

Administration of Joseph R. Biden, Jr., 2023

Letter to Congressional Leaders on Notification Regarding Mexico's Enforcement Obligations Under Section 8 of the Fisherman's Protective Act of 1967, as Amended
July 17, 2023

Dear Mr. Speaker: (Dear Madam President:)

On May 18, 2023, the Secretary of the Interior certified under section 8 of the Fisherman's Protective Act of 1967, as amended (the "Pelly Amendment") (22 U.S.C. 1978), that nationals of Mexico are engaging in trade or taking of totoaba and vaquita that diminishes the effectiveness of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). This letter constitutes my notification to the Congress consistent with subsection (b) of the Pelly Amendment.

In 1975, Mexico recognized totoaba as a protected species and prohibited all fishing for the species. However, illegal fishing for totoaba has continued. Nets set to catch totoaba also take non-target species, including the vaquita, a small porpoise that is the most endangered marine mammal in the world. Both vaquita and totoaba were listed in CITES Appendix I in the 1970s, and both are considered to be facing extremely high risk of extinction.

Despite international protections and Mexico's domestic ban on totoaba fishing, the illegal harvest and international trade in totoaba has continued in response to the ongoing demand in the People's Republic of China (PRC). With the price of a single totoaba swim bladder estimated at thousands of dollars, the incentive for illegal harvest and trade is high. Many of these illegally harvested swim bladders are trafficked from Mexico through the United States to the PRC. As the illegal harvest of totoaba has continued, the vaquita population has plummeted. Recent estimates suggest there are fewer than 15 individual vaquitas remaining in the wild. Despite these low numbers, scientists believe that the vaquita can survive and recover if the threats to its survival are reduced or eliminated.

Several efforts to protect totoaba and vaquita are ongoing. The United States has been engaged in a diplomatic dialogue with Mexico about the vaquita through the United States-Mexico-Canada Agreement environment consultation process. In March 2023, the CITES Secretariat recommended that all parties to CITES suspend trade with Mexico in CITES-listed species because of Mexico's failure to comply with its obligations to CITES. Mexico submitted a CITES Compliance Action Plan to the CITES Secretariat in April 2023, outlining a set of steps they will take to improve enforcement and monitoring of illegal fishing in the Gulf of California. The Secretariat subsequently withdrew the recommendation the following month upon Mexico's submission of a compliance action plan.

The Mexican government has also entered into a partnership with the non-governmental organization Sea Shepherd Conservation Society to remove gillnets from a small priority region (the "Zero Tolerance Area" or ZTA). On June 26, 2023, Sea Shepherd reported that the ZTA of the Gulf of California is "functionally gillnet free."

These steps are important, but insufficient to ensuring the recovery of the vaquita. In a certification on May 18, 2023, the Secretary of the Interior expressed my Administration's concerns about the ongoing trafficking of totoaba and inadequate conservation outcomes to date. The Government of Mexico must do more to prevent this illegal trade, enforce against illegal totoaba fishing across its full range, and protect these species, or it is likely that the totoaba population will continue to decline and the vaquita will soon become extinct.

To ensure that this issue continues to receive the highest level of attention, I have directed:

(1) relevant executive departments and agencies (agencies) to convene a high-level dialogue with the Government of Mexico to discuss the steps it will take to reduce illegal trafficking of totoaba and enhance conservation of the vaquita. Through this dialogue, the United States will encourage Mexico to strengthen and implement its CITES compliance action plan and comply with all relevant CITES decisions regarding totoaba and vaquita, including expansion of enforcement efforts beyond the ZTA. The United States will also establish a schedule of at least quarterly meetings with the Government of Mexico to review its CITES Compliance Action Plan implementation, with a focus on enhanced monitoring and enforcement actions to prevent and deter totoaba fishing and trafficking, including seizures, arrests, and prosecutions. The United States will also include totoaba and vaquita enforcement matters on the agenda for the next High Level Security Dialogue with Mexico;

(2) relevant agencies to coordinate efforts to assist and support Mexico's compliance, anti-trafficking, anti-corruption, and other measures as appropriate. If requested by the Government of Mexico, the United States will assist Mexico with relevant training and capacity building; and

(3) the Secretary of the Interior, in coordination with the Secretary of Commerce, Secretary of State, and the United States Trade Representative, among other agencies as appropriate, to develop an assessment by July 2024, of Mexico's enforcement actions and implementation of its CITES Compliance Action Plan.

I am not directing the Secretary of the Treasury to impose trade measures on Mexican products for the activities that led to the certification by the Secretary of the Interior at this time because the actions outlined above are the appropriate means to address this issue. However, to ensure that this issue continues to receive the highest level of attention, the Secretary of the Interior, in coordination with the Secretary of Commerce, Secretary of State, and the United States Trade Representative, and other agencies as appropriate, will monitor Mexico's enforcement actions and progress and provide me with a report not later than 1 year from the date of this notification on whether these actions have reduced the illegal harvest and trafficking of totoaba and enhanced the conservation of vaquita. The report will be used as the basis for assessing whether additional steps, including potential trade restrictions, will be necessary.

I believe that continued focus is required to curtail the illegal taking of and commercial trade in totoaba and to support conservation efforts. These actions hold the most promise of reducing illegal trade in totoaba and instituting effective conservation of the vaquita.

Sincerely,

JOSEPH R. BIDEN JR.

NOTE: Identical letters were sent to Kevin O. McCarthy, Speaker of the House of Representatives, and Kamala D. Harris, President of the Senate. An original was not available for verification of the content of this letter.

Categories: Communications to Congress : Mexico, enforcement obligations under section 8 of Fisherman's Protective Act of 1967, letter on notification.

Subjects: Endangered species; Fishery stocks, management efforts; Mexico, enforcement obligations under section 8 of Fisherman's Protective Act of 1967; Mexico, trade with U.S.; Secretary of Commerce; Secretary of State; Secretary of the Interior; Secretary of the Treasury; U.S. Trade Representative; U.S.-Mexico-Canada Agreement.

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