



June 28, 2016

Via First Class and Electronic Mail

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Re: Request for Response to 2014 Pelly Petition to Certify Mexico for Totoaba Trade in Violation of CITES

Dear Secretary Pritzker, Secretary Jewell, and Directors Arroyo and Henderschedt,

On September 29, 2014, the Center for Biological Diversity (“the Center”) formally petitioned the Secretaries of the Interior and Commerce to certify Mexico pursuant to the U.S. Pelly Amendment.¹ 22 U.S.C. § 1978. Specifically, the Center sought certification that Mexico’s failure to stem its trade and export in endangered totoaba “diminishes the effectiveness” of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (“CITES”),² as it simultaneously drives the critically endangered vaquita – another CITES-listed species – to extinction. *Id.* § 1978(a)(2).

Since the filing of our petition, in April 2015, the Mexican government formally banned almost all gillnet fishing throughout the vaquita’s range in the upper Gulf of California. And while gillnet and longline fishing for totoaba has long-been prohibited under Mexican law, Mexico also promised to increase enforcement both on the water and the land.

Unfortunately, recent evidence, including the discovery of three vaquita found dead due to entanglement during the height of the spring totoaba migration, numerous illegal totoaba gillnets and longlines found on the water, and the ongoing seizures of totoaba parts, indicates that Mexico’s

¹ See Center for Biological Diversity, *Petition for Certification of Mexico pursuant to the Pelly Amendment for Trade in Violation of the Convention on International Trade in Endangered Species* (Sept. 29, 2014). We incorporate the petition and all references cited therein by reference.

² Convention on International Trade in Endangered Species of Fauna and Flora, March 3, 1973, 27 U.S.T. 1087, 993 U.N.T.S. 243 (entered into force July 1, 1975).

actions are not sufficient and that substantial, international trade in totoaba continues, threatening the vaquita's very survival. Accordingly, **the Center urges the Secretaries to promptly respond to the Center's 2014 petition and certify that Mexico has failed to effectively implement and enforce CITES's ban on totoaba trade under Pelly.** We further urge the Secretaries to recommend that the President prohibit importation of Mexican seafood and other wildlife products until Mexico takes full and sustained action to end the illegal totoaba harvest and trade. While we remain hopeful the relevant Secretary will act quickly and certify Mexico in response to our now nearly two-year-old petition, we hereby provide notice of our intent to seek legal recourse upon further delay.

I. LEGAL BACKGROUND

A. CITES

Since 1975, international trade in imperiled species has been regulated under the CITES treaty. Species listed on Appendix I of CITES are "threatened with extinction,"³ and thus CITES bans international, commercial trade in the species and requires permits for all other imports and exports.⁴ CITES further requires that each Party "shall take appropriate measures to enforce the provisions of the . . . Convention and to prohibit trade in specimens in violation thereof."⁵ Both the United States and Mexico are Parties to CITES.

B. The Pelly Amendment

The Pelly Amendment to the Fishermen's Protective Act ("Pelly Amendment") provides the United States authority to prompt other nations to comply with international agreements through trade embargoes. Specifically, the Pelly Amendment requires that:

When the Secretary of Commerce or the Secretary of the Interior finds that nationals of a foreign country, directly or indirectly, are engaging in trade or taking which diminishes the effectiveness of any international program for endangered or threatened species, the Secretary . . . shall certify such fact to the President.

22 U.S.C. § 1978(a)(2). Upon receiving such a certification, the President is authorized "to prohibit . . . the importation into the United States of any products from the offending country" and must, within 60 days of the Secretary's certification, notify Congress of his decision. *Id.* § 1978(a)(4), (b).

II. FACTUAL BACKGROUND

A. Critically Endangered Vaquita, Totoaba, and Historic Efforts to Ban Gillnet Fishing

As the Secretaries are no doubt aware, the Gulf of California's vaquita (*Phocoena sinus*) is the world's most endangered cetacean. Based on the most recent survey results, scientists from the Comité Internacional para la Recuperación de la Vaquita ("CIRVA") estimate that, as of 2015, *only*

³ *Id.* at Art. II(1).

⁴ *Id.* at Art. II(1); III(1)-(3).

⁵ *Id.* at Art. VIII(1).

60 vaquita remain – down from 245 in 2008 and 567 in 1997.⁶ The most significant threat to the vaquita’s survival is entanglement in gillnet fishing gear, including in illegal gear set to catch totoaba.⁷ The vaquita is listed as “critically endangered” by the IUCN and is listed under Appendix I of CITES.⁸

The totoaba (*Totoaba macdonaldi*) is a large, schooling fish that migrates annually to the upper Gulf of California in late winter and then back south in the late spring.⁹ The totoaba suffered vast overexploitation in the last century for its meat but totoaba is now in high demand for its swim bladder or “buche,” which is a highly valued ingredient for soup in China due to its purported medicinal properties.¹⁰ The IUCN confirmed the totoaba’s status as “critically endangered” in 2010,¹¹ and although its current population status is unknown,¹² due to its late maturity and spawning cycle, the totoaba remains vulnerable to over-exploitation. The totoaba is listed under Appendix I of CITES and thus all international, commercial trade in totoaba is banned.¹³

As described in our 2014 petition, Mexico has a long history of announcing measures to protect both the totoaba and the vaquita but then failing to implement or adequately enforce those measures. Specifically, after the totoaba population suffered decades of decline, Mexico closed the fishery in 1975, and in 1976, the totoaba was included in Appendix I of CITES.¹⁴ Yet widespread poaching continued, and by 1990, the International Whaling Commission Scientific Committee officially recommended that Mexico “fully enforc[e] the closure of the totoaba fishery” “to stop of the major cause of [vaquita] entanglement.”¹⁵

In 1993, a Natural Protected Area under the designation of Biosphere Reserve was declared to protect both vaquita and totoaba from gillnets, yet despite Mexico’s claims of enforcement, gillnet fishing “continued without interruption.”¹⁶ In 2005, Mexico established a refuge area for the vaquita, again attempting to ban certain gillnets, but the new “Refuge Area remained essentially unmanaged

⁶ CIRVA. 2016. Seventh Meeting of the Comité Internacional para la Recuperación de la Vaquita. Ensenada, BC, Mexico. 10-13 May 2016, Unpublished Report, 76pp., at 4.

⁷ *Id.*; see also CIRVA. 2014. Report of the Fifth Meeting of the International Committee for the Recovery of the Vaquita. Ensenada, Baja California, México, 8-10 July 2014, Unpublished Report, 38pp., at 3.

⁸ Rojas-Bracho, L., R.R. Reeves, A. Jaramillo-Legorreta, & B.L. Taylor. 2008. *Phocoena sinus*. The IUCN Red List of Threatened Species. Version 2014.2. <www.iucnredlist.org>; CITES, at Appendix I.

⁹ Cisneros-Mata, M.A., G. Montemayor-López, & M.J. Román-Rodríguez. 1995. Life history and conservation of *Totoaba macdonaldi*, CONSERV. BIOL. 9(4):806-814.

¹⁰ See CITES AC 17, Inf. 6 (2001); CIRVA (2014), at 5.

¹¹ Findley, L. 2010. *Totoaba macdonaldi*. The IUCN Red List of Threatened Species. Version 2014.2. <www.iucnredlist.org>.

¹² See Valenzuela-Quinonez, F., F. Arreguín-Sánchez, S. Salas-Márquez, F.J., García-De León, J.C. Garza, M.J. Román-Rodríguez, and J.A. De-Anda-Montañez. 2015. Critically Endangered *Totoaba macdonaldi*: Signs of recovery and potential threats after a population collapse. ENDANG SPECIES RES. Vol. 29: 1–11 (noting signs of recovery in totoaba population but also increased illegal fishing and vulnerability and recommending a full stock assessment).

¹³ CITES, at Appendix I.

¹⁴ Cisneros-Mata et al. (1995); CITES, at Appendix I, Art. III.

¹⁵ Cisneros-Mata et al. (1995); International Whaling Commission Scientific Committee, June 10, 1990. Rep. Intl. Whal. Commn., 42 (1991), at 79.

¹⁶ Rojas-Bracho, L., R.R. Reeves, & A. Jaramillo-Legorreta. 2006. Conservation of the vaquita *Phocoena sinus*. MAMMAL REV. 36:179-216.

until 2008,” when a new program was instituted, officially banning all gillnets in the area.¹⁷ Yet enforcement of the 2008 ban eventually “waned,” and wide-spread gillnet fishing resumed.¹⁸

By late 2012, there was growing evidence that Mexico’s illegal totoaba trade had grown sharply,¹⁹ with estimations that thousands of dried totoaba bladders were being trafficked from Mexico to China, where bladders can reportedly sell for \$5,000 to \$14,000 each.²⁰ Dubbed “aquatic cocaine,” the totoaba trade was estimated to be worth \$2.25 million in 2013 alone.²¹ Our 2014 petition cites numerous examples of totoaba seizures by both Mexico and the United States in 2013 and 2014, confirming an active, international totoaba trade.²² And despite decades of closures and numerous warnings from experts, in December 2014, the IUCN reported that 90 pangas or small boats were documented in a *single* day within the vaquita Refuge Area, with 17 boats actively gillnetting based on aerial photographs.²³ Clearly, Mexico’s enforcement of both its domestic gillnet ban and CITES’ ban on totoaba trade had failed.

B. Mexico’s 2015 Gillnet Ban and Its Ineffective Enforcement

On April 10, 2015, in response to tremendous international pressure, the Mexican government adopted new vaquita management measures. The regulations included: (1) a two-year ban on gillnet fishing in the upper Gulf of California, with the exception of the corvina fishing season between February 1 and April 30; (2) an expanded vaquita refuge area; (3) a financial compensation program for fishermen; and critically, (4) an enhanced inspection and enforcement effort by the Mexican Navy, Mexico’s wildlife enforcement agency (“PROFEPA”), and the National Commission of Aquaculture and Fishing (“CONAPESCA”).²⁴

¹⁷ Rojas-Bracho, L. & R.R. Reeves. 2013. Vaquitas and Gillnets: Mexico’s ultimate cetacean conservation challenge. *ENDANG. SPECIES RES.* 21:77-87.

¹⁸ *Id.*

¹⁹ CIRVA (2014), at 12.

²⁰ See News Release: Office of the United States Attorney, Southern District of California, *Massive Trade in Endangered Species Uncovered; U.S. Attorney Charges 7 with Smuggling Swim Bladders of Endangered Fish Worth Millions on Black Market; Officials See Trend* (Apr. 24, 2013). Available at:

<https://www.google.com/search?q=MASSIVE+TRADE+IN+ENDANGERED+SPECIES+UNCOVERED&ie=utf-8&oe=utf-8&aq=t&rls=org.mozilla:en-US:official&client=firefox-a&channel=sb>; Associated Press & Zoe Szathmary, *It’s aquatic cocaine: Mexican smugglers are now selling FISH BLADDERS for thousands of dollars*, DAILYMAIL. Available at: <http://www.dailymail.co.uk/news/article-2719960/Its-aquatic-cocaine-Mexican-smugglers-selling-FISH-BLADDERS-used-thousands-dollars.html#ixzz3E5TnwUds>.

²¹ Associated Press & Szathmary (2014); Rodrigo Díaz, *Crimen Organizado opera tráfico ilegal de buche de totoaba*, MEXICALIDIGITAL.MX (Aug. 4, 2014). Available at: <http://mexicalidigital.mx/2014/operacion-crimen-organizado-trafico-ilegal-de-buche-de-totoaba-19992.html>.

²² See Center Totoaba Petition (2014), at 7-9.

²³ Gill Braulik, *New evidence that Mexican authorities are not adequately enforcing fishing regulations to protect vaquitas* (Dec. 7, 2014). Available at: <http://www.iucn-csg.org/index.php/2014/12/07/new-evidence-that-mexican-authorities-are-not-adequately-enforcing-fishing-regulations-to-protect-vaquitas>.

²⁴ Mexico’s Official Gazette: 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. Available at:

http://www.dof.gob.mx/nota_detalle.php?codigo=5388486&fecha=10/04/2015&print=true.

The new measures were welcomed by the conservation and scientific community, and initially, compliance appeared to be strong, as virtually no pangas were documented on the water during the fall 2015 shrimp fishing season.²⁵ However, by late winter when totoaba migrated into the upper Gulf and the exempted corvina gillnet fishery began, substantial illegal fishing resurged. As detailed below, the Mexican government's current ban and enforcement efforts are inadequate, and substantial international trade in totoaba bladders continues, in clear violation of CITES.

1. Three Vaquita Found Dead due to Entanglement during the Totoaba Migration

Despite the ban on totoaba fishing and the Mexican government's commitment to increased enforcement, in March 2016, three vaquita were found dead in the upper Gulf, including one female and two males.²⁶ Subsequent necropsies determined that each of the animals died due to gillnet entanglement.²⁷ Based on the level of decomposition, the vaquitas likely died during the spring 2016 totoaba migration/corvina fishing season, although CIRVA emphasized that "there is no reason to believe any vaquita died in the curvina fishery,"²⁸ suggesting the deaths likely occurred in the illegal totoaba fishery. Total vaquita mortality during the 2016 totoaba season is unknown, but CIRVA noted that, even if the three documented vaquita deaths were the only deaths this year, continued decline in the population is likely occurring.²⁹ The three entanglement-related vaquita deaths are strong evidence that the illegal totoaba fishery is ongoing, likely servicing international demand for the totoaba's bladder.

2. Documentation of Illegal Gillnets and Longlines during the Totoaba Migration

Since November 2015, the non-profit organization Sea Shepherd has been conducting Operation Milagro II in the upper Gulf,³⁰ monitoring suspicious and illegal fishing activities from its ship, the MV Martin Sheen. Between January and May of 2016, the Sea Shepherd crew documented 42 illegal totoaba gillnets and 16 longlines in the upper Gulf.³¹ Sea Shepherd encountered both freshly-set nets in areas that had recently been patrolled and nets set for longer periods of time. Sea Shepherd also filmed poachers hauling totoaba nets and "found fishing camps on remote beaches the north of San Felipe."³² CIRVA stated that Sea Shepherd's documentation constituted "extensive evidence of illegal fishing for totoaba . . . , *clearly demonstrating the inadequacy of the enforcement effort.*"³³

3. Ongoing Totoaba Seizures

In addition to evidence of a substantial, ongoing totoaba fishing, which is likely servicing the lucrative international market, totoaba parts have been seized in international trade since Mexico's 2015 commitment to increase enforcement. For example, in July 2015, U.S. Customs officials seized

²⁵ CIRVA VII (2016), at 5.

²⁶ *Id.* at 17.

²⁷ See Necropsy Form PS1, *Phocoena sinus*, male (March 24, 2016); Necropsy Form PS2, *Phocoena sinus*, female (March 24, 2016); Necropsy Form PS3, *Phocoena sinus*, male (March 25, 2016).

²⁸ CIRVA VII, at 5.

²⁹ *Id.* at 13.

³⁰ See <http://www.seashepherd.org/milagro2/>.

³¹ CIRVA VII, at 14 (referring to the lines as "illegal totoaba gillnets and longlines").

³² *Id.*

³³ *Id.* at 5 (emphasis added).

“1328 pounds (602 kilos) of Totoaba fish bladders . . . delivered from Venezuela, destined to Hong Kong.”³⁴ In May of 2016, U.S. Fish and Wildlife Service officials seized over 100 fish bladders, and at least 3 tested as totoaba bladders, while the others are reportedly still being subject to testing.³⁵ The bladders were en route from Sinoloa state to Portland, Oregon.

Totoaba bladders have also been seized by Asian officials since April 2015. For example, in August 2015, customs officials at the Hong Kong International Airport seized three pieces of totoaba bladder, estimated to be worth \$300,000, originating from Mexico and destined for mainland China.³⁶ Additionally, in May 2015, during an inspection of two seafood shops, Hong Kong officials seized 14 totoaba bladders offered for sale.³⁷

Mexican officials have also continued to seize large amounts of totoaba since the ban. While these seizures demonstrate that Mexican wildlife officials are taking some enforcement actions, it simultaneously demonstrates an active, ongoing export market in totoaba. For example, since the Mexican government’s April 2015 announcement, the following seizures have occurred:

- July 2015: 274 totoaba bladders seized at the Tijuana airport, destined for Shanghai, China³⁸
- February 2016: 61 totoaba bladders seized on the beach at San Felipe, Baja California³⁹
- March 2016: 121 totoaba bladders seized on the Mexicali-Tijuana highway destined for Tijuana city⁴⁰

³⁴ U.S. Customs & Border Patrol Press Release: CBP 1328 pounds of Totoaba fish bladder inside 9 parcels (July 14, 2015). Available at: <https://www.cbp.gov/newsroom/local-media-release/2015-07-14-000000/cbp-1328-pounds-totoaba-fish-bladder-inside-9-parcels>.

³⁵ Doug Brown. *Mexican Shipment of Endangered Fish Bladders, Worth Up To \$10,000 Each, Seized Coming Into Portland*. Portland Mercury Blog (June 7, 2016). Available at: <http://www.portlandmercury.com/blogtown/2016/06/07/18190296/mexican-shipment-of-endangered-fish-bladders-worth-up-to-10000-each-seized-coming-into-portland>.

³⁶ Hong Kong Customs and Excise Police Press Release, *HK Customs seizes suspected dried swim bladders of totoaba fish at airport* (Aug. 10, 2015). Available at: http://www.customs.gov.hk/en/publication_press/press/index_id_1392.html.

³⁷ Hong Kong Agriculture, Fisheries and Conservation Department (AFCD) Press Release: *AFCD issues summons against dried seafood shop operators* (Nov. 20, 2015). Available at: <http://www.info.gov.hk/gia/general/201511/20/P201511200784.htm>.

³⁸ PROFEPA Press Release: *Realiza Propepa Peritaje de 274 Buches de Totoaba Asegurados a Tres Individuos de Nacionalidad China, en Aeropuerto de Tijuana* (Aug. 1, 2015). Available at: http://www.profepa.gob.mx/innovaportal/v/7416/1/mx/realiza_profepa_peritaje_de_274_buches_de_totoaba_asegurados_a_tres_individuos_de_nacionalidad_china_en_aeropuerto_de_tijuana.html.

³⁹ PROFEPA Press Release: *Aseguran Semar-Profepa Contrabando de 61 Buches de Totoaba en San Felipe BC y Remiten a 1 Detenido ante MPF* (Feb. 23, 2016). Available at: http://www.profepa.gob.mx/innovaportal/v/8053/1/mx/aseguran_semar_profepa_contrabando_de_61_buches_de_totoaba_en_san_felipe_bc_y_remiten_a_1_detenido_ante_mpf.html.

⁴⁰ PROFEPA Press Release: *Gobierno Federal Detiene a Presunto Traficante con 121 “Buches” de Totoaba en Baja California* (March 29, 2016). Available at: http://www.profepa.gob.mx/innovaportal/v/8183/1/mx/gobierno_federal_detiene_a_presunto_traficante_con_121_%E2%80%9Cbuches%E2%80%9D_de_totoaba_en_baja_california.html.

- April 2016: 33 kg of totoaba seized in Golfo de Santa Clara from a warehouse⁴¹
- May 2016: 33 totoaba bladders seized at the delivery hub at San Luis Potosi airport, shipped from Sinaloa to Mexico state⁴²

Further, although Mexico has taken some enforcement actions, few totoaba traffickers have been prosecuted or penalized. For example, as reported by Mexican media, from 2013 to June 2014 only three people were sentenced out of 17 arrested for trafficking totoaba.⁴³ And in June 2016, CIRVA expressly recommended that:

Mexico immediately and significantly increase the penalties for killing endangered species and engaging in illegal wildlife trade. The current penalties and enforcement effort have clearly been insufficient to deter or prevent large numbers of fishermen from conducting illegal activities . . .⁴⁴

Based on recent seizure reports, totoaba continue to be traded and trafficked from Mexico across international borders, including to China, Hong Kong, the United States, and even Venezuela, in violation of CITES.

4. Active Totoaba Market in Asia

Finally, two reports issued since our petition was filed demonstrate a flourishing market for totoaba products in Asia. A May 2015 Greenpeace report documented two undercover investigations conducted in Hong Kong in February and April of 2015.⁴⁵ Investigators identified 13 shops “as potential sellers, among which seven were able to show . . . researchers dried totoaba bladder samples in the shop,” and investigators received offers from retailers to obtain bladders through middlemen, including from Mexico.⁴⁶ Investigators were told that totoaba trade to Hong Kong was “commonly arranged by the supplier from Mexico” and shipped via air.⁴⁷

Additionally, in January 2016, the Environmental Investigation Agency (“EIA”) reported on a May 2015 investigation of fish bladder (or “fish maw”) retailers in both Hong Kong and

⁴¹ PROFEPA Press Release: Acción Coordinada de Semar y Profepa Consigue Aseguramiento de 33 Kilogramos de Totoaba y Artes de Pesca Prohibidas al Norte de Sonora (April 10, 2016). Available at: http://www.profepa.gob.mx/innovaportal/v/8229/1/mx/accion_coordinada_de_semar_y_profepa_consigue_aseguramiento_de_33_kilogramos_de_totoaba_y_artes_de_pesca_prohibidas_al_norte_de_sonora.html.

⁴² PROFEPA Press Release: Asegura Profepa 33 Buches de Totoaba y 331 Caballitos de Mar en San Luis Potosí (May 23, 2016). Available at: http://www.profepa.gob.mx/innovaportal/v/8403/1/mx/asegura_profepa_33_buches_de_totoaba_y_331_caballitos_de_mar_en_san_luis_potosi.html.

⁴³ Crimen Organizado opera tráfico ilegal de buche de totoaba. MEXICALI DIGITAL (Aug 4, 2014). Available at: <http://mexicalidigital.mx/2014/operacion-crimen-organizado-trafico-ilegal-de-buche-de-totoaba-19992.html>.

⁴⁴ CIRVA VII (2016), at 16 (emphasis added).

⁴⁵ Greenpeace, *How the illegal totoaba trade in Hong Kong is pushing Mexico’s vaquita to the brink of extinction* (May 27, 2015). Available at: http://www.greenpeace.org/eastasia/Global/eastasia/publications/campaigns/Oceans/HK%20Totoaba%20Trade_Greenpeace%20Media%20Briefing.pdf.

⁴⁶ *Id.* at 2, 4-6.

⁴⁷ *Id.*

Guangzhou, China.⁴⁸ The investigators found totoaba bladders, or bladders marketed as totoaba bladders, “were easily available” in stores. Specifically, in Guangzhou, investigators found totoaba bladders openly available for sale in six shops, and two shops displayed totoaba bladders for sale in Hong Kong. Additionally, online research documented numerous websites offering fish bladders, including totoaba bladders, for sale.⁴⁹ The wide availability of totoaba bladders for sale in Hong Kong and China, as well as retailers’ offers to obtain totoaba bladders, suggest that an active and ongoing international trade in totoaba from Mexico to Asia is ongoing, in violation of CITES.

III. THE SECRETARY SHOULD IMMEDIATELY CERTIFY MEXICO FOR TOTOABA TRADE IN VIOLATION OF CITES

Under the Pelly Amendment, whenever the Secretary of Interior or Commerce “finds that nationals of a foreign country . . . are engaging in trade or taking which diminishes the effectiveness of any international program for endangered or threatened species, the Secretary . . . shall certify such fact to the President.” 22 U.S.C. § 1978(a)(2). The President may then act to “prohibit . . . the importation into the United States of any products from the offending country.” *Id.* § 1978(a)(4).

As detailed in our 2014 petition, Mexican nationals are engaging in “taking” and “trade” of endangered totoaba that “diminishes the effectiveness” of CITES. *Id.* Totoaba are listed under Appendix I of CITES and thus international commercial trade in the species is banned, and totoaba cannot be exported from Mexico without a permit.⁵⁰ CITES specifically mandates that Mexico “shall . . . enforce” all CITES trade prohibitions.⁵¹ However, by failing to close its illegal totoaba fishery and stop the illicit export and trade in totoaba that threatens the continued existence of the vaquita, another CITES-listed species, Mexico is violating CITES and diminishing the treaty’s effectiveness. 22 U.S.C. § 1978(a)(2); *see also Am. Cetacean Soc’y v. Baldrige*, 768 F.2d 426, 439 (D.C. Cir. 1985).

Additionally, as demonstrated above, recent events clearly demonstrate that – despite Mexico’s April 2015 conservation measures and renewed commitment to enforcement – the international totoaba trade continues, as does the vaquita’s decline. As CIRVA stated in its June 2016 report: “The choice is simple and stark: either gillnetting in the upper Gulf ends, or the vaquita becomes extinct within a very short time.”⁵² We fear that, through its inaction and failure to halt the totoaba trade, Mexico has made that choice, and now, only drastic measures from the international community – including a trade embargo by the United States – can ensure the vaquita’s survival.

Accordingly, **the Center urges the Secretary of Commerce or Interior to promptly respond to the Center’s 2014 Pelly petition and certify that Mexico’s failure to effectively prohibit fishing, trade, and export of totoaba and killing of vaquita “diminishes the effectiveness” of CITES.** 22 U.S.C. § 1978(a)(2). We further request the relevant Secretary recommend that the President embargo Mexican wildlife products, including Mexican seafood, until Mexico effectively bans totoaba fishing, trade, and export. *Id.* § 1978(a)(4). While we remain hopeful

⁴⁸ Environmental Investigation Agency, *Dual Extinction: The illegal trade in the endangered totoaba and its impact on the critically endangered vaquita*. Briefing to the 66th Standing Committee of CITES (Jan. 2016). Available at: <https://eia-international.org/wp-content/uploads/EIA-Dual-Extinction.pdf>.

⁴⁹ *Id.*

⁵⁰ CITES, at Art. III(1)-(3).

⁵¹ *Id.* at Art. VIII.

⁵² CIRVA VII (2016), at 4.

the relevant Secretary will act quickly and certify Mexico in response to our now nearly two-year-old petition, we hereby provide notice of our intent to seek legal recourse upon further delay.

Please feel free to contact me anytime if you have questions or would like to discuss our petition or this request, and thank you for the United States' continued commitment to the conservation of the vaquita and the totoaba.

Sincerely,



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