

Agenda item 5.3  
For Decision

**Council**

**CNL(11)18**

***Draft Terms of Reference  
for an External Performance Review of NASCO's Work***



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### *Draft Terms of Reference for an External Performance Review of NASCO's Work*

#### **Background**

1. Commencing in 2004, NASCO undertook a comprehensive and critical review of its work. This review, called the 'Next Steps' for NASCO, identified the challenges facing NASCO in the management and conservation of wild Atlantic salmon and ways to address these; reviewed the management and organizational structure of NASCO; and considered the procedural aspects of NASCO and the relationship between the Organization, its Parties and stakeholders. This work was conducted by a Working Group comprising representatives of the Parties and the NGOs and involved open consultation meetings with stakeholders in Europe and North America. It resulted in the adoption of a Strategic Approach for NASCO's 'Next Steps', CNL(05)49, which contained recommendations for action in relation to three main challenges. These were:
  - Implementation, commitment and accountability;
  - Transparency and inclusivity; and
  - Raising NASCO's profile.

#### **Progress to date**

2. The Council has moved rapidly to address these challenges. In relation to implementation, commitment and accountability, the jurisdictions developed Implementation Plans in 2007 and have reported annually on progress (according to a new agreed format) and on a three year cycle through in-depth focus area reports (FARs). These FARs have been subject to review, which resulted in recommendations for additional actions to improve commitment to NASCO's agreements. FARs have been prepared and reviewed relating to management of salmon fisheries (2008); habitat protection, restoration and enhancement (2009) and aquaculture and related activities (2010). The first cycle of FAR reporting and review will be completed in 2011. The review process has also led to the adoption of guidelines on management of salmon fisheries and guidelines on habitat protection, restoration and enhancement. The Aquaculture and related activities FAR Review Group was also asked to develop recommendations on best practice. However, this work was conducted through a Task Force set up by the ISFA/NASCO Liaison Group which has developed Guidance on Best Management Practices to Address Impacts of Sea Lice and Escaped Farmed Salmon. This BMP Guidance was adopted by the Council and the International Salmon Farmers Association (ISFA) and has been reviewed and supported by the aquaculture and related activities FAR Review Group.
3. With regard to transparency and inclusivity, procedures have been agreed to allow greater involvement of the NGOs in NASCO's work through the opportunity to

contribute on all agenda items in the Council and Commissions (other than finance and administrative matters) and participation in Committees, the IASRB and Working Groups. To raise NASCO's profile, a Public Relations was established to develop a PR strategy, and both the NASCO and IASRB websites have been redesigned.

4. Thus, NASCO has conducted a thorough, wide-ranging and open performance review of its activities, and in the five years since the adoption of the Strategic Approach it has moved rapidly to implement the broad-ranging changes that were proposed. The NGOs have welcomed these changes. In 2011, a 'Next Steps' Review Group was established *inter alia* to review the 'Next Steps' process, highlighting what this process had delivered, where it had worked well and making recommendations for any actions required to ensure that all the recommendations in the Strategic Approach for NASCO's 'Next Steps' had been implemented. The report of this Review Group is contained in document CNL(11)12.

### **Further Performance Review**

5. During the implementation of the recommendations in the Strategic Approach for NASCO's 'Next Steps', the United Nations' General Assembly adopted a Resolution (61/105) in December 2006 concerning sustainable fisheries. This Resolution includes recommendations concerning the performance of Regional Fisheries Management Organizations (RFMOs). These include the following:
  - urging further efforts by RFMOs to strengthen and modernise their mandates and the measures adopted to reflect modern approaches to fisheries management including relying on the best scientific information and application of the Precautionary and Ecosystem Approaches;
  - urging RFMOs to improve transparency and to ensure that decision-making processes are fair and transparent, rely on best scientific information and incorporate the Precautionary and Ecosystem Approaches; and
  - urging States, through participation in RFMOs, to undertake, on an urgent basis, performance reviews of those RFMOs initiated either by the organization itself or with external partners.
6. At its 2010 Annual Meeting, the Council decided to undertake a further performance review and asked that the 'Next Steps' Review Group develop proposals for consideration by the Council on Terms of Reference, criteria and a budget for the external review. The elements below reflect the initial proposals contained in document CNL(10)48, and the discussions within the 'Next Steps' Review Group.

### **Terms of Reference**

7. The Council agrees to conduct of an external review of NASCO's work with the purpose of assessing the performance of NASCO since its establishment in 1983 against the objectives set out in its Convention and other relevant international instruments addressing the conservation and management of aquatic living resources. This review should take into account, *inter alia*, the NASCO 'Next Steps' process, the

recommendations concerning the performance of RFMOs contained in UN Resolution 61/105, and the criteria attached.

8. This review will be undertaken by a Review Panel comprising three internationally recognised experts: nominees from the Food and Agriculture Organisation of the United Nations and the United Nations Division of Ocean Affairs and the Law of the Sea (DOALAS), together with a fisheries scientist with management experience, appointed by the Council at its Twenty-Eighth Annual Meeting. NASCO Parties and NASCO's accredited NGOs will not serve on the Review Panel nor will the NASCO Secretariat which will, however, provide logistical support to the panel.

### **Timing**

9. In the light of the fact that NASCO has already completed a transparent and comprehensive review of its work, and assessed progress in implementing the Strategic Approach that arose from this review, the Review Panel will meet at NASCO's Headquarters for a period of 3 - 4 days in the first quarter of 2012. It should complete its work no later than 1 April 2012 so that its report can be circulated to the Parties and accredited NGOs prior to the Twenty-Ninth Annual Meeting of NASCO. The report will be presented by a member of the Review Panel. Reasonable travel and subsistence costs associated with attendance at the Review Panel's meeting and for a member of the panel to attend NASCO's Annual Meeting will be reimbursed. An honorarium may also be payable if requested.

Secretary  
Edinburgh  
10 May 2011



**CRITERIA FOR REVIEWING THE PERFORMANCE OF NASCO**

	<b>Area</b>	<b>General criteria</b>	<b>Detailed criteria</b>
1	<i>Conservation and management</i>	Status of living marine resources	<ul style="list-style-type: none"> <li>• Status of marine living resources under the purview of NASCO.</li> <li>• Trends in the status of those resources.</li> <li>• Status of species that belong to the same ecosystems as, or are associated with or dependent upon, targeted marine living resources.</li> <li>• Trends in the status of those species.</li> </ul>
		Ecosystem approach	<ul style="list-style-type: none"> <li>• Extent to which NASCO decisions take account of and incorporate an ecosystem approach to fisheries management.</li> </ul>
		Data collection and sharing	<ul style="list-style-type: none"> <li>• Extent to which NASCO has agreed formats, specifications and timeframes for data submissions. (e.g. as set out in Annex 1 of the 1995 UN Fish Stocks Agreement).</li> <li>• Extent to which NASCO Contracting Parties, individually or through NASCO, collect and share complete and accurate data concerning marine living resources and other relevant data in a timely manner, including analysis of trends in fishing activities over time.</li> <li>• Extent to which fishing and research data and fishing vessel and research vessel data are gathered by NASCO and shared among Parties.</li> <li>• Extent to which NASCO is addressing any gaps in the collection and sharing of data as required.</li> </ul>
		Quality and provision of scientific advice	<ul style="list-style-type: none"> <li>• Extent to which NASCO produces or receives the best scientific advice relevant to the marine living resources under its purview, as well as to the effects of harvesting, research, conservation and associated activities, on the marine ecosystem.</li> </ul>
		Adoption of conservation and management measures	<ul style="list-style-type: none"> <li>• Extent to which NASCO has adopted measures based on the best scientific advice available to ensure the long-term conservation and sustainable use of marine living resources in the Convention Area.</li> <li>• Extent to which NASCO has applied a Precautionary Approach as set forth in Article 6 of the 1995 UN Fish Stocks Agreement, including the application of precautionary reference points.</li> <li>• Extent to which consistent/compatible management measures have been adopted (e.g. as set out in Article 7 of the 1995 UN Fish Stocks Agreement).</li> </ul>

			<ul style="list-style-type: none"> <li>• Extent to which NASCO successfully allocates fishing opportunities consistent with the NASCO Convention and Article 11 of the 1995 UN Fish Stocks Agreement.</li> <li>• Extent to which NASCO has moved toward the adoption of conservation and management measures for previously unregulated fisheries, including new and exploratory fisheries. Extent to which NASCO has taken due account of the need to conserve marine biological diversity and minimize harmful impacts of fishing activities and research on living marine resources and marine ecosystems.</li> <li>• Extent to which NASCO and its Parties have adopted and are implementing effective rebuilding plans for depleted or overfished stocks including guidance for stocks under moratoria.</li> </ul>
		Capacity management	<ul style="list-style-type: none"> <li>• Extent to which NASCO has taken actions to prevent or eliminate excess fishing capacity and effort.</li> <li>• Extent to which NASCO monitors the levels of fishing effort, including taking into account annual notifications of participation by Parties.</li> </ul>
2.	<i>Compliance and enforcement</i>	Flag State duties	<ul style="list-style-type: none"> <li>• Extent to which NASCO Parties are fulfilling their duties as flag States under the NASCO Convention, pursuant to measures adopted by NASCO, and under other international instruments, including, <i>inter alia</i>, the 1982 Law of the Sea Convention, 1995 UN Fish Stocks Agreement and the 1993 FAO Compliance Agreement, as applicable.</li> </ul>
		Port State measures	<ul style="list-style-type: none"> <li>• Extent to which NASCO has adopted measures relating to the exercise of the rights and duties of its Parties as port States, as reflected in Article 23 of the 1995 UN Fish Stocks Agreement, as well as the minimum standards set out in the 2009 FAO Agreement on Port State Measures to Combat IUU Fishing.</li> <li>• Extent to which these measures are effectively implemented.</li> </ul>
3.	<i>Decision-making and dispute settlement</i>	Decision-making	<ul style="list-style-type: none"> <li>• Efficiency of NASCO in addressing critical issues in a timely and effective manner.</li> <li>• Extent to which NASCO has transparent, consistent and adequate decision-making procedures that facilitate the adoption of conservation and management measures in a timely and effective manner.</li> </ul>

		Dispute settlement	<ul style="list-style-type: none"> <li>• Extent to which NASCO has established adequate mechanisms for resolving disputes.</li> </ul>
4.	<i>International cooperation</i>	Transparency	<ul style="list-style-type: none"> <li>• Extent to which NASCO is operating in a transparent manner, taking into account Article 12 of the 1995 UN Fish Stocks Agreement.</li> <li>• Extent to which NASCO decisions, meeting reports, scientific advice upon which decisions are made, and other relevant materials are made publicly available in a timely fashion.</li> </ul>
		Relationship with non-NASCO Parties	<ul style="list-style-type: none"> <li>• Extent to which non-NASCO Parties have undertaken fishing activities in the NASCO Regulatory Area.</li> <li>• Extent to which NASCO facilitates cooperation with non-NASCO Parties, including encouraging non-NASCO Parties to become Parties or to implement NASCO conservation and management measures voluntarily.</li> <li>• Extent to which NASCO provides for action in accordance with international law against non-NASCO Parties undermining the objective of the Convention, as well as measures to deter such activities.</li> </ul>
		Cooperation with other international organisations	<ul style="list-style-type: none"> <li>• Extent to which NASCO cooperates with Regional Fisheries Management Organizations and other international organisations.</li> </ul>
5.	<i>Financial and administrative issues</i>	Availability of resources for activities	<ul style="list-style-type: none"> <li>• Extent to which financial and other resources are made available to achieve the aims of NASCO and to implement NASCO's decisions.</li> <li>• Extent to which the schedule and organization of the meetings could be improved.</li> </ul>