

**Sustainable Fisheries Partnership  
Gulf of California Shrimp Fishery  
Buyer and Importer  
Procurement Guidance**



**Background**

Sustainable Fisheries Partnership (SFP) has been engaged in efforts to improve the sustainability status of the Mexican Pacific industrial trawl shrimp fishery since 2007. The initial phase of this work involved a demonstration project to test new gear and tracking technology to measure improvements in bycatch reduction, benthic impact and catch verification. The results of the pilot program demonstrated that significant environmental improvements could be made if vessels complied with current Mexican fishery regulations and utilized the technology properly. The results also showed that shrimp vessels operating in the same area with traditional gear not only had greater bycatch but also somewhat greater catch per unit of effort (CPUE). However the increase in productivity among industrial shrimp fishing vessels appears more the result of non-compliance with regulations including disabling turtle excluder devices (TED), less effective or no bycatch reduction devices and often fishing in “no take” zones, including waters of less than five fathoms in depth. It was calculated that the total result of regulatory non-compliance resulted in a 15 percent productivity advantage. SFP has also observed that the artisanal fleet often uses fishing gear that does not meet the Mexican Official Standard (NOM-002) specifications.

In 2008 and 2009 SFP worked with industrial and artisanal fleets to communicate concerns regarding regulatory compliance. Meetings were also held with U.S. importers of Mexican shrimp to convey SFP’s concerns regarding regulatory compliance. During this same period SFP initiated a pre-assessment to the Marine Stewardship Council standard of a number of shrimp fisheries within the Gulf of California. This pre-assessment included both artisanal and industrial shrimp fisheries and evaluated three key performance criteria: stock status, ecosystem health and management effectiveness. These findings indicate major problems in most areas with respect to ecosystem health and management effectiveness while stock status was identified as a major problem only in the Sinaloa trawl and artisanal fisheries. The pre-assessment results matched a Mexican Carta Nacional Pesquera 2006 report that showed most shrimp stocks at maximum sustainable yield or deteriorated.

In late 2009 SFP began warning U.S. importers and buyers that the Mexican shrimp fishery was likely out of compliance with U.S. TED regulations and an embargo on imports was a strong possibility. In March 2010 the U.S. government announced that a survey of Mexican shrimp vessels found wide-spread disregard for TEDs and an embargo on U.S. imports of shrimp from the industrial fleet was announced.

While the embargo generated some publicity it had a minimal effect on the Mexican shrimp industry as the embargo was lifted in October of 2010 just in time for the 2010-2011 shrimp season. The embargo

was lifted after U.S. officials announced that Mexico had “improved its turtle protection strategies to meet U.S. requirements.”

## **Current Situation**

While the U.S. embargo of Mexican shrimp brought attention to the issue of regulatory compliance within the industrial trawl fishery, it has not solved the problems that need to be addressed before U.S. importers and buyers can be assured the product they are purchasing, either from industrial and/or artisanal vessels, is from a legal and environmentally sustainable fishery.

From SFP’s perspective the issues importers and buyers need to be aware of are:

- Most of Mexico’s industrial trawl fisheries remain overcapitalized and overexploited.
- Illegal and “furtive” fishing continues with respect to gear compliance, non authorized vessels and “no take” zones.
- Regulatory enforcement is inadequate.
- Bycatch reduction devices are not currently required.
- TED enforcement is not properly verifiable.

Over the past two years almost every major supermarket chain and many foodservice operators in the United States and Canada has made a commitment to sustainable seafood procurement. Many of these commitments have been made with the guidance and collaboration of various non-governmental organizations (NGOs) such as SFP, World Wildlife Fund, FishWise, Monterey Bay Aquarium and others. These sustainability commitments all include an implied understanding that the products purchased must come from fisheries that are conducted in compliance with all applicable laws and regulations. In other words, the products must have been caught legally using proper gear and within established fishing grounds.

## **Official Mexican Shrimp Standard**

Mexico drafted a standard for their shrimp fishery in 1993 (with amendments thereafter – See appendix). This standard addresses issues such as no take zones, legal mesh sizes and utilization of turtle excluder devices. It is SFP’s position that if compliance with the Mexican shrimp standard was adequately enforced and independently verified; issues related to legality would be greatly reduced.

## **SFP’s Recommendation to Importers and Buyers**

SFP does not believe that under the current situation in Mexico, U.S. importers and retail/foodservice buyers of Mexican shrimp can be assured that the product they are handling is from legally conducted fisheries that are complying fully with the Mexican Official Standard. This situation puts importers and buyers at risk of violating federal law, most specifically the Lacey Act which prohibits the possession and trade in seafood caught illegally. The current situation (including lack of bycatch reduction devices) also

does not satisfy the requirements most major retailers currently have with respect to their sustainability commitments. To address this situation SFP recommends that buyers and importers request evidence of compliance with the Mexican Standard and that these Mexican suppliers be required to enter into a contract with importers (or their nominated auditors) that includes, but is not limited to, verification of compliance with the elements of the Standard. SFP also suggests that buyers and importers communicate their support for the adoption by the Mexican government of the use of bycatch reduction devices in the industrial trawl fishery.

#### **SFP Recommendation to Retail and Foodservice Buyers**

SFP will recommend to retail partners that with respect to shrimp from the Gulf of California their suppliers be required to provide evidence that to the best of their knowledge all Mexican Pacific shrimp products sold to that retailer have been legally caught and conform fully to U.S. law and the Mexican Shrimp Standard. In addition, SFP recommends that retailers request evidence of compliance in the form of audits carried out by independent third parties. Finally, SFP recommends that buyers communicate to their suppliers the importance of bycatch reduction devices and asks their suppliers to support introduction of mandatory utilization of bycatch reduction devices within the fishery.

#### **SFP Recommendation to Importers**

SFP proposes that importers require (by contract<sup>1</sup>) that the following six statements are to be attested to by their supplier of shrimp and shrimp products harvested from waters in the Mexican Pacific.

#### **Supplier Statements:**

The undersigned, on behalf of the supplier of shrimp and shrimp products harvested from the Gulf of California specified below (the “*Supplier*”), hereby certifies as to the following:

1. To the best of its knowledge, all products and materials supplied by the Supplier to any Purchaser or any other customer of, or purchaser from, the Supplier are legally caught and conform fully to all applicable national and international laws (including all statutes and regulations) governing the capture and landing of shrimp.<sup>1</sup> The Supplier also confirms that it fully complies with all applicable Mexican government guidelines and control instructions for such products and materials.
2. Evidence of compliance with Clause 1, above, will be made available to representatives of the parties purchasing such products or materials from the Supplier (whether directly or indirectly) (each, a “*Purchaser*”) and their respective auditors for inspection purposes. Failure of the Supplier to comply with the covenants, representations and warranties made in this certification may lead to legal and commercial consequences including the termination of contracts to which the Supplier is a party (in accordance with the provisions set forth in such contracts).
3. The Supplier understands that it has a responsibility (i) to maintain an up to date state of knowledge regarding applicable laws, statutes, regulations, guidelines, instructions, legislation and recommended procedures which affect the operation of its business and (ii) to ensure that its

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<sup>1</sup> This draft contract has been reviewed the SFP legal counsel with respect to U.S. and Mexican trade law and found not to violate anti-trust provisions. The signatory of this document must be an executive officer with legal responsibility and accountability for the supplying vessel or the company which owns that vessel. A copy of the opinion is in the appendix.

business remains fully compliant in the event of the introduction of any new law, statute, regulation, guideline or instruction or any changes to any existing law, statute, regulation, guideline or instruction.

4. The Supplier is obliged to immediately inform the Purchasers of any allegation or conviction of a breach of any law, statute, regulation, guideline or instruction referred to in Clause 1 above as well as any investigation undertaken by a governmental or industry authority relating to any such allegation or conviction. The Supplier acknowledges and agrees that such authorities may, upon the request of a Purchaser, disclose this information to a Purchaser.
5. The Supplier accepts that a Purchaser may also disclose relevant traceability information about products and material supplied by the Supplier to an applicable governmental or industry authority and any other interested third party, as appropriate.
6. The Supplier acknowledges that activities in execution of this certification will be subject to regular audit measures by independent third parties.

## **Improving Gulf of California Shrimp Fisheries**

The mission of the Sustainable Fisheries Partnership is to maintain healthy ocean and aquatic ecosystems, enhance fishing and fish-farming and secure food supplies. The Mexican shrimp supply chain has a strong role to play in insuring that Gulf of California/Pacific Ocean shrimp is sustainable, legal and financial viable. SFP intends to work with all sectors of the supply chain and the Mexican government to insure that the fishery is using the best available technology to reduce bycatch and environmental impacts and is fully compliant with current fishery regulations. Buyers need to feel confident that when they purchase wild Mexican shrimp that it is from fisheries that are not overexploited or depleted and are on a track to meeting international standards for sustainability.

SFP's plan of action for 2011 includes:

- Letters to key U.S. importers of wild Mexican shrimp warning them of SFP's continued concern regarding illegal fishing in the Gulf, reminding them of the Lacey Act and proposing they use control documents as a mechanism for protecting themselves from consequences of possessing illegally caught shrimp.
- Letters to all SFP commercial retail partners stating that SFP recommends that they will require in their procurement specifications that their suppliers of wild Mexican shrimp adopt control documents as above. SFP will follow up with calls and visits as necessary to persuade companies to adopt the control document or similar approaches.
- Work with U.S. NGOs to ensure they understand the "ask" of major retailers and foodservice operators (i.e., the strategy and key elements such as the control document), and are taking a similar message forward to the companies they partner with.

- Work with Mexican regulators and fishing organizations to improve/enhance regulatory oversight and compliance verification as follow:

Industrial sector

- Operate an independent verification system to enforce the observance of existing regulations
- Operate an independent verifiable vessel monitoring system (VMS) to demonstrate, on a vessel-by-vessel basis, the full observance of the existing regulations
- Generate “white lists” of vessels observing the existing regulations
- Implement a chain of custody system , equivalent to that required by Marine Stewardship Council, for the landings of the white listed vessels

Artisanal sector:

- Operate an independent verification system to enforce the observance of existing regulations
- Implement a chain of custody system , equivalent to those required by MSC, for the landings of the white listed vessels

In addition, SFP will continue running Fishery Improvement Partnerships (FIPs) with artisanal shrimp fisheries in the following areas of Mexico:

- **Upper Gulf of California:** Working with participating U.S. importers, World Wildlife Fund, CONANPESCA, INAPESCA, and the San Felipe Federation of cooperatives in the evaluation of alternative gear to minimize entanglement of endangered species within the Upper Gulf of California biosphere reserve and surrounding waters. Development of alternative species fishing including implementation of a chain of custody and assistance in the establishment of a viable supply chain and markets for the resulting product.
- **Central Sonora:** Working with INAPESCA, a union of fishing cooperatives in the design and implementation of the FIP work plan to address the deficiencies in the fishery highlighted by the Marine Stewardship Council (MSC) pre-assessment.
- **Sinaloa coastal lagoons:** Working with INAPESCA, CONANPESCA, Environmental Defense Fund (EDF) and the federation of cooperatives in the MSC pre-assessment and the development of a chain of custody for that product.
- **Bahia Magdalena:** Working with the artisanal fishery and local producers on a fishery improvement work plan.

## Appendix:

### I. Official Mexican Shrimp Standard

The following is the Mexican Official Standard (NOM) for shrimp fishery compliance and is required for the shrimp to be considered "legal."

Mexican Official Standard 002-1993

Date: December 31st, 1993

Purpose: To guarantee the conservation, preservation and optimal use of the different shrimp species populations in coastal lagoons and estuaries, bays and marine waters of federal jurisdiction.

Geographic application: This NOM is mandatory for those dedicated to the exploitation of all shrimp species in coastal lagoons and estuaries, bays and marine waters of federal jurisdiction within the Gulf of Mexico and Caribbean Sea, as well as the Pacific Ocean including the Gulf of California

Species included (Pacific Ocean and Gulf of California: Camarón café (*Farfantepenaeus californiensis*), Camarón blanco (*Litopenaeus vannamei*); Camarón blanco del sur (*Litopenaeus occidentalis*); Camarón azul (*L. stylirostris*); Camarón cristal (*Penaeus brevistriatus*); Camarón japonés (*Sicyonia spp*); Camarón 7 barbas (*Xiphopenaeus riveti*); Camarón zebra (*Trachypenaeus faoed*); Camarón rojo real (*Pleoticus robustus*); Camarón botalón del Pacífico (*Trachipenaeus pacificus*).

Rules for coastal lagoons, estuaries and bays in the Gulf of Mexico and Caribbean Sea, as well as the Pacific Ocean including the Gulf of California:

1. - Fishing equipment: minor vessel with outboard motor with 55 HP maximum. (Amended in 2006 to 115 HP outboard motors). Minor vessel: carrying capacity < 10 metric tons.
2. - Authorized fishing gear: Catch net with 37.5mm mesh size. Amended in 1997 to allow gillnet and modified cast net (suripera) in Sonora and north of Sinaloa. Amended in 2001 to allow the use of Magdalena I and Suripera in Magdalena Bay, Baja California.
3. - The secretary of fisheries will establish closed season and/or closed areas to protect reproduction and recruitment.

Rules for marine waters of the Pacific Ocean including the Gulf of California:

**Authorized fishing gear: Major vessels (carrying capacity >10 metric tons), bottom trawl with the following characteristics:**

- 1.75 inches minimum mesh size in the body (including wings, selling, squares, floor).
- 1.5 inches minimum mesh size for the cod end
- Double webbing for protection is allowed only for the inferior portion of the cod end
- Certified copy of the fishing license is required onboard

**License holders are obligated to:**

- Avoid the retention or transportation of sea turtles, dead or alive, or portions of sea turtles that could be eventually captured incidentally.
- Return to the sea, at the end of the fishing trawl, the sea turtles incidentally captured, in zones where the possibilities for re capture diminish. Crews must warranty that turtles alive recover before their return to sea.
- Participate in the shrimp research programs
- Allow onboard observers designated by the secretary
- Trawl nets, besides the target species cannot be used in the waters with 0-5 fathoms depth and/or in an area of 5 miles radio around the mouths that communicate bays, coastal lagoons, estuaries and rivers with the open waters unless the cases recommended by the National Institute of Fisheries
- Document and register fishing operations in the authorized logbook, which will be presented with each landing report
- The secretary will determine closed areas and/or seasons for reproduction and recruitment
- Turtle Excluder Device Use in all fishing operations