International Regulation of Central Arctic Ocean Fisheries

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Presentation overview

- Introduction
- International fisheries law
- RFMOs & Arrangements relevant to the Arctic marine area & the Arctic Ocean
- Towards a regional agreement on Central Arctic Ocean fisheries
- Fisheries regulation in coastal state maritime zones of the Arctic Ocean
Introduction

- Arctic Ocean
  - Arctic marine area
  - North of Bering Strait, Greenland, Svalbard & Franz Josef Land; not: Bering Sea and Barents Sea
  - Characteristics compared to more southerly areas:
    - Data, knowledge and insight in ecosystems scarce
    - No large-scale commercial fisheries and - in the high seas portion - no fisheries at all
  - Central Arctic Ocean = high seas
  - Five Arctic Ocean coastal states (Canada, Denmark/Greenland, Norway, Russian Federation and United States)
Introduction (cont.)

• Future scenarios for new and exploratory fisheries
  – First on Atlantic side or on Pacific side?
    • Species expansions
    • Impediments
      – Technical feasibility (no sea ice)
      – Financial viability (remoteness & risk)
        » Assertion of freedom to fish on the high seas
        (even if not financially viable)
  – When?
International fisheries law

- Multiple levels: global, (sub-)regional and bilateral bodies and instruments
  - Global bodies and instruments commonly provide jurisdictional framework → also apply to the (Central) Arctic Ocean, however defined
    - LOS Convention, Fish Stocks Agreement, FAO treaties
    - Conservation of target & non-target species and habitats (e.g. CITES, CMS & CBD)
  - Actual fisheries regulation commonly by (sub-)regional and bilateral bodies and instruments
    - RFMOs and Arrangements
    - Bilateral arrangements (access and regulation)
    - Non-legally binding FAO instruments (e.g. Code of Conduct)
International fisheries law (cont.)

- Need for global high seas coverage with RFMOs or Arrangements & address illegal, unreported and unregulated (IUU) high seas fishing (in part required by Fish Stocks Agreement)
  - Newest RFMOs in Pacific
    - South Pacific RFMO
    - North Pacific RFMO (not yet established)
  - Gaps in global high seas coverage, e.g.
    - Central and South-West Atlantic
    - Arctic Ocean
<table>
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<th>RFMOs/As also relevant to Arctic marine area but not Arctic Ocean</th>
<th>RFMOs/As also (potentially) relevant to Arctic Ocean</th>
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<td>• Central Bering Sea (CBS) Convention</td>
<td>• North-East Atlantic Fisheries Commission (NEAFC)</td>
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<td>• International Pacific Halibut Commission (IPHC)</td>
<td>• Joint Norwegian-Russian Fisheries Commission</td>
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<td>• North Pacific Anadromous Fish Commission (NPAFC)</td>
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<td>• Yukon River Panel to Pacific Salmon Treaty</td>
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<td>• Intergovernmental Consultative Committee (ICC)</td>
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<td>• Western and Central Pacific Fisheries Commission (WCPFC)</td>
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<td>• Northwest Atlantic Fisheries Organization (NAFO)</td>
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<td>• Loophole Agreement</td>
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RFMOs relevant for Arctic Ocean

- North-East Atlantic Fisheries Commission (NEAFC)
  - Denmark (i.r.o. Faroe Islands and Greenland), EU, Iceland, Norway and Russian Federation
  - All ‘residual’ fish
    - E.g. herring and blue whiting
    - Excluding also those managed by the Joint Norwegian-Russian Fisheries Commission
RFMOs relevant for Arctic Ocean (cont.)

- Joint Norwegian-Russian Fisheries Commission
  - Spatial scope not defined; (Central) Arctic Ocean is therefore included
  - Main species: cod (Norwegian Arctic cod and coastal cod), (Northeast Arctic) haddock and Greenland (Northeast Arctic) halibut, (Barents Sea) capelin (and harp seals, king crab etc.)
  - Unique practice vis-à-vis the Loophole
  - Competence overlap with NEAFC; both spatially and substantively - but so far complementarity rather than incompatibility or conflict
  - Is the Joint Commission an RFMO/Arrangement?
Towards a regional agreement on Central Arctic Ocean fisheries

• 2007: northward species expansion triggers precautionary action within United States
• 2007: Arctic Council not interested
• 2009: Arctic Ocean coastal states (except US) object to any role of UNGA
SJ Res No. 17 of 2007

directing the United States to initiate international discussions and take necessary steps with other Nations to negotiate an agreement for managing migratory and transboundary fish stocks in the Arctic Ocean
Towards a regional agreement on Central Arctic Ocean fisheries (cont.)

- Arctic Ocean coastal state process
  - Policy/governance
    - Ministerial level
      » Ilulissat (May 2008); no reference to fisheries
      » Chelsea (March 2010)
    - Senior officials level
      » Oslo (June 2010)
      » Washington D.C. (April-May 2013)
      » Nuuk (Feb 2014)
  - Science
    - Anchorage (June 2011)
    - Tromsø (Oct 2013)
    - ??? (mid 2015)
Towards a regional agreement on Central Arctic Ocean fisheries (cont.)

- Arctic Ocean coastal state process (cont.)
  - Nuuk (Feb 2014) meeting
    - Agreement on interim measures to prevent unregulated fishing in Central Arctic Ocean
    - overlaps spatially with NEAFC and Joint Commission
    - only fishing pursuant to RFMO/A
  - Arctic Ocean coastal States (Ministerial) Declaration
    - Text based on Nuuk interim measures still being finalized
    - Original plans aborted due to developments in Ukraine
    - Ministerial?
    - When?
“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”
Towards a regional agreement on Central Arctic Ocean fisheries (cont.)

- Broader process
  - By invitation only: China, EU, Japan, Iceland and South Korea
    - Rationale? Concept of real interest?
  - First meeting expected late 2014 or early 2015, in Canada
  - RFMO unlikely but possibly treaty (Arrangement)
  - Substantive outcome
    - “a set of interim measures, compatible with the Ministerial Declaration”
    - *De facto* prohibition of fishing (precautionary approach) + exit strategy?
    - Compatibility?
    - If treaty, provision on accession to new parties?
Towards a regional agreement on Central Arctic Ocean fisheries (cont.)

- Comparison with recent negotiations to establish RFMOs, e.g.
  - South Pacific RFMO
  - North Pacific RFMO

- Is a comparison really useful?
  - No fish at the moment
  - Still very much unknown about the broader process
Fisheries regulation in coastal state maritime zones of the Arctic Ocean

- Fish stocks expansion is likely to occur first in coastal state maritime zones
  - Compatibility with regulation in Central Arctic Ocean
  - Addressing gaps in cooperative arrangements between Arctic Ocean coastal states
Thank you!

Questions?