



NAMMCO and ICES

Development of a cooperation - from MOU to LOA and a joint WG

Prepared by Geneviève Desportes, updated from the document NAMMCO/20/13 prepared for CN20 (2011) by Lockyer) – 100818.

1. Background

As far back as 1992, when the NAMMCO Agreement became a legal document and NAMMCO a legal entity, cooperation and advice at the scientific level was sought from ICES. From the outset, NAMMCO shared the goal of an ecosystem approach to management with ICES. Requests for scientific advice were forwarded to ICES on matters of multi-species ecosystem modelling, status of pilot whales in the northeast Atlantic, harp and hooded seal biology, food supply and population status, contaminants in the ecosystem, and radioactive leakage.

There were several attempts to formalise the cooperation between the two organisations in the early years between 1993 and 1996, with a draft document for a proposed Memorandum of Understanding (MoU) between NAMMCO and ICES prepared in 1996. The actual and potential links with ICES at this stage were several, and also NAMMCO's interests in ICES activities:

- ICES is mentioned in the NAMMCO Agreement in the context of establishing working arrangements with ICES (Article 4 (d)).
- ICES had been instrumental in setting up the Pilot Whale Study Group that was important for NAMMCO.
- NAMMCO organised the Shetland Conference on Marine Mammals and the Marine Environment, 20-21 April 1995, in which ICES participated, the proceedings of which were published in *The Science of the Total Environment*.
- NAMMCO desired to have cooperation with the ICES/NAFO Joint Working Group on Harp and Hooded Seals because of scientific advice on stocks.
- An exchange of observers between NAMMCO and ICES had been established.
- NAMMCO was interested in the ICES Study Group on marine mammals and the reports from this group.
- NAMMCO wanted to address the issue of possible shared databases with ICES e.g. on by-catch.

However, in January 1997, NAMMCO was informed that the possible MoU would be put on hold for the reasons that ICES was undertaking a restructuring and changing its Rules of Procedure. In addition the format of the MoU did not conform to the preferred format which was based on the OSPAR model. An informal agreement on the co-sponsoring of scientific events was discussed.

By 2003, the question of the MoU was reopened with reference to existing MoUs between ICES and OSPAR, HELCOM, NEAFC, IBSFC (now defunct), NASCO and the EC/DG-Fisheries concerning scientific advice. The possible political problems associated with whaling matters were recognised and a request was made to ICES to now consider a formal agreement based exclusively on scientific matters.

By 2005, the matter of the MoU was again raised, and a new draft discussed. However, there was some disagreement with the details of the wording, in particular with the reference to the use of the term “management”. Again, ICES emphasised that cooperation should focus on scientific matters. Additional changes were made to this draft which was reconsidered in 2006. By November 2006, ICES informed the NAMMCO Secretariat that ICES would be undertaking a strategic review of all the MoUs that ICES were signatory to, and at this stage the matter was left open. ICES again emphasised that this situation should in no way touch the excellent scientific cooperation between ICES and NAMMCO, which should be continued to the benefit of both organisations.

It is worth noting that during this period, scientific collaboration continued. In 2005, NAMMCO organised and held an *Ad Hoc* working group on Enhancing Ecosystem-Based Management during the ICES Annual Science Conference held in Aberdeen, 20-21 September. A representative from ICES attended the sessions. In 2008, the symposium *The Role of Marine Mammals in the Ecosystem in the 21st Century* was held in Dartmouth, Canada, 29 September – 1 October. The symposium was jointly sponsored by ICES, NAFO and NAMMCO.

After this, ICES and NAMMCO agreed to jointly organise and sponsor a scientific workshop on monitoring of by-catch of marine mammals and seabirds in the summer of 2010. This was actually held at ICES HQ, Copenhagen, and a joint report published online. The text of this report, *Report of the Joint NAMMCO-ICES Workshop on By-Catch Monitoring*, can be found at <http://nammco.wpengine.com/wp-content/uploads/2017/01/joint-ices-nammco-workshop-2010-report.pdf> (Annex 5 of NAMMCO 20 report).

2. Present situation at NAMMCO 20 – September 2011.

After enquiries regarding the outcome of ICES’ strategic review, NAMMCO was informed that ICES had precedents that precluded them from signing a MoU with NAMMCO, and that because cooperation was to be at a purely scientific level, a Letter of Agreement would be most appropriate. NAMMCO was advised of two examples of letters of agreement that were signed by ICES, and the suggestion was to redraft and modify the existing text as a Letter of Agreement. By March 2010, this new draft document was delivered to ICES for consideration. As NAMMCO understands the situation, this draft was considered by the ICES Advisory Committee in June 2010 and a decision not to approve the document was made. This decision was communicated personally by the ICES General Secretary to the NAMMCO General Secretary at the end of June 2010. NAMMCO have since been awaiting a full explanation from ICES on the matter.

Explanation provided by the president of ICES at NAMMCO 20 and Parties reactions.

Council 20 Report, 10.1.1 ICES collaboration

The General Secretary introduced the document NAMMCO/20/13 which summarised the historical cooperation between NAMMCO and ICES, and also the attempts to agree on a formal agreement of cooperation between the two organisations. NAMMCO had been awaiting a response from ICES regarding a new drafted Letter of Agreement submitted in March 2010 and considered by the Advisory Committee of ICES in June 2010.

The Faroe Islands especially emphasised the Article 4 d) of the NAMMCO Agreement where ICES is specifically mentioned as a scientific advisory body.

The observer for and President of ICES (2010-12), Michael Sinclair, was invited to respond. He thanked NAMMCO delegates for inviting ICES as an observer. He stated that communication had been poor from ICES’ side. Apologies for this were extended. In his introduction, he drew attention to the enhanced understanding of the role of marine mammals in the ecosystem being an important issue for both organisations. In the ICES current strategic plan there is a requirement for a strengthening of cooperation with organisations that have expertise in areas where ICES is weak (e.g. marine mammals). It appeared to support collaborative work yet seems in opposition to the actual reaction of ICES to NAMMCO.

In 2005 and 2006, there was a mixed reception to the draft MOU among the delegates from the Member States. Members from NAMMCO countries were supportive but some others were not. A vote was not held. There was thus a postponement of the decision on the MoU. A Letter of Agreement was subsequently suggested as being more appropriate (as this is now the mechanism for agreements when there are no financial aspects), but the ICES Bureau turned it down. The matter was brought back to Council which subsequently revoked the authority of the Bureau to approve Letters of Agreement. As of now, a draft Letter of Agreement will go to ICES Council for a vote in October 2011. Sinclair expressed appreciation for being at the current meeting and being able to understand more about the functioning and work of NAMMCO.

The Faroe Islands thanked ICES for the very frank explanation, noting their appreciation to the President of ICES to have taken the time to attend NAMMCO 20 himself, and hoped such active representation would continue at future meetings.

Norway and Iceland both expressed surprise that ICES has not yet accepted formal links with NAMMCO. NAMMCO is a management organisation with its own SC and close cooperation with IWC and other fisheries organisations and is included in many Regional Fisheries Bodies (RFB) meetings. NAMMCO and ICES both have joint interests in the role of marine mammals in marine ecosystems and in by-catch data reporting and mitigation methods.

3. LOA NAMMCO-ICES and later relation

A letter of understanding was signed between the two organisations on November 4, 2011 /Appendix 1).

ICES was represented at NAMMCO 21 (2012) but did not attend later Council meetings. In total, ICES has been directly represented at 6 NAMMCO Council meetings, 1993, 1994, 1996, 2005, 2011 and 2012.

Council 22 (February 2014) Report, 10.1 Cooperation with international organisations - ICES

The Council registered disappointment at the non-participation of ICES as observer at NAMMCO 22. Participation had occurred in 2011 and 2012, and links and communication had been strengthened since the signing of the Letter of Agreement between NAMMCO and ICES for cooperation on scientific matters. In relation to requests for more formal links with ICES on matters of the seal working groups (see item 3.1 above and also in NAMMCO/22/8; Section 2.2), the Secretariat agreed to contact ICES and open a dialogue.

4. NAMMCO invitation to ICES to a joint ICES/NAFO/NAMMCO WG on harp and hooded seals

NAMMCO Scientific Committee (SC) members have participated in the ICES Working Group on Harp and Hooded Seals (WGHARP) for many years. Considering the previous and ongoing work of the NAMMCO SC members on the WGHARP, and the strengthened scientific ties between ICES and NAMMCO, the NAMMCO SC suggested that a more formal cooperation between ICES and NAMMCO on harp and hooded seals, such as through the ICES WGHARP, would be desirable. Formalizing a Joint NAMMCO/ICES WGHARP would also allow for improved communication between NAMMCO and ICES on these matters, which will aid in continuing to provide the best possible scientifically based advice for these species.

Report of the Scientific Committee, SC22 (November 2013), 7.1.2 Future work

...The SC noted that the previous joint ICES/NAFO WG on harp and hooded seals is now exclusively an ICES WG. Noting the current Letter of Agreement between NAMMCO and ICES on scientific cooperation, the SC advises Council that a more formal cooperation between ICES and NAMMCO on harp and hooded seals such as through the ICES WGHARP would be desirable, and that a formal request to ICES for such cooperation could be sent.

NAMMCO Scientific Secretary, J.Prewitt, emailed on 14 August 2014 ([email not archived](#)) ICES General Secretary, A.C. Brusendorff (ACB), for proposing the formalizing of the scientific cooperation between ICES and NAMMCO via a joint Working Group on Harp and Hooded Seals (WGHARP). The answer was received by NAMMCO on 22 January 2015, after consultation between ICES and NAFO, and was positive (Appendix 2).

Council 23 (February 2015) Report, 10.1 Cooperation with international organisations

ICES - Lockyer reported on the formalisation of cooperation between NAMMCO and ICES regarding the seal WG, WGHARP, which was the successor to the former ICES/NAFO WG on harp and hooded seals (NAMMCO/23/INFO 1). This was a very desirable step and recognition of NAMMCO's important role in seal scientific and management advice.

Scientific Committee 22 (November 2015) Report

5.3.1. Joint ICES/NAFO/NAMMCO Working Group Harp and Hooded Seals (WGHARP)

...The SC was informed that ICES and the North Atlantic Fisheries Organization (NAFO) have accepted NAMMCO's request to join the WGHARP. The Secretariat will communicate with the ICES Secretariat before the next WGHARP meeting (scheduled for August 2016) to clarify the procedures in WGHARP, in particular how requests should be forwarded for review. It was noted that a previous request from Greenland to the WGHARP chair was not discussed at the meeting because it had not followed proper procedure. The hope is that NAMMCO can facilitate processes such as this.

5. First meeting of the joint ICES/NAFO/NAMMCO WG on harp and hooded seals

A successful joint meeting was held at ICES HQ in Copenhagen on 26-30 September, although the full name of the WG was not acknowledged in the Executive Summary and the Opening Remarks. For the first time. WGHARP benefitted of the presence of invited experts, who could be supported by NAMMCO, as it is the case in other NAMMCO WGs.

Some logistic/administrative details need to be solved, like the confidentiality of the report and meeting documents, as well as the presence of observers at meeting. Also, Greenland is a Party to NAMMCO but represented by Denmark at ICES.

Scientific Committee 23 (November 2016) Report

5.3.1. Joint ICES/NAFO/NAMMCO WGHARP

This fall was the first meeting of this group with NAMMCO as an official member. Prewitt updated the SC that there may be some issues between ICES, NAFO, and NAMMCO to discuss on the functioning of the WGHARP. For example, Greenland is represented by Denmark to ICES, however in NAMMCO Greenland is the member country. Additionally, the WGHARP may need to adopt Rules of Procedure to address such issues as confidentiality of the report and meeting documents, presence of observers to the meetings, invitations to external experts, election of chairs, etc. A similar set of ROPs is now in place for NAMMCO's other joint working group, the JCNB-NAMMCO JWG, and these new ROPs would likely follow this model. The Secretariat will follow up on issues such as this.

Haug noted that the WGHARP welcomed the involvement of NAMMCO to the group, particularly due to the ability of NAMMCO to invite (and financially support) external experts. At this meeting, NAMMCO invited Sophie Smout (UK) and Kimberly Murray (US), and the WG felt that it was valuable to have these new people to the group.

NAMMCO will follow up on the administrative issues mentioned above and propose rules of procedures at the next meeting, in Spring or fall 2019 in Tromsø.

LETTER OF AGREEMENT
BETWEEN
THE NORTH ATLANTIC MARINE MAMMAL COMMISSION (NAMMCO)
AND THE
INTERNATIONAL COUNCIL FOR THE EXPLORATION OF THE SEAS (ICES)

Based on their mutual interest in

1. Promoting and enhancing cooperation on research on marine mammals, their role in marine ecosystems including their relationship to exploited species;
2. Better understanding the effects on marine mammals of marine pollution and other human activities;
3. Providing scientific information to member governments, and the regulatory commissions with which cooperative relationships have been established;

The North Atlantic Marine Mammal Commission, with office address at the Science Park, Sykehusveien 21-23, N-9294 Tromsø, Norway, and hereinafter referred to as NAMMCO, and the International Council for the Exploration of the Sea, with office address at H.C. Andersen Boulevard 44-46, DK-1553 Copenhagen V, Denmark, hereinafter referred to as ICES, agree to undertake the following activities:

1. Each Party will keep the other informed of activities that may be of mutual interest.
2. There shall be reciprocal consultations between the Parties on matters related to the exchange of relevant data, such as on marine mammal abundance, distribution and utilisation.
3. There shall be reciprocal exchange of observers at meetings where matters of mutual interest are discussed.
4. The Parties will coordinate programmes, and avoid unnecessary duplication in the study of marine mammals and their role in the marine ecosystems of the North Atlantic and its adjacent seas.

ISSUES OF COMMON INTEREST

Strengthening scientific research as the basis for conservation and sustainable management of marine living resources. In this respect, the cooperation will be of mutual benefit for both NAMMCO and ICES.

Developing a common approach to and cooperating on specific issues, for example through joint workshops, symposia or conferences on key issues related to marine science, as well as through cooperation on education, training and technology transfer.

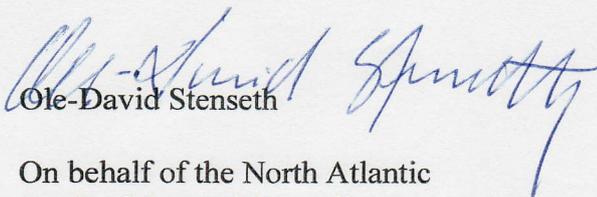
Facilitating mutual access to relevant Committees and Expert Groups, and co-sponsoring existing and new groups where appropriate.

Publishing and otherwise disseminating the results of collaborative activities covered by this Agreement.

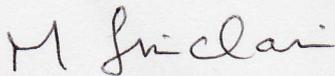
Signed on behalf of NAMMCO and ICES:

Date: 4/11-11

Date:


Ole-David Stenseth

On behalf of the North Atlantic
Marine Mammal Council


Michael Sinclair

On behalf of the International
Council for the Exploration of the Sea

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Our Ref: G.51/AB/EJ

22 January 2015

Subject: Formalizing WGHARP as a joint ICES / NAFO / NAMMCO working group

Dear Jill,

Please excuse the long delay in responding to your email of 14 August 2014 regarding formalizing cooperation between ICES and NAMMCO via a joint Working Group on Harp and Hooded Seals (WGHARP). WGHARP is already a joint ICES group with the Northwest Atlantic Fisheries Organization (NAFO), therefore, it was necessary to consult with NAFO regarding your request. I corresponded with NAFO Executive Secretary Fred Kingston who was positive regarding the proposal for wider collaboration on this topic. He advised that new amendments to the NAFO convention may limit NAFO participation in WGHARP when these amendments come into force.

However, I suggest we now agree to make WGHARP a joint ICES/NAFO/NAMMCO group and deal with future changes when necessary.

The aim of this proposal is to:

- get the best data basis for our work;
- to the extent possible streamline our working procedures, and ensure that we through one rather than several working groups, deal with the issues at stake;
- while ensuring that the partner organizations each work within their respective remits.

The way to deal with the last point above is that when it comes to the Terms of Reference for the proposed joint group it is clear that each organization will work within its remits, which also means that there may be ToRs at specific meetings which are only relevant for other organizations. Also as is the case for these joint groups, it is up to each organization to participate and provide meeting support, according to their established procedures.

Yours sincerely,

A handwritten signature in black ink that reads "Anne Christine Brusendorff".

Anne Christine Brusendorff
General Secretary

CC.

Fred Kingston, Executive Secretary NAFO
Mike Hammill, Chair of WGHARP