

DOF: 09/07/2021

AGREEMENT establishing the indicators, triggers and predetermined actions, in accordance with article seventeen of the Agreement regulating gear, systems, methods, techniques and schedules for the performance of fishing activities with smaller and larger vessels in Mexican marine areas in the northern Gulf of California and establishing landing sites, as well as the use of monitoring systems for such vessels, published on September 24, 2020.

In the margin a seal with the National Shield, which says: United Mexican States.- Secretariat of Agriculture and Rural Development.- Secretariat of Environment and Natural Resources.- Secretariat of the Navy.

VÍCTOR MANUEL VILLALOBOS ARÁMBULA, Secretary of Agriculture and Rural Development, MARÍA LUISA ALBORES GONZÁLEZ, Secretary of environment and natural resources and JOSÉ RAFAEL OJEDA DURÁN, Admiral Secretary of the Navy, based on the provisions of articles 26, 30, fractions IV, V, VII, VII Ter., VII Quarter., XXIV, XXV and XXVI, 32 Bis, fractions I, III, VI, VII and XLII and 35, fractions XXI, XXII and XXIV of the Organic Law of the Federal Public Administration; 2, fraction IV Bis of the Organic Law of the Navy of Mexico; 1st, 2o, fractions I and II, 3o, 4o, fractions XLIII and XLVII, 8o, fractions I, II, III, V, XII, XIV, XXI, XXII, XXIX, XXXVIII, XXXIX and XLII, 9o, fractions I, II and V, 17, fractions I, III, IV, VII and VIII, 19, second paragraph, 29, fraction II, 124, 126 and 132 of the General Law of Sustainable Fisheries and Aquaculture; 1st, 5th, fractions I, II, VIII, XI and XX, 6th, 79, fractions I, III and VIII, 83, 160, 161 and 162 of the General Law of Ecological Balance and Environmental Protection; 1st, 5th, fractions I and II, 9o, fractions I, IV and XVII, 14 and 122, fractions I, II and III of the General Wildlife Law; 8 and 9 of the Maritime Navigation and Trade Act; 1 and 4 of the Federal Law on Administrative Procedure; 1, 2 section "D", section III, 3, 5, section XXII, 44, 45 and Eighth Transitional Of the Internal Regulations of the Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food, in force, in correlation with articles 37 and 39, sections III, V and VIII of the Internal Regulations of the Secretariat of Agriculture, Livestock, Rural Development, Fisheries and Food, published in the Official Journal of the Federation on 10 July 2001; 1, 2, fraction XXXI, paragraphs a and b, 5, fractions I, XXV and XXXV, 41, 42, 45, fraction I and last paragraph and 70, fractions I, XIII and XV of the Internal Regulations of the Secretariat of Environment and Natural Resources, published in the Official Journal of the Federation on November 26, 2012; 1, 3, fractions II, subsections d and V, 4 and 6, sections A, fraction I, B, fractions I and VI of the Internal Regulations of the Secretariat of the Navy; 2o, fractions II, VIII, XVIII, XIX, XX, XXX and 8oo the Decree establishing the National Commission for Aquaculture and Fisheries; Article One, Article Two and Article Three of the Decree establishing the organization and operation of the decentralized agency known as the National Fisheries Institute; Article Seventeen of 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 establishing landing sites, as well as the use of monitoring systems for such vessels, published in the Official Journal of the Federation on September 24, 2020, and

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That it is the power of the Ministry of Agriculture and Rural Development, through the National Commission for Aquaculture and Fisheries, with the participation of the National Institute of Fisheries and Aquaculture: to regulate, administer and promote the sustainable use and use of fishery and aquaculture resources that correspond to the Federation, as well as to establish the conditions under which activities and operations will be carried out with respect to these resources; to propose, formulate, coordinate and execute the national policy of sustainable fisheries; lay down the administrative and control measures to which fishing activities are to be subject; lay down methods and measures for the conservation of fishery resources; and issue decrees establishing, amending, abolishing and fixing closed seasons and zones;

That article 8, section XXI of the General Law on Sustainable Fisheries and Aquaculture, establishes that it is the responsibility of the Ministry of Agriculture and Rural Development to propose the establishment and regulation of landing and collection sites for fishing and aquaculture operations, and to promote the location of these before the competent authorities, so that in order to strengthen the safety of zero interaction with non-target species, it is necessary to establish management measures for fishing use;

That it is the responsibility of the Ministry of the Environment and Natural Resources: to promote the protection, restoration and conservation of ecosystems and natural resources, environmental goods and services, in order to promote their use and sustainable development; to conserve and protect species and populations at risk, including the "vaquita marina" (*Phocoena sinus*) and the totoaba (*Totoabamacdonaldi*), as

well as their natural environment and the establishment of measures that contribute to the recovery of this species;

That the Secretariat of the Navy, as a unit of the Federal Public Administration, is responsible for exercising: sovereignty in the territorial sea, its airspace and coasts of the territory; the National Maritime Authority in Mexican marine areas, coasts, ports, among others. In addition to maintaining the rule of law in Mexican marine areas, coasts and port precincts, performing functions of coast guard and maritime security control of maritime traffic;

That the heads of the Secretariats, of Agriculture and Rural Development, of Environment and Natural Resources, and of the Navy, on September 24, 2020, published in the Official Journal of the Federation the *Agreement regulating gear, systems, methods, techniques and schedules for the performance of fishing activities with smaller and larger vessels in Mexican Marine Areas in the Northern Gulf of California and establishing landing sites, as well as the use of monitoring systems for such vessels*, hereinafter agreement, which establishes in article Seventeen, in addition to the functions of inspection and surveillance, the carrying out of an Implementation Plan;

That the first and second paragraphs of article Seventeen of the aforementioned Agreement provide that when the Ministry of the Navy, the National Commission for Aquaculture and Fisheries and the Federal Attorney's Office for Environmental Protection, in the exercise of their inspection and surveillance functions, notice activities that constitute alleged criminal conduct in the area known as the Zero Tolerance Area and the Refuge Area for *the Protection of the Vaquita Marina*, they shall, consistent with the Implementation Plan, carry out, within the scope of their competence, acts and actions that ensure compliance with the Agreement in question, including the establishment of triggering factors;

That the National Commission of Aquaculture and Fisheries, the National Institute of Fisheries and Aquaculture, the Federal Attorney's Office for Environmental Protection and the National Commission of Protected Natural Areas, identified and developed the triggering factors, their duration and scope, as well as the mechanisms to implement prohibitions or closures of areas. Such triggers may be adjusted by the Intra-Governmental Sustainability Group in the Upper Gulf of California;

That the triggering factors are situations identified by quantitative measures that do exceed have as a consequence predetermined acts of authority and that address violations directly related to the prohibitions established in the repeated Agreement, also allow the competent authority, when there is an immediate risk, to take action for the Protection of the Vaquita Marina;

That on January 20, 2021, the *Plan of Application in the Zero Tolerance Zone and the Refuge Area for the Protection of the Vaquita* was published in the Official Journal of the Federation, which aims to develop and strengthen surveillance and inspection actions in the Northern Gulf of California, in order to protect the "vaquita marina" (*Phocoena sinus*), as well as to prevent and inhibit the illegal trafficking of totoaba products (*Totoaba macdonaldi*) and its derivatives, ensuring compliance with the applicable legal provisions in the matter;

That within the scope of its competence, the authorities in charge of the application of the General Law on Sustainable Fisheries and Aquaculture; General Law on Ecological Balance and Environmental Protection; General Wildlife Law, and other applicable legal provisions, will carry out the prohibition of fishing, closure of areas or similar, when the triggering factors that have been determined arise, so that in compliance with the provisions of article Seventeen of the Agreement, the following is issued:

**AGREEMENT ESTABLISHING THE INDICATORS, TRIGGERS AND PREDETERMINED
ACTIONS,
IN ACCORDANCE WITH ARTICLE SEVENTEEN OF THE AGREEMENT REGULATING GEAR,
SYSTEMS, METHODS, TECHNIQUES AND SCHEDULES FOR
CARRYING OUT FISHING ACTIVITIES WITH SMALLER AND LARGER VESSELS IN
MEXICAN MARINE AREAS IN THE NORTHERN GULF OF CALIFORNIA AND ESTABLISHING
LANDING SITES, AS WELL AS THE USE OF MONITORING SYSTEMS FOR SUCH
VESSELS PUBLISHED IN THE OFFICIAL JOURNAL OF THE FEDERATION ON SEPTEMBER
24, 2020.**

Article 1.- The purpose of this Agreement is to define the triggering factors, their indicators, their duration, scope and the mechanisms for implementing predetermined acts and actions by the competent authorities, by virtue of the alleged criminal conduct and the violations of the prohibitions established in the use of gear, systems, methods, techniques and schedules for the performance of fishing activities with smaller and larger vessels in Mexican Marine Areas in the Northern Gulf of California.

Article 2.- For the purposes of this Agreement:

AGREEMENT: the "Agreement regulating gear, systems, methods, techniques and schedules for the performance of fishing activities with smaller and larger vessels in Marine Areas

Mexican landing sites are established in the Northern Gulf of California, as well as the use of monitoring systems for such vessels," published in the Official Journal of the Federation on September 24, 2020.

AGRICULTURE: Ministry of Agriculture and Rural Development.

CONANP: National Commission of Protected Natural Areas.

CONAPESCA: Comisión Nacional de Acuacultura y Pesca.

TRIGGERING FACTORS: those situations that will be identified by quantitative measures (*limit reference points or similar indices*), which, if exceeded, will result in predetermined acts of authority, such as fishing ban, closure of areas or similar.

GIS: Intra-Governmental Group on Sustainability in the Upper Gulf of California.

INAPESCA: National Institute of Fisheries and Aquaculture.

PROFEPA: Federal Attorney's Office for Environmental Protection.

TRILLNETS: Fishing gear of active or passive type, rectangular in shape, used fixed to the bottom or adrift, either attached to the boat or free. It is made up of several sections of multifilament thread or monofilament netting cloth, attached to two strands, ropes or support lines called "relingas"; the floating in its upper part and the sinking in its lower part, giving the net the property of keeping it extended vertically in the water column.

SEMAR: Secretary of the Navy.

SEMARNAT: Ministry of environment and natural resources.

Zo: Zero Tolerance Area, also called Zero Tolerance Zone.

ZRV: Refuge Area for the Protection of the Vaquita Marina.

Article 3.- The well-founded and reasoned acts of authority that may be implemented gradually to address violations of the provisions of the AGREEMENT, will be the following:

Fishing bans.

Closure of areas or zones.

Article 4.- The closures of areas or zones shall be established in this instrument, with the purpose of conserving and preserving the vaquita and avoiding the capture of the totoaba, in accordance with the following:

Closures of areas or zones may last for one week and may extend for up to one month and their scope shall be the closure to navigation and all types of fishing within a perimeter of three nautical miles around the Zo, which may be gradually increased until the closure of the ZRV when one or more of the triggering factors reach the critical levels referred to in Article 6 of this Agreement.

Article 5.- For the monitoring of indicators and their triggering factors, the competent authorities shall carry out the following mechanisms:

Maritime surveillance patrols 24 hours a day throughout the year, aided by surface radars.

Aerial surveillance patrol and satellite patrols, aided by unmanned aerial vehicles.

Ground surveillance patrols and establishment of checkpoints.

Recovery actions of illegal, lost or abandoned gill nets in the area.

Article 6.- In order to determine the closures of areas or zones, SEMARNAT and AGRICULTURE, with the assistance of SEMAR, within the framework of their powers and powers and, where appropriate, with the adjustments recommended by the GIS, shall implement the predetermined actions based on the following indicators of the triggering factors and their critical levels, in accordance with the quantitative measures defined below:

INDICATORS:

I. Indicator based on number of unauthorized vessels in the Zo per day:

This indicator is defined as the number of unauthorized vessels observed in the Zo during a day and measures in real time or close to real time, the level of compliance with the provisions of the second paragraph of Article Thirteenth of the AGREEMENT.

The predetermined actions are intended to contribute to the conservation and protection of the vaquita.

The AGREEMENT prohibits the navigation of any type of vessel within this area, except for surveillance, investigation or net recovery vessels; fishing of any kind is also prohibited.

The ranges of the critical levels that trigger specific default actions of this flag are set in the following table:

Critical triggering levels. Number of boats in the Zo per day.	Default actions	Recidivism
Greater than 0 and up to 20.	Monitoring, continuous surveillance, deterrence: at least 60% of available human and material resources destined for the Northern Gulf of California.	
Greater than 20 and up to 50.	Monitoring, continuous surveillance, deterrence: at least 80% of available human and material resources destined for the Northern Gulf of California.	
Greater than 50 and up to 65.	Monitoring, continuous surveillance, deterrence: 100% of available human and material resources destined for the Northern Gulf of California.	
Between 60 and 65 three times a month.	Closures of areas and prohibition of any type of fishing.	<u>First occurrence:</u> Closure of 3 nautical miles from the perimeter of the Zo, for 7 days.
Greater than 65 in a day.	Closures of areas and prohibition of any type of fishing.	<u>Second occurrence in 30 days:</u> Closure of 3 nautical miles from the perimeter of the Zo, for 30 days. <u>Third occurrence in 30 days:</u> Close ZRV for 7 days. <u>Fourth occurrence in 30 days:</u> ZRV closure for 30 days.

II. Indicator based on the networks recovered in the Zo per day.

This indicator estimates the level of illegal activity using information from the Zo gill net recovery program. The default actions are intended to conserve and protect the vaquita population.

The AGREEMENT prohibits the presence of any fishing equipment in the Zo so any net found in it, will have to be recovered.

The indicator is set with the information of the meters of networks recovered for a day.

The ranges of the critical levels that trigger specific default actions of this flag are set in the following table:

Critical triggering levels. Meters of nets recovered for a day	Default actions	Recidivism
Greater than 0 m and up to 100 m.	Network search and recovery: at least 60% of available human and material resources destined for the Northern Gulf of California	

Greater than 100 m and up to 200 m.	Network search and recovery: at least 80% of available human and material resources destined for the Northern Gulf of California	
Greater than 200 m and up to 500 m.	Search and recovery of networks: 100% of available human and material resources destined for the Northern Gulf of California	
Greater than 500 m.	Closures of areas and prohibition of any type of fishing	<p><u>First occurrence:</u> Closure of 3 nautical miles from the perimeter of the Zo, for 7 days</p> <p><u>Second occurrence in 30 days:</u> Closure of 3 nautical miles from the perimeter of the Zo, for 30 days</p> <p><u>Third occurrence in 30 days:</u> Close ZRV for 7 days.</p> <p><u>Fourth occurrence in 30 days:</u> ZRV closure for 30 days</p>

TRANSITORY

ONLY.- This Agreement shall enter into force on the day following its publication in the Official Journal of the Federation.

Mexico City, June 1, 2021.- Secretary of Agriculture and Rural Development, Víctor **Manuel Villalobos Arámbula**.- Rubric.- Secretary of Environment and Natural Resources, María **Luisa Albores González**.- Rubric. - Secretary of the Navy, José Rafael **Ojeda Durán**.- Rubric.