

Future Design of  
Arctic Ocean Legal Order  
July 28-29, 2016



Kobe University GSICS  
Polar Cooperation  
Research Centre



# Development of a New Fisheries Management Organization in the Arctic High Seas

28 July 2016, Kobe

“The Future Design of the Arctic Ocean Legal Order”

Joji MORISHITA

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1979



1994



1999



2011

**Key**



Changing Arctic Ocean sea ice level

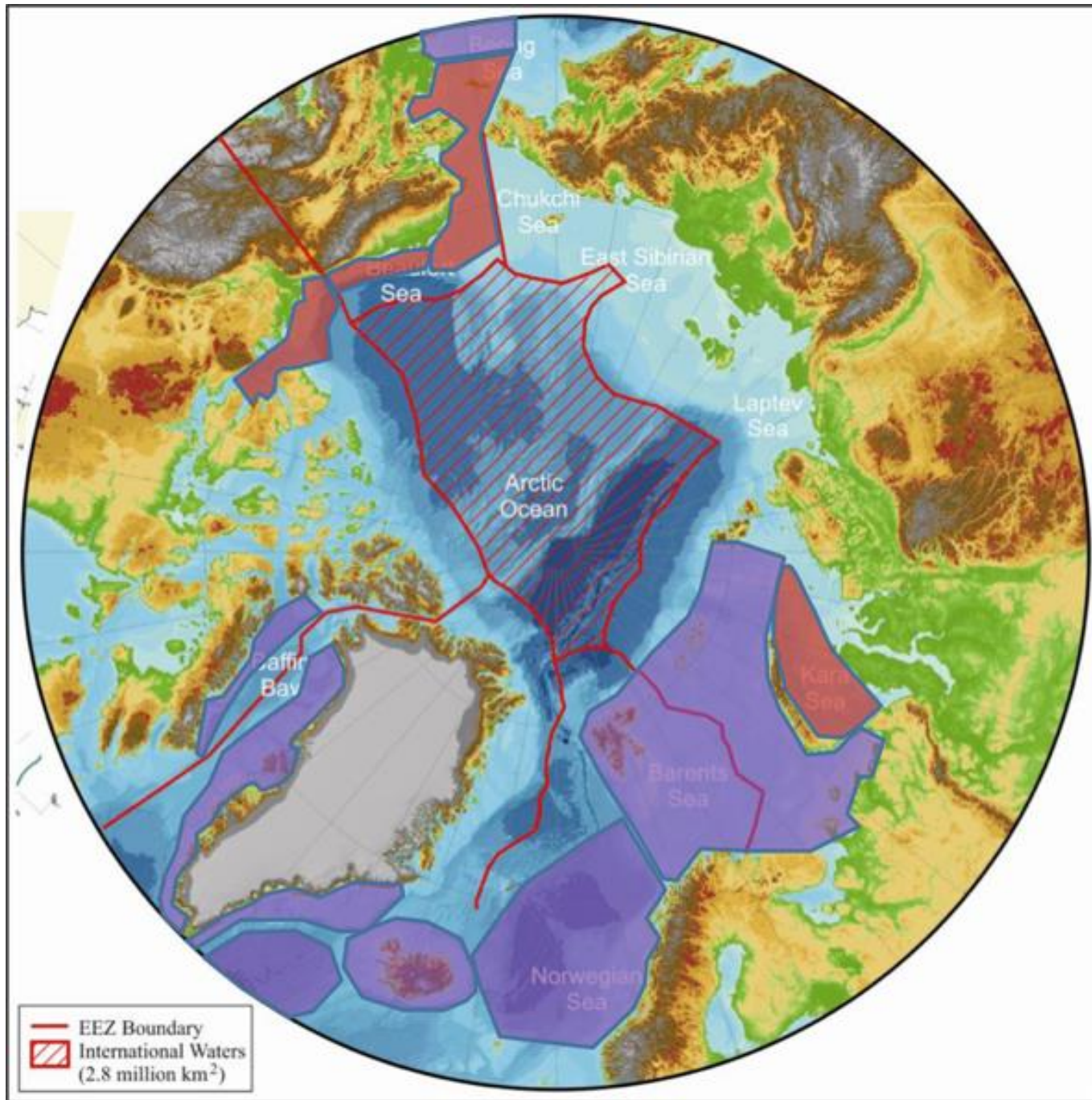
# A Brief History

- Meeting of governments, Oslo. June 2010  
*what is the status of science?*
- 1st scientific meeting, Anchorage, June 2011:  
*No urgency, limited knowledge, need to establish baseline data*
- Meeting of governments, Washington D.C., April-May 2013:  
*Prospects for commercial fishery in areas beyond national jurisdiction?*
- 2nd scientific meeting, Tromso October 2013.  
*No near future prospects for commercial concentrations of fish. Need to know more.*

- Meeting of governments, Nuuk February 2014.  
**Elements of agreement, *call for Joint Program of Scientific Research.***
- 3rd scientific meeting, Seattle April 2015.  
***Develop status & gaps report, inventory of research & monitoring, draft framework for a Joint Program of Scientific Research & Monitoring***

- **DECLARATION CONCERNING THE PREVENTION OF UNREGULATED HIGH SEAS FISHING IN THE CENTRAL ARCTIC OCEAN**  
Meeting in Oslo on 16 July 2015
  
- **1<sup>st</sup> MEETING ON HIGH SEAS FISHERIES IN THE CENTRAL ARCTIC OCEAN**  
Washington, D.C., 1-3 December 2015
  
- **2<sup>nd</sup> MEETING ON HIGH SEAS FISHERIES IN THE CENTRAL ARCTIC OCEAN**  
Washington, D.C., 19-21 April 2016
  
- **3<sup>rd</sup> MEETING ON HIGH SEAS FISHERIES IN THE CENTRAL ARCTIC OCEAN**  
Iqaluit, Nunavut, Canada, 6-8 July 2016





Areas with established annual fish & oceanographic surveys

Areas with recent fish & oceanographic surveys

— EEZ Boundary  
International Waters (2.8 million km<sup>2</sup>)



# MEETING ON ARCTIC FISHERIES

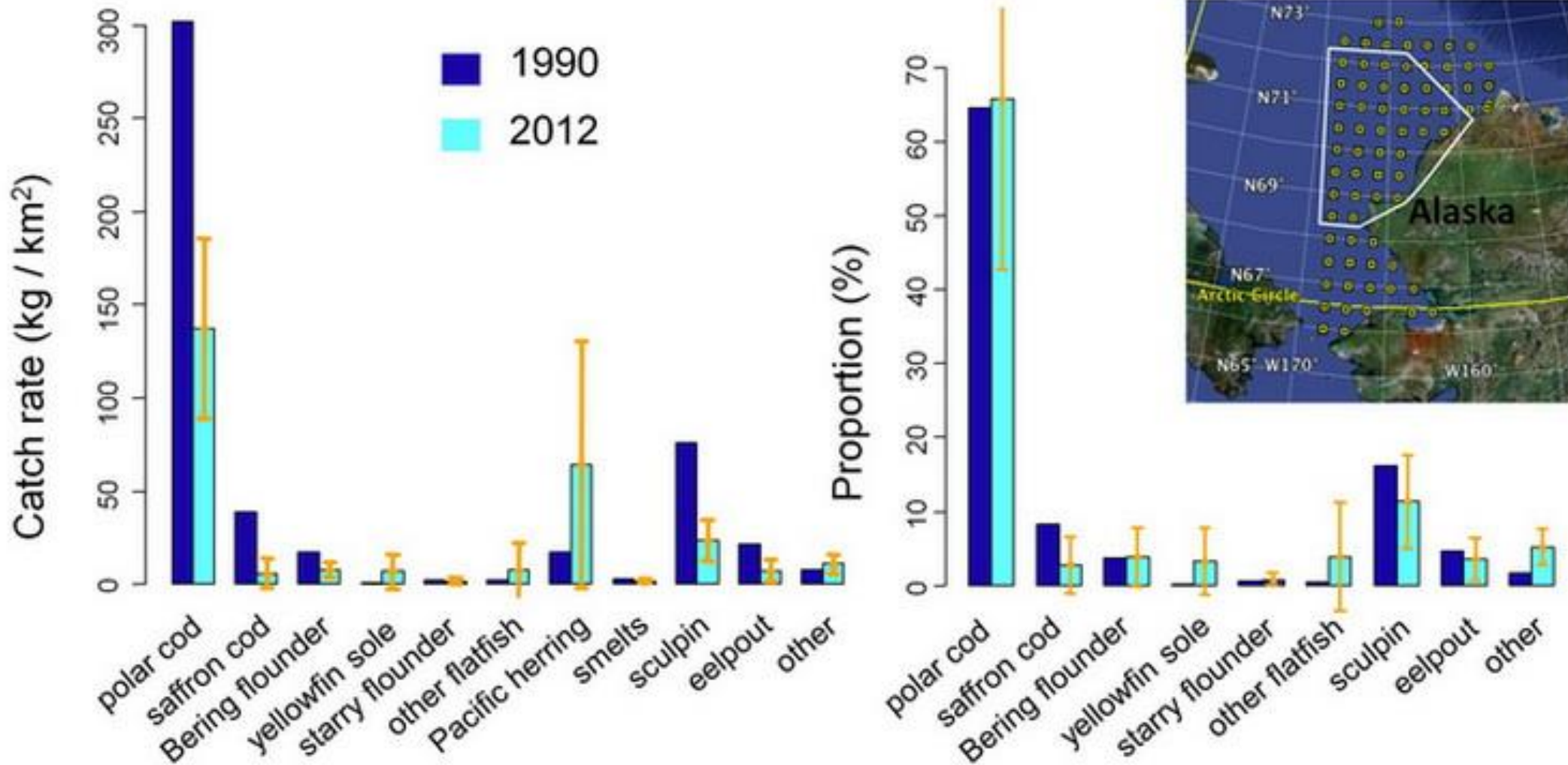
## Nuuk, Greenland, 24-26 February 2014

- Canada, the Kingdom of Denmark, the Kingdom of Norway, the Russian Federation and the United States of America
- to continue discussions toward the development of interim measures to prevent unregulated fishing in the central Arctic Ocean and to continue discussion of related scientific matters

- The meeting reaffirmed that commercial fishing in the high seas area of the central Arctic Ocean is unlikely to occur in the near future.
- The meeting also reaffirmed that there is no need at present to develop any regional fisheries management organization (RFMO) or arrangement for this area.
- The meeting agreed on the desirability of developing appropriate interim measures to deter unregulated fishing in the future in the high seas area of the central Arctic Ocean.

- authorize their vessels to conduct commercial fishing in this high seas area only pursuant to RFMO/A established to manage such fishing in accordance with modern international standards;
- establish a joint program of scientific research;
- coordinate their monitoring, control and surveillance activities in this area; and
- ensure that any non-commercial fishing in this area does not undermine the purpose of the interim measures

- The meeting agreed to **develop a Ministerial Declaration** by the five States based on the provisions described above.
- The meeting reaffirmed that other States may have an interest in this topic and looked forward to **a broader process involving additional States**
- The purpose would be to develop a set of interim measures, compatible with the Ministerial Declaration, that would include commitments by additional States. The final outcome could be a binding international agreement.



[http://www.arctic.noaa.gov/report13/marine\\_fish.html](http://www.arctic.noaa.gov/report13/marine_fish.html)



<http://www.schaapcoaching.eu/b/b614bf22ad>





# DECLARATION CONCERNING THE PREVENTION OF UNREGULATED HIGH SEAS FISHING IN THE CENTRAL ARCTIC OCEAN

Meeting in Oslo on 16 July 2015

We recognize that, based on available scientific information, **commercial fishing in the high seas** portion of the central Arctic Ocean is **unlikely to occur** in the near future and, therefore, that there is **no need at present to establish any additional regional fisheries management organization** for this area. Nevertheless, recalling the obligations of States under international law to cooperate with each other in the conservation and management of living marine resources in high seas areas, including the obligation to apply **the precautionary approach**, we share the view that it is desirable to implement appropriate **interim measures to deter unregulated fishing in the future in the high seas portion of the central Arctic Ocean.**

# Interim Measures

- 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.
- 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).

- 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.
- 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.

- We intend to continue to work together to encourage other States to take measures in respect of vessels entitled to fly their flags that are consistent with these interim measures.
- We acknowledge the interest of other States in preventing unregulated high seas fisheries in the central Arctic Ocean and look forward to working with them in **a broader process to develop measures consistent with this Declaration that would include commitments by all interested States.**

# 1<sup>st</sup> MEETING ON HIGH SEAS FISHERIES IN THE CENTRAL ARCTIC OCEAN Washington, D.C., 1-3 December 2015

Canada, the People's Republic of China, the Kingdom of Denmark, the European Union, Iceland, Japan, the Republic of Korea, the Kingdom of Norway, the Russian Federation and the United States of America

to discuss their common interest in preventing unregulated commercial fishing in the high seas area of the central Arctic Ocean.

**The meeting was exploratory in nature.** A number of delegations made clear that **they did not at present have a mandate to negotiate** any particular instrument relating to the topic.

## Scientific Matters

The meeting reviewed the outcomes of the 3<sup>rd</sup> Meeting of Scientific Experts on Fish Stocks in the Central Arctic Ocean held in Seattle, Washington, 14-16 April 2015. Delegations expressed **the desire to cooperate in advancing scientific research and monitoring** related to this topic and considered various approaches for doing so. The meeting considered **the key questions of whether and when there might exist a stock or stocks of fish sufficient to support a sustainable commercial fishery** in the high seas area of the central Arctic Ocean and the effects of any such fishery on the ecosystems.

## Policy Matters

The Chairman noted the commitments of all participants to prevent, deter and eliminate illegal, unreported and unregulated fishing as reflected in numerous international instruments.

In light of the outcomes of the 3<sup>rd</sup> Meeting of Scientific Experts, the meeting expressed the belief that it is unlikely that there will be a stock or stocks of fish in the high seas area of the central Arctic Ocean sufficient to support a sustainable commercial fishery in that area in the near future. But the meeting noted that the rapid changes occurring in the Arctic region make such predictions uncertain and therefore recognized the need for a precautionary approach. The meeting also expressed an interest in strengthening international scientific collaboration.

The meeting recognized the interests of Arctic residents, particularly Arctic indigenous peoples, in this topic and expressed the intention to continue to engage with them.



The United States presented **a proposal for an international agreement** that would, among other things, commit parties to:

- authorize their 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 modern international standards;
- establish a joint program of scientific research with the aim of informing future fisheries management decisions and improving understanding of the ecosystems of this area; and
- ensure that any non-commercial fishing in this area follows scientific advice and is well-monitored.

## **2<sup>nd</sup> MEETING ON HIGH SEAS FISHERIES IN THE CENTRAL ARCTIC OCEAN**

**Washington, D.C., 19-21 April 2016**

All delegations affirmed their commitment to prevent unregulated commercial high seas fishing in the central Arctic Ocean.

A number of delegations announced that they had obtained a mandate to negotiate a legally binding instrument on this topic.

## Scientific Workshop

The meeting received an update on preparations for **the next in a series of scientific workshops, scheduled to take place in Tromso, Norway on 26-28 September 2016.** The terms of reference for the workshop, contain two main objectives: (1) to develop a 5-year research and monitoring plan; and (2) to create a framework for implementing that plan. This workshop is intended to broaden the range of participants, as part of a robust commitment to improve scientific understanding.

## Consideration of a Possible Instrument

the instrument would be interim in nature and would include a commitment to keep under regular review the question of whether to establish one or more additional regional fisheries management organizations or arrangements for the central Arctic Ocean, based on the best available scientific evidence and relevant policy considerations.

Some but not all delegations expressed a preference that the instrument should be legally binding.

The meeting considered the elements of an updated the draft for an international agreement that could form the basis of such an instrument. Some of the key points that remain under discussion for future meetings include:

- the provisions of the instrument related to the “stepwise” approach;
- the relationship between the instrument and other international agreements or organizations dealing with related subjects or areas;
- the joint program of scientific research and the manner in which science would be used in implementing the instrument; and
- decision-making.

a “stepwise” process

- Adjusting the Declaration Concerning the Prevention of Unregulated High Seas Fishing in the Central Arctic Ocean signed by five of the participating States with input from other participants such that a new, broader non-binding declaration could be adopted;
- Negotiating a legally binding international agreement; and
- Negotiating in the foreseeable future an agreement or agreements to establish one or more additional regional fisheries management organizations or arrangements for the area.







# 3<sup>rd</sup> MEETING ON HIGH SEAS FISHERIES IN THE CENTRAL ARCTIC OCEAN

Iqaluit, Nunavut, Canada, 6-8 July 2016

All delegations reaffirmed their commitment to take interim measures to prevent unregulated commercial high seas fishing in the central Arctic Ocean as well as a commitment to promote the conservation and sustainable use of living marine resources and to safeguard a healthy marine ecosystem in the central Arctic Ocean. Most delegations view this as part of a “stepwise” process in advance of possibly establishing one or more additional regional fisheries management organizations or arrangements for this area.

Delegations made good progress in resolving differences of view on a number of the main issues under discussion. There was a general belief that these discussions have the possibility of concluding successfully in the near future.

In addition to the question of the format of the instrument under consideration, some of the key points that remain under discussion for the future include:

- the manner in which the instrument addresses exploratory fishing;
- the conditions under which a decision might be made to commence negotiations on an agreement to establish one or more additional regional fisheries management organizations or arrangements for the central Arctic Ocean; and
- decision-making procedures.

## ➤ The Way Forward

- Delegations made good progress in resolving differences of view on a number of the main issues under discussion. There was a general belief that these discussions have the possibility of concluding successfully in the near future.
- The Kingdom of Denmark indicated a possibility that it might host the next meeting in the autumn of 2016, to be confirmed through diplomatic channels.
- the scientific workshop to be held in Tromsø, Norway on 26-28 September 2016.



