

Council

CNL(10)48

***Terms of Reference for a Review of the 'Next Steps' Process, and Council
Decision Concerning a Further Performance Review***

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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 2010. The review process has also led to the adoption of guidelines on management of salmon fisheries and guidelines are being developed in relation to 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 has been 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 has been reviewed by the aquaculture and related activities FAR Review Group. 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. The NGOs

have welcomed these changes. To raise NASCO's profile, a PR Group has been established (Chaired by the Chairman of NASCO's accredited NGOs) and both the NASCO and IASRB websites have been redesigned. 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.

Need for a Further Performance Review

3. 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 related *inter alia* to the implementation of the 1995 UN Fish Stocks Agreement concerning the conservation and management of straddling and highly migratory fish stocks and related instruments. The Atlantic salmon is not classed as either a highly migratory or a straddling fish stock in the UN Convention on the Law of the Sea, but the 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 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.
4. In 2007 and 2008, the Council discussed the need for a further performance review of NASCO's work in the light of the UN General Assembly Resolution 61/105. It was recognized that the timing of any further review of NASCO's work would be critically important given that the Organization was in the midst of implementing the core elements of the 'Next Steps' process. However, the Parties committed to set up, at the 2010 Annual Meeting, a Review Group to assess the Next Steps process and to advise on the need for, and format of, a further performance review.

Terms of Reference

5. In the light of the Council's agreed approach on this matter, it is proposed that a 'Next Steps' Review Group be established with the following Terms of Reference:
 - (a) 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' have been implemented;

- (b) to review the process used for reporting and evaluation of these reports and advise on any changes for the next reporting cycle;
- (c) to identify any additional areas that might need to be addressed to ensure that NASCO can meet the challenges it faces in managing and conserving Atlantic salmon;
- (d) to review the consistency of the 'Next Steps' review with UN General Assembly Resolution 61/105, and identify any further actions that might be required in accordance with the relevant provisions of this Resolution relating to RFMOs; and
- (e) to develop proposals for consideration by the Council on TORs, criteria and a budget for the external review. The attached annex could provide the basis for the development of such criteria and the Group could also consider TORs used by other RFMOs.

Work schedule

- 6. The Review Group should complete its work no later than 1 April 2011 so that its report can be circulated to the Parties and accredited NGOs prior to the Twenty-Eighth Annual Meeting. The Review Group should present an overview of its findings during a Special Session at the Twenty-Eighth Annual Meeting to allow for an open debate and feedback from all delegates.

Composition of the Review Group

- 7. The Review Group shall comprise the following:
 - (a) one or two representatives from each NASCO Party; and
 - (b) two representatives from the accredited NGOs (preferably one from a European and one from a North American NGO).
- 8. It would be desirable that Heads of Delegations participate in the work of the Review Group. The Review Group will be chaired by either the President or Vice-President and would be supported by the Secretariat.

Council Decision Regarding a Further Performance Review

- 9. A further performance review shall be conducted to assess the performance of NASCO since 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 will take into account *inter alia* the NASCO 'Next Steps' process and the criteria associated with UN Resolution 61/105.
- 10. A Panel shall be created to conduct this further performance review and shall be composed of 3 internationally recognized external experts. Any additional individuals to facilitate the work of the Panel will be agreed at the 2011 Annual Meeting. The NASCO Secretariat shall provide logistical support to the Review Panel and shall not form part of the Panel.

11. At the 2011 Annual Meeting of NASCO, Terms of Reference, criteria and a budget will be agreed for this review. This further performance review shall be initiated immediately following the 2011 Annual Meeting of NASCO.
12. The Panel 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 NASCO Meeting where the report shall be presented to NASCO by the Panel Chair.

CRITERIA FOR REVIEWING THE PERFORMANCE OF NASCO

	<i>Area</i>	<i>General criteria</i>	<i>Detailed criteria</i>
1	<i>Conservation and management</i>	Status of living marine resources	<ul style="list-style-type: none"> • Status of marine living resources under the purview of NASCO. • Trends in the status of those resources. • Status of species that belong to the same ecosystems as, or are associated with or dependent upon, targeted marine living resources. • Trends in the status of those species.
		Ecosystem approach	<ul style="list-style-type: none"> • Extent to which NASCO decisions take account of and incorporate an ecosystem approach to fisheries management.
		Data collection and sharing	<ul style="list-style-type: none"> • Extent to which NASCO has agreed formats, specifications and timeframes for data submissions, taking into account Annex 1 of the 1995 UN Fish Stocks Agreement. • 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. • Extent to which fishing and research data and fishing vessel and research vessel data are gathered by NASCO and shared among Contracting Parties. • Extent to which NASCO is addressing any gaps in the collection and sharing of data as required.
		Quality and provision of scientific advice	<ul style="list-style-type: none"> • Extent to which NASCO produces 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.
		Adoption of conservation and management measures	<ul style="list-style-type: none"> • 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. • 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. • Extent to which consistent/compatible management measures have been adopted as set out in Article 7 of the 1995 UN Fish Stocks

			<p>Agreement.</p> <ul style="list-style-type: none"> • Extent to which NASCO successfully allocates fishing opportunities consistent with the NASCO Convention and Article 11 of the 1995 UN Fish Stocks Agreement. • 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. • Extent to which NASCO has adopted and is implementing effective rebuilding plans for depleted or overfished stocks including guidance for stocks under moratoria.
		Capacity management	<ul style="list-style-type: none"> • Extent to which NASCO has taken actions to prevent or eliminate excess fishing capacity and effort. • Extent to which NASCO monitors the levels of fishing effort, including taking into account annual notifications of participation by Contracting Parties.
2.	<i>Compliance and enforcement</i>	Flag State duties	<ul style="list-style-type: none"> • Extent to which NASCO Contracting Parties are fulfilling their duties as flag States under the NASCO Convention, pursuant to measures adopted by NASCO, and under other international instruments, including, inter alia, the 1982 Law of the Sea Convention, 1995 UN Fish Stocks Agreement and the 1993 FAO Compliance Agreement, as applicable.
		Port State measures	<ul style="list-style-type: none"> • Extent to which NASCO has adopted measures relating to the exercise of the rights and duties of its Contracting 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. • Extent to which these measures are effectively implemented.
3.	<i>Decision-making and dispute settlement</i>	Decision-making	<ul style="list-style-type: none"> • Efficiency of NASCO meetings in addressing critical issues in a timely and effective manner. • 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.
		Dispute settlement	<ul style="list-style-type: none"> • Extent to which NASCO has established adequate mechanisms for resolving disputes.
4.	<i>International cooperation</i>	Transparency	<ul style="list-style-type: none"> • Extent to which NASCO is operating in a transparent manner, taking into account Article 12 of the 1995 UN Fish Stocks Agreement. • 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.
		Relationship with non-Contracting Parties	<ul style="list-style-type: none"> • Extent to which non-Contracting Parties have undertaken fishing activities in the NASCO Regulatory Area. • Extent to which NASCO facilitates cooperation with non-Contracting Parties, including encouraging non-Contracting Parties to become Contracting Parties or to implement NASCO conservation and management measures voluntarily. • Extent to which NASCO provides for action in accordance with international law against non-Contracting Parties undermining the objective of the Convention, as well as measures to deter such activities.
		Cooperation with other international organisations	<ul style="list-style-type: none"> • Extent to which NASCO cooperates with Regional Fisheries Management Organizations and other international organisations.
		Special requirements of developing States	<ul style="list-style-type: none"> • Extent to which NASCO recognises the special needs of developing States and cooperates with developing States, taking into account Part VII of the 1995 UN Fish Stocks Agreement. • Extent to which NASCO Contracting Parties, individually or through the Commission, provide relevant assistance to developing States as reflected in Article 26 of UN Fish Stocks Agreement.
5.	<i>Financial and administrative issues</i>	Availability of resources for activities	<ul style="list-style-type: none"> • Extent to which financial and other resources are made available to achieve the aims of NASCO and to implement NASCO's decisions.
		Efficiency and cost-effectiveness	<ul style="list-style-type: none"> • Extent to which NASCO is efficiently and effectively managing its human and financial resources, including those of the Secretariat. • Extent to which the schedule and organization of the meetings could be improved.

