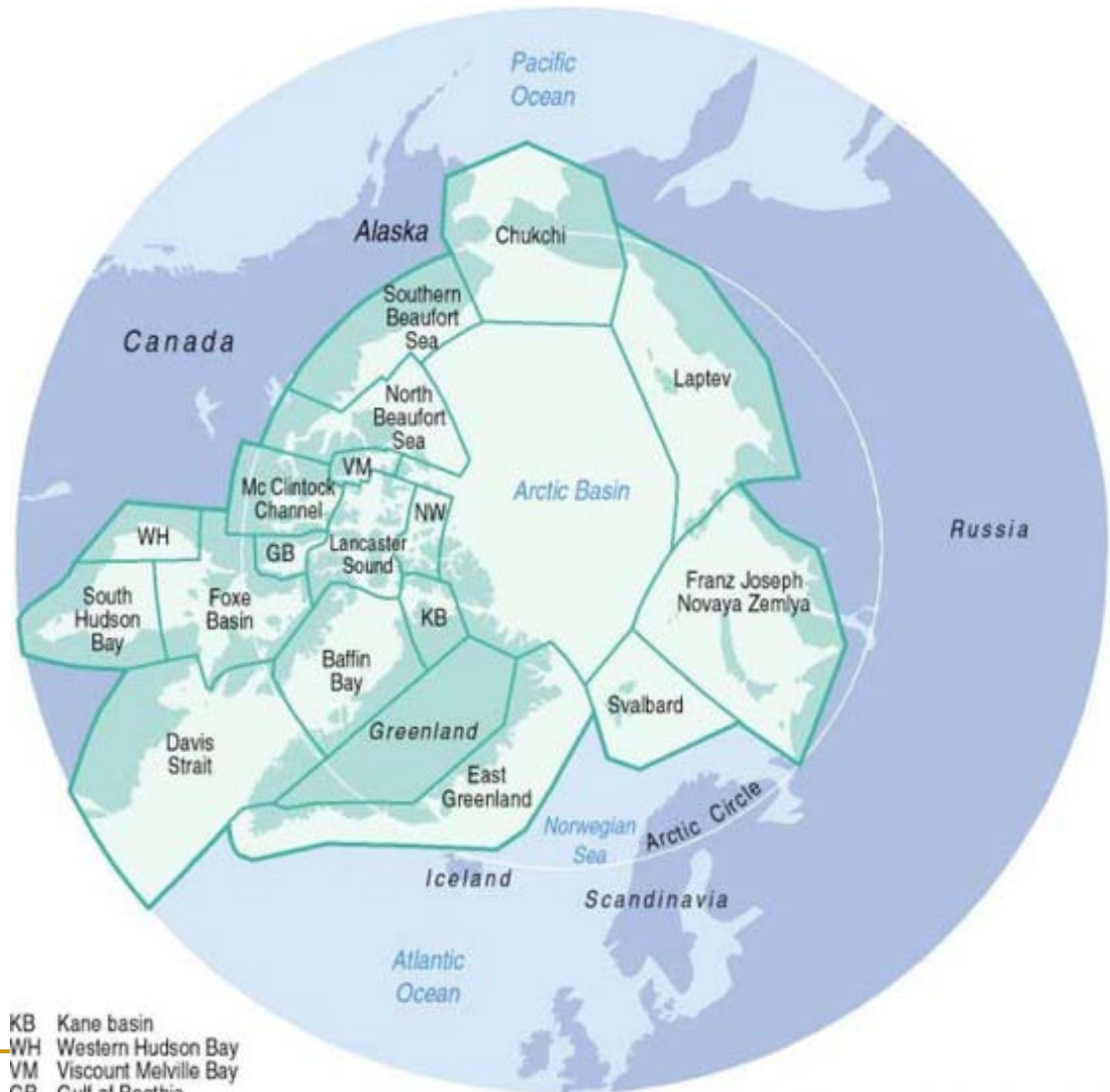


Has international law failed the polar bear?



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Michael Glennon: 1990 AJIL Has international law failed the elephant?

Source : IUCN Polar Bear Specialist Group 1997.

Agreement on the Conservation of Polar Bears

Article I

1. The taking of polar bears shall be prohibited except as provided in Article III.
2. For the purposes of this Agreement, the term "taking" includes hunting, killing and capturing.

Article III

Taking permitted

- d) by local people using traditional methods in the exercise of their traditional rights and in accordance with the laws of that Party; or
 - e) wherever polar bears have or might have been subject to taking by traditional means by its nationals
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The application of US law

MMPA

- S.104(c)(5)(A) The Secretary may issue a permit for the importation of polar bear parts ... taken in sport hunts in Canada Such a permit shall be issued if the Secretary, in consultation with the MMC and after notice and opportunity for public comment, finds that—
 - (i) Canada has a monitored and enforced sport hunting program consistent with the purposes of the ACPB;
 - (ii) Canada has a sport hunting program based on scientifically sound quotas ensuring the maintenance of the affected population stock at a sustainable level;

Approved populations:

SBS, NBS, VMS, WHB, LS, NB; MC approval removed

Agreement on the Conservation of Polar Bears

Preamble

The Governments of Canada, Denmark, Norway, the Union of Soviet Socialist Republics and the United States of America,

Recognizing the special responsibilities and special interests of the States of the Arctic Region in relation to the protection of the fauna and flora of the Arctic Region;

Article II

Each Contracting Party shall take appropriate action to protect the ecosystems of which polar bears are a part, with special attention to habitat components such as denning and feeding sites and migration patterns

Climate Change Convention

- The objective of this Convention is
 - ... to achieve ... stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.
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Tromsø Meeting March 2009*

- “The parties agreed that impacts of climate change and the continued and increasing loss and fragmentation of sea ice -- the key habitat for both polar bears and their main prey species -- constitutes the most important threat to polar bear conservation.”
 - “The parties noted with deep concern the escalating rates and extent of changes in the Arctic induced by climate change to date and that future changes are projected to be even larger. The parties agreed that long term conservation of polar bears depends upon successful mitigation of climate change.”
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The “Outcome of the Meeting’’: a *non sequitur*?

- “The parties were also concerned that their common obligations to protect the ecosystem of which polar bears are a part can only be met if global temperatures do not rise beyond levels where the sea ice retreats from extensive parts of the Arctic.”
 - *“Climate change has a negative impact on polar bears and their habitat and is the most important long term threat facing polar bears. Action to mitigate this threat is beyond the scope of the Polar Bear Agreement. Climate change affects every nation on the earth and reaches well beyond the five parties to the Agreement so the parties look to other fora and national and international mechanisms to take appropriate action to address climate change.”*
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