



June 1, 2018

Dr. Peter Thomas, Executive Director
Marine Mammal Commission
4340 East West Highway, Suite 700
Bethesda, MD 20814

Dear Dr. Thomas:

Thank you for the Marine Mammal Commission's recommendations on the National Marine Fisheries Service's (NMFS) "Notification of a Petition to Ban Imports of All Fish and Fish Products from Mexico That Do Not Satisfy the Marine Mammal Protection Act Provisions" published on 22 August 2017 (82 Fed. Reg. 39732) and the January 10, 2017 *Federal Register* notice requesting information on foreign commercial fishing operations (sent March 1, 2017). In both letters the Commission recommends that NMFS act immediately to invoke the emergency rulemaking provisions of the MMPA import rule to ban the import into the United States of all fish and fish products from fisheries that kill or seriously injure, or have the potential to kill or seriously injure vaquita. Consistent with section 202(d) of the Marine Mammal Protection Act, this letter responds to the Commission's recommendations and was prepared with the input of my staff.

NMFS has not yet made a decision whether to implement an import ban, whether emergency or otherwise, pursuant to the Marine Mammal Protection Act's (MMPA) Import Ban Rule, 50 C.F.R. Part 216. NMFS is evaluating the Mexican regulatory program governing fisheries that may incidentally kill or seriously injury vaquita. As part of this evaluation NMFS is consulting with the Government of Mexico to examine and identify additional regulatory and enforcement measures to benefit and reduce vaquita bycatch. NMFS' discussions with Mexico have included high-level government-to-government negotiations, which we believe, are the best hope of bringing about the greatest conservation benefit to vaquita. NMFS' ongoing negotiations with Mexico are at a critical and sensitive stage. Accordingly, while we recognize that the Commission's request that NMFS act immediately is based on the dire situation of the vaquita, NMFS is not prepared to make a final decision as to whether to act under the MMPA Import Ban Rule, whether on an emergency basis or otherwise.

In view of the sensitivity of the ongoing negotiations with Mexico, this response is necessarily general in nature. Through our interagency process we have kept the Commission informed to the extent possible and would be happy to meet with the Commission to discuss this matter further. In the event that NMFS makes a final decision that does not follow the Commission's recommendations, we will provide a further response that explains in detail the reasons those recommendations were not adopted or followed.



Finally, regarding the Commission recommendations to the January 10, 2017 *Federal Register* notice requesting information on foreign commercial fishing operations (sent March 1, 2017) that NMFS place all Upper Gulf of California gillnet fisheries, the Canadian snow crab and lobster fisheries, gillnet-caught tuna and other targeted highly migratory species from the Indian Ocean, on the List of Foreign Fisheries. As per the draft and final publication of the List of Foreign Fisheries, NMFS has placed these fisheries on the List of Foreign Fisheries as export fisheries.

Sincerely,



John Henderschedt, Director
Office of International Affairs and
Seafood Inspection
National Marine Fisheries Service

cc:

Nina Young -
NOAA Fisheries Office of International Affairs and
Seafood Inspection