

26 June 2024

COUNCIL RESOLUTION: 24-02

Instructions to the Secretariat of the Commission for Environmental Cooperation (CEC) regarding Submission SEM 21-002 (*Vaquita Porpoise*) which asserts that the Mexican environmental authorities are failing to effectively enforce (1) Article 55 of the General Wildlife Act (*Ley General de Vida Silvestre*) (LGVS); (2) Article 56 of the LGVS Regulations (LGVS Regulation); (3) Order which temporarily suspends commercial fishing by means of gillnets and longlines operated on small vessels, in the Northern Gulf of California (*Acuerdo por el que se suspende temporalmente la pesca comercial mediante el uso de redes de enmalle, cimbras y/o palangres operadas con embarcaciones menores, en el Norte del Golfo de California*) (“2015 Gillnets Order”); (4) Order which prohibits specific fishing gear, systems, methods and techniques, as well as restricts permissible hours, for small vessel fishing activities in marine waters under the Mexican federal government’s jurisdiction in the Northern Gulf of California, and which establishes landing sites and mandates the use of monitoring systems by such vessels (*Acuerdo por el que se prohíben artes, sistemas, métodos, técnicas y horarios para la realización de actividades de pesca con embarcaciones menores en aguas marinas de jurisdicción federal de los Estados Unidos Mexicanos en el Norte del Golfo de California, y se establecen sitios de desembarque, así como el uso de sistemas de monitoreo para dichas embarcaciones*) (“2017 Gillnets Order”); (5) Order which establishes a fishing ban on the Totoaba (*Cynoscion macdonaldi*), in the waters of the Gulf of California, from the mouth of the Colorado River to Río Fuerte, Sinaloa, on the east coast, and from the Colorado River to Bahía Concepción, Baja California, on the west coast (*Acuerdo que establece veda para la especie Totoaba, Cynoscion MacDonaldi, en aguas del Golfo de California, desde la desembocadura del Río Colorado hasta el Río Fuerte, Sinaloa en la costa oriental, y del Río Colorado a Bahía Concepción, Baja California, en la costa occidental*) (“1975 Totoaba Fishing Ban”); and (6) Order which regulates fishing gear, systems, methods and techniques, as well as restricts permissible hours, for small and large vessels in Mexican marine areas in the Northern Gulf of California, and which establishes landing sites and mandates the use of monitoring systems for such vessels (*Acuerdo por el que se regulan artes, sistemas, métodos, técnicas y horarios para la realización de actividades de pesca con embarcaciones menores y mayores en Zonas Marinas Mexicanas en el Norte del Golfo de California y se establecen sitios de desembarque, así como el uso de sistemas de monitoreo para tales embarcaciones*) (“2020 Gillnets Order”) to protect the Vaquita Porpoise (*Phocoena sinus*).

THE COUNCIL:

CONSIDERING that the Submissions on Enforcement Matters (SEM) process and the preparation of factual records is governed by Articles 24.27 and 24.28 of the Agreement between the United States of America, the United Mexican States, and Canada (USMCA) and the Agreement on Environmental Cooperation (ECA);

AFFIRMING that the SEM process, which may include the preparation of factual records, is designed to increase public participation and promote transparency and openness on issues related to the effective enforcement of environmental laws in Canada, the United Mexican States (Mexico), and the United States of America (United States);

RECOGNIZING that the purpose of a factual record is to provide an objective presentation of the facts relevant to assertion(s) set forth in a submission, and that a factual record will generally outline the history of the environmental enforcement issue raised in the submission, the relevant national environmental laws, and the actions of the relevant Party to effectively enforce those environmental laws;

HAVING CONSIDERED submission SEM-21-002 dated 11 August 2021, filed by the submitters, and Mexico's response, dated 31 January 2022;

HAVING REVIEWED the Secretariat's Notification, dated 1 April 2022, presenting its reasons to recommend the preparation of a factual record on the effective enforcement of: Article 55 of the LGVS; Article 56 of the LGVS Regulation; the 1975 Totoaba Fishing Ban; the 2015 Gillnets Order; the 2017 Gillnets Order; and the 2020 Gillnets Order;

PURSUANT TO Article 2.3 of the ECA, and taking into account the Council's policy of providing its reason(s) for the instructions to prepare a factual record and publication of the reasoning on the SEM public registry;

HEREBY DECIDES, UNANIMOUSLY:

TO INSTRUCT the Secretariat to prepare a factual record on the effective enforcement of the following provisions:

- A. Article 55 of the LGVS, in relation to measures put into place to effectively enforce this Article in the context of illegal traffic of Totoaba;
- B. Article 56 of the LGVS Regulation, in relation to measures put in place to effectively enforce this article in the context of illegal traffic in Totoaba;
- C. The 1975 Totoaba Fishing Ban, in relation to measures taken to effectively enforce the ban.
- D. The 2020 Gillnets Order, in relation to measures taken to effectively enforce the Order.

TO FURTHER DIRECT the Secretariat to provide the Council with its overall work plan for gathering the relevant facts; to keep the Council informed of any future changes or adjustments to

such plan; and to promptly communicate with the Council in connection with any clarification required with respect to the scope of the factual record hereby authorized.

APPROVED BY THE COUNCIL:

Sandra McCardell
Government of Canada

Miguel Ángel Zerón Cid
Government of the United Mexican States

Jane Nishida
Government of the United States of America