

The Future Status of the UK Within NASCO: July 2020 Update

Purpose

This paper provides information about the UK's application to accede to the NASCO Convention. It is an update of paper HDIS(20)05, circulated ahead of the cancelled March Heads Inter-Sessional Meeting.

Decisions

Council may wish to discuss and agree:

1. That the Convention be open to accession by the UK;
2. That the UK may become a member of the North-East Atlantic and the West Greenland Commissions should this be requested;
3. What role, if any, the UK might have in the North American Commission;

Additionally, in order to ensure the smooth running of NASCO it would be helpful to understand:

4. Which of the NASCO bodies should have a UK representative.

Background

Until 31 January 2020, the [Convention](#) for the Conservation of Salmon in the North Atlantic Ocean (the Convention) applied to the UK by virtue of its membership of the EU. The UK left the European Union on 31 January 2020 and is now in an 'Implementation Period' until 31 December 2020, during which EU law continues to apply to the UK under the terms set out in the Withdrawal Agreement between the EU and the UK.

The Withdrawal Agreement is a bilateral agreement between the EU and the UK. It sets out the terms of the UK's exit from the European Union.

In order to ensure that the Convention continues to apply to the UK at the end of the Implementation Period (i.e. after 31 December 2020) the UK will need to accede to the Convention as a Contracting Party in its own right.

The UK's application to Accede to the Convention

On 9 July 2020, the Secretariat received an email from the Council of the European Union (the depositary to the NASCO Convention) attaching an application by the United Kingdom to accede to the NASCO Convention and a letter to the President of NASCO. This was circulated on 24 July 2020.

The letter to the President states that '*The United Kingdom intends to accede to the Convention in a manner consistent with its obligations under the Withdrawal Agreement...*'

The application to the Depository states:

'Article 129(4) of the Withdrawal Agreement provides that "[...] during the transition period, the United Kingdom may negotiate, sign and ratify international agreements entered into in its own capacity in the areas of exclusive competence of the Union, provided those agreements do not enter into force or apply during the transition period, unless so authorised by the Union.'" On 3 April 2020 the United Kingdom began the

process of seeking European Union authorisation to accede to the Convention during the Transition Period. That process is currently ongoing.’

The letter from the UK to the President states:

‘I would like to take this opportunity to request that the NASCO Council engage the process under Rule 9 of NASCO’s Rules of Procedure on the basis that, in light of the United Kingdom’s intent to accede to the Convention during the Transition Period, the United Kingdom’s request constitutes a case of special necessity. This would allow the relevant decisions of NASCO to be taken in time to enable the United Kingdom, if approved to do so by NASCO, to deposit its instrument of accession to join NASCO by the autumn meeting.’

In his reply to the UK on 24 July, the President of NASCO stated:

‘The NASCO Council plans to discuss the United Kingdom’s application at a meeting starting on 9 September 2020. In order to facilitate this discussion it would be helpful if you would let me know whether the process of seeking European Union authorisation to accede to the Convention during the Transition Period has concluded.’

NASCO Articles and Rules relating to Accession to the Convention

Article 17 of the NASCO [Convention](#) relates to accession. The Secretary’s understanding of the Convention in this case is:

- the Convention shall be open for accession by the UK, subject to the Council’s approval;
- if the Council decides that the Convention is open for accession by the UK, the UK may deposit its instruments of accession with the Depositary (the Council of the European Union); and
- the UK will accede to the Convention on the date of deposit of its instruments of accession.

NASCO’s ‘Rules of Procedure for the Council’ specify how decisions of the Council are to be taken. Relevant rules are:

- Rule 5. No vote shall be taken unless two thirds of the members of the Council are present;
- Rule 6.1. Decisions of the Council ... shall be taken by a three-quarters majority of the votes of the members present and casting an affirmative or negative vote; and
- Rule 9. Between meetings of the Council and in case of special necessity to be determined by the President, votes may be taken by mail or by other means of textual communication. Such votes shall be considered as roll call votes. The Secretary shall immediately notify the members of the Council of the results of such votes.

Accession to the Convention

If the Council agrees that the Convention is open to accession by the UK, as soon as the UK has deposited its instruments of accession with the Depositary (the Council of the European Union), the Depositary will inform the signatories and acceding Party of this fact and notify them of the date of the accession to the Convention.

Article 17(6) of the Convention states:

‘For each Party ratifying, approving or acceding to this Convention after the deposit of the requisite instruments of ratification, approval or accession under paragraph 5, it shall enter into force on the date of entry into force of the Convention or on the date

of deposit of the instrument of ratification, approval or accession, whichever is the later.'

Membership of NASCO Commissions

In its application, the UK states:

'if this application is approved and the United Kingdom accedes to the Convention, the United Kingdom intends to apply for membership of the West Greenland and North-East Atlantic Commissions of NASCO in accordance with Article 10(3) of the Convention.'

Article 10(3) of the NASCO Convention states:

'A Party not mentioned in paragraph 1(b) may, at its request and upon the unanimous decision of the Council, become a member of the West Greenland Commission or the North-East Atlantic Commission if it is a State of origin for significant quantities of salmon occurring in the respective Commission area or if it exercises fisheries jurisdiction in that area.'*

*Canada, the European Economic Community and the United States of America.

The UK would, therefore, have to request membership of the North-East Atlantic and the West Greenland Commissions after it has deposited its instruments of accession. This would require a further separate vote by Council.

Currently, the EU has a role in the North American Commission. Rule 5 of the Rules of Procedure for the North American Commission states:

'The European Economic Community shall have the right to submit and vote on proposals for regulatory measures concerning salmon stocks originating in the territories referred to in Article 18 of the Convention and shall, for the purposes of these Rules, be deemed a member of the Commission insofar as the consideration of such proposals is concerned.'

The UK's applications makes no mention of the North American Commission.

NASCO Bodies

As you are aware, NASCO's work is often undertaken by bodies made up of representatives nominated by each Party and the NGOs. The Secretariat understands that the UK would be asked to nominate representatives for NASCO bodies such as those listed below, once it becomes a Contracting Party. Confirmation from the Council would be welcome.

- the International Atlantic Salmon Research Board and its Scientific Advisory Group;
- Special Session Steering Committees;
- the Framework of Indicators Working Group for West Greenland;
- the Framework of Indicators Working Group for the North-East Atlantic;
- the *G. salaris* Working Group; and
- the Third Performance Review Working Group (if established).

The Membership of the IP /APR Review Group is different. The Guidelines, [CNL18\(49\)](#), state that it will comprise:

- one representative of Denmark (in respect of the Faroe Islands and Greenland);

- three representatives of **the other Parties** (preferably one from North America and two from Europe);
- two representatives of the NGOs (preferably one from Europe and one from North America); and
- one scientific representative from the Standing Scientific Committee.

It is, therefore, unclear whether the membership of ‘the other Parties’ would be expanded, should the UK accede to the Convention. Council’s decision on this is required.

Secretariat
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