



Assessing the added value of the recent declaration on unregulated fishing for sustainable governance of the central Arctic Ocean



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ABSTRACT

The 'Declaration concerning the prevention of unregulated high seas fishing in the central Arctic Ocean' signed by the Arctic 5 nations, limits unregulated high seas fishing in the central part of the Arctic Ocean, and holds potential social, economic and political impacts for numerous stakeholders. In this paper, the four Interim Measures in the Declaration are discussed and what value these measures bring beyond the existing international agreements is explored. It is found that even though the Declaration fills a gap in the management of potential fish stocks in the central Arctic Ocean, adopts an appropriate precautionary approach and encourages joint research activities, there are both opportunities and challenges connected to its implementation. The most valuable and urgent Interim Measure is that of joint scientific co-operation, which will facilitate more region-specific research and an increased understanding of the fisheries as well as the broader Arctic environment. Furthermore, the research generated by this measure will provide an important decision base for both regulation and management of human activity in the Arctic.

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Abbreviations: A5, Arctic Five, including U.S., Canada, Russia, Norway, Denmark; A8, Arctic Eight, including the A5 plus Iceland, Sweden, Finland; AIS, Automatic Identification Systems; EEZ, Economic Exclusion Zone; E.U., European Union; NEAFC, North East Atlantic Fisheries Commission; RFMO, Regional Fisheries Management Organizations; UNCLOS, United Nations Convention on the Law of the Sea, 1982; UNFSA, Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling fish stocks and highly migratory fish species; U.S., The United States of America

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1. Introduction

One of the most recent developments in Arctic governance policy instruments is the 'Declaration concerning the prevention of unregulated high seas fishing in the central Arctic Ocean', hereafter referred to as the 'Declaration', signed in Oslo on the 16th July 2015 by Canada, the Kingdom of Denmark, the Kingdom of Norway, the Russian Federation, and the United States of America – namely the Arctic 5 (A5). The overall purpose of the non-legally binding Declaration is to prevent unregulated high seas fishing in the approximately 2.8 million km² area that comprises the central part of the Arctic Ocean (Fig. 1). However, the Declaration states that 'commercial fishing in the high seas portion of the central Arctic Ocean is unlikely to occur in the near future' [1]. Thereby the Declaration utilizes the precautionary approach to potential future fish stocks, as specified in Article 6 and Annex II of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of Sea of 10 December 1982 relating to the conservation and management of straddling fish stocks and highly migratory fish stocks [2] (hereafter referred to as 'UNFSA').

The signing of the Declaration was not an isolated event. A series of earlier meetings and documents including governmental, academic institutions and non-government organizations (NGOs) had addressed the potential issue of fishing in the central Arctic Ocean [3], including the 3rd meeting of Scientific Experts of Fish Stocks in the Central Arctic Ocean in Seattle in April 2015 [4], the Roundtable on Central Arctic Ocean Fisheries Issues held in Shanghai in January 2015, the Kitigaaryuit Declaration (2014) [5] signed at the 12th Inuit Circumpolar Council General Assembly by Alaskan, Canadian, Greenlandic and Russian delegates¹, and the 2014 Nuuk Meeting on Central Arctic Ocean Fisheries in Greenland [6].

Furthermore, unregulated fishing is not an issue restricted to the A5 signing nations nor is it unique to the central Arctic Ocean. The Declaration builds on previous regional experiences in over-fishing, population crashes as well as effective management and practices, such as the Atlantic cod (*Gadus morhua*) in the Barents Sea [7–9]. The context and nature of the Declaration is also tied to the projected climatic conditions of the Arctic Ocean, the likelihood of the existence of a valuable fishing population in the central Arctic Ocean, uncertainty and paucity of existing scientific data, the dynamics of the broader Arctic ecosystem and the political context and dialogue of both Arctic coastal (A5), and circum-Arctic states (A8), as well as international stakeholders, as discussed further below. A comprehensive review of the political issues at stake, the interests and incentives of the A5 with regard to future management of living resources in the area, as well as of other influential actors such as NGOs can be found in Wegge, 2015 [10].

In the following sections, this manuscript explores how effective the Declaration will be in preventing unregulated fishing in the central Arctic Ocean. Specifically, in discussing effective implementation, the manuscript focuses on the four Interim Measures and includes a brief discussion about the environmental, social, and political context in the implications of its provisions.

1.1. Interim Measures

Building upon the recommendations of Article 6 [2] of UNFSA, the undersigning states of the Declaration [1] call for

precautionary Interim Measures included in the framework of four regulatory provisions:

- Measure 1: "We will authorize our vessels to conduct commercial fishing in this high seas area only pursuant to one or more regional or subregional fisheries management organizations or arrangements that are or may be established to manage such fishing in accordance with recognized international standards."
- Measure 2: "We will establish a joint program of scientific research with the aim of improving understanding of the ecosystems of this area and promote cooperation with relevant scientific bodies, including but not limited to the International Council for the Exploration of the Sea (ICES) and the North Pacific Marine Science Organization (PICES)."
- Measure 3: "We will promote compliance with these interim measures and with relevant international law, including by coordinating our monitoring, control and surveillance activities in this area."
- Measure 4: "We will ensure that any non-commercial fishing in this area does not undermine the purpose of the interim measures, is based on scientific advice and is monitored, and that data obtained through any such fishing is shared."

The undersigning States of UNFSA are obliged by Article 6 [2] to: (a) obtain and share the best scientific information available and implement improved techniques for risk and uncertainty, (b) apply stock-specific reference points and action to be taken if they are exceeded, (c) take into account inter alia uncertainties relating to the size and productivity of stocks and (d) develop data-collection and research programs to assess the impact of fishing. Points (a), (c) and (d) are directly relevant to Interim Measure 2, whereas point (b) is relevant to Interim Measure 3. UNFSA Article 8 [2], the "Cooperation for conservation and management," states that both coastal states and states fishing on the high seas shall pursue cooperation in relation to straddling and highly migratory fish stocks either directly, or through appropriate subregional or regional fisheries management organizations or arrangements. This is directly relevant for Interim Measure 1, and while non-commercial fishing is not directly referred to, Article 8 holds implications for Measure 4. Thus all of the Interim Measures are more or less explicitly included in UNFSA. This manuscript examines the potential added value of the Declaration, apart from applying the principles laid down in the UNFSA and UNCLOS to a specific geographical region.

1.2. The Arctic Ocean: Fisheries and climate

The Arctic Ocean is the smallest of the world's five oceans with a surface area of approximately 14 million km². It is connected to the Pacific Ocean through the Bering Strait and to the North Atlantic Ocean through the Labrador, Norwegian–Greenland, and Barents seas, the deepest entry being via the Fram Strait (Fig. 1). The Arctic Ocean has a complex ocean-atmospheric cycle and a significant portion of the ocean is ice-covered in autumn, spring and winter. Furthermore, the effects of climate change in the Arctic, including those due to anthropogenic effects as well as the natural inter-annual variability, are pronounced. Rising sea surface temperatures as well as reductions in the surface area and the volume of summer sea ice are amongst the most prominent indicators of change (e.g. [12]). In summer 2012, the sea ice was at its lowest on record, with a coverage of ~3.4 million km² [13] (equating to 40% of the central Arctic Ocean being open-water). Future changes in Arctic sea ice coverage and thickness, and related the ice-albedo feedback, represent some of the largest uncertainties in climate change predictions [14]. Estimates for ice-

¹ Safe Shipping and Fisheries, 21: Direct ICC (Inuit Circumpolar Council) leadership to advocate for a precautionary approach in developing commercial fishing in international waters of the Central Arctic Ocean and support a moratorium until fish stocks have been adequately assessed and a sustainable management regime is in place that fully engages and involves the Inuit population

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