



# VAQUITA MARINA

THE DECLINE OF A SPECIES  
DUE TO GOVERNMENT NEGLECT

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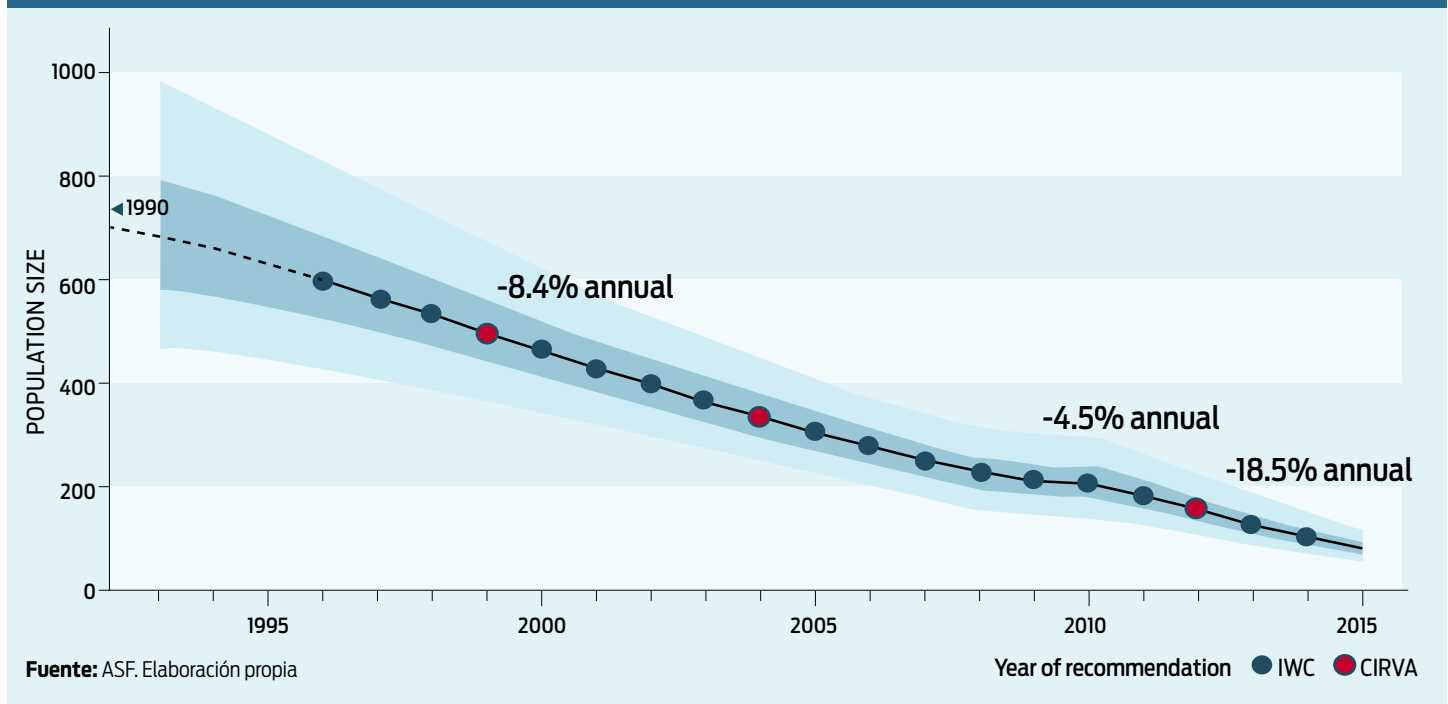


# Vaquita: The decline of a species due to government neglect

**THE VAQUITA (*PHOCOENA SINUS*) IS IN DANGER OF BECOMING EXTINCT** and this is due to the negligence and omissions of the Mexican authorities in the implementation public policies, internal conflicts and the structures between the environmental and the fishing sectors, instead of coordinating together they oppose each other, thus destroying any effort to protect the smallest porpoise in the world.

It is incredible that despite the existence of multiple national and international regulations, laws, programs and committees to preserve the vaquita, over the last 20 years the population has declined drastically, even more in the last five years. In 2017, it was estimated that there were **LESS THAN 30 ANIMALS LEFT, 72% LESS THAN IN 2015**.

Decline in the number of vaquitas 1995-2015, and percentage loss per year.  
Taken from the Report of the Fifth Meeting of the CIRVA.



## WHY HAVEN'T WE BEEN ABLE TO SAVE THE VAQUITA

The main cause of death for the vaquita is the prohibited totoaba fishing (*Totoaba macdonaldi*), a fish that is also endangered of extinction and whose swimming bladder is marketed for 10s of thousands of dollars per kilo in Asia for their supposedly medicinal properties and the social status related to them. This problem intensified from 2012-2013, and despite the authorities focusing their attention on it they have been unable to control it. Between 2012 and 2017, the Attorney General's Office<sup>1</sup> has only detained 7 people in the states of Baja California and Sonora for these acts and it is unknown whether they have been processed.

<sup>1</sup> Procuraduría General de la República, Oficio PGR/UTAG/01496/2017, 7 de marzo de 2017. Folio INFOMEX 0001700039317

However, this is not the only reason. Impunity and corruption around totoaba fishing are just the tip of the iceberg of a major fishing problem in Mexico, where the authorities fail to comply with their legal obligations: they have failed to inspect and monitor, they have authorized the increase in catch size and the number of fishing vessels for species such as the curvina golfina (*Cynoscion othonopterus*) when they were suppose to reduce them, they have delayed fishing permits for the use of alternative nets for shrimp and have not presented sustainable fishing options to the communities that are engaged in this activity.

## EVIDENCE OF FAILURE

Comarino and Greenpeace analyzed the public policy emanating from the fishing authorities as well as its impact or influence, on the conservation of the vaquita (*Phocoena sinus*).

The analysis consisted of; reviewing official documents including legislation and decrees, management programs, reports from the Federal Audit Office, fishing permits, the National Fisheries Charter, as well as official web pages of the departments concerned with the activities analyzed. Specialized literature on the subject was also reviewed such as, the Program of Action for the Conservation of the Vaquita Marine Species, known as PACE-Vaquita and the reports from the International Committee for the Recovery of The Vaquita Marina (CIRVA), which is an advisory group of the Mexican government, in charge of making recommendations on this topic.

This review concluded that over the years, while announcing measures for the recovery of the species, the National Commission of Aquaculture and Fisheries (Conapesca) and the National Fisheries Institute (Inapesca) breached their obligations, thus hindering all efforts to save the vaquita, leading the Mexican government to take desperate, inefficient, risky and scientifically uncertain measures. The last such effort was announcing the capture of some specimens to be taken into captivity, without guarantees of their survival or that they can be safely returned to the sea.<sup>2</sup>

Both the PACE-Vaquita and the CIRVA reports have been consistent in their approach to the problem, and in the urgent recommendations of measures that need to be taken to avoid its extinction. All observations point to a serious fisheries policy problem that has not been adequately addressed: fishing of non-permitted species, overfishing, lack of control of fishing effort, inadequate fishing gear, depletion of species, Delay in the delivery of permits with alternative gear, bycatch. Today there are less than 30 vaquitas.

### 1. Inspection and Vigilance

The General Law on Sustainable Fisheries and Aquaculture (LGPAS) states that Conapesca is the responsible agency for formulating, operating and evaluating the Comprehensive Program for Fisheries and Aquaculture Inspection and Surveillance for Combating Illegal Fishing, especially in overexploited areas and areas of repopulation as is the case for the vaquita habitat.

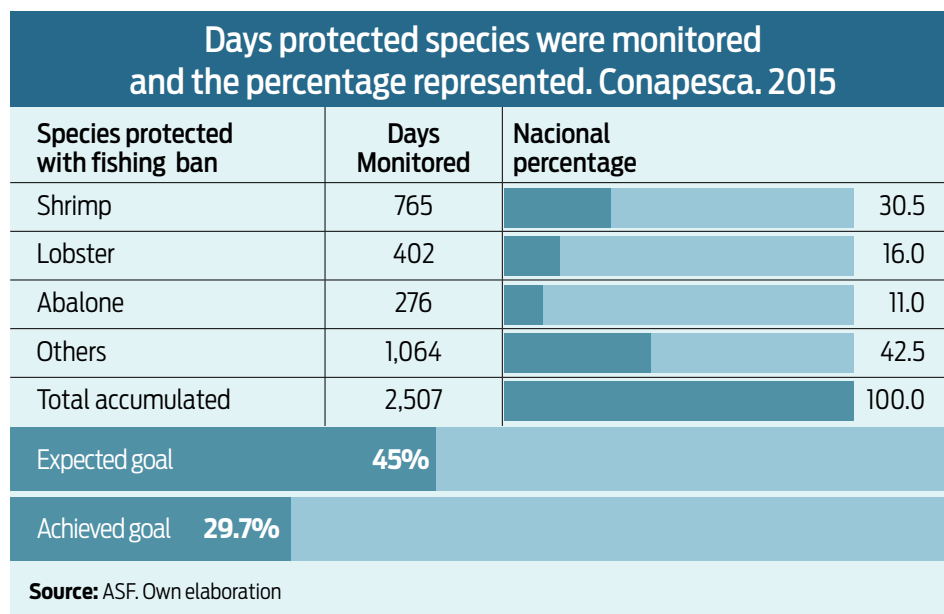
According to the Superior Audit of the Federation during 2015, Conapesca only monitored the ban periods in 16 of the 40 fisheries where a ban was instated. In that year, **8 areas under aban were not monitored at all, including the curvina golfina ban in Sonora, this being one of the most critical fisheries in terms of risk for the vaquita, as has been demonstrated in the**

All observations point to a **serious fisheries policy problem that has not been adequately addressed**: fishing of non-permitted species, overfishing, lack of control of fishing effort, inadequate fishing gear, depletion of species, Delay in the delivery of permits with alternative gear, bycatch, collateral damage

**Today there are less than 30 vaquitas are left.**

<sup>2</sup>Indicators of the actions of the fishery authorities in the Upper Gulf of California, confronting the problem of the vaquita (*Phocoena sinus*). Comarino and Greenpeace. August 2017. <http://www.greenpeace.org/mexico/es/Footer/Descargas/reports/Oceanos-y-costas/Indicadores-de-la-actuacion-de-las-autoridades-pesqueras-en-el-Alto-Golfo-de-California-frente-a-la-problemativa-de-la-vaquita-marina/>

last three years. Since it is a species that shares habitat with the vaquita in the Upper Gulf of California and is very similar to the totoaba, it serves as a decoy for the prohibited fishing of this species.



## 2. Fishing effort:

Fishing effort is defined in the General Law on Sustainable Fisheries and Aquaculture as *the number of individuals, vessels or fishing gear that are applied in the capture or extraction of one or more species in a given area and period.*

In order to comply with this objective, it is necessary to publish the National Fisheries Charter (this is the responsibility of Inapesca), which should include the indicators on the availability and conservation of fishery resources so that authorities can make decisions based on these regarding the issuance of fishing permits or bans.

This document is mandatory for the authorities and must be updated every year but this has not been done since 2012. The National Fisheries Charter is extremely important because it provides information on the state of fishery resources. Since the information is not renewed, we do not know, for example, what the state of the population of totoaba is, what the state of the population of totoaba is, whose fishing is prohibited. The *curvina golfina* is another species, which appeared in the last version of the Charter for which the fishing effort had to be limited and reduced.

However, there has been an increase in both the number of vessels in the habitat of the vaquita and the maximum allowable catch of *curvina golfina*. The catch was increased from 2,250 tonnes of eviscerated weight in 2011-2012 to 4,300 tons by 2017, an increase of 86% in catch authorized by Conapesca in just five years, according to official data.

This fact contradicts the recommendations of CIRVA, the provisions of PACE-VAQUITA<sup>3</sup>, and the provisions of the National Fisheries Charter which were to limit and reduce the fishing effort in the Upper Gulf of California.

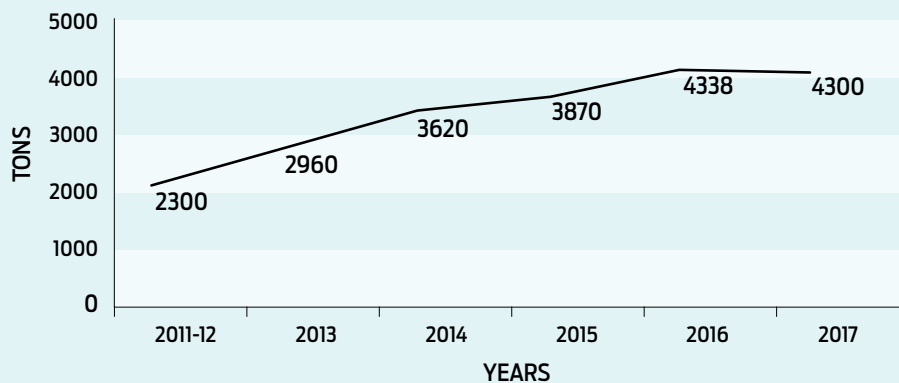
In 2016, a Pronatura report stated that: ***“(...) the fishing effort of the Upper Gulf Reserve is still higher than expected after the implementation of the PACE-VAQUITA. It must be said that the achievements or benefits of PACE***

<sup>3</sup>, PACE-VAQUITA, CONANP 2008.

*have been nullified due to Conapesca's management process of fisheries within the Golfo de Santa Clara community.”<sup>4</sup>*

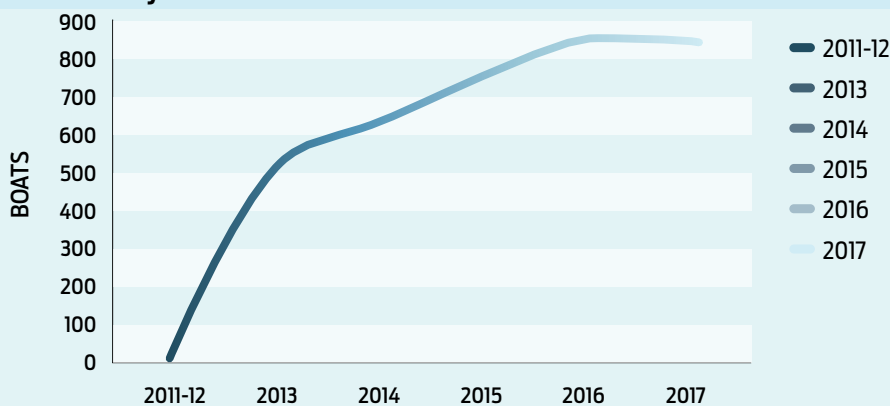
This shows that despite the fact that Conapesca declares that it has decreased the number of fishing vessels, in fact it has promoted and authorized the increase in the fishing effort, which has reached 68% in the taking of scale fish and 66% in the number of boats for fishing of curvina golfina from 2013 to 2016.

**GRAPH 1. Maximum authorized fishing quotas of curvina golfina 2011-2017.**



**Source:** Official Gazette of the Federation. Secretarial Agreements published by SAGARPA, which establishes catch quotas for the curvina golfina, 2012 to 2016.

**GRAPH 2. Authorized number of boats for curvina golfina. 2011-2017 years**



**Source:** Official Gazette of the Federation. Secretarial Agreements published by SAGARPA, which establishes catch quotas for the curvina golfina, 2012 to 2017.

**NOTES.**

> The number of vessels in the 2011 Agreement is not reported, so it had to be plotted as zero.

> This does not mean that there were no boats, because as reported in the same agreement, the quota established was 2300 tons of curvina golfina.

> What is evidenced by the graphical data is: on the one hand, that the number of boats increased, year by year, by almost 70%; And that in this same period, 2011-2017 the fishing effort also increased

Conapesca has encouraged and authorized the increase in the fishing effort.

<sup>4</sup> PRONATURA, 2016. Diagnosis of the Buy-Out Mechanism as a strategy for the conservation of vaquita in the Gulf of California.

In 2006, the Ministry of the Environment and Natural Resources (Semarnat) issued the Gulf of California Marine Ordinance, a **mandatory binding instrument**, requiring synergy between agencies to reverse the damage caused by overfishing, as well as avoid affecting species and endangered populations and that are priority for conservation. Such is the case of the vaquita, provisions that **Conapesca had to comply with and did not do.**

<sup>5</sup> Indicators of the actions of the fishery authorities in the Upper Gulf of California, in the face of the problem of the vaquita (*Phocoena sinus*). Comarino and Greenpeace. August 2017. Available at: <http://www.greenpeace.org/mexico/es/Footer/Descargas/reports/Oceanos-y-costas/Indicadores-de-la-actuacion-de-las-autoridades-pesqueras-en-el-Alto-Golfo-de-California-frente-a-la-problemat-ca-de-la-vaquita-marina/>

The main mechanisms used by Conapesca to increase the fishing effort are the approval of fishing permits, a mechanism by which two fishing permits are granted to one vessel, one for scale fish and another for shrimp, whereby latent effort becomes real effort.

The second mechanism is the issuance of new permits, documents that are not possible to access by anyone external to Conapesca, but that in the field have been increased, and the data obtained are inferable.

### 3. Fishery management

The structural and operational failures of Conapesca affect not only the vaquita, but also the management of fishery resources at the national level.

Fishery management according to the law, is the set of legal instruments to regulate and manage fishing activities in a manner consistent with the ecological order of the territory and that induce the sustainable use of fishery and aquaculture resources, based on the availability of fishery resources, historical information on levels of extraction, uses and potential for the development of activities, fishing or aquaculture capacity, and reference points for the management of fisheries.

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In 2013, the Federation's Superior Audit Office (ASF) stated that Conapesca developed draft fisheries regulations that did not represent an instrument of public policy, as they were not finished or published in the Official Gazette of the Federation, a condition to be considered in a program that was legally binding as required by law.

A year later, Conapesca eliminated the "sustainable utilization of fishery resources" item from its work objectives, after ASF pointed out that Conapesca had failed to comply with its obligations:

*The Commission (Conapesca) failed to establish the extent to which it promoted the sustainable use of fishery resources and reduced illegal fishing, in breach of Article 45 of the Agreement, which sets out the Rules of Operation of the Secretariat's Programs Agriculture and Livestock, Rural Development, Fisheries and Food and number 14, section I, third paragraph, fourth standard "Information and Communication", of the Agreement issuing the Provisions on Internal Control and Issues the General Application Administrative Handbook for Internal Control<sup>5</sup>.*

In the case of the Upper Gulf of California, it is an undeniable fact that fishery resources are subject to overexploitation, lack of measures and correct enforcement, as well as a lack of coordination between agencies. This has resulted in negative consequences including the sustained and aggravated decline in the last five years of the vaquita population.

### Conversion of Fishing Gear

The PACE-Vaquita mentions, in addition to overfishing and poaching in the Upper Gulf, the use of sea bottom trawlers that, in addition to being non-se-



lective, contribute to the modification of soft bottom environments, directly affecting the communities of organisms living on or near the seabed.

Trawlers have been a major problem because they affect the capture of juvenile totoabas and vaquitas. That is why, since the PACE-Vaquita to the Fisheries Ban Agreement of 2015, Conapesca and Inapesca were given the responsibility to develop more sustainable fishing gear alternatives, so that the community could continue fishing. However, this has not happened.

For the 2011-2012 shrimp season, most fishermen received the basic equipment at the end of the season, due to the fact that the equipment was imported and was retained by the customs agency at the US-Mexico border during several weeks.

In its reports, Pronatura also refers to the delay in the granting of permits for fishing gear reconversion, that is, for the shrimp season beginning on September 18, 2010. The fishing permits for the vessels that would use The RS-INP-MX nets (alternative vaquita safe experimental nets) during that season were issued by Conapesca in the second week of October, that is, a month late.

On September 26, 2013, during the third meeting of the Advisory Committee of the Presidency, Conapesca announced the progress made in the preparation of the Official Mexican Standard NOM-002-SAG / PESC-2013 on shrimp fishery, in which it stated that the “chinchorro” (drifting gillnet) should be phased out within three years (30% -30% -40%). However, at the same time, WWF and Pronatura reported that Conapesca had granted shrimping permits for the use of drifting gillnets, valid for four years, from 2013 to 2017.<sup>6</sup>

On September 26, 2013, Conapesca announced that the chinchorro (drifting gillnet) should be phased out within three years (2016).

WWF and Pronatura reported that Conapesca had granted fishing permits with chinchorro, valid until 2017.

To date it is not known whether these permits were revoked.

If Conapesca wanted to eliminate these nets, why did it authorize their use for a longer period than it proposed? The regulation was approved later, but the permits were already given out, that is, Conapesca breached the standard it authored, even before its entry into force. To date, it is not known whether these permits were revoked.

The reports written by Pronatura on Conapesca’s work on the reconversion of fishing gear in the Upper Gulf area point to irregularities, for example permitting the use of destructive fishing gear instead of alternative fishing gear, even for fishermen who already employed alternative gear.

In addition, the permitting process lasted a total of five months, as Conapesca requested additional information. The permits were issued on September 20, 2014, but not delivered to their holders at the Ensenada sub-office of Baja California until September 30, seven days after the fishing season began.

With the fishing permits granted, the group of vessels using alternative fishing gear compatible with the conservation of vaquita increased by 75% from 17 to 30 boats authorized for the shrimp fishery with RS-INP-MX nets, which means that there is willingness on the part of the community to use alternative fishing nets, but administrative procedures stopped these efforts.

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<sup>6</sup> Minutes of the Third Meeting of the Advisory Committee of the Presidency

The fishery authority in Mexico **has not acted** in accordance with the recommendations of international scientific experts to **protect the vaquita**, nor with the provisions of the Law itself, demonstrating **inability or negligence** to fulfill its responsibilities and Mandates.

It is important to mention that the legal-administrative process prior to the entry into force of the “Agreement Temporarily Suspending Commercial Fishing by using Gillnets, Cimbras and / or Longlines Operated with Smaller Vessels in the Northern Gulf Of California,” discouraged the participation of fishermen in the project, so that most of the participants decided to invest their efforts in the last available surge for shrimp, Spanish mackerel and the first tides of *Curvina golfina*, which only managed to work with 6 vessels from three cooperatives which represented an attainment of only 33% of the goal initially proposed by the project.

In light of the above, it can be seen that Conapesca has been hampering the granting of fishing permits with alternative methods, both in terms of the documentation requested and the delivery times of licenses, delays, and the issuance of permits to use chinchorro, which in theory should have been eliminated by 2017; This discourages the adoption of alternative methodologies.

Despite the repeated requests and recommendations of the CIRAV to change fishing gear, a measure that is considered indispensable in the Vaquita PACE, it has not been done yet.

This is evidence that the fishing authority in Mexico has not acted in accordance with the recommendations of international scientific experts to protect the vaquita, nor with the provisions of the General Law on Sustainable Fisheries and Aquaculture, Environmental Laws, The National Fisheries Charter, and the Marine Ecology of the Gulf of California to avoid overfishing. Neither has it aligned itself with the efforts of the Mexican government in this objective, proving incapable or negligent to fulfill its responsibilities and the mandates of law.

Why has Conapesca not done its work? This is the big question for the National Commission of Aquaculture and Fisheries, administered by Mario Aguilar Sánchez since 2012. The decline of the vaquita population has worsened since 2012. Mario Aguilar Sanchez must respond to society, and assume the responsibility that under his management, the vaquita is now facing imminent extinction.



## We demand justice for the vaquita!

And we urge Enrique Peña Nieto,  
as President of Mexico for:

1. The immediate dismissal of **Mario Aguilar Sánchez**, director of Conapesca.
2. The replacement of the **president of Inapesca**.
3. An immediate update of the **National Fisheries Charter**.
4. The immediate return of the fishing sector (**Inapesca and Conapesca**) to the environmental sector, within the Secretariat of the Environment and Natural Resources (**Semarnat**).
5. **A plan for the development of a sustainable fishing policy** that ensures the protection of our oceans and their resources and includes the communities that rely on fishing for their livelihoods so that situations similar to that of the vaquita **do not repeat themselves**.