POLICY OPTIONS FOR ARCTIC ENVIRONMENTAL GOVERNANCE

Prepared by the Fisheries Working Group

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Background

The Arctic region is warming, faster on average than the rest of the planet. This is true for marine as well as terrestrial areas of the Arctic. This warming trend is likely to have significant effects on communities and resources of nations bordering the Arctic Ocean and to affect the interests of other nations as well.

The range and distribution of at least some fish stocks that occur in sub-Arctic regions and in the periphery of the Arctic itself will likely extend or move into more northerly areas as waters warm and sea ice retreats.

In the Arctic marine area important fish stocks that support extensive subsistence and commercial capture fisheries exist and there are several international mechanisms to manage those fisheries. As those fisheries extend or move farther north, at least some of those management mechanisms will need to adapt to manage those fisheries in more northerly areas for which they are responsible.

In contrast with the area of the Arctic closest to the North Atlantic Ocean, the area of the Arctic closest to the North Pacific Ocean and the Bering Sea (*i.e.*, the area north of the Bering Strait), support no significant commercial fisheries, and only limited subsistence and artisanal fisheries close to shore. There are no international management mechanisms for fisheries north of the Bering Strait or for much of the high seas area in the center of the Arctic Ocean.[1]

A flurry of conferences on climate change and fisheries indicate that the prospect of large-scale commercial fisheries in the Arctic Ocean is not a short term (decadal) development, but a long-term (perhaps fifty-years) development.

The international community has developed a widely accepted set of norms and standards for the conservation and management of marine fisheries and their impacts on marine ecosystems that, in

[1] However, the agreements establishing the International Commission on the Conservation of Atlantic Tunas (ICCAT) and the North Atlantic Salmon Conservation Organization (NASCO) appear to allow them to exercise competence over the entire Arctic Ocean.

principle, already apply to the Arctic marine area. Those norms and standards are set forth in such global instruments as:

- the 1982 UN Convention on the Law of the Sea;
- the 1995 UN Fish Stocks Agreement and the 1993 FAO High Seas Fisheries Compliance Agreement;
- the FAO Code of Conduct for Responsible Fisheries and the four related FAO International Plans of Action; and
- relevant resolutions of the United Nations General Assembly.

Governments and stakeholders with interests in Arctic fisheries should begin to prepare for the conservation and management of future fisheries in the Arctic, within the general framework created by the norms and standards established by these and other relevant instruments.

Indigenous communities that live along or near the Arctic marine area are particularly dependent on marine living resources and may become more so in the future. Inclusion of indigenous communities in policy discussions about the future management of Arctic fisheries provides the potential to maintain traditional links between these people and living marine resources.

Recent Developments in the United States

The U.S. North Pacific Fishery Management Council, which also has responsibility for managing fisheries in the U.S. Exclusive Economic Zone north of the Bering Strait, is developing a set of measures to close the U.S. Arctic EEZ to commercial fishing and to develop a first-ever Arctic Fisheries Management Plan. This plan, which is likely to become effective in 2010, would protect Arctic fishery resources and other species by generally prohibiting any expansion of commercial fisheries in the U.S. EEZ north of Alaska (in areas 3-200 miles from shore) until more is known about the ecology of that area, including the effects of climate change.

In May-June 2008, the U.S. Congress passed and President Bush signed a Joint Resolution calling upon the United States to work with international partners to develop mechanism(s) to manage migratory and transboundary fish stocks in the Arctic Ocean.

Recent Developments in Europe

The efforts of Arctic nations to establish the outer limits of their continental shelves in the Arctic, and the implications of such efforts for control over energy and other continental shelf resources, has been the subject of high-level attention in Europe. This was raised in March 2008 by Javier Solana, the EU High Representative for the Common Foreign and Security Policy, and Benita Ferrero-Waldner, the EU Commissioner for External Relations.

On fisheries issues, however, there has been no alert so far. There is a patchwork of international cooperation in fisheries matters already: bilateral arrangements, coastal states cooperation and multilateral cooperation in regional fisheries management organizations (RFMOs) and Regional Seas Programs, North Atlantic Fisheries Ministers' Conference, North Atlantic Conference, etc.

The Nordic Council of Ministers has taken up the issue (three EU member countries Denmark, Finland and Sweden are active in this cooperation). There has been cooperation with Russia through the Northern Dimension network.

Major fisheries for pelagic species that are taking place in the high seas may be affected by changes in feeding migration.

Analysis of policy shortcomings

Little has been done to prepare for the likely expansion of commercial fishing in the Arctic.

For most of the Arctic Ocean, the presence of ice-cover for most if not all of the year has inhibited research on fish stocks and related species. Accordingly, relatively little baseline data exists with respect to these living marine resources, nor is much known about the changes in their composition that may be occurring, particularly in the central portion of the Arctic Ocean. There has been little research conducted on the potential effects of commercial fishing on these resources and on Arctic marine ecosystem(s) as a whole.

The international community has adopted a widely agreed set of norms and standards for the governance of marine fisheries that apply in the Arctic as they do elsewhere. It may nevertheless be useful for relevant governments to reaffirm the applicability of these norms and standards to the Arctic.

Except for the portion of the Arctic Ocean closest to the North Atlantic, there are no international mechanisms in place to guide relevant research and to adopt measures to conserve and manage shared fish stocks.[2]

Changes in distribution of major fish stocks may change the basis for allocations between fishing states. Allocation is always a difficult problem and has caused considerable delays in establishing adequate management policies for major fisheries in the North East Atlantic.

Transparency and participation by stakeholders in international fisheries management mechanisms in the Arctic marine area is patchy.

Key policy options

The United States, the European Union and other states could:

- exchange existing information on Arctic marine ecosystems, on living marine resources in the Arctic and on existing Arctic fisheries;
- undertake, expand, support and coordinate cooperative Arctic research programs to improve understanding of these ecosystems, their resilience in the face of climate change and to assess the likelihood of new or expanding commercial fisheries in the Arctic;
- work towards ensuring that scientific methodologies and advice take full account of the various climate-related changes in the Arctic marine area;
- prepare for the conservation and management of new or expanding fisheries within parts of the Arctic marine area under their respective jurisdiction, including by means of effective policies for combating IUU fisheries under flags of non-compliance and through port state control to deter free riders taking advantage of changes in distribution;
- work on a bilateral or sub-regional basis with their respective neighbors toward the management of new or expanding fisheries for shared fish stocks in the Arctic Ocean;

[2] See note 1 supra.

- ensure that bilateral and (sub-)regional fisheries management mechanisms are transparent and provide for the participation of stakeholders, including indigenous communities;
- seek to integrate fisheries conservation and management measures with efforts to regulate other activities that occur in the Arctic, such as shipping and the development of energy resources;
- convene or participate in a conference on the conservation and management of future Arctic fisheries. Such a conference could adopt some form of general statement or declaration that might:

  - Acknowledge the potential expansion of commercial fisheries in the Arctic;

  - Acknowledge the subsistence needs of indigenous communities that are traditionally dependent on marine living resources;

  - Make a commitment to undertake or enhance cooperative research efforts to assess the likely expansion of such fisheries in the Arctic and the potential effects of such fisheries on marine ecosystems and indigenous communities;

  - Recall that there already exists a body of general norms and standards pertaining to international fisheries arising from international agreements and other instruments, including relevant UNGA resolutions;

  - Affirm that those norms and standards apply in the Arctic as they do elsewhere;

  - Declare that they will not conduct new commercial fisheries or expand existing commercial fisheries in the Arctic until they have undertaken adequate assessments of the potential impacts of such fisheries on target and non-target species, on the marine ecosystem(s) as a whole, on the subsistence needs of indigenous communities and have developed conservation and management measures to ensure that such fisheries are sustainable; and

  - Consider the development of new multilateral mechanisms for conserving and managing future Arctic fisheries, including a possible Arctic Regional Fisheries Management Organization (or organizations).