

	<p>Council</p> <p><i>Special Session of the Council on the Evaluation of Implementation Plans under the Third Reporting Cycle (2019 – 2024) – Inter-Sessional Correspondence</i></p>	<p>CNL(21)24</p> <p>Agenda item 5(b)</p>
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Special Session of the Council on the Evaluation of Implementation Plans under the Third Reporting Cycle (2019 – 2024) – Inter-Sessional Correspondence

The Council held a period of inter-sessional correspondence from 12 – 23 April, prior to its Special Session held by webinar on the evaluation of the 2019 – 2024 Implementation Plans (IPs). The Secretariat has collated this correspondence which is set out below. Where correspondence was related to the process involved in the evaluation of the 2019 – 2024 IPs, this has been collated under the heading ‘General Process’. Where questions have been addressed to different Parties this is collated separately and by Party.

General Process

Guidance for the Review Group

1. *Comment from the United States*

We are concerned that there may have been differing expectations of the Parties following the discussions at the intersessional meeting regarding providing the review group with clearer instructions to guide the review process. It appears that what was provided may have been open to different interpretations leading to unanticipated outcomes. We think it is important to have a discussion about the IP review process and provide the review group with very clear direction for future reviews.

2. *Comment from Canada*

Canada has several comments on the continuing challenges in the IP process. After significant discussion at the September 2020 Intersessional meeting and additional enhanced guidance agreed following that meeting, we are still left with all jurisdictions but one having IPs that are deemed to be at least in part unsatisfactory. While we share the US’s reluctance to have discussions of the IPs themselves be entirely displaced in the limited time we will have available during the May 5 webinar, we think it is important to share these comments now, for discussion as appropriate during the correspondence period, during the webinar itself, and/or ahead of and during the Annual Meeting. We hope these and other comments, and any discussion that follows, will help move us collectively toward resolution of the remaining issues.

3. *Comment from Canada*

Like the US, we wonder if what were intended to be clearer instructions included in the enhanced guidance (CNL(20)55) were not clear enough, and may have been interpreted differently by the Review Group than was intended by the Council. Thus, further discussion on the guidance and interpretation may be warranted.

4. *Comment from Canada*

Related to this point, as noted in our April 1 letter to the NASCO President in response to the review of our IP:

“...there are several criteria and format obstacles within the IP process that Canada is unlikely to surmount if the process is not revised. In particular, the federal structure where finfish aquaculture in Atlantic Canada is managed at the

provincial level makes it difficult and often impossible to satisfy the requirements for 'SMART,' granular detail on aquaculture management. Furthermore, in at least some provinces there is privacy legislation that prevents answering some of the questions, such as specific details and locations of escapes."

As part of any discussion of further guidance to give to the Review Group, it may be helpful to consider how this situation, which we understand is not unique to Canada, can be resolved.

5. *Comment from Canada*

Depending on the outcomes of discussion between now and the end of the Annual Meeting, another option may be to consider asking holding any further formal revision of the IPs until the Performance Review Panel to provides advice on how the process might be revised to better meet its objectives, in line with the review of other aspects of NASCO's performance recognizing their advice may not be implemented until the next reporting cycle.

Clarification of Terminology

6. *Comment from the United States*

We believe it would be advisable to clarify, within the aquaculture sections of the IP template, whether the requested responses are specific to commercial aquaculture production or, in the alternative, whether the responses should also address conservation hatcheries as well. This clarity would be particularly beneficial for 1.6 and Part 4 of the IP template. The term "Fish Farm" is used in the template and is undefined. "Fish farm" appears to be interpreted by many Parties/jurisdictions to be limited to facilities used for commercial production, yet the template also requests information on "all forms" of aquaculture which may introduce uncertainty and result in inconsistent reporting across Parties/jurisdictions.

7. *Comment from Canada*

Canada is supportive of the proposal to re-evaluate the term "fish farms" and propose instead using the term "aquaculture facilities", as consistent with the rest of the IP. In Canada, aquaculture is regulated by the activities conducted and their impact, rather than by their purpose (i.e. commercial vs conservation hatcheries).

Interaction with the Review Group

8. *Comment from the United States*

As we consider the potential for future meetings to be in a hybrid format, we would be interested in a discussion to consider allowing representatives from the Parties to listen in on the review group's discussions to gain greater clarity and understanding of the reviews and the areas that the review group discussed that require further consideration. At this time, we are not suggesting any change in practice. We would like to explore this idea further.

9. *Comment from Canada*

Another option worth consideration would be to include in the IP process more opportunities for interaction between Parties/jurisdictions and the Review Group. This could take a variety of forms, such as correspondence and/or having Parties/jurisdictions sit as observers during Review Group meetings. Such interaction may help those developing IPs on behalf of Parties/jurisdictions to better understand the rationale and

intentions behind the Review Group's work. From the Review Group's side, it may be helpful during their review if they could communicate with, and request background information from, the Parties/jurisdictions to better inform their review.

France (in respect of St Pierre and Miquelon)

10. Comment from the United States

France on behalf of St. Pierre et Miquelon does not submit an IP/APR for SPM. Given St. Pierre et Miquelon's status as an observer with a mixed stock fishery that intercepts fish from North American stocks, we are very interested in the information that would be contained in an IP and associated APRs. In our view, not having this information is a gap in the IP/APR process. We would like to explore this further during the Council discussion at the Annual Meeting.

Questions for Canada

11. Question from the United States

We appreciated the opportunity to review Canada's IP given Canada is our nearest neighbor, and we are interested in understanding how activities in Canada may potentially impact U.S.-origin Atlantic salmon. Of particular interest are activities related to aquaculture, specifically in and around Cobscook Bay. We would like to work with Canada to further understand how aquaculture activities are regulated and managed to minimize impacts on wild salmonids, including U.S.-origin Atlantic salmon. We have a keen interest in understanding how escapes and sea lice are monitored and believe both Parties may benefit from enhanced collaboration on these issues. Furthermore, to address deficiencies within our own IP, we are exploring actions that we can take to investigate the impacts that sea lice may have on wild salmon, particularly in the area of Cobscook Bay, and would like to discuss potential opportunities to collaborate on this matter.

Response from Canada

In 2019, DFO and NOAA initiated a bilateral meeting process through the Canada-USA Regulatory Cooperative Council Initiative. We look forward to addressing these ideas and issues as part of those meetings and will add them to the agenda of the next DFO/NOAA bilateral discussion.

12. Question from the United States

Section 4.4 of the IP calls attention to research that developed tools to differentiate between wild, farmed, hybrid, and subsequent generations of introgression of farmed Atlantic salmon into wild Atlantic salmon populations, as well as implement models to predict the extent and effect of escaped fish and successful spawning of farmed Atlantic salmon with native populations. We would be very interested to learn more about this work, particularly as it pertains to salmon aquaculture in New Brunswick - our nearest neighbor. We are not requesting this information during this intersessional period, but look forward to future discussions on this topic between Canada and the U.S.

Response from Canada

In 2019, DFO and NOAA initiated a bilateral meeting process through the Canada-USA Regulatory Cooperative Council Initiative. We look forward to addressing these ideas and issues as part of those meetings and will add them to the agenda of the next DFO/NOAA bilateral discussion.

13. Question from the United States

In addition to the opportunities for future discussion and collaboration flagged above, we have the following clarifying question related to information reported in your IP: Section 4.11, Action A1-B: This language is specific to New Brunswick only. Could you please clarify if this action is relevant to Nova Scotia, and Newfoundland and Labrador as well?

Response from Canada

Yes, Action A1-B “Enhanced use of non-therapeutic measures to address sea lice” is relevant to Nova Scotia and Newfoundland and Labrador as well. Measures in those provinces are reflected in Canada’s Annual Progress Report for 2020.

Questions for the United States

14. Question from Canada

Canada is appreciative of our good working relationship with the US in aquaculture. As we learn from each other, Canada would appreciate if the US would please provide any additional information available to help expand our understanding of:

- I. the *Executive Order on Seafood Competitiveness* and the *Advancing the Quality and Understanding of American Aquaculture Act* as it related to the federal regulatory framework for future aquaculture development;

Response from the United States

In May 2020, former U.S. President Trump signed a new Executive Order (Number 13921) promoting American seafood competitiveness and economic growth. More information on the Executive Order is available on our website (<https://www.fisheries.noaa.gov/leadership-message/president-signs-new-executive-order-promoting-american-seafood-competitiveness-and>). At this time, no new federal regulatory framework for future aquaculture development has been proposed. We would be happy to discuss this topic with you further but will need more time to coordinate with our Office of Aquaculture. We note that any future federal actions associated with aquaculture development will need to comply with the U.S. Endangered Species Act (ESA), which requires consultation on any federal action (including permit issuance) that may affect a species listed under the ESA, including the Gulf of Maine distinct population segment of Atlantic salmon.

- II. the interplay between state and federal agencies for aquaculture management, specifically with containment (e.g. IP section 4.3, are escapes managed at the state or federal level? How is NOAA working with the state of Maine on escapes?); and

Response from the United States

Consistent with our response to a similar question posed by Canada during the 2020 Intersessional Correspondence Period, we are happy to provide additional information on the state and federal roles related to aquaculture management. Both the U.S. Army Corp of Engineers (USACE) and Maine Department of Environmental Protection (MDEP) issue permits for in-water aquaculture operations. Both agencies require permit conditions for the protection of Atlantic salmon. All aquaculture operations must operate in compliance with section 7 of the U.S. Endangered Species Act (ESA), which requires consultation with the National Oceanic and Atmospheric Administration’s National Marine Fisheries Service (NMFS). NMFS may require project specific measures through ESA consultation that the USACE is required to implement as permit conditions. Each of the agencies (MDEP and USACE) monitors for compliance with

conservation measures associated with ESA listed Atlantic salmon to minimize any potential impacts from escapes of farmed fish such as requiring the use of all North American origin fish, genetic marking of all farmed fish and containment management plans which are reviewed and audited annually for each commercial Atlantic salmon facility (freshwater hatcheries and marine net pens) in Maine. Escapes of farmed Atlantic salmon greater than 50 fish 2kg or larger from marine net pens are reported to both State and federal agencies according to permit conditions. NMFS coordinates with the MDEP to ensure state Pollution Discharge Elimination System permits (MEPDES) are consistent with federal USACE permit requirements for marking and containment of farmed Atlantic salmon.

- III. the development of the two land-based aquaculture facilities proposed in Maine on our recent NAC bilateral (e.g. any further progress on this development and proposed timelines?)

Response from the United States

As described in our NAC report (NAC(21)05), the two land-based facilities (both proposing to use recirculating aquaculture systems (RAS)) currently proposed in the State of Maine are sited adjacent to Penobscot Bay. One site is located along the Penobscot River estuary in Bucksport, Maine (Whole Oceans). The other proposed site is located further down the coast in the town of Belfast, Maine (Nordic Aquafarms). As we stated in our NAC report, these facilities propose to rear Atlantic salmon from egg to harvestable size in large tanks, entirely indoors. These facilities require a number of state, local, and/or federal permits; these permitting processes include reviews of the design of each facility, including containment management system plans, disinfection of discharge, and influent and effluent pipeline outfalls. Nordic Aquafarms and Whole Oceans have received state permits but local and federal (U.S. Army Corps of Engineers) permits, if required, remain pending as of April 2021 and therefore, construction of these facilities has not yet started. The facilities that require federal permits will also require consultation with NMFS under section 7 of the U.S. Endangered Species Act. State of Maine MPDES permits for each of these facilities require a containment management plan and biosecurity plan approved by NMFS to minimize or eliminate any potential for release of farmed fish or any pathogens of concern. We do not have any additional information on project timelines at this time.