph 29 h) of Resolution Conf. 14.3 (Rev. CoP19) on *CITES compliance procedures* and in consultation with the Secretariat. The Committee agreed that the compliance action plan should focus on implementation of the CoP19 Decisions on totoaba directed to Mexico and SC75 recommendation a) i) and ii) addressed to Mexico. The Committee further agreed that the compliance action plan should 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; outline the timeframe for implementation of each step and when it should be fully achieved; and include milestones to enable assessment of satisfactory implementation.
16. In its SC75 recommendations, the Standing Committee requested the Secretariat to assess the adequacy of Mexico's compliance action plan and if a finalized compliance action plan considered adequate by the Secretariat was not submitted by 28 February 2023, the Secretariat must publish a Notification to the Parties recommending a suspension of trade with Mexico, in effect until a compliance action plan assessed as adequate by the Secretariat was received. Further, the Committee requested the Secretariat to monitor implementation of the compliance action plan by Mexico and make the progress report from Mexico available to the Committee together with any Secretariat recommendations.
17. On 9 February 2023, Mexico submitted a preliminary draft of its compliance action plan to the Secretariat for consultation. On 16 February 2023, the Secretariat provided its feedback and inputs on the draft to Mexico. On 27 February 2023, Mexico submitted its final compliance action plan to the Secretariat. The Secretariat found that it insufficiently took into consideration the criteria set by the Standing Committee in SC75 recommendation a) iii), paragraphs A) to C), and the related requirements set in paragraph 29 h) of the Annex to Resolution Conf 14.3 (Rev. CoP19). In the absence of essential elements such as clear timeframes for implementation and achievement of the different steps in the plan, with corresponding milestones, monitoring implementation of the plan as envisaged by the recommendations agreed by the Committee would not be possible. The Secretariat concluded that the plan was not adequate and communicated the results of its assessment to Mexico. The Secretariat provided additional inputs and guidance to Mexico and reaffirmed its continued readiness to work with Mexico. In accordance with recommendation b) i) agreed at SC75, the Secretariat issued [Notification to the Parties No. 2023/037](#) of 27 March 2023 recommending to Parties to suspend all commercial trade in specimens of CITES-listed species with Mexico.
18. Mexico then informed the Secretariat that a high-level delegation from the Intergovernmental Group on Sustainability in the Upper Gulf of California (GIS) would visit the Secretariat in Geneva to revise the plan. The deputy Secretary of the Ministry of the Environment and Natural Resources (SEMARNAT) led the GIS delegation from Mexico and worked extensively with the Secretariat from 27 to 30 March 2023, along with the Ambassador and members of staff from the Permanent Mission of Mexico to the United Nations and other international organizations in Geneva. On 7 April 2023, Mexico submitted its final revised and updated compliance action plan on totoaba to the Secretariat for assessment. The Secretariat assessed that the compliance action plan incorporated all the essential elements required and was considered adequate. Mexico was informed accordingly and on 13 April 2023 the Secretariat issued [Notification to the Parties No. 2023/046](#) informing Parties that the recommendation to suspend all commercial trade in specimens of CITES-listed species with Mexico was withdrawn. The Secretariat takes this opportunity to again thank the

Government of Mexico for the swift action taken and the commitment and dedication demonstrated by the high-level delegation while working with the Secretariat.

19. Mexico informed the Secretariat that the compliance action plan it submitted has parts that are confidential, due to the matters it addresses relating to surveillance and the activities of marine authorities. On 14 June 2023, Mexico submitted a redacted version of its compliance action plan to the Secretariat to be made available to Parties. This redacted version is available in English, French and Spanish, in the Annex to [Notification to the Parties No. 2023/092](#) of 24 July 2023.
20. On 8 August 2023, Mexico submitted to the Secretariat its report on progress with implementation of the compliance action plan. The report included 31 Annexes, of which four Annexes contain confidential and sensitive information that should not be made public to protect the integrity of Mexico's enforcement measures. The report received from Mexico (excluding the four Annexes containing confidential information) is available as Annex 4 to the present document.
21. The compliance action plan of Mexico submitted to the Secretariat on 7 April 2023 comprises seven strategic lines of action to be implemented. These are:
 1. *Monitoring effective compliance with regard to authorized departure and landing sites, in accordance with the regulatory agreement¹,*
 2. *Preventing the entry of vessels to the Zero Tolerance Area (Zo) and keeping it free of gillnets together with the Refuge Area for the Protection of the Vaquita (VRA),*
 3. *Strengthening intelligence actions to combat transnational organized crime involved in illegal trade of totoaba,*
 4. *Implementing a programme for alternative fishing gear and the marking and fishing equipment programme for minor vessels,*
 5. *Monitoring the vaquita population,*
 6. *Raising awareness of illegal trade in totoaba and its consequences for conservation, and*
 7. *Operationalizing the Trilateral Enforcement Contact Group.*
22. In Annex 5 to the present document, the Secretariat provides its detailed observations and conclusions regarding the reporting received from Mexico on progress with implementation of its compliance action plan. The Secretariat takes this opportunity to thank Mexico for the comprehensive, transparent and clear reporting provided, which greatly assisted the work of the Secretariat in assessing the progress made by Mexico.
23. The Secretariat uses colour coding in Annex 5 to reflect the implementation status of the targets and associated milestones in Mexico's compliance action plan as assessed by the Secretariat. The table below explains the colour coding used and the same table is included in Annex 5 for ease of reference. The targets with associated milestones in Mexico's compliance action plan which the Secretariat considers have been achieved are coded in green (vertical lines), those that have been well progressed but not yet completed and therefore justify further reporting to the 78th meeting of the Standing Committee (SC78) are coded in light blue (horizontal lines), and those that the Secretariat assessed are not yet implemented, or their implementation dates are in the future and will require further reporting to SC78 in light orange (diagonal lines):

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| Targets with associated milestones that have been achieved. |  |
| Targets with associated milestones that have been well progressed but not yet completed and therefore justify further reporting to SC78. |  |
| Targets with associated milestones that are not yet implemented, or their implementation dates are in the future and will require further reporting to SC78. |  |

¹ [Regulatory agreement refers to the Agreement regulating gear, systems, methods, techniques and schedules for carrying out fishing activities with smaller and larger vessels in Mexican Marine Zones in the Northern Gulf of California and establish landing sites as well as monitoring systems for such vessels.](#)

24. As shown in Annex 5 to the present document, the Secretariat concluded that 53 milestones in the compliance action plan have been achieved; 27 milestones in the compliance action plan have been well progressed but not yet completed and therefore justify further reporting to SC78; and lastly, that 21 milestones in the compliance action plan are not yet implemented or their implementation dates are in the future and will require further reporting to SC78. The Secretariat notes that several of the activities that have been achieved in accordance with the milestones in the compliance action plan are regularly occurring activities. The Secretariat therefore encourage Mexico to provide information at future meetings on these activities to complement deliberations on matters concerning totoaba. Mexico is also encouraged to include information in this regard when submitting its implementation report on legislative, regulatory and administrative measures taken to enforce the Convention.
25. The Secretariat welcomes the rapid progress made by Mexico with implementation of its compliance action plan. This shows that the commitment and dedication demonstrated by the high-level delegation to the Secretariat continued and filtered through to ground level within Mexico. The swift action taken corresponds to what was expected given the urgency of the matter. Mexico is encouraged to build upon this positive progress as it continues to implement the remaining aspects of its compliance action plan.
26. The Secretariat also welcomes the positive downward trends observed and reported upon by Mexico. Compared to the same period in 2022, this includes a 38% decrease in the number of vessels detected in the Zero Tolerance Area (Zo) during the period from 15 April to 15 July 2023. From April to July 2022, a total of 2,268 vessels were detected in the Refuge Area for the Protection of the Vaquita (VRA), whilst during the same period in 2023, only 137 vessels were detected in the VRA, over 90% less than in 2022. This is corroborated by findings made during the 2023 Vaquita Observation Cruise (survey) reported upon by Mexico against Target 5.2 in its compliance action plan.
27. However, the Secretariat notes that room for improvement continues to exist regarding applying a zero-tolerance policy and appropriate penalties for unauthorized activities in the Zo and the VRA. The Secretariat reiterates that, if a strict zero tolerance policy is not applied against unauthorized activities in the Zo and VRA, it could significantly undermine and even undo the progress made and provide for a continued situation of impunity for offenders to operate in. Mexico is encouraged to take into consideration the observations of the Secretariat at milestone 3 of Target 2.6 and milestones 1 and 3 of Target 2.9 in Annex 5, as well as at milestone 3 of Target 2.10 and milestones 2 and 5 of Target 2.11. Regularly assessing the effectiveness of and the impact achieved through implementation of the newly established "Protocols of Action in the Upper Gulf of California to Combat the Illegal Fishing of Totoaba (*Totoaba macdonaldi*) and thereby Conserve the Vaquita Marina Population (*Phocoena sinus*)", is essential. Further, swiftly progressing training to build capacity amongst officials operating in the Upper Gulf of California on implementation of the protocol and assessing training to identify any aspects that can be improved, is equally important.
28. Further, it is essential to faithfully implement the provisions of Target 4.2 in the compliance action plan, and to maintain strict control over vessels to which permits for fishing with alternative gear were granted to ensure that only the alternative gear as authorized by the permits are used during fishing activities.
29. Target 3.6 of Mexico's compliance action plan includes an activity to propose to the Standing Committee that a second *Meeting of Range, Transit and Consumer States of Totoaba* be convened. Mexico formally wrote to the Secretariat in this regard in April 2023, requesting that the Secretariat highlight the proposal from Mexico to convene such a second meeting. Mexico expressed that a second meeting would support further action being taken across source, transit and destination countries to address totoaba trafficking and the threat it poses to the vaquita. The Secretariat notes that the measures and activities contained in the [agreed outcome document](#) of the online *Meeting of Range, Transit and Consumer States of Totoaba* held in 2021 remain valid and relevant. Pursuing a further similar meeting as suggested would likely have limited new or additional outcomes. Focus should remain on the implementation of the agreed outcomes of the meeting held online in October 2021, as anticipated by paragraph a) of Decision 18.292 (Rev. CoP19). In this regard, the Secretariat recalls that the outcome document invites the United Nations Office on Drugs and Crime (UNODC), subject to the availability of funds and resources, to explore opportunities to invite Parties affected by totoaba trafficking to a Wildlife Inter Regional Enforcement (WIRE)² meeting to support the sharing of best practices, foster cross border cooperation and make best use of instruments and tools available through the United Nations Convention against Transnational

² A WIRE is a meeting convened by UNODC designed in response to the need for intensified cooperation in the investigation of transnational criminal networks. It offers a specialized platform to convene officials from different countries with the purpose of building bridges among like-minded professionals.

Organized Crime. The outcome document further invites INTERPOL, subject to the availability of funds and resources, to convene a Regional Investigative and Analytical Case Meeting (RIACM)³ on totoaba, to facilitate information exchange and engagement between counterparts in different countries affected by totoaba trafficking. These meetings are complementary to each other. The Secretariat considers that convening a WIRE and a RIACM meeting whilst maintaining focus on the implementation of the measures and activities contained in the agreed outcome document of the online *Meeting of Range, Transit and Consumer States of Totoaba*, would have greater effect and support further action being taken across source, transit and destination countries to address totoaba trafficking. This is also reflected in the recommendations prepared by the Secretariat for consideration by the Committee at the present meeting.

30. The Secretariat notes that results of the 2023 Vaquita Observation Cruise (survey) reported upon by Mexico against Target 2.5 of its compliance action plan show that the minimum number of the vaquita population is at present between 10 and 13 individuals, including one or two calves. Survey results further show that the vaquitas sighted appeared to be healthy. The survey findings also provide good news for the vaquita considering that over 90% less pangas and gillnets within the Zo was observed compared to previous years. Despite this good news, the vaquita population remains under pressure and very vulnerable. The Secretariat therefore reiterates the importance that Mexico maintains its efforts to address totoaba trafficking and the threat it poses to the vaquita. Building upon the positive progress made with implementation of its compliance action plan and continuing to rapidly progress implementation remains essential. In doing so, Mexico is urged to take into consideration the observations provided by the Secretariat in Annex 5 to the present document.
31. The recommendations of the Secretariat prepared for consideration by the Committee based on its analysis of Mexico's progress report in accordance with the provisions of SC75 recommendation b) ii) on totoaba (*Totoaba macdonaldi*), can be found in paragraph 46 of the present document.

Trilateral Enforcement Contact Group

Implementation of Decision 19.74

32. In Decision 19.74, China, Mexico and the US are requested to jointly submit to the present meeting, through the Chair of the Trilateral Enforcement Contact Group (TECG), a report on the operationalization of the TECG and the activities conducted in accordance with the TECG terms of reference, as well as associated results achieved.
33. In its response to Notification to the Parties No. 2023/069, the US notes that it has been actively participating in the drafting of the Terms of Reference (ToR) and working plan for the TECG, but that it has been difficult to get the TOR finalized. Prior to CoP19, the US had provided Mexico with feedback highlighting its concerns regarding vague language in and the lack of a timeline for the ToR. The US indicated that it received a response after CoP19 and in February 2023 provided additional suggested changes for consideration regarding the updated ToR. The US indicates that, at the time of its response to the Notification (August 2023), it was awaiting further communications, and noted that it welcomed a response from Mexico to its concerns at a bilateral meeting on 19 July 2023 between the US and Mexican Ambassadors in Geneva.
34. The Secretariat draws the attention of Parties to its observations regarding milestone 1 of Target 3.1 in Mexico's compliance action plan (see Annex 5 to the present document). Based on the information provided by Mexico and the US, it seems that effective communication, collaboration and information exchange continue to be challenging. Formally establishing and operationalizing the Trilateral Enforcement Contact Group could assist in resolving such issues.
35. Mexico provides detailed reporting on this matter against Target 7.1 in its compliance action plan. Mexico has led negotiations to establish the ToR for the TECG and reports in detail on the activities it conducted and the difficulties that were encountered, seemingly primarily relating to disputes on text between China and the US. Detailed information on the efforts of Mexico is included in the relevant Annex to its report.
36. The Secretariat is aware of the efforts made by Mexico, including by reaching out to China and the US through its Embassies and through the Permanent Mission of Mexico to International Organizations in Geneva. The efforts made by Mexico over time are also well documented in reports and documents prepared

³ A RIACM is a meeting convened by INTERPOL to support investigations and operational analytical work., in particular to follow-up on transnational investigations linking organized criminal networks through information exchange and the development of operational plans to target these networks.

for the 74th meeting of the Standing Committee and the 19th meeting of the Conference of the Parties. As pointed out in document [CoP19 Doc. 29.2.1](#), Mexico reported that trilateral collaboration is a shared responsibility between the three Parties and that investment in this issue by the Parties concerned has been uneven. Based on the information provided by Mexico in its report to the present meeting, the Secretariat concludes that Mexico made significant efforts and used all avenues at its disposal to facilitate negotiations to finalize the ToR for the TEGC.

37. In the light of the above, the Secretariat welcomes the information provided in document [SC77 Doc. 33.13.1](#) by Mexico as Chair of the Trilateral Contact Group on law enforcement to combat the illegal trade in totoaba. This document suggests that progress has been made in recent months to finalize the ToR for the TEGC and that it was agreed that Mexico serve as Chair of the TEGC for the first period after it was established. China, the US and Mexico will continue to work to finalize the ToR and will at a future date agree on when the first meeting of the TEGC will take place.
38. Mexico's efforts and the leading role it is taking on this matter is welcomed. The Secretariat highlights the importance of the collaboration between China, Mexico and the US in fighting totoaba trafficking, as well as the urgency to finalizing the ToR, establishing and operationalizing the TEGC. Mexico is encouraged to provide an oral update on further progress at the present meeting.
39. The Standing Committee may wish to request China, the US and Mexico to also report on the TEGC to SC78 and to decide at SC78 if sufficient progress has been made or if further measures are needed regarding any of these three Parties.
40. In addition, considering the key roles of China and the US as Parties affected by totoaba specimen trafficking, either as transit or destination country for illegal totoaba specimens, the Secretariat considers that it would be useful to conduct technical missions to China and the US to have a better understanding of the measures and activities being implemented by these Parties in accordance with the provisions of paragraphs a) to c) of Decision 18.292 (Rev. CoP19).

Study on vaquita and totoaba

Implementation of Decisions 18.292 (Rev. CoP19) paragraph d) and 18.294 (Rev. CoP19), paragraphs c) and d)

41. Regarding the study on vaquita and totoaba to be undertaken in accordance with Decision 18.294 (Rev. CoP19), paragraph c), the Secretariat worked with the Standing Committee through its Chair to revise the terms of reference for the study. The revised terms of reference are available in Annex 6 to the present document. ,
42. The Secretariat is pleased to inform Parties that work has commenced. Regrettably, the study will not be completed in time for the present meeting but be ready for review by the Standing Committee at SC78.
43. Some developments relevant to the study have taken place since CoP19. This includes the [May 2023 vaquita survey](#) (2023 Vaquita Observation Cruise) reported upon by Mexico in its report (see paragraph 29 above).
44. Also, the International Whaling Commission (IWC) in August 2023 issued its first ever Extinction Alert. This was done to encourage wider recognition of the warning signs of impending extinctions and to generate support and provide encouragement for the implementation of actions needed to save the vaquita. The [Extinction Alert statement](#) by the Scientific Committee of the IWC provides information about the conservation status of the vaquita since 1997, emphasizing the need for urgent action to save the vaquita. However, it does not include reference to the most recent survey undertaken in 2023.
45. The Secretariat again expresses its appreciation to Switzerland for the funds it provided to undertake the study and encourages Parties in collaboration with relevant stakeholders to provide support for the implementation of the study.

Recommendations

46. The Standing Committee is invited to:
 - a) note the responses to Notification to the Parties No. 2023/069 and the associated information provided in document SC77 Doc. 33.13.2;

- b) welcome the rapid progress made by Mexico with implementation of its compliance action plan;
- c) request Mexico to:
 - i) take into consideration the observations of the Secretariat as presented in Annex 5 to document SC77 Doc. 33.13.2;
 - ii) prepare a report for the 78th meeting of the Standing Committee (SC78) on progress with the implementation of targets and associated milestones in its compliance action plan not yet completed and ongoing, as highlighted in Annex 5 to document SC77 Doc. 33.13.2; and
 - iii) submit the report to the Secretariat 90 days in advance of SC78, for it to be made available to the Committee for consideration;
- d) request the Secretariat to continue to monitor Mexico's implementation of its compliance action plan and make the report submitted by Mexico to SC78 in accordance with recommendation c) available to the Committee together with any recommendations the Secretariat may have;
- e) agree to review Mexico's progress with the implementation of its compliance action plan at SC78 and consider if any further compliance actions or measures are needed;
- f) request China and the United States of America to invite the Secretariat for a technical mission to have a better understanding of the measures and activities being implemented by these Parties in accordance with the provisions of paragraphs a) to c) of Decision 18.292 (Rev. CoP19);
- g) request China, Mexico and the United States of America to report to SC78 in accordance with Decision 19.74, and to decide at SC78 if sufficient progress has been made or if further measures are needed regarding any of these three Parties;
- h) subject to the availability of funds and resources, request the Secretariat to work with INTERPOL and UNODC to convene a Wildlife Inter Regional Enforcement (WIRE) meeting and a Regional Investigative and Analytical Case Meeting (RIACM) on totoaba, as anticipated in the [agreed outcome document](#) of the online *Meeting of Range, Transit and Consumer States of Totoaba*; and
- i) note the progress regarding the study on vaquita and totoaba.

DECISIONS ON TOTOABAS (*TOTOABA MACDONALDI*)

Directed to Parties in collaboration with relevant stakeholders

18.292 (Rev. CoP19) Parties affected by illegal fishing and trafficking of totoabas, in collaboration with relevant stakeholders, are encouraged to:

- a) fully implement the measures and activities outlined in the online Meeting of Range, Transit and Consumer States of Totoaba agreed outcomes document, as relevant to them, to prevent and combat this illegal trade;
- b) draw upon the secure law enforcement communication channels and tools provided by INTERPOL and the World Customs Organization to share information on seizures and arrests associated with totoaba specimen trafficking;
- c) engage in awareness-raising activities on the illegal trade in totoaba, and its severe implications for the conservation of vaquitas (*Phocoena sinus*), including demand reduction campaigns, as well as activities to eliminate supply and demand for illegally sourced specimens of totoaba, taking into consideration the measures and activities outlined in the *Meeting of Range Transit and Consumer States of Totoaba* agreed outcomes document under the heading Opportunities to eliminate supply and demand for illegally sourced specimens of totoaba; and
- d) provide financial and in-kind support for the implementation of the study called for in Decision 18.294 (Rev. CoP19), paragraph c) to be presented before the 77th meeting of the Standing Committee.

Directed to Mexico

18.293 (Rev. CoP19) Mexico is urged to:

- a) take immediate actions to further strengthen measures to effectively prevent fishers from using gillnets in the vaquita refuge and vessels from entering the zero-tolerance area and to maintain these areas completely gillnet-free, by implementing a strict zero-tolerance policy concerning unauthorized fishing and fishing gear in these areas, ensuring surveillance on a full time basis, and 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;
- b) pursue the urgent implementation of all 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”), giving priority attention to:
 - i) deploying appropriate authorities with legal powers of seizure and arrest, together with the Navy, to effectively prevent fishers and vessels from fishing with prohibited gear in the vaquita refuge and from entering the zero tolerance area and taking strict action against fishers that use any sites other than the authorized sites for departure and arrival of vessels established by Article 9 of “the Agreement”, to effectively prevent, disrupt and put an end to the activities of fishers that operate illegally;
 - ii) effectively implementing the gillnet ban as anticipated by Article 2 of “the Agreement”; and

- iii) 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”, to ensure the disruption and neutralization of any illegal activities;
- c) build upon the progress made in collecting and analysing information on organized crime groups operating within Mexico involved in illegal fishing and trafficking of totoaba, and the insights and information gained from such work about the structure and modus operandi of these groups, to further expand intelligence-driven operations and investigations to address and neutralize them;
- d) maintain resources to ensure uninterrupted gillnet removal to maintain the vaquita refuge and zero tolerance areas net-free, and take all necessary measures to protect net removal teams and destroy confiscated nets;
- e) scale up activities in support of selective fishing gear development and use, and to consider including such matters related to totoabas and vaquitas in its GEF 8 or other suitable funding sources; and
- f) submit a comprehensive report on the implementation of Decision 18.293 (Rev. CoP19), paragraphs a) to e) above, as well as Decision 18.292 (Rev. CoP19), to the Secretariat in a timely manner (at least 60 days in advance of the 77th meeting of the Standing Committee) in time for it to convey this to the Standing Committee at its 77th meeting, together with any recommendations it may have.

Directed to the Secretariat

18.294 (Rev. CoP19) The Secretariat shall:

- a) seek information from Parties on their implementation of Decision 18.292 (Rev. CoP19);
- b) engage with partner agencies of the International Consortium on Combating Wildlife Crime (ICWC) in support of activities relevant to ICCWC partners, as outlined in the online Meeting of Range, Transit and Consumer States of Totoaba agreed outcomes document;
- c) as a matter of urgency, revise the terms of reference for the study on vaquita and totoaba outlined in Annex 2 to document CoP18 Doc. 89 (Rev. 1), in consultation with the Standing Committee, through the Chair, taking into consideration the outcomes of the online *Meeting of Range, Transit and Consumer States of Totoaba* held in October 2021, and the decisions of the 74th meeting of the Standing Committee, and commence the study within the first quarter of 2023, subject to the availability of external resources and in consultation with organizations with relevant expertise; and
- d) report the information communicated by Parties and Mexico in accordance with Decisions 18.292 (Rev. CoP19) and 18.293 (Rev. CoP19), as well as the study undertaken in accordance with paragraph c) above, in a timely manner (at least 45 days in advance of the 77th meeting of the Standing Committee) to the Standing Committee at its 77th meeting together with any recommendations it may have.

Directed to the Standing Committee

18.295 (Rev. CoP19) The Standing Committee shall:

- a) review and assess the study undertaken in accordance with Decision 18.294 (Rev. CoP19), paragraph c) and any information and recommendations submitted by the Secretariat in accordance with Decision 18.294 (Rev. CoP19), as well as the report to be submitted in accordance with Decision 19.74; and
- b) based on its assessment of the study undertaken in accordance with Decision 18.294 (Rev. CoP19), paragraph c), and if not satisfied with timely progress in the

implementation of Decisions 18.292 (Rev. CoP19), 18.293 (Rev. CoP19) and 19.74, make recommendations as appropriate, which may where relevant include recommendations within the mandate of the Standing Committee in accordance with Resolution Conf. 14.3 (Rev. CoP19) on *CITES compliance procedures*.

Directed to China, Mexico, and the United States of America

19.74 China, Mexico, and the United States of America are requested to jointly submit, through the Chair of the Trilateral Enforcement Contact Group (TECG), a report to the 77th meeting of the Standing Committee on the operationalization of the TECG and the activities conducted in accordance with the TECG terms of reference, as well as associated results achieved.

Directed to Parties

19.75 Parties are encouraged to:

- a) support efforts related to the recovery and monitoring of wild populations of totoaba and vaquita;
- b) make every effort to support Mexico in the implementation of Decision 18.293 (Rev. CoP19); and
- c) support efforts to eliminate supply of and demand for illegally sourced specimens of totoaba to address and prevent their illegal trade.

Directed to transit and destination countries

19.76 Transit and destination countries are encouraged to report on implementation of Decision 18.292 (Rev. CoP19) and 19.75 to the 77th meeting of the Standing Committee.

RECOMMENDATIONS ON TOTOABAS (*TOTOABA MACDONALDI*)

At its 75th meeting (SC75; Panama City, November 2022), the Standing Committee agreed several recommendations on Totoaba (*Totoaba macdonaldi*), as follows:

The Standing Committee:

- a) requested 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) requested 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 agreed 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).
- d) The Standing Committee noted the oral report by Mexico on the destruction of totoaba swim bladders from captive bred totoaba processed by Earth Ocean Farms.