

Agenda item 5.8
For decision

Council

CNL(06)12

*Discussion Document from the Standing Scientific Committee on Options for
Changing the Request for Advice from ICES*

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Summary

1. The Council has agreed that the three regional Commissions of NASCO should consider whether regulatory measures for fisheries could be adopted and scientific advice from ICES sought on a biennial or multi-year basis. The Standing Scientific Committee was asked to develop a discussion document on options for amending the form and nature of the request for scientific advice in the event that multi-annual regulatory measures are established. This discussion document is attached.
2. For the purposes of considering requirements for scientific advice, four types of regulatory measures might be considered: 'annual measures', 'adjusted multi-annual measures', 'fixed multi-annual measures' and 'flexible multi-annual measures'. If the Commissions set annual or adjusted multi-annual measures, then they will continue to need annual catch advice, although for adjusted multi-annual measures a less comprehensive assessment might be sufficient. If there is an annual request for catch advice it is assumed that NASCO would continue to request the other elements of its advice from ICES. In the case of fixed multi-annual measures and flexible multi-annual measures, there would be options to modify the scope of the request for advice. These are outlined in the attached document. However, the objection procedure under Article 13 in the case of fixed multi-annual measures, and the opt-out arrangements in flexible multi-annual measures, introduce considerable uncertainty with regard to the need for catch advice.
3. At the 'Next Steps for NASCO' Task Force meeting (see CNL(06)15) there was general recognition that it would be beneficial to have multi-year measures but that this may or may not be accompanied by a reduction in the frequency of scientific advice. The Task Force stressed the importance of continued maintenance of scientific databases and ensuring the availability of information on any change in abundance that would require changes to a regulatory measure. Any change to the arrangements for obtaining scientific advice will, therefore, need to be carefully considered by the Council and Commissions. In the light of feedback from the Council and Commissions as to its information and advice needs, in the event that multi-annual measures are agreed, the Standing Scientific Committee will be able to reformulate the request for advice so as to ensure that NASCO continues to have the information it needs to inform its work.

Chairman - Standing Scientific Committee
Edinburgh
7 April, 2006

**Options for changing the form and nature of the scientific advice
required by NASCO –
A discussion document by the Standing Scientific Committee**

1. Background

1.1 In the light of the recommendations of the ‘Next Steps for NASCO’ Working Group, the Council has agreed that the three regional Commissions of NASCO should consider whether regulatory measures for fisheries could be adopted, and scientific advice from ICES sought, on a biennial or multi-year basis (CNL(05)49). One reason for considering this approach was to allow NASCO to use the time available to it most effectively and efficiently while ensuring that the Organization can continue to base its decisions on the best available scientific information in accordance with the Convention. It was recognised by the ‘Next Steps for NASCO’ Working Group that the need for annual catch advice may be less when the advice does not change significantly from year to year. During its meetings in Vichy in June 2005, the Standing Scientific Committee (SSC) had some initial discussions on this issue but was unable to proceed because it did not know whether or not multi-annual measures would be agreed (or their nature), and it had no direction from the Council or Commissions as to the information and advice they would need in the event that catch advice was not required. The SSC therefore proposed to the Council that it might develop a discussion document on options for amending the form and nature of the request for scientific advice in the event that multi-annual regulatory measures were established. The Council agreed and asked that this document be made available to the Parties in advance of the Twenty-Third Annual Meeting.

2. Types of regulatory measure

2.1 In the context of requirements for scientific advice it is useful to consider four types of regulatory measures that NASCO has or may introduce:

- ‘*annual measures*’ which apply only for a single calendar year or fishing season;
- ‘*adjusted multi-annual measures*’ which cover two or more years but which include a mechanism to determine the regulations (e.g. the quota) each year based upon the latest scientific advice;
- ‘*fixed multi-annual measures*’ which cover two or more years, in which the regulation is fixed and from which the Parties cannot withdraw once it becomes binding, unless the objection procedure under Article 13 is invoked by the Party in whose area of fisheries jurisdiction the measure applies;
- ‘*flexible multi-annual measures*’ which are open-ended but where each Party to the measure retains the option to withdraw from it or instigate a review process by a specified date each year.

2.2 Since NASCO’s inception, the regulatory measures (and decisions) agreed by the West Greenland (WGC) and North-East Atlantic (NEAC) Commissions have mainly fallen into the first category (‘*Annual measures*’). These measures have specified the total allowable catch and, where appropriate, effort restrictions and other controls that should be applied in the following fishing period.

- 2.3 The WGC has also agreed an ‘*adjusted multi-annual measure*’ covering the years 1993 - 1997 which established a mechanism for calculating the annual allowable catch on the basis of information from ICES on *inter alia* the harvestable surplus.
- 2.4 ‘*Fixed multi-annual measures*’ were introduced in some years in the late 1980s and early 1990s. These measures specified a total allowable catch for a period of two or more years. Although the allocation of the allowable catch between years could be adjusted by the national management authority, this was not subject to renegotiation by NASCO. Although these measures included no formal withdrawal procedure, they were subject to the conditions of Article 13 of the Convention, which states that one year from the date on which a regulatory measure becomes binding (i.e. 60 days after the Secretary’s notification), a Party in whose area of fisheries jurisdiction the measure applies may denounce it. The measure then ceases to be binding 60 days after the date of receipt by the Secretary of the notice of denunciation, or at a later date if the objecting Party so requests. If Article 13 was invoked, measures agreed at the Annual Meeting and notified to the Parties in June would become binding in August and they would apply at least until early October in the following year (i.e. towards the end of a second season for a West Greenland fishery, or towards the end of the first calendar year for a fishery at Faroes). For a multi-annual measure to be truly fixed the Party in whose area of fisheries jurisdiction the measure applied would need to waive its right to object under Article 13.
- 2.5 Recent catch advice from ICES has changed little for some years and in the periods 1998 – 2000 inclusive and 2003 – 2005 inclusive, the allowable catch for the West Greenland fishery has been restricted to the amount used for internal consumption in Greenland. In 2005, the WGC discussed the possibility of introducing a measure for the 2005 fishery, WGC(05)4, which would have been extended automatically to cover successive fishing seasons unless a Member of the Commission indicated, by 25 April in any year, its intent to terminate the regulatory measure. In that event, negotiation of a new regulatory measure would occur at the next annual meeting of the Commission. This regulatory measure was not adopted, but provides an example of a possible ‘*flexible multi-annual measure*’.

3. Current Request for Scientific Advice from ICES

- 3.1 To date the majority of the scientific information and advice used to support the development of regulatory measures has been provided by ICES in response to an annual request which is developed by the SSC, approved by the Commissions and adopted by the Council.
- 3.2 NASCO’s relationship with ICES is the subject of a Memorandum of Understanding (MoU) which details the administrative and financial arrangements concerning the provision of advice. Under the MoU, ICES agrees to provide advice which is independent and free from political influence and which has been peer-reviewed through the relevant ICES procedure. The implications of any changes to this relationship with ICES are not considered here, but there could be cost savings associated with requesting multi-annual advice.
- 3.3 Currently an annual request for advice is made according to a standard format for each Commission area. In addition, specific requests for information and advice may be included. In 2005, for the first time, ICES was requested to provide multi-annual

catch advice for the years 2006 - 2008 for each Commission area. This paper assumes that multi-annual advice covering a three-year period will be available to NASCO in 2006 and in subsequent years. There are also requests for advice relevant to the entire North Atlantic area.

- 3.4 The timescale for preparing the scientific advice is quite tight: national scientists must compile current data on their fisheries and stocks before the end of March; the ICES Working Group on North Atlantic Salmon (WGNAS) meets in early April to conduct assessments and develop responses to NASCO's requests; a sub-group established by the Advisory Committee on Fishery Management (ACFM) reviews the WGNAS report towards the end of April and provides the ICES advice to NASCO in early May; this must be circulated to NASCO's Parties for their consideration before the annual meeting in early June.

4. Catch Advice Needs

- 4.1 The nature and form of the scientific advice required by NASCO (i.e. who provides it, how frequently and what it contains) will depend in part on which of the four types of regulatory measure is established.

Annual regulatory measures

- 4.2 If the Commissions continue to set annual regulatory measures, it is envisaged that they will continue to require annual catch advice. It would be possible to use multi-annual catch advice from ICES, as now requested, as a basis for establishing annual regulatory measures, in each of a number of years but this might be considered inconsistent with the principle of using the best available scientific information. It is assumed that if there is an annual request to ICES for catch advice to inform establishment of annual regulatory measures then the other information and advice needs would also continue to be sought from ICES.

Adjusted multi-annual regulatory measures

- 4.3 A similar situation will apply for adjusted multi-annual agreements since these require formal review, updating or recalculation each year. However, it may be possible for the advice requested in intervening years to be less comprehensive and targeted at the specific requirements of the review.

Fixed multi-annual regulatory measures

- 4.4 If the Commissions agreed fixed multi-annual measures NASCO would require multi-annual catch advice in the years in which such measures are negotiated. In the intervening years, catch advice would not be needed and the form and nature of the other advice will depend on NASCO's other information needs and the mechanisms chosen to obtain this information. However, in the event that the Party in whose area of fisheries jurisdiction the measure applies objected to the measure under Article 13 of the Convention, there may be a need for extraordinary meetings of the relevant Commission and an additional request for scientific advice to ICES to inform the negotiations. Depending on the timing of the objection it may or may not be accommodated within the ICES work schedule and may result in additional costs to NASCO. This concern would not apply if a truly fixed multi-annual measure was

agreed under which the Party in whose area of fisheries jurisdiction applies waived its right to object under Article 13.

Flexible multi-annual measures

- 4.5 If the Commissions were to agree flexible multi-annual measures, then unless the continuing validity of the measures was questioned, they would only need multi-annual catch advice in the years in which such measures were negotiated. In the intervening years, catch advice may not be needed.
- 4.6 The timing of any ‘opt-out’ in such agreements is important. If it is set too late there may not be adequate time for the compilation of the required data and for the catch advice to be developed to inform the negotiations. In order to allow time for preparations for a WGNAS meeting, the earlier in the year the ‘opt-out’ date could be set the better, provided the data are available. ‘Opt-outs’ later than February may preclude the development of new peer-reviewed catch advice in time for the annual meeting. It is unclear under a flexible measure whether the ‘opt-out’ replaces or is additional to the objection procedure in Article 13.
- 4.7 Since some flexible multi-annual measures could be effectively ‘open-ended’, a limited review to assess the stability of previous catch advice may be desirable. Either the Commissions could introduce a mechanism for this review through ICES or the Parties might undertake their own review. In this regard ICES has been requested to provide an assessment of the minimum information needed which would signal a significant change in the previously provided catch advice for each Commission. One approach would be for the Commissions to seek a limited annual assessment through ICES of the most recently available data to evaluate the stability or otherwise of the previous catch advice. If this limited assessment was carried out, say, in February, prior to the ‘opt-out’ date, and indicated that the catch advice was no longer valid, then a full assessment could be undertaken by the WGNAS. This arrangement could, however, introduce some uncertainty and additional costs to the ICES work programme.

5. Nature and form of advice in “non-catch advice” years

- 5.1 If the WGC and NEAC continue to set annual measures or adjusted multi-annual measures they will continue to need annual catch advice to inform the negotiations. However, if they were able to agree multi-annual measures on the basis of multi-annual advice, there could be years in which no catch advice was required, particularly in the case of truly fixed multi-annual regulatory measures (i.e. where a Party waives its right to denounce a regulation under Article 13). There are uncertainties with other multi-annual measures regarding the need for catch advice because of the uncertainties introduced by objection or ‘opt-out’ procedures. The number of years in which catch advice is not needed could be increased if the Commissions co-ordinated the implementation of measures. For example, if the catch advice requested in 2005 for the years 2006 – 2008 was used to set fixed multi-annual measures by the WGC (2006 – 2008) and the NEAC (2007 – 2009), no catch advice would be needed in either 2007 or 2008 unless there was an objection to the measure. It is assumed that the NAC will not set regulatory measures but will continue to seek multi-annual catch advice to inform its work.

- 5.2 While some concerns were expressed at the consultation meetings about reducing the requests to ICES at a time when the status of some stocks is critically low, the catch advice has been relatively unchanged for some years and there may be benefits to the quality of the catch advice in the longer-term from reducing the demands on the WGNAS. In the absence of a request for catch advice in some years (or a reduction in the request), the WGNAS may be able to devote greater time to the development and refinement of its assessment techniques. However, some such developments (e.g. development of a forecast model for NEAC stocks) are likely to require significantly greater investment of time than is available at the WGNAS meeting. The advantage to the WGNAS of having time to refine its assessment techniques has been noted by the past Chairmen of both the ACFM and of the WGNAS. The assumption is that in the absence of a request for catch advice, there would be continuing commitment to the WGNAS by salmon assessment biologists and that adequate time would be scheduled for its work. In the absence of a request for catch advice it may also be possible for the WGNAS to devote time to specific topics that might be of relevance to NASCO. These might include work related to the SALSEA programme, such as improving coordination of the information derived from index rivers. However, the time available to the WGNAS for these tasks may be limited and the amount of time would be less if the NEAC and WGC measures were not coordinated with regard to the need for catch advice.
- 5.3 In the Strategic Approach for NASCO's 'Next Steps', the Commissions have been asked to consider whether regulatory measures could be adopted and scientific advice from ICES sought on a biennial or multi-annual basis. The implication here is that in some years there would be no request at all to ICES and that either the other information and advice would not be needed in those years or it would be obtained by other means. NASCO currently requests from ICES, on an annual basis, considerable information other than catch advice (e.g. information on catches, farmed salmon production, reporting on significant developments and on new or emerging threats, documenting events in the fisheries and stock status, identification of data deficiencies and research needs, evaluation of management measures, estimates of by-catch). Some of this information is also provided directly to the Council and Commissions by NASCO Parties (e.g. catch statistics, unreported catches, description of management measures, and some information on stock status and events in the fisheries). Under the 'Next Steps' process NASCO is considering moving to more in-depth, but less frequent, reporting on implementation of its agreements. Furthermore, the homewater Parties in NASCO are being asked to report on management measures established for fisheries and their expected effects.
- 5.4 Any such change towards a fully multi-annual request to ICES will need careful consideration by the Council and Commissions to ensure that NASCO continues to have all the information and advice it needs to work effectively. If the WGNAS continued to meet in those years when there was no request at all from NASCO it would have more time to consider its assessment approaches and broader aspects of work relevant to NASCO. One concern raised by the ICES representative at NASCO's Annual Meeting in Vichy was that in the absence of a request for advice from NASCO, there might not be commitment to a WGNAS meeting, and the databases essential to the provision of advice might not be updated. This issue would need to be discussed with ICES at the annual meeting of client Commissions and the ICES Management Committee on the Advisory Process (MCAP) to ensure that

mechanisms are in place to maintain the databases in the event that the WGNAS did not meet annually.

- 5.5 At the 'Next Steps for NASCO' Task Force meeting held in February (see CNL(06)15) there was a general recognition that it would be beneficial to move to multi-year regulatory measures, not least so as to free up time for Special Sessions. However, the Task Force considered that this may or may not be accompanied by a reduction in the frequency of scientific advice. The Task Force stressed the importance of the continued maintenance of the scientific databases and ensuring the availability of information on any changes in abundance that would require changes to its regulatory measures.
- 5.6 In summary, the following options might be considered by the Council and Commissions in deciding on future information and advice needs:

Annual Measures

Continue to request catch advice from ICES on an annual basis to inform negotiation of regulatory measures together with other information and advice to inform the broader aspects of NASCO's work.

Adjusted Multi-Annual Measures

Continue to request catch advice from ICES (which may be less comprehensive in review years) on an annual basis to inform review of regulatory measures together with other information and advice to inform the broader aspects of NASCO's work.

Fixed Multi-Annual Measures

- Option 1: Request multi-annual catch advice from ICES to inform negotiation of regulatory measures; continue to request annually from ICES information and advice to inform the broader aspects of NASCO's work;
- Option 2: Request multi-annual catch advice from ICES to inform negotiation of measures; request multi-annual information and advice from ICES to inform the broader aspects of NASCO's work and consider mechanisms for obtaining information and advice (other than catch advice) directly from the Parties in the intervening years.

Flexible Multi-Annual Measures

- Option 1: Request multi-annual catch advice from ICES to inform negotiation of measures; continue to request annually from ICES information and advice to inform the broader aspects of NASCO's work; only request catch advice in intervening years if triggered by the opt-out by a Commission Member;
- Option 2: As Option 1 but also seek a limited annual assessment from ICES to inform Commission Members regarding the stability of the previous catch advice;

Option 3: Request multi-annual catch advice from ICES to inform negotiation of measures, request multi-annual information and advice from ICES to inform the broader aspects of NASCO's work and consider mechanisms for obtaining annual information and advice (other than catch advice) directly from the Parties in the intervening years;

Option 4: As Option 3 but also seek a limited annual assessment from ICES to inform Commission Members regarding the stability of the previous catch advice.

6. Conclusions

6.1 NASCO seeks to base its management decisions on the best available scientific information and advice. A move to multi-annual regulatory measures, as proposed by the Council in the light of the 'Next Steps for NASCO' Working Group's recommendations, might make more time available at NASCO meetings for information exchange on *inter alia* best practice in managing the many pressures on the resource. Such a change would also offer new options with regard to the requests for advice from ICES, including moving to a fully multi-annual request for advice, and could result in improvements to assessments provided to NASCO. It is possible that costs could be reduced, but the opt-out of Parties from multi-year agreements could result in increased costs.

6.2 The options have been outlined in this discussion document and will need careful consideration by the Council and Commissions in consultation with ICES. In light of feedback from the Council and Commissions as to the information and advice needs and the decisions on regulatory measure taken at the Twenty-Third Annual Meeting, the SSC will be able to reformulate the request for advice so as to ensure that NASCO continues to have the information and advice it needs from ICES to inform its decision-making. The Council and Commissions may wish to consider mechanisms for obtaining the information and advice they need if the decision was taken to move to a fully multi-annual request from ICES.