

Government Response

September 18, 2023

Mr. Ken McDonald
Chair
Standing Committee on Fisheries and Oceans
House of Commons
Ottawa ON K1A 0A6

Dear Mr. McDonald,

On behalf of the Government of Canada (Government), I would like to thank the House of Commons Standing Committee on Fisheries and Oceans (Committee) for its report, *PROTECTION AND COEXISTENCE OF THE NORTH ATLANTIC RIGHT WHALE IN CANADA* (Report), which provides valuable input and recommendations with respect to substantial actions the Government is taking to support the protection and recovery of the declining North Atlantic right whale (NARW) population. The Government continues to take concrete steps to ensure aquatic species and their ecosystems are protected from negative impacts, and is working with harvesters, as well as coastal and Indigenous communities to support the continued economic prosperity of Canada's fish and seafood industry.

The Committee's 48 recommendations highlight the important role Fisheries and Oceans Canada (DFO) and the Canadian Coast Guard (CCG) plays in generating knowledge and implementing measures to protect the NARW. While largely focused on fisheries and vessel management measures, the Report also speaks to other key functions falling within and outside of the Government that play a role in decision-making and our shared effort to protect this iconic species. The Government recognizes that protecting and sustaining aquatic species at risk is critically important to ecosystem health and thriving fisheries. The population size for the NARW decreased from an estimated 425 individuals in 2017 to an estimated 340 in 2021, with fewer than 70 reproductive females remaining. In recent years, NARW have shifted their distribution in Canadian waters due to changing food availability driven by climate change. Now, approximately 40 per cent of the world's population are identified annually in the Gulf of St. Lawrence.

The NARW has been listed as Endangered under the *Species at Risk Act* (SARA) since 2005. The SARA listing means the Government has an obligation under the Act to facilitate the protection and the promotion of the recovery of NARW. As the Minister responsible for aquatic species at risk under SARA and with a clear mandate for the implementation of the *Oceans Act* and the *Fisheries Act*, I lead DFO's decision-making on management measures that consider socio-economic implications, species protection and recovery, scientific information, and many other relevant factors. To fulfill these important legal obligations, the Government has promoted the survival and recovery of NARW since 2016 through the Oceans Protection Plan, which invested in science to better understand NARW distribution and the threats to their existence. From 2018-2022, the Whales Initiative, the Nature Legacy for Canada, and the Enhanced Nature Legacy Plan increased research funding and supported the implementation of management measures that reduced fishing gear entanglements and vessel collisions. As a further sign of the Government's commitment and resolve to protect Canada's declining whale populations, including NARW, and their habitats, Budget 2023 announced \$151.9 million over three years, starting in 2023-24, to DFO (or the Department), Transport Canada (TC), Environment and Climate Change Canada (ECCC), and Parks Canada (PC) to continue existing whale recovery measures.

In order to shape a concrete and realistic strategy for NARW conservation, DFO has been listening and acting upon same when appropriate, to industry feedback to support Canadian fisheries as they strive to meet complex economic and ecological needs. For example, in 2021, DFO made modifications to its closure protocols, based on input received from industry, provincial governments, Indigenous communities, academia, and environmental non-

governmental organizations. This has ensured that extensions to dynamic closures and seasonal closures are implemented in areas where whales are found to aggregate. These adjustments have helped ensure harvesters are not unduly prevented from accessing lucrative fishing areas. Furthermore, DFO works with fish harvesters in non-tended fixed gear, trap and pot commercial, communal commercial fisheries, and with other relevant partners, to incorporate whalesafe technology and practices into their operations, identifying the most suitable and safe options for the conditions of each fishery.

While the recommendations provided by the Committee were arranged individually, I have organized this Response to the Report under the headings of six themes: (1) collaboration on management measures and research; (2) vessel management and fishing area access; (3) dynamic NARW detection and management measures; (4) whalesafe gear; (5) consultation and communication; and, (6) access to international markets.

Collaboration on Management Measures and Research

(Recommendation 1, 2, 17, 18, 22, 36)

The Government shares the Committee's view that management and research activities undertaken by DFO should be developed in collaboration with partners to strengthen our understanding of NARW characteristics as well as the impacts human activities have on their survival and recovery.

As the lead Department responsible for aquatic species at-risk under SARA, DFO has cultivated extensive and well-established cooperative and collaborative partnerships with multiple departments to protect and recover NARW. In addition to DFO, ECCC, PC, and TC share federal responsibilities or powers for administering SARA and/or managing the human activities that have an impact on NARW.

NARW-related work is coordinated through a number of cross-departmental committees and working groups that include DFO and other federal departments, such as the: Atlantic Steering Committee; Interdepartmental Assistant Deputy Minister Whale Committee; smartWhales Steering Committee; and the Surveillance Coordination Group. Examples of actions and initiatives undertaken through these cross-collaborations with other departments include:

- Developing and implementing acoustic monitoring and analysis programs to detect NARW calls/vocalizations in near-real time and monitor anthropogenic noise levels in shipping lanes and known or potential habitat areas which inform vessel management measures;
- Developing and implementing annual fisheries and vessel traffic management measures to reduce the risk of NARW mortality, serious injury, and sub-lethal effects from entanglements in fishing gear and vessel strikes;
- Launching the smartWhales initiative in 2021, which is aimed at increasing our ability to detect and monitor NARW using space-based technology; and,
- Monitoring, reporting, and responding to pollution incidents in NARW habitat areas.

DFO also works with external groups such as environmental non-government organizations (ENGO), industry, and academia to detect NARW and respond to incidents involving these whales. For example, DFO supports a national network of marine mammal emergency responders under the Department's National Marine Mammal Response Program (MMRP). The MMRP relies on collaboration among federal partners and marine mammal responders to provide timely responses to deaths and entanglements of NARW and other large whale species. Importantly, information collected from whale-related incidents increases our understanding of threats impacting NARW and protection measures required.

Since 2017, DFO has developed a NARW-focused, world-class surveillance, monitoring, and research program to collect valuable data in the Gulf of St Lawrence and North Atlantic. This

data informs management approaches via a number of activities including: systematic aerial surveillance, acoustic monitoring, satellite tagging, and prey studies. The ability to provide up-to-date, robust scientific advice to DFO and TC is foundational to guiding our adaptive and dynamic management measures. For example, as a result of satellite tagging activities undertaken by DFO Science, we now know that NARW can spend a significant amount of time at depth when foraging in the Gulf of St Lawrence, broadening our understanding of NARW behaviour in Canadian waters. This research demonstrates that whales may forage very close to the seabed where entanglement risks are high, and can spend considerable time near the surface at night when detection methods are less effective. Additionally, results show that certain individuals will transit long distances while others remain fairly localized. The Department's tagging work will improve our estimations of the risks associated with different depths to better inform fishery closure protocols and vessel slowdown measures.

Tags last on the animal from a few hours up to a few weeks and allow researchers to better understand whale movements within an area, the depth at which they are diving, and the amount of time they spend at the surface and at the seafloor. However, while I concur with the Committee that these types of tracking activities can yield valuable information, work with these tags is limited as they stay attached for a relatively short period compared to the time of NARW presence in Canadian waters. They are also invasive, expensive, and difficult to deploy. For these reasons, expanding tracking of NARW in near-real time using tags is not feasible.

Like the Committee, the Government considers climate change a serious risk to the future of Canada's marine ecosystems, fisheries, and coastal communities. Climate change has led to warmer ocean temperatures that have altered the availability of prey in traditional NARW feeding grounds, resulting in rapid changes in this species' distribution as they search for food. Whales are now frequenting areas where historically, survey efforts and monitoring were low. Since 2018, DFO has been adapting to changes in NARW distribution by focusing on increasing systematic aerial surveys in the Gulf of St. Lawrence and the St. Lawrence estuary, the Bay of Fundy, the Scotian Shelf, and around Newfoundland and Labrador. Aerial surveillance takes place during the April to November time period, which overlaps most with the fishing seasons and when there are high numbers of NARW in Canadian waters. These surveys provide information on the presence of NARW in Canadian waters in near-real time and inform immediate management actions (e.g., fishery closures, emergency response). In addition, DFO Conservation and Protection (C&P) conducts year-round patrols that monitors for NARW. The data on whale locations collected over the past five years will contribute to the development of a model to improve our understanding of NARW distribution in the Estuary and Gulf of St Lawrence to inform future management decisions. Concurrently, the Department is collaborating with leading U.S. and Canadian experts to initiate the development of distribution models for NARW across their North American range.

DFO's scientific work has practical applications for harvesters and Canadians more broadly. In Spring 2022, DFO launched a computer application called Whale Insight, an interactive map that publicly displays NARW detections in Eastern Canadian waters in near real-time. It incorporates visual and acoustic detections from a variety of sources including both Government and non-government platforms and, over time, may be expanded to include other whale species and areas. This critical tool supports DFO's dynamic management decisions and is the result of a successful collaboration across Government, academia, and industry experts.

In response to the Committee's call for a study into vessel-whale interactions, DFO is currently conducting research in partnership with Dalhousie University to evaluate the relative risk of lethal vessel strikes (from both fishing and larger vessels) in the Gulf of St. Lawrence. DFO is also analyzing NARW mortalities related to vessels using Automated Identification System (AIS) data, which provides information on the size, location, and speed of a vessel. Furthermore, the Government factors in externally published research into vessel-related decisions.

Lastly, like the Committee, the Government agrees that researching and reporting on socio-economic impacts to harvesters is an important element of the fisheries management decision-making process. DFO is currently conducting an economic analysis of the impacts of the NARW related closure measures, first introduced in 2018, on affected fisheries. Preliminary results

indicate that there have not been significant negative impacts on fisheries residing in zones where action has been taken. In the interim, DFO continues to conduct research and integrate socio-economic considerations into fisheries management decisions.

Scientific information collected through DFO's NARW surveillance program and our comprehensive research initiatives has been crucial for developing a sophisticated, adaptive management regime for marine mammal conservation that is arguably one of the best in the world. DFO continues to actively contribute to innovative research to better understand NARW distribution, movements, behaviours, and the environmental stressors that are affecting them.

Vessel Management and Fishing Area Access

(Recommendations 3-8)

The Department shares the Committee's view that measures should be taken to better support harvester livelihood through the timely access to fishing areas at the start of the season, to promote navigational safety, and for managing vessel speed restrictions for the purpose of reducing the likelihood of vessel collisions with NARW. In addition to fishing gear entanglement, vessel strikes are one of the primary threats impeding population recovery of this Endangered species.

Fisheries openings and closures fall under my authority as Minister of Fisheries, Oceans, and the Canadian Coast Guard. In response to calls from harvesters, a DFO Opening Committee comprised of Government representatives, industry, First Nations, and provincial governments was established to determine the opening date for the snow crab fishery in the Gulf of St. Lawrence Area 12. This Committee ensures that the season begins for the entire Area as soon as conditions are safe for mariners to navigate and harbours are ice-free. Fishery opening date discussions also take into consideration aquatic species protection and recovery. Based on decisions made by this committee, in 2022 and 2023 the crab fishing season opened earlier than in the past years. As a result, fishers have been able to harvest close to half their quota before NARW are detected in Canadian waters.

Icebreaking services fall under the responsibility of CCG, a Special Operating Agency within DFO. While I understand the Committee's desire for icebreaking services to be available to fishing harbours early in the Spring season, responding to distress and emergency situations, and managing flood risks, are prioritized by CCG before these areas are cleared. Icebreaking services provided by CCG are regularly reviewed and consulted on with clients to better understand issues and address gaps toward the continuous improvement of service delivery.

The Government agrees with the Committee that adequate capacity be available to conduct ice breaking services. As DFO experiences an increased demand for on-the-water presence due to growing responsibilities and activities, the need to replace the vessels has never been more important. Per the National Shipbuilding Strategy, the Government will continue to build ships over the coming decades to meet the evolving needs of mariners. One of the principles of this fleet renewal is to expand icebreaking capacity and prioritize flexible capabilities in the new vessels. In parallel, CCG recently purchased and refit three medium icebreakers and one light icebreaker, which will provide interim icebreaking capacity while existing ships are undergoing maintenance to sustain services until new replacement icebreakers are delivered.

In regards to vessel management, I share the Committee's view on the importance of keeping pace with evolving marine navigation technology developments. CCG's Marine Communications and Traffic Services (MCTS) provides year-round operations for distress and safety communications, timely navigational information and assistance to vessels, screening of vessels entering Canadian waters, managing vessel traffic movements, and disseminating marine information to TC and other departments to support their mandates and operations. In its support of protection measures for NARW, MCTS tracks vessels within speed restricted zones, which are added to the CCG's vessel traffic monitoring system. MCTS further promotes proactive and regular communication with mariners about vessel management measures through various channels, including the broadcasting of navigational warnings to inform mariners of speed restriction zones. This information can be found on the CCG e-Navigation

portal, and is accessible to mariners to support voyage planning. In addition, at the beginning of the NARW season, a special edition of the Notice to Mariner (NOTMAR) is published detailing the mandatory and voluntary protection measures. This complements publication of a monthly NOTMAR, which provides updated information on the status of each zone. CCG is looking to leverage emerging technology to advance its modernization efforts, including the digitalization of its navigation services to continue supporting protection measures for marine mammals and the marine environment.

The Government will continue to implement measures in alignment with harvester safety, NARW recovery considerations, the best available scientific data, and stakeholder input.

Dynamic NARW Detection and Management Measures

(Recommendations 9-16, 19-21, 28, 43)

The Government agrees with the Committee that fishery management measures be utilized to prevent NARW entanglement in fishing gear, and economic hardships to harvesters be minimized where possible. DFO works closely with harvesters, Indigenous peoples, ENGOs, and scientists to implement management measures that protect NARW and support economically sustainable fisheries. Canada's robust and adaptive NARW protection measures are based on the best available science and demonstrate the sustainability of Canada's seafood exports.

The Committee put forward several recommendations on how DFO should modify management measures. While the Department is supportive of the overall goal of maintaining economically viable fisheries, some recommendations would result in a less precautionary approach to NARW management. As the population continues to decline, this could be detrimental to the species' protection and recovery. These recommendations centered around: limiting the duration and/or location of fishery closure protocols (recommendation 9, 11, 12, 14, 16); incorporating a multi-whale trigger in fishery closure protocols (recommendation 10); and, acoustic and visual monitoring to inform fisheries management measures (recommendation 13, 15).

DFO fisheries management measures for NARW, in particular fishing area closure protocols, are designed to be precautionary (i.e., focused on addressing the relative risk of threats, such as gear entanglement), adaptive, and responsive to changes in NARW distribution. Fishing area closures are implemented in near real-time in response to the presence of NARW, are assessed almost daily, and adapted as required based on the most up-to-date science. Whale locations are available to be viewed by harvesters and mariners on a near-real time basis on Whale Insight, which is accessed by DFO to make decisions on fisheries closures. This approach relies on a coordinated surveillance program supported by various Government and non-government partners. The Department has held consultations with food, social, and ceremonial (FSC) harvesters across Eastern Canada to ensure equitable implementation of closure protocols across the regions.

Due to the interannual variability in the distribution of NARW in Canadian waters, their distribution patterns from year to year are challenging to predict. NARW have been acoustically detected in Eastern Canadian waters in all months of the year, with detections nearly year-round on the Scotian shelf and from May to December in the Cabot Strait. The distribution patterns of this species vary from year to year, and periods of high conservation concern include mid-May to mid-July when dead NARWs have previously been found in the Gulf of St. Lawrence. Though the Committee recommended modifying management measures based on whether whales were transiting or foraging, there is presently no way to clearly distinguish whether a detected whale is transiting or foraging. Even if a NARW is simply moving through the area, they are still at risk of fishing gear entanglement. Reducing the duration of fishery closures in areas where whales are detected, as recommended by the Committee, has the consequence of increasing whale exposure to fishing lines. DFO deploys a combination of season long fishery closures and temporary dynamic closures to ensure closures are happening when and where whales are detected, thereby mitigating the risk of NARW entanglement with fishing gear and economic impacts on harvesters.

Since 2018, management measures have been based on a single-whale trigger approach in areas subject to the dynamic and/or seasonal closure protocols. The reason a single whale is used as a trigger is that due to the difficulty of detecting whales at any given time, the presence of one whale may signal an increased probability of other whales in the area and as such it is considered a suitably precautionary approach to ensure protection for NARW. NARW are difficult to visually detect for a number of reasons: they spend minimal time at the surface and dive continuously; weather and wave conditions in the Gulf of St Lawrence can be adverse and can make sighting difficult; and aerial surveillance is dependent on resources and is limited in duration. Therefore, using a three-whale trigger as was recommended by the Committee would be considerably less precautionary because the likelihood of spotting three whales in an area will be much lower than the likelihood of spotting a single whale. In addition, having a three-whale trigger means that DFO will not be able to use acoustic platforms to close fishing areas because acoustic detections made by DFO assets are unable to differentiate between a lone NARW and an aggregation of NARW. Limiting our detection of NARW will mean fewer closed fishing areas, resulting in greater risk to these whales. For these reasons, DFO will not be modifying their approach to a three-whale trigger.

The current dynamic management measures include fishing area closures based on acoustic detections of NARW. The Committee suggested that the lack of acoustic detections could be used to open fishing areas. While acoustic detections indicate the presence of whales and are highly accurate for determining species present, a lack of acoustic detections does not necessarily mean an absence of whales. There are a number of uncertainties associated with passive acoustic monitoring of NARW, including our evolving understanding of the factors that influence calling rates (e.g., sex, age, group size, behaviour), as well as the detection range that can vary considerably with ambient noise, environmental conditions, and the characteristics of the whale calls. These uncertainties impact our ability to determine if whales may be present, but not acoustically active. The relatively small number of acoustic monitoring sites in Canadian waters with variable detection ranges creates additional challenges. Given these factors, the Committee's recommendations do not align with the precautionary approach taken by DFO to protect and recover Endangered species.

In response to Committee concerns regarding international operations in Canada's waters, I must emphasize the importance of achieving recovery goals in tandem with our U.S. partners. Cross-border collaboration is essential as NARW are not static, traversing Eastern Canada to waters around Florida. The Canada-U.S.-Mexico Agreement NARW Project began in 2021 to enhance Canada's and the U.S.'s collaborative efforts to improve NARW recovery. Through this initiative, the Government and the U.S. National Oceanic and Atmospheric Administration (NOAA) are working together to improve transboundary understanding of NARW distribution, including data gaps, enhance transboundary efforts to monitor and assess NARW health, and further the development of innovative fishing gear technologies to reduce the risk of entanglement. For instance, NOAA has worked with DFO to conduct targeted surveys in Canadian waters to contribute knowledge to our growing database on NARW distribution along the entire North American range. NOAA's annual aerial surveillance of NARW helps scientists across North America to understand the number and movements of whales in this area. This valued partnership is essential to support information sharing and cooperation necessary to recover this transboundary species. At the same time, Canada's advanced monitoring program means we are not dependent on NOAA flights to survey for NARW in our domestic waters.

DFO implements a range of visual and acoustic detection methods, and coordinates a collaborative community of government and non-government researchers to supplement NARW sightings. Canada's survey efforts cover a large area and contribute to a number of needs. DFO's flights, gliders, and fixed buoys assess the population's broader presence, distribution, and co-occurrence with human activities such as fishing, contribute to cataloging individual whales, and inform the implementation of Canada's world class NARW fishery protection measures through near-real time observations. In addition, DFO assets that have trained marine mammal observers on board are part of Canada's detection regime. This includes, all science surveys, C&P enforcement flights and vessel patrols, as well as third party scientists who are trained observers and whose observations are validated by DFO. Complementary to DFO's activities are TC's aircraft and underwater acoustic gliders, which

focus on detecting NARW in vessel traffic management areas. Together, TC and DFO are testing new technologies that can improve surveillance. For instance, land-based and vessel-based infra-red cameras are being tested to monitor for the presence of NARW in the Cabot Strait management area.

The Government agrees with the Committee that ghost gear retrieval operations are an essential component for protecting NARW. Abandoned, lost, or otherwise discarded fishing gear, known as ghost gear is a major contributor to the plastic debris problem. The Department has taken concrete action to prevent marine mammal entanglement in fishing gear through the delivery of the Ghost Gear Fund, which supports gear retrieval as well as responsible disposal projects. Since 2019, DFO's Ghost Gear Program has invested \$26.7 million through contribution agreements to assist Indigenous groups, harvesters, and communities to remove lost gear. This was followed in 2022 by an additional \$30 million for ghost gear projects to reduce the impacts from Hurricane Fiona. As of July 2023, 22,202 units of fishing gear, totalling 1,830 tonnes, has been removed through the Ghost Gear Program. In addition, the Ghost Gear Program is working to improve the sustainability of fishing operations and has increased Canadians' awareness of the threat ghost gear poses to marine life. A component of the Program includes the Fishing Gear Reporting System, an accessible mechanism that allows commercial harvesters to report lost fishing gear, as has been required since 2020. Lost gear reporting recently aided in determining that two NARW entanglement cases were linked to lost gear, and that one of these events occurred outside of active fishing times. In addition to gear retrieval, the Ghost Gear Program is reviewing current fisheries management practices to ensure best practices are in place to reduce gear loss.

The fishing industry has demonstrated resolve and a commitment to management measures that prevent the continued decline of NARW. DFO will continue to work with harvesters and other partners to ensure that management measures minimize to the extent possible any economic impacts to industry and coastal communities while not compromising our recovery objectives.

Whalesafe Gear

(Recommendations 24-35)

The Department shares the Committee's view that whalesafe fishing gear (i.e., low breaking-strength gear, as well as "on-demand" gear that operates with no vertical line) be tested and implemented in collaboration with users, as well as be operationally feasible. The 2021 NARW SARA Action Plan identifies the development and implementation of fishery management measures to reduce the risk of NARW mortality, serious injury, and lethal effects from entanglement in fishing gear as a high priority. Scientific data about risks posed to whales from fishing lines is being collected by DFO Science and external partners.

The Government agrees with the Committee that harvesters be given time to adapt their harvesting operations to meet new whalesafe fishing gear standards. In February 2020, one of my predecessor, Minister Jordan, announced new requirements for non-tended, fixed gear, and trap and pot fisheries in Atlantic Canada and Quebec to adopt low breaking strength gear (designed to break more easily under force) modifications to reduce the risk and severity of entanglements by the end of 2022. However, industry members have expressed through Government consultations concerns about the effectiveness and safety of whalesafe gear, the risk of lost gear, and the cost implications. As a result of these discussions and requests from harvesters to extend the implementation deadline, the timeline for this requirement was changed to 2024 for fisheries in Atlantic Canada and Quebec. Government and industry-led trials continue to refine whalesafe gear options to determine the safest and most effective technologies to mitigate entanglement risk to NARW.

The implementation of whalesafe gear in Canadian fisheries will continue to focus on identifying tailored approaches that meet the conditions of Canada's diverse fisheries, with due consideration of gear availability and accessibility to harvesters. Engagement with the fishing industry, Indigenous partners, and other partners, will progress through the development of a five-year Whalesafe Gear Strategy. This Strategy will guide the development and use of

whalesafe gear in fisheries across Canada to prevent and reduce entanglements of whales, including NARW.

Regarding Committee concerns related to the affordability of new gear, DFO's Whalesafe Gear Adoption Fund supported the advancement of whalesafe gear technology adoption and operationalization. For example, funding has supported gear manufacturers to work with Canadian harvesters to develop rope on-demand systems. I am pleased to note that harvesting levels have remained stable where innovative gear technology has been deployed. Economic analysis of the financial impacts of whalesafe gear modifications to harvesters is underway within DFO, and will inform any future whalesafe gear requirement implemented in commercial fisheries.

Regarding the Committee's recommendation that regulations be changed to support the use of whalesafe gear, a regulatory amendment was approved in 2023 that provides more flexibility to use on-demand fishing gear technology in commercial fishing operations. These changes were advanced in consultation with partners, including the fish harvesting sector, and is an essential step to allow on-demand gear to be authorized in commercial operations. Regarding Committee recommendations focused on where and when future whalesafe gear requirements may be implemented, DFO is considering the use of whalesafe gear wherever NARW are distributed in Canada in order to minimize entanglement risk. For instance, contrary to the Report's recommendations, NARW do occur in Newfoundland waters. Furthermore, over the past few years visual opportunistic sightings, made by the public, have been reported around the northeast of Newfoundland (including at least three in 2022). At any time of year, the location of a significant portion of the NARW population is unknown and with the precarious status of the population, it is vitally important to continue reducing entanglement risk throughout their observed range in Canada.

DFO continues to use both existing fishery management consultation processes, and new fora and events dedicated to workshops on whalesafe gear, and is planning a gear trials results symposium in Fall 2023 to share information among project participants on the outcomes of the trials and further inform the Whalesafe Gear Strategy. Ongoing whalesafe gear efforts spearheaded by DFO will have the dual purpose of promoting the recovery of this species and enabling commercial fisheries to maintain exporting access in alignment with U.S. fish and seafood importing requirements. Any new requirements implemented in commercial fisheries, including new lower breaking strength gear requirements planned for 2024, will be subject to engagement and consultation with harvesters.

Consultation and Communication

(Recommendations 23, 37-42)

The Department shares the Committee's view that active consultation and communication with partners and stakeholders is important for information sharing and enhancement of the DFO's NARW-related protection measures.

DFO staff are engaged in meetings with partners and stakeholders at the annual NARW Advisory Committee meeting, the NARW Technical Working Group meetings, the NARW Consortium meetings, and the NARW Indigenous Working Group meetings in order to discuss fisheries measures, provide timely information to members on science, and regulations changes, as well as hear the perspectives of partners and stakeholders. In late winter/early spring of each year, DFO, in collaboration with TC, announces the fisheries and vessel management measures for the year. Information is also shared through a Notice to Fish Harvesters and is posted publicly online for reference throughout the year. During the fishing season, the Department issues a Notice to Fish Harvesters whenever there are changes to fishing area access based on a NARW detection(s).

Transparent and open dialogue with Indigenous partners is of utmost importance to the Department. For decisions that may impact Indigenous harvesting efforts, proactive engagement with First Nation fishery representatives, through various channels including those previously outlined, are initiated and, where applicable, consultation with community

leadership is held. Information obtained through consultations is reflected in departmental decision notes and is considered by myself, or my delegate, in reaching a reasonable decision. These engagement and communication processes are critical in helping to ensure any Indigenous concerns are being taken into consideration and help foster greater communication with our First Nation partners. These engagement efforts also help to ensure we are moving forward with our Government's commitment to building a renewed nation-to-nation, Inuit-Crown and government-to-government relationship with First Nations, Inuit, and Métis peoples that is based on recognition of rights, respect, collaboration, and partnership.

DFO is committed to the implementation of the United Nations Declaration Act Action Plan which was developed as per the Government of Canada's commitment to implement the United Nations Declaration on the Rights of Indigenous Peoples Act. In line with the action plan commitment to develop and employ mechanisms that respect and incorporate Indigenous Knowledge as a distinct knowledge system in the management of fisheries, DFO is exploring Indigenous Knowledge on NARW ecology and distribution trends to further help fill gaps and strengthen data by using a Two-Eyed Seeing approach (Etuaptmumk). Two-Eyed Seeing refers to learning to see from one eye the strengths of Indigenous Knowledge and ways of knowing, and from the other eye the strengths of Western Knowledge and ways of knowing. Two-Eyed Seeing is about co-learning and co-production of knowledge, and aids collaboration between different knowledge systems. All aspects of gathering, using, and protecting Indigenous Knowledge regarding NARW will aim to be completed in a culturally appropriate manner with all interested Indigenous communities and organizations.

Access to International Markets

(Recommendations 44-48)

In alignment with the Committee, the Government agrees that it is important to engage both nationally and internationally on disseminating information about actions taken by Canadian federal partners to support the survival and recovery of the NARW while maintaining and safeguarding Canada's fish and seafood industry.

The Government shares the Committee's view that proactive action is one solution to battling misinformation. To ensure that international partners are aware of Canada's extensive NARW protection measures, DFO publishes annual updates on NARW management measures on the DFO website and Whale Insight. Additionally, DFO distributes media lines and uses various social media platforms to provide up-to-date information to the public and international community on the status of NARW from April to November. In addition, DFO monitors media outlets year-round to ensure appropriate messaging is reaching the public and provides corrected information when misinformation is encountered. Further, the Department provides updates on our NARW measures at international meetings and conferences such as the Seafood Expo North America in Boston and foreign government fishery advisory meetings.

I am keenly aware of the important relationship Canada has with the U.S. as both a partner in NARW protection, and as an export destination for fish and seafood products. DFO and TC hold regular bilateral meetings with senior U.S. officials via the U.S.-Canada Bilateral Working Group on NARW to discuss the transboundary protection of this species. Discussions include, but are not limited to, resolving concerns related to what Canada considers inconclusive gear origin findings for entangled NARW that the U.S. has publicly linked to Canadian fisheries. For several years, DFO has been reviewing the annual NARW Stock Assessment Reports published by NOAA and providing public comments to contest certain NARW mortalities and serious injuries (as a result of entanglement in fishing gear) that have been attributed to Canadian fisheries without conclusive evidence. DFO is committed to publicly releasing data on Canadian NARW mortality and entanglement investigations online in order to transparently present evidence on the linked fishery of origin.

Additionally, DFO has worked closely with NOAA to establish a bilateral gear investigation protocol to formalize how the countries share information and review the gear origin from entanglements. These efforts aid in protecting Canadian fisheries' reputation and demonstrate their compliance with the U.S. *Marine Mammal Protection Act* (MMPA) import provisions.

Under the MMPA, import of commercial fish or fish products which have been caught with fishing gear that results in the incidental killing or serious injury of marine mammals in excess of U.S. standards must be banned. On November 26, 2021, DFO, in collaboration with Canadian industry, submitted to the U.S. comparability findings as evidence of meeting U.S. standards for the purpose of the MMPA import provisions. NOAA will publish the results of its assessments by November 30, 2023. DFO is proactively following U.S. NARW protection activities to ensure that our measures under MMPA import provisions are and continue to be comparable in effectiveness to safeguard Canada's fish and seafood exports to the U.S.

Once again, on behalf of the Government of Canada, I would like to thank the members of the Standing Committee for requesting further information and providing recommendations for the Department of Fisheries and Oceans.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Diane Lebovillier', with a stylized, cursive script.

The Honourable Diane Lebovillier, P.C., M.P.
Minister of Fisheries, Oceans and the Canadian Coast Guard