

# FISHING AND THE USMCA: TWO YEARS OF UNFULFILLED OBLIGATIONS

SECOND EDITION OF THE FOLLOW-UP REPORT ON THE COMPLIANCE OF FISHING  
COMMITMENTS UNDERTAKEN BY MEXICO IN THE USMCA





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# EXECUTIVE SUMMARY

The Agreement between Mexico, the United States and Canada (USMCA) was signed by the parties on July 1, 2020. In this Agreement, a series of obligations regarding environmental protection were incorporated in Chapter 24. Among these obligations, Mexico committed to combating illegal, unreported and unregulated (IUU) fishing, commercializing fishery products of legal origin, restoring overexploited fishing areas and protecting marine habitats.

IUU fishing exceeds 40% of fishery product according to Mexican authorities. Similarly, Mexico has received various commercial sanctions in fishing matters for being unable to prove legal origin of fishery products. Four out of ten fisheries in Mexico are overexploited and marine protected areas have inadequate protection for the conservation of habitats and species of great importance.

These facts indicate that two years after the signing of this trade agreement, Mexico has not yet fulfilled the obligations it assumed. Furthermore, seemingly there are no concrete actions aimed at compliance.

There are a series of actions that, in a coordinated manner, the Mexican authorities must implement to comply with the obligations set forth in the USMCA and protect the oceans. These actions include: 1) taking measures that contribute to the international effort aimed at fighting IUU fishing, such as signing of the Port State Measures Agreement; 2) have public, updated and easily accessible data on fishing vessels; 3) approve and implement an Official Seafood Traceability Standard; 4) establish the obligation to restore overexploited fisheries and; 5) conserve marine habitats, as well as marine species of great importance, by safeguarding marine protected areas.





## TWO YEARS AFTER THE SIGNING OF THE USMCA

The free trade agreement between Mexico, the United States and Canada, also known as USMCA, was signed by these countries two years ago on July 1, 2020. This agreement is very important for North America because, in addition to establishing measures and conditions for trade in the region, it also sets environmental obligations.

These environmental measures, conditions and obligations are described in USMCA's Chapter 24, in which Mexico acquires several responsibilities regarding fishing: from ensuring the legal origin of seafood, to recovering overexploited fishing species, as well as protecting marine habitats and species of great importance.

An important objective of these environmental obligations is to fight illegal, unreported and unregulated fishing, known as IUU fishing.

In July 2021, Oceana published a report which concluded that Mexico had not made significant progress in complying with the USMCA's environmental obligations, an evaluation that is repeated for a second consecutive year.

Unfortunately, results prove that two years after the signing of this trade agreement, Mexico has not yet complied with the obligations it assumed. Furthermore, seemingly there are no concrete actions aimed at compliance.

In this document we present a second edition of the follow-up report on compliance with the obligations assumed by the Mexican State in matters of fishing and oceans protection in four key areas: combating illegal fishing and trade, fishing restoration and protection of marine habitats.





# 1. ILLEGAL FISHING: A CHALLENGE FOR INTERNATIONAL COLLABORATION AND TRANSPARENCY

## Mexico's Commitments

By signing the USMCA, Mexico, the United States and Canada committed to internationally combat illegal, unreported and unregulated (IUU) fishing and to help deter trade in products resulting from this practice (24.21). To do this, the three countries must implement measures aligned with the Port State Measures Agreement (PSMA), of which Mexico is not a current Party.

Under this agreement approved by the Food and Agriculture Organization of the United Nations (FAO) and in force since 2016, the signatory Parties must conduct inspections of foreign fishing vessels that arrive at their ports to ensure that the fishing products have been caught legally.

Similarly, countries that are Parties of the PSMA must allow vessels that carry their flag to be inspected in foreign ports, also to prevent illegal fishing products from entering and being sold in international markets.



Likewise, countries must share inspection reports, specifically of vessels involved in IUU fishing, in order to create and share a global network of information to help prevent these activities.<sup>1</sup>

Among Mexico's obligations to combat illegal fishing, there is also the responsibility to:

Keep records of fishing vessels and promote the use of International Maritime Organization numbers, or unique identifiers for comparable vessels, in order to improve fleet transparency and vessel traceability. It must also develop and maintain publicly available and easily accessible data on vessels flying the Mexican flag (24.21).

## What has Mexico done?

In Mexico we face a serious problem regarding illegal, unreported and unregulated (IUU) fishing, that is, fishing activity that takes place outside the legal framework.

The Food and Agriculture Organization of the United Nations (FAO) estimates that 20% of the fishery product in this country comes from illegal fishing.<sup>2</sup> The National Commission for Aquaculture and Fisheries (CONAPESCA) has stated that IUU fishing in Mexico could amount to 40% of the total.<sup>3</sup> However, other studies indicate that this percentage could add up to 50%.

Since Oceana published the first follow-up report of the USMCA in July 2021, where we mentioned that Mexico had not respected the agreement nor had it implemented measures compatible with the PSMA requirements, the situation has remained unchanged. Two years after the signing of the USMCA and six years after the PSMA entered into force, Mexico has yet to abide by the trade agreement with the United States and Canada.



As for the obligation to identify and keep a record of fishing vessels, the outlook does not show any progress either.

After a thorough search in official databases, at Oceana we confirm that Mexico does not comply with the commitment regarding maintenance of an updated record for fishing vessels, since it does not have public databases, neither updated nor easily accessible.

The public database of fishing vessels that we consulted on the website of the National Commission for Aquaculture and Fisheries (CONAPESCA) was last updated on April 2016.<sup>4</sup> This database keeps a record of 42,211 small and 3,275 large fishing vessels.

Six years of not updating the database has resulted in a lack of data that can establish the number of currently existing vessels in our country. For example, the 2020-2024 National Fisheries and Aquaculture Program speaks of the existence of 2,020 large and 74,286 small vessels in operation.<sup>5</sup>





Also, at Oceana we requested data on satellite-monitored vessels (large vessels) using mechanisms offered by the transparency law, in response we received a database with a record of 2,048 vessels.

These variations in numbers and dissimilar data are a clear example of how there is no easily accessible public and up-to-date database, which would contribute to the transparency of fishing activity and those responsible for its management in our country.



## What can be done?

- a) Take measures that contribute to the international effort aimed at combating IUU fishing, such as the signing of the Port State Measures Agreement and the implementation of actions compatible with this agreement.
- b) Have public, up-to-date and easily accessible data on fishing vessels flying the Mexican flag, in order to contribute to transparency in the fishing sector.





## 2. ILLEGAL TRADE: AVOIDING THE TRAP OF TRADE EMBARGOES

### Mexico's Commitments

By signing the USMCA, Mexico, the United States and Canada acknowledged their role as consumers, producers and marketers of fishing products.

The three countries committed to promoting and facilitating trade of fishing products obtained and managed sustainably and legally (article 24.17), as well as to take actions to deter trade of products derived from IUU fishing (24.22).

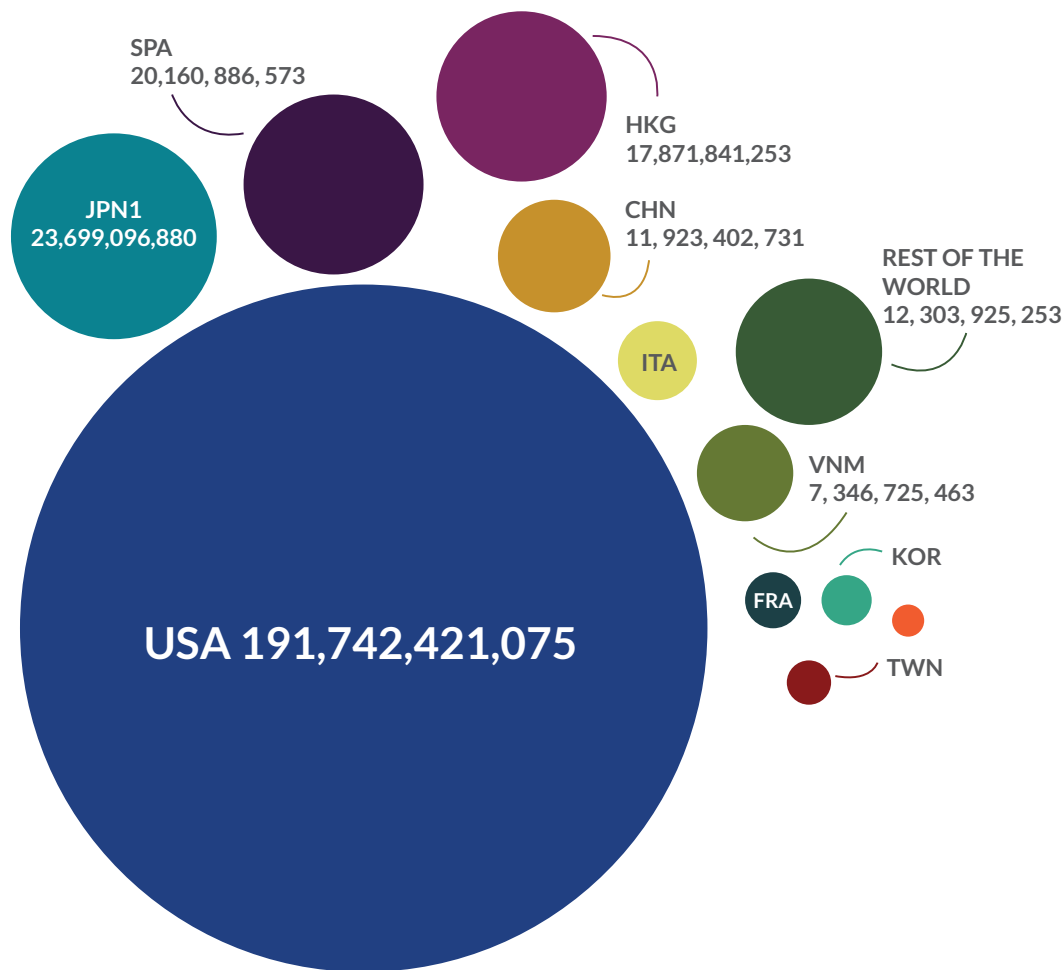
If these commitments are not met, the USMCA allows the implementation of trade restrictions on fishing products. Specifically, Mexico must take actions to reduce the illegal origin of seafood, considering the importance of its commercial relationship with Canada and, especially, with the United States, as shown in Graph 1.



What has Mexico done?

The high percentage of fishing carried out outside the legal framework puts commercialization of the Mexican fishing product in the United States and Canada at risk. In one of our studies, we found that 64.2% of the Mexican exports of fishing products between 2003 and 2020 go to the United States.

Graph 1. Historical total value of exports of fishery products in MXN, 2003-2020.



Source: Developed by Oceana with data from INEGI<sup>6</sup>

Mexico, a country where IUU fishing is a prevailing problem, has been subject to trade sanctions, thus losing access to important international markets, such as the United States.

Since July 2021, when Oceana presented the first follow-up report on the implementation of Mexico’s environmental commitments in the USMCA, we published that Mexico lacks tools to demonstrate the legal origin of the fish and shellfish it markets.

Therefore, when implemented, trade restrictions are applied to the entire fishery product. This affects both illegally and legally caught fish, unfairly harming the fishing sector that complies with legal requirements.

Since 2019, Oceana has proposed the implementation of a traceability standard that would allow to prove the legal origin of seafood products, both to Mexican authorities and our business partners. This would avoid widespread sanctions and help maintain access to international markets for those complying with the law.

The high percentages of illegal fishing in Mexico, coupled with the lack of traceability, have caused Mexico consequences and trade restrictions that could be avoided.

Since 2020, Mexico has been subject to a trade embargo imposed by the United States. This restriction prevents our country from marketing fishery products from the Upper Gulf of California.

Fish and shellfish sales paralyzed by this embargo include shrimp caught with trawlers, shrimp caught with suripera nets, sawfish caught with seine nets, hooked sawfish, milkfish caught with trawlers, corvina caught with seine nets, and sardine caught with seine nets.<sup>7</sup> Depending on the species, these restrictions affected large vessels, small vessels or, in some cases, both.





This embargo is a result of the high percentage of illegal fishing identified in the region and the threat that this illegal activity represents to the vaquita marina (*Phocoena sinus*), an endangered endemic species.

Another commercial consequence that the country suffered when a significant number of vessels that were not using Turtle Excluder Devices (TEDs)<sup>8</sup> were detected, was losing the certification to export shrimp to the United States between April and October 2021. As a result, the country did not have access to its most important shrimp export market for several months.

An additional restriction was added to the list in 2022. As of February 7, the entry of vessels flying the Mexican flag to the ports of the United States<sup>9</sup> was prohibited. This measure was imposed in response to the biannual report delivered by the National Oceanic and Atmospheric Administration (NOAA) to the United States Congress.

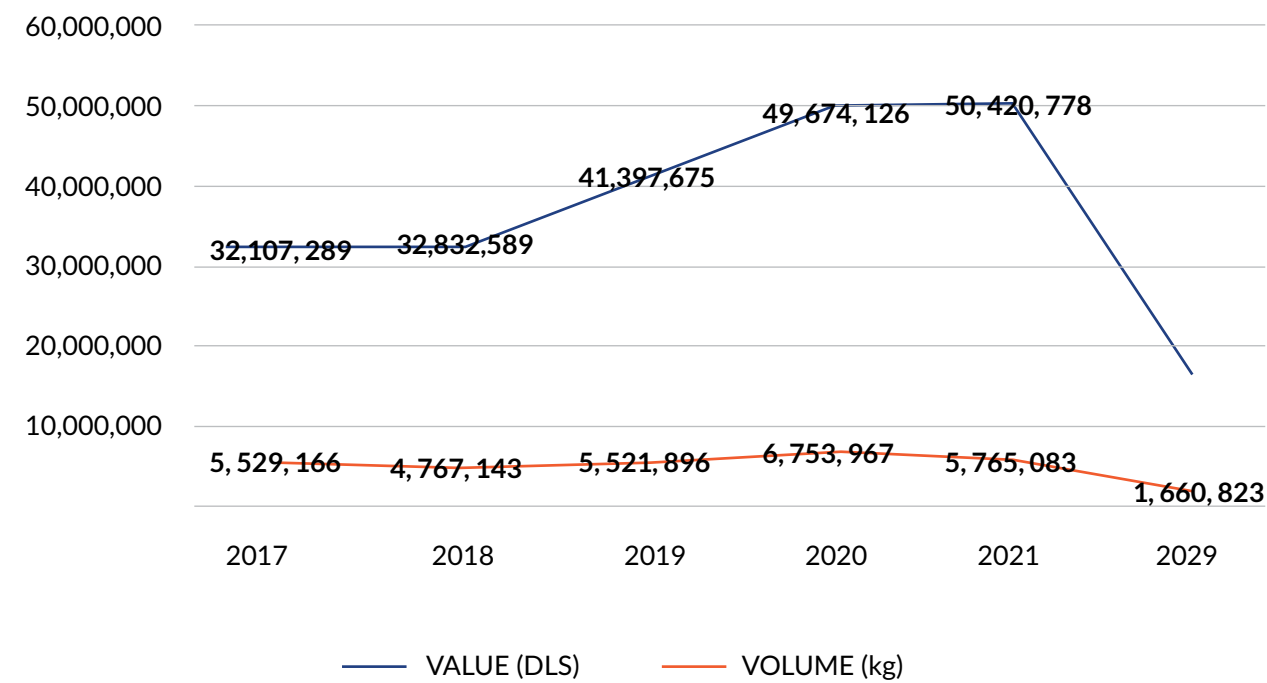
This agency, in charge of fisheries management in the United States, reported that Mexico was identified as a country where illegal fishing takes place. Vessels illegally catching fish stocks that are regulated by the United States, including red snapper, were identified in the report.

The report proposes to establish trade restrictions, that is, to prohibit the importation of red snapper from Mexico, if there is no plan or provable actions to combat illegal fishing.

The imposition of trade restrictions on red snapper could have considerable negative effects on Mexican fisheries, since this species is very important in the country's export sector. In 2021, the export value of red snapper to the United States represented a total of USD \$50,420,778<sup>10</sup> equivalent to approximately \$1,022,029,170 Mexican pesos. As a reference, the amount disbursed by the entire Bienpesca Program during the same year was \$1,450,339,200.<sup>11</sup>



Graph 2. Historical total value of exports of fishery products, 2003-2020



Source: Developed by Oceana with data from NOAA.

In addition to the economic significance of red snapper fishery, it also has an important social value. The national catch of red snapper in the last twenty-one years has been dominated by the coastal fleet, a vulnerable sector in Mexico. 85% to 90% of the catch on the Pacific coast and the Gulf of Mexico comes from this fleet and it is estimated that there are approximately 39,972 fishermen engaged in red snapper fishing nationwide.

Although the restrictions were imposed based on other regulations, the USMCA also allows imposition of trade restrictions.

It should be noted that it is extremely important to maintain access for fishery products to the markets of the United States and Canada, due to how essential they are for the national economy and for Mexican fishing communities that export their products to these countries.

Trade restrictions mainly affect people who fish following legal guidelines, since they are prevented from selling their products in international markets, despite following regulations. Therefore, if the Mexican government fails to provide the tools to differentiate legal and illegal products, generalized restrictions will prevail.

It is important to point out that one of the main mechanisms considered in Chapter 24 of the USMCA to ensure compliance with the provisions is the possibility of imposing trade restrictions to protect marine species and ecosystems.

Additionally, Mexico, the United States and Canada agreed that they can only market, import and export goods and services produced in accordance with Chapter 24, an obligation that has also been supported by Section II of the Environment Cooperation and Customs Verification Agreement.

### What can be done?

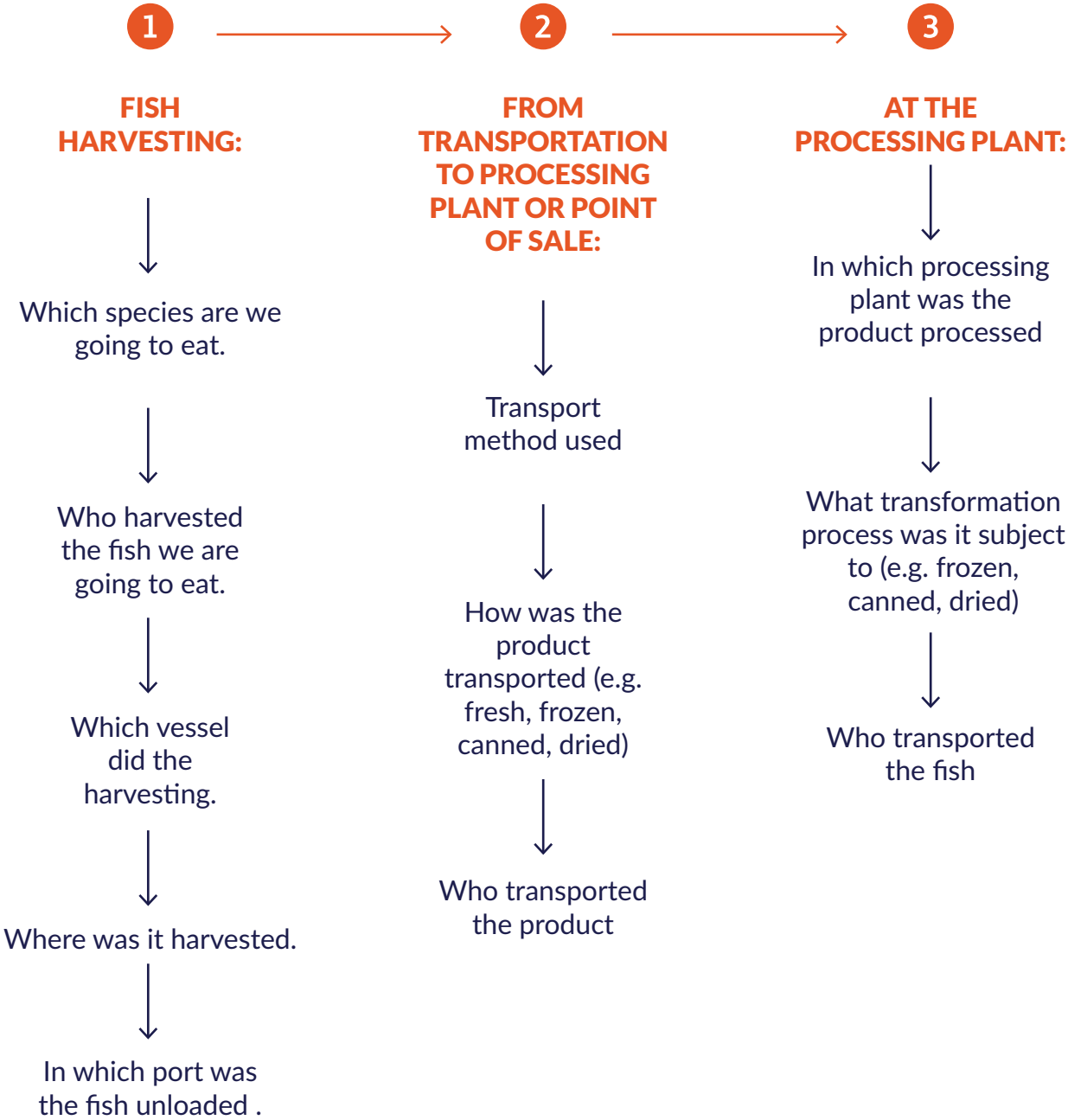
a) Approve and implement an official seafood traceability standard that ensures that the country is not marketing products resulting from illegal, unreported and unregulated (IUU) fishing.

Traceability is one of the tools that exist to reduce the illegal origin of fishery products, since it allows full monitoring of the value chain: from the moment the product is caught at sea to the last point of sale.



This monitoring makes it easier to create restrictions so that illegally caught sea-food products cannot enter the markets, since certain key data is requested at different critical points in the chain, thus helping to identify the legal origin of the products. This makes it possible to ensure that fishing was carried out in accordance with the regulations.

This is how a traceability system works:







### 3. FISHING RESTORATION: AN OPPORTUNITY FOR FISHERIES AND COASTAL TOWNS

#### Mexico's Commitments

The USMCA mandates Mexico, the United States and Canada to achieve the objectives of conservation and sustainable management of the commercial fisheries that they support.

#### What has Mexico done?

Each country must have a system that regulates wild marine capture, designed to prevent overfishing and promote the recovery of overfished stocks. This management must be carried out in all marine fisheries within each of the three signatory countries (24.18).

The regulation of the fishing system in Mexico is not designed to prevent overfishing and promote recovery of fisheries or fishery products.

At Oceana we carried out a study entitled Fishing Audit<sup>12</sup>, to identify the real state of fisheries. In this analysis we found data that show us that there is no legal or administrative framework aimed at the recovery of overexploited or deteriorated species:



- ➔ 4 out of 10 fisheries are in conditions of overexploitation, deterioration or collapse.
- ➔ More than 50% of the information for fisheries management contained in the National Fisheries Charter (CNP for its initials in Spanish) has not been updated in 10 years. In addition, the content is difficult to interpret for the average citizen.
- ➔ Only 25% of fisheries contemplated in the National Fisheries Charter have plans for their sustainable management. While the remaining 75% is subject to granting of permits without precise knowledge of the status of their stocks.

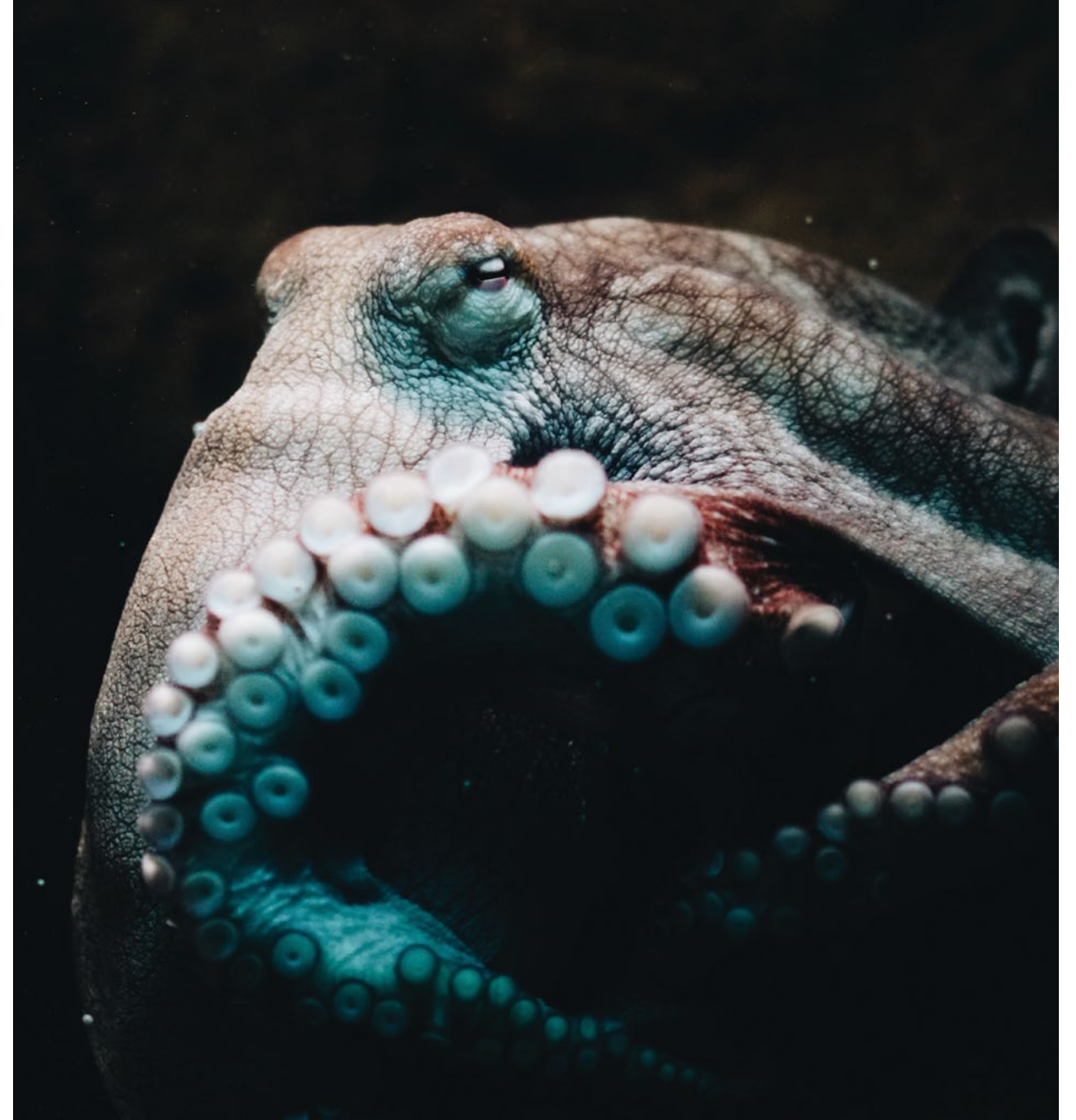
The abovementioned figures show a deficient fisheries management system that lacks mechanisms or strategies for the recovery of fish stocks, reflecting a high percentage of fishing areas in conditions of overexploitation, deterioration or collapse.

Since the first follow-up report on the compliance of Mexico's obligations of the USMCA in 2021, at Oceana we have denounced that there is no legal provision that obliges authorities to promote recovery of overexploited fisheries.

One year after pointing out this fault, the General Law on Sustainable Fisheries and Aquaculture (LGPAS) has still not been reformed to include legal provisions that compel authorities to recover species that are damaged or at risk.

By not having this legal framework, attention to fisheries that need special care will depend on the discretion or common sense of authorities.

With this lack of clarity on the responsibility of authorities, it will be difficult to implement actions focused on the recovery of fisheries. As long as the legal reform does not enter into force and the aforementioned actions are not taken, Mexico will not comply with the obligations it assumed in the USMCA.



At Oceana we created a tool called the Social Fishing Map, where we prove that the fisheries that receive the most resources and support are those that capture the largest volume, such as sardine, tuna and shrimp fisheries.

Meanwhile, fisheries that represent greater value in terms of social benefits, accounting for number of people engaged in fishing as a primary activity, have been left aside. A case of this nature is scaly fish fishing, which many artisanal fishermen who lack adequate management schemes depend on. Little is known about the status of populations that fall within this category.



## What can be done?

a) Implement policies for the recovery of overexploited, deteriorated or collapsing fisheries, especially those that have significant social importance and which a great number of people dedicated to fishing depend on.

The foregoing, through a reform to the General Law on Sustainable Fisheries and Aquaculture (LGPAS) that compels the authorities to restore Mexican oceans.

Likewise, it is necessary to reassess the way in which the importance of a fishery in the country is determined. Lesser priority should be given to volume or monetary value and, instead, the production represented in terms of social participation must be considered.<sup>13</sup>

Considering the social importance of fisheries, it is possible to recover those that are overexploited, deteriorated or collapsing. This would significantly benefit different coastal communities.

By adopting such an approach, the Mexican state would fulfill the objective of acknowledging the importance of marine fishing sectors in the development and livelihood of fishing communities, including those dedicated to artisanal, small-scale and native fishing (24.17).







## 4. HABITAT PROTECTION

### Mexico's Commitments

Another of the obligations that Mexico assumed as a signatory party to the USMCA is to protect marine habitat, in order to prevent or mitigate significant adverse impacts from fishing (24.18).

The country is also committed to the long-term conservation of sharks, sea turtles, seabirds and marine mammals, through the implementation and effective enforcement of conservation and management measures (24.19).

### What has Mexico done?

At Oceana we evaluated the effectiveness of the Mexican State in protecting important habitats for the reproduction of species relevant for fishing and for marine life, such as mangroves and reefs, and species including sea turtles. This was done through the study “Natural Protected Areas: A guarantee of marine habitat protection?”<sup>14</sup>

In this study, 39 Natural Protected Areas (NPA) of Mexico were compared, analyzing different aspects from administrative to legal, and following the criteria of conservation of essential habitats for biodiversity.





In the legal aspect, evaluation indicators that were considered include: having a management program, having evaluation and performance mechanisms, having sufficient budget and personnel, and prohibiting harmful activities. In terms of governance, it is necessary to recognize participatory organizations that can make decisions and integrate local communities into decision-making.

Fishing improvement was also evaluated, which seeks an adequate administration of the fishing resources in the MPAs. Of the 39 marine protected areas evaluated, all were in the range of 1 to 2 on an average of 6 concepts, with 1 being the lowest rating and 5 the highest. This places the average of the 39 MPAs in a range from “critical” to “poor”.

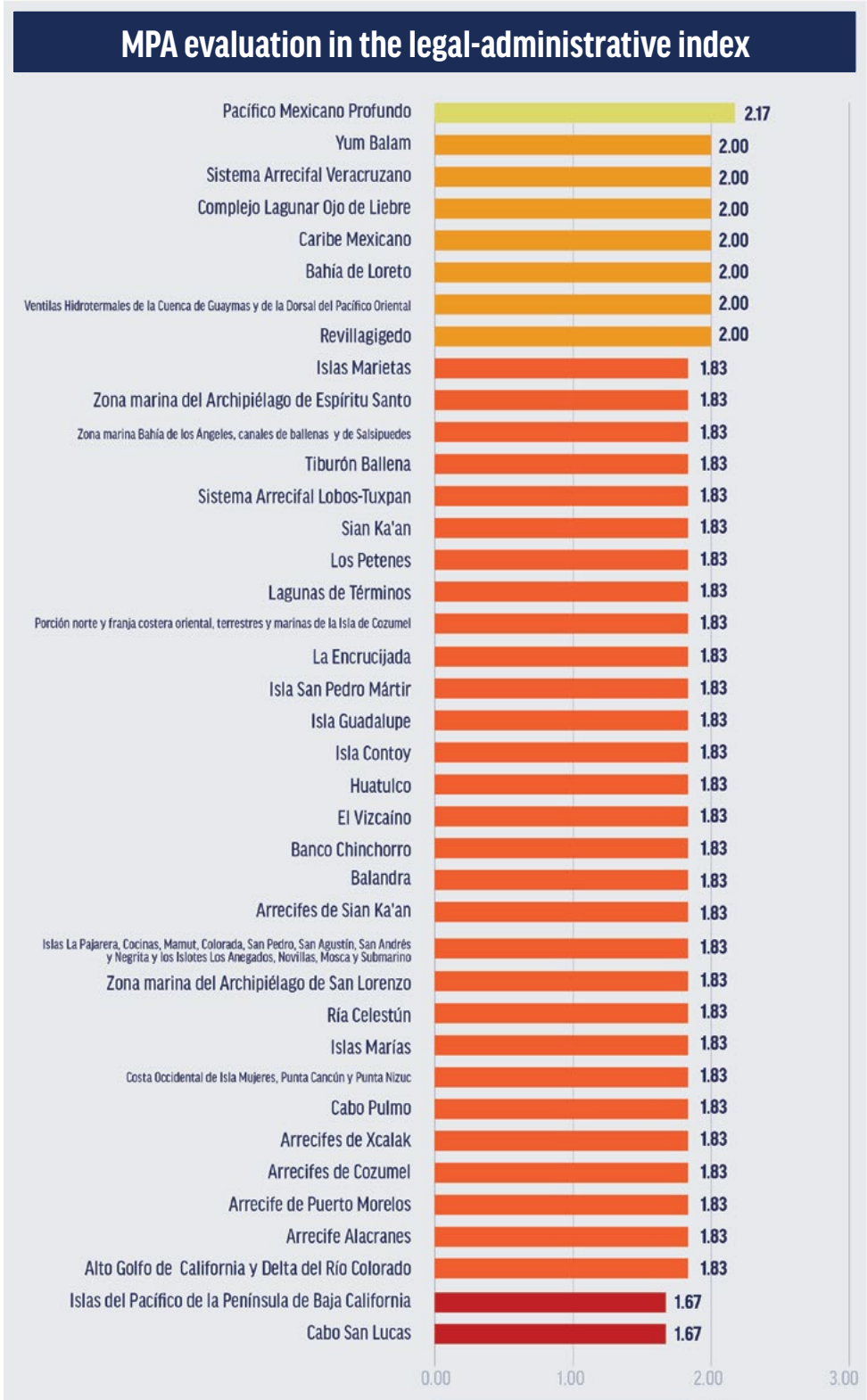
**Table 1.** Number of MPAs for each range of evaluation of the 6 concepts analyzed.

**RESULTS PER EVALUATED CONCEPT**

Evaluated Concept	Management Program	Prohibition of Harmful Activities	Evaluation and Performance	Improvement of fisheries	Sufficient budget	Governance
Very Good	0	39	0	0	0	0
Good	1	0	0	0	0	0
Regular	7	0	0	0	0	0
Bad	29	0	0	0	0	0
Critical	2	0	39	39	39	39

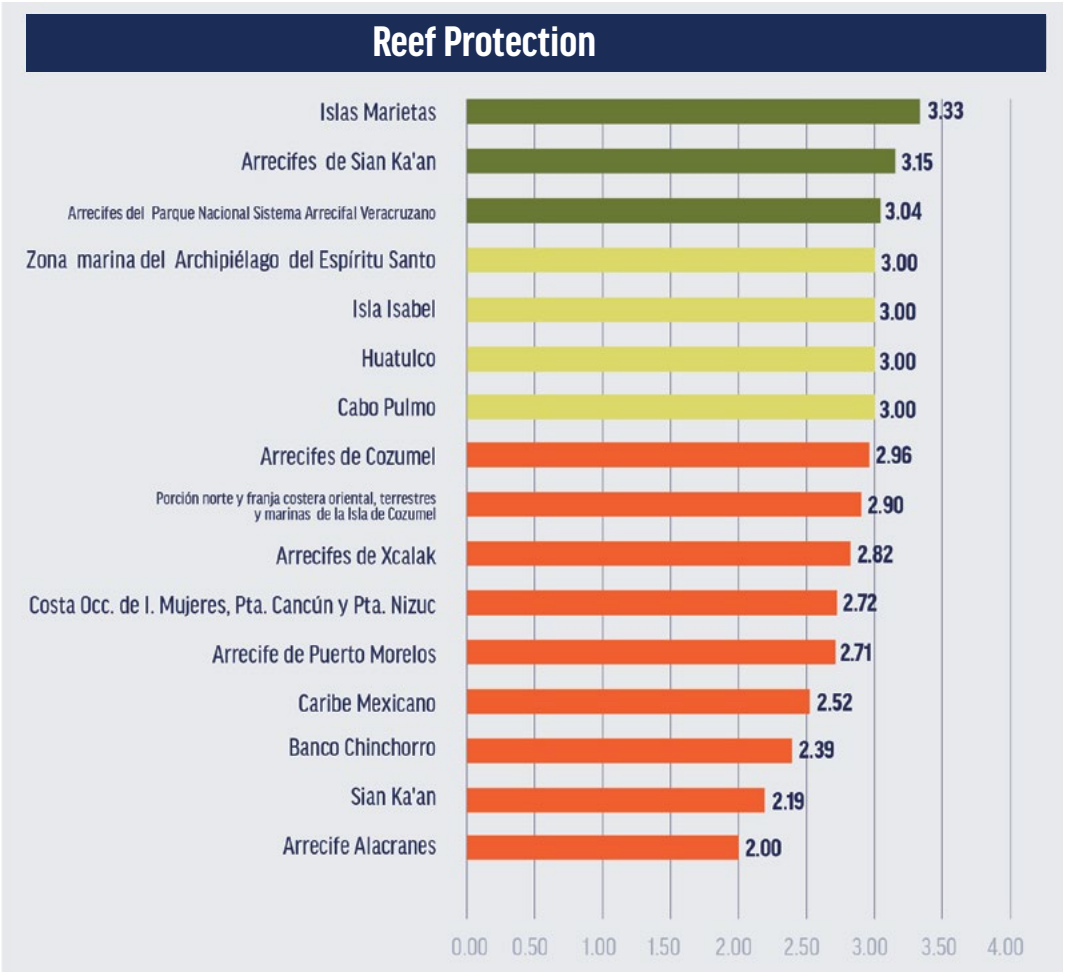


**Graph 3.** Final ratings for the Natural Protected Areas considering 7 concepts of the legal-administrative dimension. Ratings range from 1 to 5 where 1 is *critical* and 5 is *very good*.



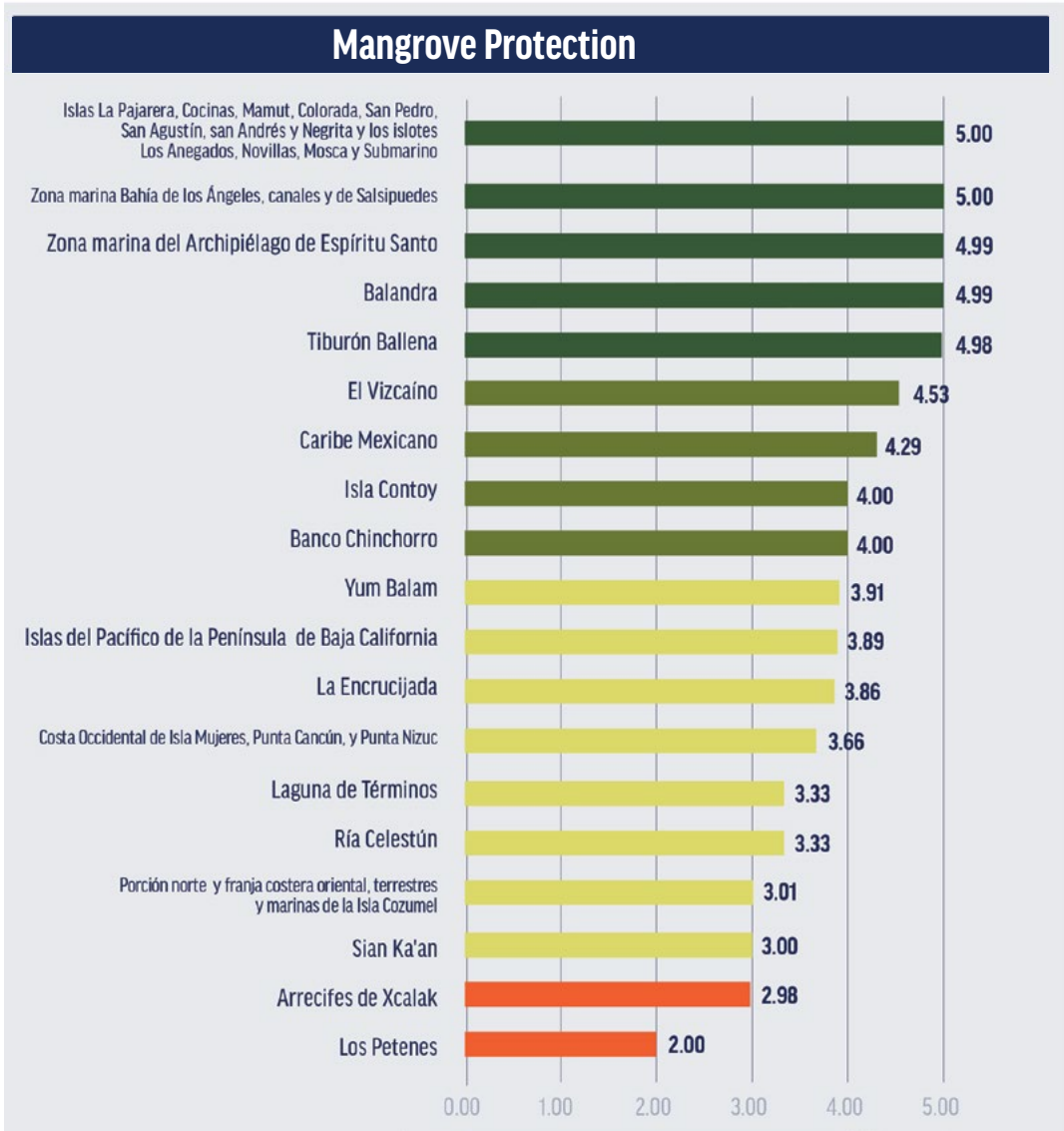
In the area of the conservation of crucial habitats, which consider reefs and mangroves, the conservation status of reefs is rated between “regular” and “poor” for 15 NPAs. While mangroves are mostly rated between “regular” and “very good” in 14 NPAs. Finally, two were rated as “poor”.

**Graph 4.** Conservation status of reefs for 16 Natural Protected Areas that have this ecosystem under their protection. The indicators represent the state of conservation from *very good* (5) to *critical* (1).





**Gráfica 5.** EConservation status of mangroves for 19 Natural Protected Areas that have that ecosystem under their protection. The indicators represent the state of conservation from *very good* (5) to *critical* (1).



Natural Protected Areas face multiple challenges, since our legal system does not protect these areas as required. The current NPA system shows that it is not efficient for the conservation of critically important habitats for marine life, such as mangroves and, even less, in the case of reefs. Consequently, they are also deficient conserving marine species and species of economic importance of great relevance to the country.

The mostly failing ratings of the analyzed areas show us that Mexico does not comply with the obligations assumed before its USMCA counterparts regarding the protection of marine habitats. Therefore, it fails to protect species such as turtles and marine mammals. The care of these

**What can be done?**

a) Preserve marine habitats, as well as marine species of great importance, through the protection of marine protected areas, with measures that ensure their effective operation. Allocating resources to conservation and being efficient with the areas already decreed.

It is necessary for Mexico to strengthen the protection it must grant to marine habitats of great importance, such as the MPAs. This strengthening must include updating of management programs of the areas, so that they are true protection mechanisms.

Among other measures, a sufficient budget must be allocated to care for the areas, so that fishing is carried out in a way that does not endanger protected ecosystems.

If appropriate measures are not taken for the conservation of marine habitats and their species, Mexico will continue with failed MPAs and, therefore, failing to comply with its international obligations.





## THE CHALLENGE: INSTITUTIONAL COORDINATION

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The breath and complexity of the challenges to comply with the commitments acquired by Mexico require a crucial task on the part of the Mexican State:

Carry out coordinated enforcement actions between the different authorities that must participate in the implementation of measures aimed at compliance with the USMCA.

## MINISTRY OF ECONOMY

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Chapter 24 of the USMCA establishes the creation of an Environment Committee (24.26). This committee must comprise high-level representatives of the three countries. This tripartite committee oversees the implementation of chapter 24.

Within this committee, the representation of Mexico corresponds to the Ministry of Economy. For this reason, this organism is responsible for ensuring that Mexico complies with the obligations that it assumed when signing the agreement.

In addition to the provisions of the USMCA, it is faculty of this Ministry to formulate and conduct general foreign trade policies, in accordance with the Organic Law of the Federal Public Administration (LOAPF for its initials in Spanish).





As stated above, compliance with fishing commitments has effects on foreign trade. Therefore, it is essential that the Ministry of Economy participates in the development of policies that protect the international trade of Mexican fishery products.

## MINISTRY OF FOREIGN AFFAIRS

The Ministry of Foreign Affairs also plays an important role in the compliance and implementation of the USMCA.

The LOAPF establishes that it must intervene in all kinds of treaties, agreements and conventions in which Mexico is involved. Therefore, it must participate in the fulfillment of the obligations assumed by the country in fishing matters with the signing of the USMCA. Likewise, the Ministry of Foreign Affairs should participate in the process of signing and subscribing to the Port State Measures Agreement (PSMA).

## NATIONAL COMMISSION FOR AQUACULTURE AND FISHERIES (CONAPESCA)

CONAPESCA, a decentralized body of the Ministry of Rural Development, is the agency in charge of fisheries management in Mexico. This organism must establish objectives and strategies taking the policies into account, to achieve the sustainable development of fishing. It must also design and implement international fishing policy, with the corresponding participation of the Ministry of Foreign Affairs.

Likewise, it is the responsibility of this commission to ensure compliance with fishing regulations, through tools such as the traceability provided for in article 119 Bis 9 of the General Law on Sustainable Fisheries and Aquaculture (LGPAS for its initials in Spanish).

This authority must verify the certification of the legal origin of fishing products and coordinate the competitiveness policy of fishery products in the national and international market.

CONAPESCA is obliged to operate the National Fisheries and Aquaculture Information System and the National Registry of Fisheries and Aquaculture, and to keep these information systems constantly updated.

These obligations are provided for in the LGPAS and are reflected in the USMCA. Therefore, CONAPESCA must respond fully with the powers that have been assigned to it in Mexican legislation so that the Mexican State can comply with its international obligations.



# MINISTRY OF ENVIRONMENT AND NATURAL RESOURCES

Mexico is obliged to preserve marine habitats that are essential for fishing, in addition to responding to the care of species of great importance such as marine mammals and sea turtles.

The Ministry of Environment and Natural Resources, in accordance with the LOAPF, is the Ministry in charge of protection, restoration, conservation, preservation and sustainable use of ecosystems and natural resources. In addition, it is the authority in charge of administering Natural Protected Areas and carrying out tasks for their conservation, protection and surveillance.

Therefore, it is the authority that implements policies that aim to protect marine habitats.

## Actions to comply with the USMCA and protect the oceans

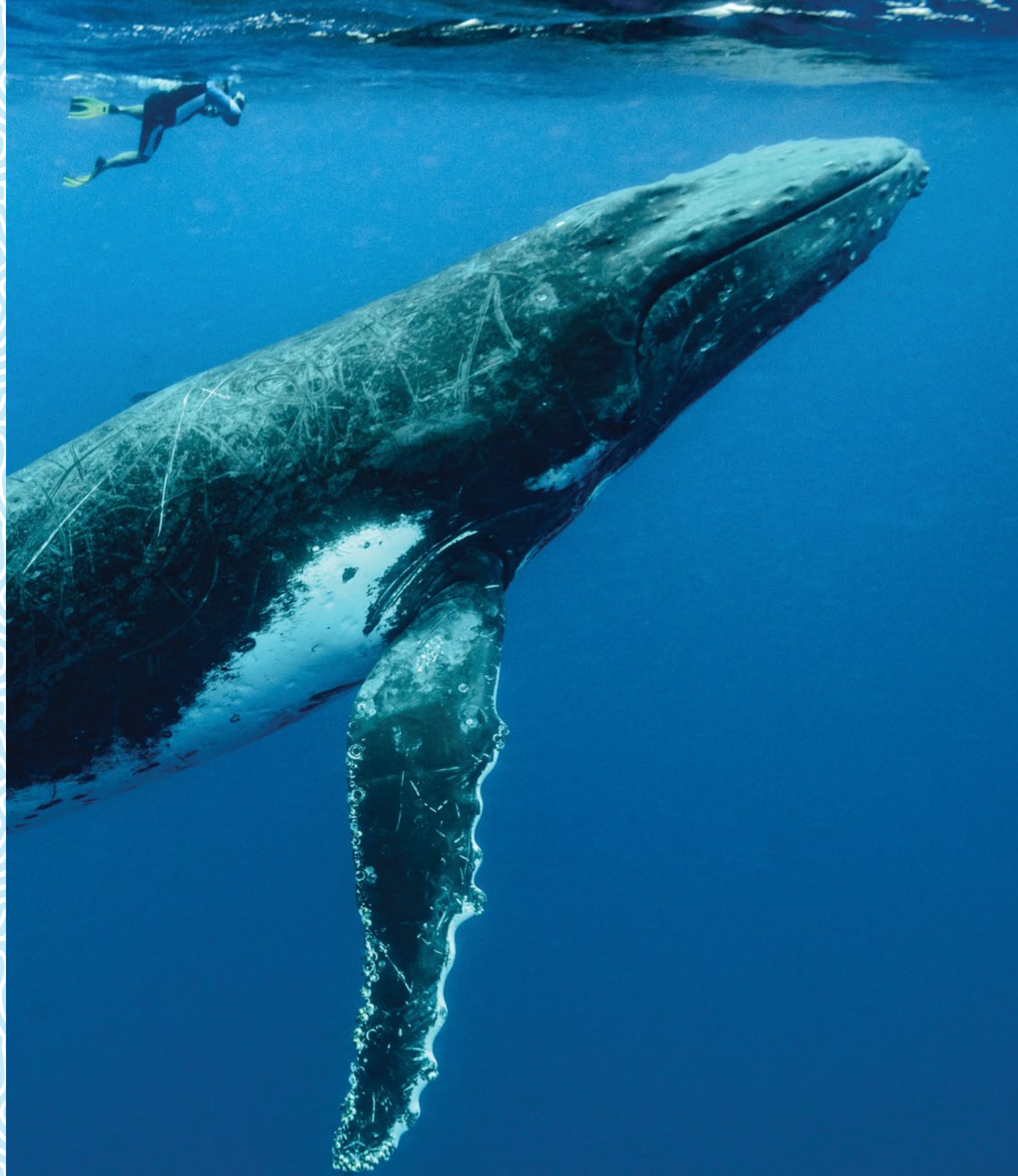
As a result of the analysis of the Mexican government's compliance with the USMCA, Oceana concludes that it is necessary to implement the actions listed below.

- 1) Take measures that contribute to the international efforts aimed at combating IUU fishing, such as the signing of the Port State Measures Agreement and the implementation of actions compatible with this agreement.

- 2) Have public, up-to-date and easily accessible data on fishing vessels flying the Mexican flag, to encourage transparency in the fishing sector.
- 3) Approve and implement an official fish and shellfish traceability standard that ensures that the country is not marketing products derived from illegal, unreported and unregulated (IUU) fishing.
- 4) Implement policies for the recovery of overexploited, deteriorated or collapsing fishing areas, especially on those that have significant social importance and which a greater number of people dedicated to fishing depend on. The foregoing, through a reform to the General Law of Sustainable Fisheries and Aquaculture (LGPAS) that obliges the authorities to restore the Mexican oceans.
- 5) Preserve marine habitats, as well as marine species of great importance, through the protection of marine protected areas, with measures that ensure their effective functioning. Allocating resources to conservation and being efficient with the areas already decreed.

From Oceana we call on authorities to comply with their obligations in order to achieve the well-being of the oceans and those who depend on them. Likewise, we reaffirm our commitment and collaboration to address the problems we face as a country. Combating illegal fishing, ensuring the marketing of seafood, restoring overexploited fisheries and protecting marine habitats are issues that require urgent attention.





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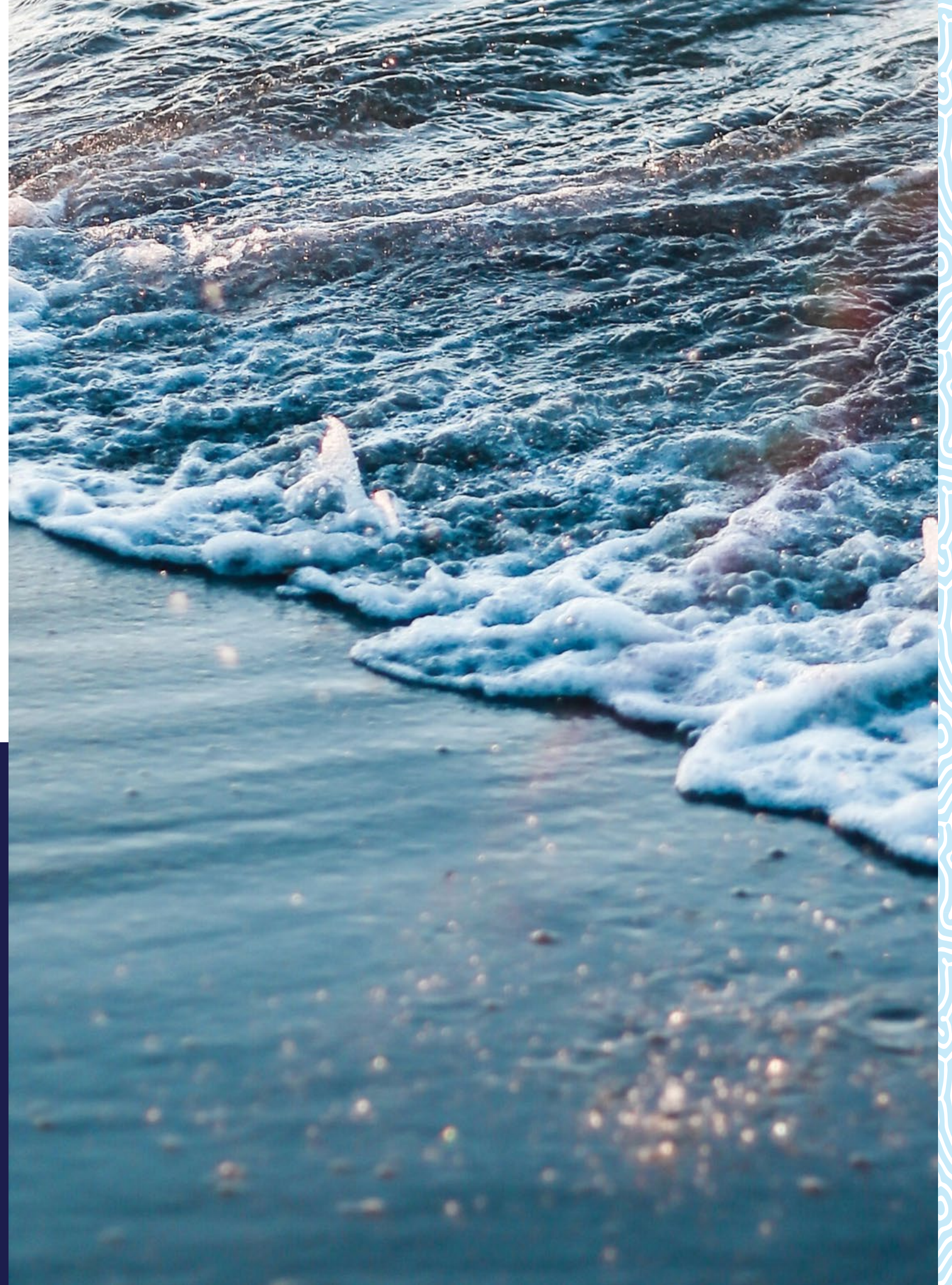
Oceana is the largest international organization focused solely on ocean conservation. Oceana is rebuilding abundant, biodiverse oceans by driving science-based policies in countries that control one-third of the world's wild fish catch.

With more than 200 victories that have stopped overfishing, habitat destruction, pollution and the killing of endangered species like turtles and sharks, Oceana's campaigns are delivering results. A restored ocean means a billion people can enjoy a healthy seafood meal every day, forever. Together, we can save the oceans and help feed the world.

For more information visit:  
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