

## SUMMARY OF PERFORMANCE REVIEW RECOMMENDATIONS FOR MCS

(prepared by Secretariat, GD)

The recommendations from the Performance Review Panel (PRP) forwarded from the PRWG to the Management Committees (see document NAMMCO/28/MC/07, and on which the PRWG requests a response from the MCs, can be dealt with in two categories.

Some of the recommendations (i.e. RC12, 13, 18, 20, 23, 25 and 87) relate to the quality of the data NAMMCO uses, recommending improvement and standardisation. However, these recommendations are primarily relevant for the other committees, the Council and the Parties and are already being dealt with on the initiative of NAMMCO itself. They therefore do not need to be considered further by the MCs.

One of these is *de facto* a compliment from the PRP to the MCs: “The Panel notes the positive improvement made at the last meeting of the Management Committees and the Council (2018) with the introduction of the list of “*Recent proposals for conservation and management and research recommendations*” as a tool to assess progress made on recommended conservation and management measures. [PRP18-RC5].”

Extracting recommendations focused on data quality, the recommendations the MCs should focus on are therefore RC5, 24, 28, 29, 30, 38 and 41 (or part thereof). These recommendations pertain to five issues. The table below gives these recommendations, or their relevant parts, sorted according to these five issues and provides the related comments of the PRWG. [Document MC07 provides the full recommendations as they appear in the report of the Performance Review, including parts that the PRWG did not consider relevant for the MCs].

The five issues of relevance to the MCs are:

### **1) Application of a precautionary approach/principle in NAMMCO [PRP18-RC5]**

The PRP recommended that NAMMCO apply a precautionary approach (see below \*\*\* for an extract of the of the report of the PRP explaining its view on why NAMMCO should do this). The report questions whether NAMMCO does this, in which way, and how the precautionary approach is defined in the framework of NAMMCO.

The PRWG requests the MCs to consider whether the precautionary principle is sufficiently applied in providing management advice and to define how it should be applied in the framework of NAMMCO.

### **2) Prioritisation of assessment efforts [PRP18-RC38], [PRP18-RC24], [PRP18-RC5]**

Following logically on from issue one, is the question of whether the assessments of the different stocks are prioritised as they should be? The PRP felt that NAMMCO should define and follow a prioritisation plan for its assessment efforts, based on the status of the stocks, and in particular whether they were hunted or not.

This is considered an important point by the PRWG, which requests the MCs to prioritise the effort in assessing/managing the different stocks in collaboration with the SC’s review of the stock status (AE, trends, removals relative to stock size, knowledge gaps, etc).

### **3) Rebuilding plans for depleted stocks [PRP18-RC41]**

The PRP highlights that NAMMCO does not have a rebuilding plan for depleted stocks (although some depleted stocks are increasing following management advice from NAMMCO) and recommends that this should be developed.

The MCs are asked to consider whether NAMMCO should develop rebuilding plans for depleted stocks.

**4) Facilitating the responses of the SC to request for advice [PRP18-RC29]**

The PRP suggests that the SC would be better able to provide its advice if the MCs included clear management objectives for the stocks and /or for NAMMCO when formulating their requests for advice and recommendations concerning scientific research.

The PRWG requests that the MCs define clear management objectives.

**5) MCs and SC: prerogatives and relationship [PRP18-RC5], [PRP18-RC28], [PRP18-RC29], [PRP18-RC30]**

There has been some lack of understanding regarding the relative role and prerogative of the MCs and the SC in the generation of management advice, which has provoked some tensions. The PRP recommended that these roles and prerogatives be more clearly defined.

The PRWG ask both MCs and SC to examine the present RoPs and assess whether the role of the different committees could be better defined.

The PRWG also suggests that this incomprehension may also be due to a lack of proper communication between the MCs and SC and that more thorough explanations behind recommendations and advice would alleviate the issue.

## Recommendations specific to the Management Committees

| 1) Application of a precautionary approach in NAMMCO  | PRWG comments   |                           |
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| <p>The PRP urges Member Countries to <b>apply the required level of precaution and recommends:</b></p> <p>[PRP18-RC5]</p>   | <p>Is the precautionary principle sufficiently applied in the provision of management advice?</p>   | <p>MCs</p>                |
| <p><b>(1) populations with observed declining trends and subject to hunting</b> (e.g. hooded seals in Greenland Sea, grey and harbour seals in Iceland, ringed seals in Svalbard, grey seals in Trøndelag-Nordland, fin whales, humpback whales and white-beaked dolphins in West Greenland, minke in Icelandic coastal waters), as well as a number of <b>poorly known stocks that are affected by direct and indirect takes</b> (e.g. bearded seals in West and East Greenland, bearded seals in Svalbard, killer whales in West and East Greenland, possibly white-sided dolphins in Faroe Islands, harbour porpoise in Norwegian waters) <b>are given the proper attention;</b></p> | <p><b>SC to prepare/review an overview of the stock status (AE, trends, removals, etc), then MCs to prioritise the effort in managing the different stocks.</b></p> | <p>SC (+Sec),<br/>MCs</p> |
| <p><b>(2)</b> all these cases be fully reconsidered as a matter of priority to (a) confirm that hunts are sustainable, (b) solve all inconsistencies and (c) produce and make publicly available, in a simplified manner, all necessary data that can confirm or otherwise that hunts do not harm these stocks;</p>   | <p><b>However, management decisions remain up to the Parties.</b></p>   | <p>//<br/>Parties</p>     |

| 2) Prioritisation of assessment efforts   | PRWG comments  |                             |
|---|--|-----------------------------|
| <p><b>(6)</b> [ The PRP recommends the] NAMMCO Scientific Committee establish, with the support of the Secretariat, a <b>systematic procedure to assess species and stocks</b>. In order not to duplicate efforts and streamline existing approaches</p> <p>[PRP18-RC5]</p>   | <p><b>An overview of SC assessment procedures is in progress.</b></p> <p><b>Defining coordination with other organisations</b></p> <p><b>Prioritisation of assessment efforts.</b></p>                                     | <p>SC,<br/>MCs,<br/>CNL</p> |
| <p>The PRP recommends to <b>make the process of developing conservation and management measures for stocks that have not been previously managed more efficient</b>. This should include <b>prioritizing stocks based on factors including the biological status of the stock</b> ("unknown," "of concern," etc.).</p> <p>It may also include <b>expanding NAMMCO's efforts to collect the data that is necessary</b> to make determinations about which stocks are priorities and to conduct assessments of those stocks that are deemed priorities.</p> <p>[PRP18-RC38]</p> | <p><b>Concerns poorly managed species/stocks. Are we effective and efficient in our management processes?</b></p> <p><b>Relation to management objectives, application of precautionary approach, quality of data.</b></p> | <p>JMC</p>                  |
| <p>Given limited budgets, the Panel recommends that <b>the Council, on a regular basis, review priorities given to addressing identified gaps in data collection.</b></p> <p>[PRP18-RC24]</p>   | <p><b>Relates to the prioritisation of management efforts</b></p>  | <p>MCs</p>                  |

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| <p>This includes <b>the adoption by the Council of a work plan to tackle the most urgent cases in terms of data collection and assessments</b>, also taking into account the ageing of available abundance estimates.</p> <p>[PRP18-RC5]</p> |  |  |
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| 3) Rebuilding plans for depleted stocks   | PRWG comments   |                    |
|---|---|--------------------|
| <p>The Panel was unable to find any evidence that NAMMCO has adopted a rebuilding plan for any of the stocks that the Scientific Committee has found to be depleted.</p> <p>[PRP18-RC41]</p>  | <p><b>No plan <i>per se</i>, but some stocks are rebuilding (narwhal, beluga, walrus...).</b></p> <p><b>Get comments from MCs and SC</b></p>  | <p>MCs,<br/>SC</p> |
| 4) More usable request of advice to SC  | PRWG comments   |                    |
| <p>The Panel concludes that the Scientific Committee would be better able to provide advice that considers the management objectives that are important to NAMMCO and its members, <b>if the Management Committees would identify relevant management objectives when formulating recommendations concerning scientific research.</b> Providing this information would help to eliminate situations in which the Scientific Committee provides advice that does not take into account relevant factors.</p> <p>[PRP18-RC29]</p> | <p><b>Better communication needed:</b></p> <ul style="list-style-type: none"> <li>- SC to better to explain the basis for its advice.</li> <li>- MCs to explain more clearly their reasoning when not supporting advice from the SC.</li> </ul> | <p>MCs,<br/>SC</p> |

| 5) MCs and SC: prerogatives and relationship  | PRWG comments   |                    |
|---|---|--------------------|
| <p><b>The Council implements PRP18-RC 28 on developing clear and transparent working methods on interactions between committees</b></p> <p>[PRP18-RC5]</p>  | <p><b>Better communication needed:</b></p> <ul style="list-style-type: none"> <li>- SC to better explain the basis for its advice.</li> <li>- MCs to explain more clearly their reasoning when not supporting advice from the SC.</li> </ul>                        | <p>MCs,<br/>SC</p> |
| <p>The Panel is concerned about the process for developing and recommending conservation and management advice.</p> <p>As currently implemented, it can result in actions by NAMMCO that can be construed as a rejection of the best available scientific advice as developed by the Scientific Committee. In addition, a lack of clarity in the way that the process works appears to have created tension between participants in certain NAMMCO bodies. The series of events described above has caused some to raise questions about the roles and responsibilities of the various components of the Commission including the Council, the Management Committees and the Scientific Committees.</p> <p>These questions include whether the MCC was acting beyond its authority by, for example, seeking to substitute its judgment for the judgment of the Scientific Committee concerning the validity of the criteria to be used to make a scientific determination about how to define the management units.</p> | <p><b>Relates to better communication and more thorough explanation of advice and recommendations - cf RC5 (1,2).</b></p> <p><b>Refer to SC and MCs for their views on existing RoPs and possible improvements, and to MCs to define management objectives.</b></p> | <p>MCs,<br/>SC</p> |

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|---|--|------------|
| <p>Questions have also been raised about whether recommendations made by NAMMCO to its members about the conservation and management of marine mammals could be made solely to protect hunting interests without regards to impacts on the sustainability of a stock. These kinds of perceptions can damage the credibility of the Commission.</p> <p>The Panel recommends that <b>NAMMCO take steps to eliminate the chances that they will occur.</b></p> <p>[PRP18-RC28]</p>   |  |            |
| <p>The Panel also recommends that the <b>Council develop rules of procedure that define the relationship between the Management Committees and the Scientific Committees and how they will interact.</b></p> <p>These rules should confirm the particular areas of responsibility of the Management Committees and the Scientific Committee. They should also acknowledge the overlap in their work. These rules should address the Management Committees' use of the advice of the Scientific Committee in the development of conservation and management measures for NAMMCO members.</p> <p>The Panel believes that it would be better for NAMMCO if it avoids circumstances under which a Management Committee decides that it will not recommend the advice provided by the Scientific Committee to the relevant member(s) in a conservation and management measure. In the unusual circumstance in which a Management Committee does not adopt the advice of the Scientific Committee, the Management Committee should explain the reasons why clearly and transparently.</p> <p>[PRP18-RC29]</p> | <p><b>Relates to better communication and a more thorough explanation of advice and recommendations - cf RC5 (1,2).</b></p> <p><b>Refer to SC and MCs for their views on existing RoPs and possible improvements and to MCs to define management objectives.</b></p> |            |
| <p>Panel also recommends that the Management Committees <b>modify the language used to describe their response to the advice of the Scientific Committee.</b> Currently, the Management Committees “endorse” or choose to “not endorse” Scientific Committee advice. This can be viewed as suggesting that the Management Committee has evaluated and made a decision about the quality of the information provided. The Panel suggests that instead the Management Committees should consider using “supporting” or “noted, but not supporting”.</p> <p>[PRP18-RC30]</p>   | <p><b>Cf. roles of committees</b></p>  | <p>MCs</p> |



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**\*\*\* Below is an extract of the Performance Review Panel Report (page 56 and following, without references) explaining why the PRP thinks NAMMCO should follow a precautionary approach but needs to define it.**

2.2.5.4 INTRODUCTION TO DETAILED CRITERION 1.5.2 “EXTENT TO WHICH NAMMCO 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]”

Principle 15 of the Rio Declaration on Environment and Development provides that “in order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall be not used as a reason for postponing cost-effective measures to prevent environmental degradation”. The need to apply the precautionary approach in the fisheries context and to develop precautionary reference points is further confirmed in Article 5 and Annex II of the “1995 UN Fish Stocks Agreement”. Article 5 and Annex II also provide guidance on how the precautionary approach should be implemented. The basic features of the precautionary approach as it is applied to natural resource management are that it: 1) calls for more caution where the information used for decision-making is uncertain, unreliable or inadequate; 2) does not allow the absence of information to prevent or delay conservation action; and 3) defines, in advance, rules for how a natural resource will be managed if one of a set of predetermined events occurs. The 1995 UN Fish Stocks Agreement describes these predetermined events in terms of reaching reference points or levels, referred to as conservation (limit), precautionary and target reference points, that indicate the status of a population through a measure of the abundance of a particular stock. Implementation of the precautionary approach requires collaboration between scientists and managers to define objectives that guide the choice of reference points or levels, particularly precautionary and target reference points and levels. Application of the precautionary approach is an answer to uncertainty in the management of natural resources.

NAMMCO is an advisory body and cannot, of course, apply the precautionary approach as that term is used in the 1995 UN Fish Stocks Agreement, to the marine mammal stocks about which it provides advice. However, it can offer tools and information that allow its members to apply the precautionary approach to the stocks that they are managing. The ICES/NAFO/NAMMCO Working Group on harp and hooded seals (WGHARP) has accomplished that by developing a framework approach for the management of harp and hooded seals. Under this approach, a reference level is established at the highest population level observed or inferred for a particular stock. Also, this approach sets a precautionary level at 70% of the reference level and a critical level at 30% of the reference level. Below the critical level, the population is considered to be in danger of serious harm while a population that falls between the critical and precautionary levels is a conservation concern. WGHARP also recommended a set of decision rules for management actions to be taken if the stock reaches one of these predefined levels. Norway began to apply this framework to the management of Greenland Sea harp seals in 2010. Greenland reports that it has also applied the WGHARP recommendations to its harvest of the Northwest Atlantic stocks of harp and hooded seals which are shared with Canada. The Panel did observe that reports of various NAMMCO bodies contain references to the precautionary approach or the precautionary principle or taking action that is precautionary. A number of these references are to decisions to act more cautiously in instances where there is a high level of uncertainty often due to insufficient data about the status of a particular stock or efficiency of a particular killing method. Others refer to recommendations of harvest levels that would result in a particular stock being maintained above a particular level with a high degree of certainty. While these activities are related to the precautionary approach as it is defined in the UN Fish Stocks Agreement, standing alone, they do not implement it.

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#### 2.2.5.6 PANEL'S VIEWS AND RECOMMENDATIONS ON DETAILED CRITERION 1.5.2

[PRP18-RC31] In the view of the Panel, NAMMCO and its members have recognized the importance of trying to adhere to at least some of the elements of the precautionary approach as that approach is set out in the UN Fish Stocks Agreement. However, the Panel believes that effort in support of one significant component of the precautionary approach is largely missing: the development of stock-specific reference points and associated management actions that will be automatically taken if a reference point is exceeded. This is an essential component of the precautionary approach, and, while noting that the 2005 Icelandic management plan for grey seal stock and Norway's 2011 management plan for grey and harbour seals do address this issue as do the reference points and management actions for hooded seals, the Panel strongly recommends that NAMMCO initiate work to determine how it can better support its members in using this tool in the management of marine mammal resources. Several of the regional fisheries bodies have had extensive consultations regarding the application of the precautionary approach, and some have developed processes for its implementation. As NAMMCO is unique, the Panel recognizes that it needs to establish its own process for contributing to the implementation of the precautionary approach by its Members. Nevertheless, the Panel believes that it would be useful to have the development of that process be informed by the experiences of other regional fisheries bodies. NAMMCO should also rely upon the lessons of the WGHARP in developing its framework approach for the management of harp and hooded seals



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