

**CNL\_IS(20)18**  
**(duplicated as CNL(20)56)**

***Report of the September 2020 Inter-Sessional Meeting of the Council of the  
North Atlantic Salmon Conservation Organization***

***By Video Conference***

***9 – 11 September 2020***

**1. Opening of the Meeting**

- 1.1 The President, Serge Doucet (Canada), opened the meeting. He noted that when NASCO's face-to-face Annual Meeting was cancelled due to the Covid-19 pandemic, Parties had agreed that NASCO's business would be conducted through inter-sessional correspondence, video conference and an Inter-Sessional Meeting of the Council to be held in the autumn. Parties agreed that a face-to-face reduced size Inter-Sessional Meeting of the Council would take place during 9-11 September, to allow some of the issues postponed from the virtual Annual Meeting held in June to be addressed.
- 1.2 In light of the continuing restrictions due to the pandemic, the President decided that the autumn Inter-Sessional Meeting could not be held face-to-face. Therefore, the meeting was conducted by video conference. The President thanked participants for their flexibility in working with revised meeting plans over the summer holiday period.
- 1.3 A written Opening Statement was tabled by the United States (Annex 1).
- 1.4 A list of participants at the September Inter-Sessional Meeting of the Council is given in Annex 2.

**2. Adoption of the Agenda**

- 2.1 The Council adopted its Agenda, [CNL\\_IS\(20\)13](#) (Annex 3).

**3. Decisions by the Council on the Implementation Plan Process for the Third Reporting Cycle**

- 3.1 The President reminded Council that the purpose of Implementation Plans (IPs), together with annual reporting of progress on the actions contained within them, is to provide a succinct, transparent, fair and balanced approach for reporting on the implementation of NASCO's Resolutions, Agreements and Guidelines by the Parties / jurisdictions. An external performance review in 2012 proposed Convention change for NASCO but Council agreed to adopt an improved reporting cycle process to provide a vehicle by which NASCO's Parties / jurisdictions were able to demonstrate their commitment to the conservation of wild Atlantic salmon.
- 3.2 He noted that, in 2018, Council committed to strengthening the Implementation Plan process still further for the third reporting cycle by including a greater emphasis on Parties / jurisdictions working toward the achievement of the NASCO goals for sea lice and containment by the end of the reporting period. Council had agreed to the inclusion of mandatory actions for those Parties / jurisdictions with mixed-stock fisheries and with salmon farms. They also agreed that the actions should be strengthened compared to the previous two reporting cycles, through the 'SMART' system, and made the

review of the IPs themselves much more stringent than in the past (detailed in the ‘Guidelines for the Preparation and Evaluation of NASCO Implementation Plans and for Reporting on Progress’, [CNL\(18\)49](#).

- 3.3 The President referred to paper [CNL IS\(20\)03](#) which gives a detailed account of the Agenda item, and the paper, [CNL IS\(20\)11](#), submitted by NASCO’s accredited NGOs. The first issue for discussion was the significance of the Implementation Plan process to the Parties. The President also sought feedback in relation to concerns expressed by the Parties themselves around the IPs for the third reporting cycle.
- 3.4 All Parties agreed that the provision of IPs, together with annual reporting of progress on actions contained within the IPs, is one of the most valuable mechanisms that NASCO has developed. They considered it vitally important as a mechanism to strengthen implementation of NASCO’s Resolutions, Agreements and Guidelines. Parties agreed that they wanted to ensure the process worked well and was robust given its importance.
- 3.5 Parties confirmed their commitment to a strengthened IP process in the third reporting cycle. They highlighted the positive elements of the IP process, including that:
  - IPs in the third reporting cycle are a significant improvement on those submitted in the first and second reporting cycles;
  - in the preparation of the IPs there was, in general, broader consultation with stakeholders than in the past;
  - the IPs are the vehicle to strengthen implementation of NASCO’s Resolutions, Agreements and Guidelines and enable all Parties / jurisdictions to be transparent and accountable in their actions to conserve wild Atlantic salmon;
  - review of the IPs has provided clear, strong signals to Parties / jurisdictions so they can understand how they must improve; and
  - the transparent nature of the process applies pressure, to encourage Parties / jurisdictions to improve continuously.
- 3.6 Parties noted that the work documented in the third reporting cycle was benefiting wild Atlantic salmon. Many IPs highlighted the work conducted and planned to conserve wild Atlantic salmon, such as significant actions on the management and restoration of salmon habitat and the closure of various net and mixed-stock fisheries. Parties agreed that this progress and positive work identified in the IPs should be acknowledged, whilst also being clear where further improvement is needed.
- 3.7 The Co-Chair of the NGOs read a statement in response to this Agenda item (Annex 4).
- 3.8 Parties confirmed their commitment to the IP process, noting its benefits, yet acknowledged that some revision to it was needed to enable the process to work better.
- 3.9 In light of this discussion, Council agreed that ‘Enhanced Guidance from the Council of NASCO for the Review of Implementation Plans’, [CNL\(20\)55](#) (Annex 5), be developed. This document has three sections:
  - the first section confirms the decision by the Council regarding its commitment to the implementation of NASCO’s Resolutions, Agreements and Guidelines under the third reporting cycle (2019-2024). This includes (among other things) the agreement that the President will send letters to the relevant Minister, or other

nominated official, of all Parties / jurisdictions about the strengthened IP process and the importance of demonstrating progress towards the attainment of NASCO's Resolutions, Agreements and Guidelines;

- the second section provides enhanced guidance for the IP / APR Review Group confirming that where a Party / jurisdiction does not submit a revised IP, the most recent revision of their IP shall form the basis for review in November 2020. It includes (among other things) that there will be no overall classification of an IP as 'acceptable' or 'unacceptable'. Instead, sections / areas of the IP should be categorised as either 'satisfactory' or 'unsatisfactory'. It also confirms that the IP / APR Review Group has the flexibility to review IPs to consider if the actions contained within them provide a basis for Parties / jurisdictions to make progress in implementing NASCO's Resolutions, Agreements and Guidelines; and
- the third section sets out a process for ongoing follow up in future years.

#### **4. Future Status of the UK Within NASCO**

4.1 The President referred Parties to paper [CNL\\_IS\(20\)04](#). He noted that on 9 July 2020, the Secretariat received an application by the United Kingdom (UK) to accede to the NASCO Convention (Annex 6) and a letter to the President of NASCO from Victoria Prentis MP, Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs (Annex 7).

4.2 In its application, the UK requested:

*'the approval of the Council of the North Atlantic Salmon Conservation Organization ("NASCO") for the United Kingdom of Great Britain and Northern Ireland (the "United Kingdom") to accede to the Convention. This application is submitted in accordance with Article 17(3) of the Convention.'*

4.3 The letter to the President stated that:

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

4.4 The UK's application stated:

*'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.'*

4.5 In her letter Victoria Prentis MP, stated:

*'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.'*

- 4.6 In his reply to the UK on 24 July (Annex 8), 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.’*
- 4.7 At the time of the Meeting, the President had not received a reply from the UK to his letter. However, on 7 September 2020 the European Commission published its [proposal for a Council Implementing Decision](#) to enable the UK to join five RFMOs (including NASCO) prior to the end of 2020 (i.e. during the ‘Transition Period’). The President noted that the process of the UK seeking European Union authorisation to accede to the Convention during the Transition Period was progressing.
- 4.8 The Council of NASCO agreed that the decision on whether to approve the UK’s accession to the Convention would be taken, by email, in accordance with Article 6 of the Convention, once the European Council publishes its Decision authorising the UK to join during the Transition Period.
- 4.9 The President noted that in its application, the UK set out its intention to apply for membership of the West Greenland and North-East Atlantic Commissions of NASCO, should its application to accede to the Convention be approved. The UK stated:
- ‘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.’*
- 4.10 The President reminded delegates that 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.
- 4.11 He noted that 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.
- 4.12 Council agreed to vote on whether the UK may become a member of the West Greenland and North East Atlantic Commissions at the appropriate time.
- 4.13 Noting its reservation on the proposed 2021 contributions of the Parties during the meeting of the Finance and Administration Committee in June 2020, the representative of the European Union asked the President to request clarification from the UK with respect to its financial contribution to NASCO for 2021, should the UK accede to the NASCO Convention. In particular, clarification was sought on the reference year for catches on which the 2021 contribution would be based. The President agreed to this request.
- 4.14 Finally, under this Agenda item Council considered which of the NASCO bodies should have a UK representative. The President noted that NASCO’s work is often undertaken by bodies made up of representatives nominated by each Party and the NGOs.

4.15 Council agreed that, as an independent Contracting Party, the UK would be accorded all the rights and privileges of any other Contracting Party and be able to nominate representatives for NASCO bodies such as those listed in CNL\_IS(20)04.

## **5. Decisions by the Council on the Process for the Third Performance Review**

5.1 The President noted that in 2018, Council agreed that the process to consider conducting the third performance review of NASCO should begin in 2019, with a view to holding the review in 2021 ([CNL\(18\)45](#)). At its Annual Meeting in 2020, Council agreed to delay the performance review, planned originally for 2021, by one or more years. The Council also agreed to postpone discussion of the process and decisions needed to arrange the third performance review, including a decision on the length of the delay, until the autumn Inter-Sessional Council Meeting.

5.2 The President referred Parties to several documents in relation to this Agenda item. In addition, he noted that although the Performance Review Special Session planned for the June Annual Meeting was cancelled, the speakers provided their papers, which are available on the NASCO website.

5.3 The President noted that since the original meeting papers were circulated, the United States had tabled a proposal ‘Strawman of Terms of Reference for the Third Performance Review of NASCO’ (Annex 9).

5.4 The representative of the United States presented the paper and said she hoped it would guide discussion. The President and Parties thanked the United States for the paper. The Council discussed each of the sections of the Strawman document in considering how best to initiate the third performance review.

5.5 The President asked the Secretary to revise the Strawman document to take account of the discussion between Parties and the NGOs and suggest ways forward where consensus was not reached. He also asked Parties and NGOs to inform the Secretariat, after the meeting, of changes they wished to make to the Strawman document.

5.6 The Council agreed that Parties and the Secretariat would work together to refine the draft Terms of Reference for the third performance review. NGO input would be sought as appropriate. The final Terms of Reference would be agreed in December. Some elements, such as nominating experts for the Review Panel, may occur before final agreement of the Terms of Reference.

## **6. Other Business**

6.1 The representative of Norway asked about future meetings of NASCO and its bodies in light of the continuing global pandemic. The President informed delegates of two decisions. First, that all NASCO meetings for the rest of 2020 would be conducted virtually. Second, that for meetings beyond 2020 (whilst restrictions due to the pandemic remain) contingency plans would be made so that meetings could be held virtually, if necessary. He also noted that he and the Secretariat were considering hybrid meetings in future, where some people would be able to attend in person, whilst others could join virtually.

6.2 The representative of the United States asked about progress in obtaining the required documents from NASCO’s bank such that Council could approve NASCO’s 2019 audited accounts. The Secretary said that the required document had still not been provided by the bank and she was pursuing alternative measures with the help of

NASCO's auditors.

- 6.3 The representative of the United States also asked whether, as agreed at the Annual Meeting in June, Parties had communicated with Iceland about re-joining NASCO. She said that the United States had made contact. No other Party had yet made contact with Iceland.

## **7. Date and Place of the Next Meeting**

- 7.1 As part of its Covid-19 planning, an Inter-Sessional Meeting of the Council was planned to be held during 9-11 December 2020. During the September meeting, Council discussed that the December meeting would likely be similar in nature to this September's meeting.
- 7.2 A number of the Parties noted the significant amount of work involved in securing a mandate and registering a delegation for official Inter-Sessional Meetings of the Council.
- 7.3 Council agreed that the President would work with the Secretariat to develop a Draft Agenda for the December Inter-Sessional Meeting of the Council, taking into consideration Parties' concerns.

## **8. Report of the Meeting**

- 8.1 The Council agreed the report of its Meeting by correspondence.

## **9. Close of the Meeting**

- 9.1 The President closed the Inter-Sessional Meeting of the Council of NASCO.

## **List of Annexes**

- Annex 1      Opening Statement from the United States
- Annex 2      List of Participants
- Annex 3      Agenda, CNL\_IS(20)13
- Annex 4      Statement submitted by the NGO's
- Annex 5      Enhanced Guidance for the Review of Implementation Plans, CNL(20)55
- Annex 6      Application from the UK to Accede to NASCO
- Annex 7      Letter to the President of NASCO from Victoria Prentis MP
- Annex 8      Response to Victoria Prentis MP from the President of NASCO
- Annex 9      Strawman Document for Terms of Reference for an External Performance Review of NASCO's Work received from the United States

*Opening Statement to Council submitted by the United States to the Inter-Sessional Meeting of the Council*

Mr. President, Secretary Hatfield, Assistant Secretary Kenyon, Distinguished Delegates, Observers, Ladies and Gentlemen:

The United States is pleased to participate in this fall intersessional meeting of the NASCO Council. We sincerely thank the NASCO Secretariat for the hard work in preparing for this session. Over the next few days, we look forward to having productive discussions to continue to move forward NASCO's important business during this challenging year.

Given the importance of the Implementation Plan Process for ensuring transparency and accountability in how Parties meet their NASCO responsibilities, we are particularly keen to discuss how the current approach could be strengthened and improved. While the guidelines that are currently in place are quite stringent, they have resulted in a repeating cycle of IP review and update that has become quite burdensome. We are concerned that the process is not achieving the objectives we were aiming for as efficiently and effectively as it should. To date, after significant effort on the part of the Review Group and the Parties, only a few IPs from the current reporting cycle have been accepted. We look forward to exploring potential options to streamline and strengthen this process, which is so essential to the work of this organization.

The United States also strongly supports the conduct of performance reviews for RFMOs, and we remain committed to launching a third comprehensive performance review of NASCO in the near-term, as previously agreed by Council. We hope there will be agreement at this meeting to establish a working group to take on the important job of developing terms of reference for the next performance review and that this work can be completed in time for consideration by the Council at the 2021 Annual Meeting. To facilitate the development of terms of reference, we think it would also be helpful to share some ideas on the design of the next performance review during this meeting, and we are ready to engage in such discussions.

Finally, we are looking forward this week to receiving and discussing information on the interest of the United Kingdom in joining NASCO so the Council can determine appropriate next steps with respect to this important issue.

In closing, on behalf of the United States, I would like to acknowledge Secretary Hatfield, Assistant Secretary Kenyon, and the rest of the Secretariat staff, who have worked tirelessly during this unique and trying time to ensure we can conduct our priority work efficiently and successfully this year. We greatly appreciate their dedication and professionalism.

Thank you.



**2020 List of Participants  
for the September Inter-Sessional Meeting of the Council**

\* Denotes Head of Delegation

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**CNL\_IS(20)13**

***Inter-Sessional Meeting of the Council***

***By Video Conference***

***9 – 11 September 2020***

***Agenda***

- 1. Opening of the Meeting**
- 2. Adoption of the Agenda**
- 3. Decisions by the Council on the Implementation Plan Process for the Third Reporting Cycle**
- 4. Future Status of the UK Within NASCO**
- 5. Decisions by the Council on the Process for the Third Performance Review**
- 6. Other Business**
- 7. Date and Place of the Next Meeting**
- 8. Close of the Meeting**

*Statement to Council submitted by the NGO's*

**The NGO comments are set against a critical time for Atlantic salmon. Many stocks are in crisis across their N Atlantic range and yet we do not see the required urgency to address this situation in the current work of NASCO**

- **The interpretation of the role of the Review Group** we believe was not consistent with making this 3<sup>rd</sup> cycle any more challenging on the parties/jurisdictions than the first two. So, for example, we were not able to fail the Norwegian 30% traffic light rule because the question in the IP template had been answered correctly as an action to counter lice impact on wild fish, even though no-one believes that allowing 30% of wild smolts to die before any serious regulation is imposed moves Norway any closer to achieving the NASCO goal for sea lice.
- **The NGOs were not able to view the 2<sup>nd</sup> IP revisions** and so we could not take advantage of local knowledge in our reviews. We appreciate that this has now been addressed by HoD but it did mean that the November IP review was not as robust as it should have been
- **The NGOs are increasingly frustrated at the lack of commitment** by some parties/jurisdictions to achieving NASCO goals aimed at conserving wild Atlantic salmon. This is especially so with aquaculture but there are still some issues with fisheries management and coastal mixed stock fisheries that need to be addressed

So, the NGOs request the following:

- The Review Group must be permitted to judge IPs on whether the actions move the parties/jurisdictions closer to achieving NASCO goals. Norway, Canada, Scotland and Ireland would all fail under that rule for salmon farming, and Norway for fisheries management. Parties & jurisdictions have all agreed to move towards achieving NASCO goals and the NGOs do not consider it acceptable to cite political decisions back at home as reasons for holding back on those agreements made in this forum.
- Now that Council has agreed NGOs can see IPs before the meeting, **then NGO local knowledge must be taken into account in the Review Group.** For example, England & Wales (before they left the EU) have been stating in both their IPs and APRs for the past 12 years that a new fish passage order is 'imminent' in England, yet it has not been delivered in all that time and is still outstanding, because, we suspect, of the hard lobbying from the run-of-river hydro industry. This is exactly the type of issue where NGO knowledge could play a vital role in holding parties and jurisdictions to account through the IP/APR process
- If we cannot gain an acceptable outcome on the above, the NGOs reserve the right to produce **our own report on individual IPs**, and make them public if necessary. Unless parties and jurisdictions show more commitment to the IP process, then we see this as the only way we can put pressure on national decision-makers to genuinely focus on wild Atlantic salmon conservation rather than supporting industries with the potential to adversely impact the species. At the risk of sounding like a broken record, NASCO's principle objective is wild salmon conservation, and this now has to be the absolute priority of this forum, with the IP process given the teeth it needs to facilitate that focus.

- **And finally, Mr president, the NGOs will be compiling a detailed evidence dossier** to present to the External Performance Review Group, and that exercise will begin after this meeting closes. That report can, of course, be amended prior to submission to the review group if, as we all hope, we see NASCO parties and jurisdictions show more genuine responsibility to wild salmon conservation in their IPs and APRs.

**Thank you, Mr President**

## CNL(20)55

***Enhanced Guidance from the Council of NASCO for the Review of Implementation Plans***

The purpose of this document is:

- A. To confirm decisions by the Council regarding its commitment to the implementation of NASCO's Resolutions, Agreements and Guidelines under the third reporting cycle (2019-2024).
- B. To recognise that the Implementation Plan / Annual Progress Report Review Group (the Review Group) has the flexibility to review Implementation Plans (IPs) to:
  - determine if the IPs provide a fair and equitable basis for assessing the progress that the Party or jurisdiction will make in implementing NASCO's Resolutions, Agreements and Guidelines; and
  - consider if the actions contained within them provide a basis for Parties / jurisdictions to make progress in implementing NASCO's Resolutions, Agreements and Guidelines; and
- C. To clarify Council's interpretation of the Guidelines for the Preparation and Evaluation of NASCO Implementation Plans and for Reporting on Progress, CNL(18)49, (the IP Guidelines).

***To strengthen implementation under the third reporting cycle (2019-2024), the Council has decided that:***

1. The President of NASCO will write, forthwith, to the relevant Minister, or other nominated official<sup>1</sup>, of all Parties / jurisdictions with Implementation Plans (IPs) that are not yet considered as satisfactory by the Review Group. The President will request that Parties / jurisdictions:
  - provide revised IPs to the Secretariat by 1 November 2020;
  - provide an indication with the returned IPs as to which sections / responses have been modified; and
  - explain if the Review Group's suggestions on modifications have not been, or cannot be, addressed with respect to relevant sections / responses.
2. Following the November 2020 review of IPs, for those Parties / jurisdictions with IPs, or sections of IPs, that are still considered by the Review Group to be unsatisfactory, the President of NASCO will write again to the relevant Minister, or other nominated official<sup>1</sup>.
3. The second letter will include the November review, and request a response to include how the Party / jurisdiction will demonstrate progress towards the attainment of NASCO's Resolutions, Agreements and Guidelines in areas where deficiencies have been identified. The intention is to allow the response to be available prior to the IP Special Session webinar in spring 2021.

<sup>1</sup> The Parties will inform the Secretariat of the name and contact details of the appropriate person



4. The letters from the President and the responses will be published on NASCO's website without delay after their receipt by the Secretariat. References to individuals or companies will be redacted from the correspondence prior to its publication.
5. The most recent version of each IP will be maintained on NASCO's website.
6. Any identified follow up on these matters discussed during the IP Special Session webinar in spring 2021 will be communicated to the Council for consideration and appropriate action at the 2021 Annual Meeting.
7. Given the number of IPs and the increasing complexity of reviews, the membership of the Review Group shall be increased by one member, preferably from a Party / jurisdiction not currently represented on the Group.

***Enhanced guidance for the Review Group for their review of Implementation Plans***

8. Where a Party / jurisdiction does not submit a revised IP, the most recent revision of their IP shall form the basis for review in November 2020.
9. There will be no overall classification of an IP as 'acceptable' or 'unacceptable'.
10. Instead, section (1), and each area of sections (2), (3) and (4), should be categorised as either 'satisfactory' or 'unsatisfactory':
  - for clarification, IPs are split into four 'sections' (i.e. (1) Introduction; (2) Management of Salmon Fisheries; (3) Habitat Restoration and Protection; and (4) Aquaculture, Introductions and Transfers and Transgenics); and
  - further, within sections (2), (3) and (4), the information sought is grouped into three 'areas' (i.e. responses to questions; threats and challenges; and SMART actions).
11. Where a section / area is deemed by the Review Group to be unsatisfactory, the Review Group will provide a clear explanation of its decision to the Party / jurisdiction and, where feasible and appropriate, offer specific suggestions / recommendations for how it could be improved.
12. Council recognises the use, and review, of SMART actions as recommended in the IP Guidelines. Where the Review Group considers that an action moves the Party / jurisdiction clearly towards the implementation of NASCO's Resolutions, Agreements and Guidelines even if the action is not entirely in line with the SMART criteria, the Review Group may consider such an action as satisfactory.
13. However, where the elements of an action may appear to adhere to the SMART criteria but the action is considered by the Review Group not to move the Party / jurisdiction towards the implementation of NASCO's Resolutions, Agreements and Guidelines, it should be deemed unsatisfactory. The Review Group should give a clear explanation of their assessment in their feedback.
14. The Review Group should assess the IP on the basis of the information provided by the Parties / jurisdictions. However, the Review Group may still seek clarity over any action they are uncertain about.
15. Parties / jurisdictions should submit their Annual Progress Report (APR) on the basis of their most recent IP submitted, even if the Review Group considers it to contain unsatisfactory sections. The APR templates issued by the Secretariat in January each year will, therefore, be based on the latest IP submitted.

### ***Ongoing follow up***

16. In each year of the third reporting cycle, in November, if the Review Group still considers that any sections / areas of an IP are unsatisfactory, the President will write to the relevant Minister (or other official) of that Party / jurisdiction to bring to their attention the unsatisfactory nature of this part of the IP and the importance of implementing NASCO's Resolutions, Agreements and Guidelines. The President will remind the Party / jurisdiction of their commitment to make progress on implementing NASCO's Resolutions, Agreements and Guidelines, which are essential for ensuring that the objectives of the NASCO Convention to conserve, restore, enhance and rationally manage Atlantic salmon can be met, and enquire about their plans to make and report on progress towards that aim.



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The Depositary  
North Atlantic Salmon Conservation Organization

6 July 2020

## **APPLICATION FOR ACCESSION TO THE CONVENTION FOR THE CONSERVATION OF SALMON IN THE NORTH ATLANTIC OCEAN**

I am writing to you in your capacity as Depositary for the Convention for the Conservation of Salmon in the North Atlantic Ocean of 2 March 1982 (“the Convention”) to request the approval of the Council of the North Atlantic Salmon Conservation Organization (“NASCO”) for the United Kingdom of Great Britain and Northern Ireland (the “United Kingdom”) to accede to the Convention. This application is submitted in accordance with Article 17(3) of the Convention.

On 31 January 2020, the United Kingdom withdrew from the European Union and, in accordance with the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (“the Withdrawal Agreement”), entered a time-limited transition period, which expires at 2300 GMT on 31 December 2020 (“the Transition Period”).

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.

In accordance, therefore, with Article 17(3) of the Convention, the United Kingdom makes this application to accede to the Convention in its own right. The United Kingdom’s intention is to deposit its instrument of accession to take effect during the Transition Period, in a manner consistent with its obligations under the Withdrawal Agreement.

The purpose of taking this approach is to enable the United Kingdom to give full effect to its international obligations, in particular those set out in Articles 63 and 64 of the United Nations Convention on the Law of the Sea and Articles 7 and 8 of the United Nations Fish Stocks

Agreement<sup>1</sup>, with respect to the conservation and management of fish stocks to which the Convention applies. Moreover, and as to the timing of accession, the United Kingdom considers it vital to accede to the Convention as soon as possible to be able to engage fully on matters affecting the United Kingdom beyond the Transition Period, including attending all relevant meetings.

The United Kingdom wishes to take this opportunity to reaffirm its commitment to its international obligations relating to the conservation and management of fish stocks. The United Kingdom Government is committed to the effective implementation of the Convention and binding recommendations adopted in accordance with its terms. Further, 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.

I am most grateful for your assistance in this matter. My officials are available to discuss any questions that you might have.



**VICTORIA PRENTIS MP**

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<sup>1</sup> The United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish stocks, done at New York on 4 December 1995



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The President  
North Atlantic Salmon Conservation Organization  
11 Rutland Square  
Edinburgh  
EH1 2AS

6 July 2020

## APPLICATION FOR ACCESSION TO THE CONVENTION FOR THE CONSERVATION OF SALMON IN THE NORTH ATLANTIC OCEAN

I am writing to you in your capacity as President of the Council of the North Atlantic Salmon Conservation Organization (“NASCO”) in order to inform you of the enclosed application, which has been submitted by the United Kingdom of Great Britain and Northern Ireland (the “United Kingdom”) to the Council of the European Union, in its capacity as Depository for the Convention for the Conservation of Salmon in the North Atlantic Ocean (the “Convention”) and (the “Application”).

The Application formally requests the NASCO Council to approve the United Kingdom’s accession to the Convention in accordance with Article 17(3) of the Convention. As explained in the Application, and consistent with the United Kingdom’s obligations under the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (“the Withdrawal Agreement”), the United Kingdom intends to deposit its instrument of accession during a time-limited transition period, which expires at 2300 GMT on 31 December 2020 (“the Transition Period”).

I understand that, in accordance with Article 6(3) of the Convention, approval requires a decision of the NASCO Council to be taken by a three-quarters majority vote of members present and casting an affirmative or negative vote.

I further understand that votes are generally to be taken at meetings of the NASCO Council but that Rule 9 of NASCO’s Rules of Procedure provides for votes to be taken by mail or by other means of textual communication between meetings of the Council in case of special necessity to be determined by the President.

I also understand that the face-to-face NASCO Annual Meeting in Edinburgh in June was cancelled due to the Covid-19 pandemic. Instead, NASCO’s business for that month was conducted by correspondence and video conference, and I understand that a small meeting is scheduled for the autumn.

Therefore, it is against this background that 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.

The United Kingdom intends to accede to the Convention in a manner consistent with its obligations under the Withdrawal Agreement and with the approval required under Articles 17(3) and 6(3) of the Convention. Further, 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.

The United Kingdom is committed to upholding its international obligations relating to the conservation and management of salmon in the North Atlantic. We consider the work of NASCO to be of the utmost importance and we look forward to continuing and strengthening our active participation.

I would be most grateful for your assistance and my officials would be happy to discuss any questions that you may have about this letter or the enclosed Application.



**VICTORIA PRENTIS MP**

CNL23.064

24 July 2020

Victoria Prentis MP  
c / o Department for Environment, Food & Rural Affairs  
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2 Marsham Street  
LONDON  
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Dear Ms Prentis,

**APPLICATION FOR ACCESSION TO THE CONVENTION FOR THE  
CONSERVATION OF SALMON IN THE NORTH ATLANTIC OCEAN**

Thank you for your letter dated 6 July 2020, requesting that the NASCO Council approves the United Kingdom's accession to the Convention in accordance with Article 17(3).

I am delighted that The United Kingdom wishes to accede to the Convention and is committed to upholding its international obligations relating to the conservation and management of salmon in the North Atlantic.

In your letter, you state 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 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.

In the meantime, if you or your officials wish to discuss this matter further, please do not hesitate to get in touch.

Your sincerely,

A handwritten signature in blue ink, appearing to read 'S. Doucet', with a stylized flourish at the end.

Serge Doucet  
President



***Strawman for Terms of Reference for an External Performance Review of NASCO submitted by the United States on 7 September 2020***

**Terms of Reference**

**Scope:**

1. The Council is conducting a review of all aspects of NASCO's work with the purpose of (1) assessing the performance of NASCO since its establishment in 1984 against the objectives set out in its Convention and related decisions taken pursuant to the Convention as well as other relevant international instruments addressing the conservation and management of aquatic living resources, and (2) evaluating the current challenges facing North Atlantic salmon and NASCO's fitness for addressing them.

2. The scope and objectives of the work to be carried out by the Review Panel will be:

[1. To evaluate how NASCO has responded to the outcome of the 2012 external performance review (CNL(12)11), taking into consideration the work and practices of NASCO's bodies, subsidiary bodies and working groups to date, and also the implementation of the action plan resulting from the recommendations of the NASCO 'Next Steps' process (CNL(05)14).]

[2. To identify areas where improvements are needed to strengthen the organization, including with regard to challenges beyond the management of fisheries, in order to advance the objectives of the NASCO Convention.]

[3. To assess the functioning and efficiency of all NASCO bodies taking into account, among others:]

a. [IR/APR process]

**Criteria**

3. Within the scope and objectives outlined above, the review will be performed on the basis of specific criteria (note: we recommend using [the annex from 2012](#) as a starting point), possibly including the following:

[• Follow-up to the NASCO 'Next Steps' process (CNL(05)14); the 2012 external performance review (CNL(12)11).

• Conservation and management.

• Compliance and enforcement.

• Governance including decision-making, dispute settlement, transparency and confidentiality.

• Science.

• International cooperation.

• Financial and administrative issues.]

### **Panel Composition:**

4. The Review Panel will be composed of [[3] international independent experts], among whom there is experience in relevant areas of science, fisheries and marine ecosystems management, and compliance and enforcement issues.

5. The NASCO Secretariat will provide logistical support and information to the Review Panel but will not form part of the Panel.

### **Selection of the Review Panel Members**

6. NASCO Members may provide in writing XX names to the President of the Council, through the Secretariat, by [DEADLINE]. NASCO Observers may provide in writing XX names. The submission will include a CV and a short presentation of each candidate.

7. The President of the Council, through the Secretariat, will provide to Members, by [DEADLINE], a list containing the names proposed for the appointment of the [XX] experts.

8. NASCO Members will immediately acknowledge receipt of the communication. Members should respond in writing to the President of the Council, through the Secretariat, within [XX] days indicating their [vote for two persons]. In case of a tie between two or more candidates from the same list, a vote will be immediately re-run for those candidates. NASCO Members will reply to the communication from the President of the Council with the list of tied candidates within [XX] days indicating their vote for one person.

9. The President of the Council, immediately after the end of the [XX-day period], or [XX-day period] in case of a tie vote, will, through the Secretariat, inform Members of the result of the selection process.

10. Once the experts with the highest votes have been identified, the Secretariat will write to each person selected by the Members for appointment to the Review Panel, indicating NASCO's desire to appoint him or her, requesting his/her commitment to comply with the terms of the current Decision and seeking his/her positive response. [Should a selected expert no longer be able to serve, the Secretariat will notify the Parties and reach out to the next highest ranked candidate.]

### **Review Panel Functions and Tasks**

11. At the latest by [DEADLINE], the Review Panel will appoint a Chairperson amongst its Members by consensus. The Chairperson should not be directly affiliated with any NASCO Contracting Party. Immediately after his/her appointment the Chairperson will start making the necessary arrangements to ensure the good organisation of the work of the Review Panel, including the distribution of tasks amongst Members of the Panel.

12. The Review Panel will meet at [NASCO's Headquarters] for a period of [X] days no later than [DEADLINE]. The Review Panel may hold a second meeting if they so wish, which will be conducted via electronic means facilitated by the NASCO Secretariat. The Panel should complete its work no later than [DEADLINE] so that its report can be circulated to the Parties and accredited NGOs prior to the [2022] Annual Meeting of NASCO.

13. NASCO will cover the costs associated with the participation of the selected experts. Economy class travel, accommodation and subsistence costs will be available to Review Panel members, if requested, to support their participation. Costs will be borne by the NASCO budget either directly or through voluntary contributions.

14. [The report will be presented by a member of the Review Panel. Reasonable travel and subsistence costs associated with attendance at Review Panel meetings and for a member of

the panel to attend two NASCO Annual Meetings, one to observe and one to present the report, will be reimbursed. An honorarium may also be payable if requested.]

15.[The Contracting Parties will be invited to submit, in confidentiality, views, orally or in writing, (possibly via a questionnaire) for consideration by the review panel. In addition, NASCO's accredited NGOs will be invited to submit views on relevant issues to be considered by the panel.]

16. [The Review Panel will adopt the report and its conclusions and recommendations by consensus. In the event consensus cannot be reached, individual members of the Panel may include their views in the Panel's report.]

### **Budget**

17. [Budget table]

### **Timeline**

18. The work schedule will include the following main steps:

- [October 2020 - 15 January 2021]: Working Group develops Terms of Reference.]
- [Completed by 15 February 2020]: NASCO Parties adopt Terms of Reference intersessionally.
- [Completed 1 April 2021]: Selection of Panel Review experts.
- [By 15 April 2021]: Panel Review experts are contacted by the Secretariat for availability.
- [By End Of April 2021]: Review Panel meetings face-to-face and/or WebEx / videoconference meetings to elect a Review Panel Chair.
- [June 2021]: Panel Review Chair attends 2021 Annual Meeting to gather insight and information on the operations of NASCO.
- [July 2021– February 2022]: Review Panel work, including at least [two] meetings face-to-face and/or WebEx / videoconference meetings, as required.
- [1 March 2022]: Review Panel makes a provisional report available for review by the NASCO Secretariat and Parties for comments.
- [1 April 2022]: Deadline for comments by Parties to the Review Panel's provisional report.
- [1 April – 1 May 2022]: The Secretariat compiles and aggregates all Members' comments to the provisional report.
- [1 May 2022]: The Secretariat circulates a final draft report to Parties, for adoption at the NASCO Annual Meeting in 2022.
- [Annual Meeting 2022]: The Review Panel Chair, or his/her designee, presents the final draft report at the NASCO Annual Meeting.
- [After Annual Meeting 2022]: If adopted by the NASCO Commission, the third Performance Review report is uploaded to the public part of the NASCO website and disseminated widely by the Secretariat.