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Report to Ministers of the Task Force on Arctic Marine Cooperation (TFAMC)

Executive Summary

The Task Force was established by Arctic Council Ministers at Iqaluit in 2015 “to assess future needs for a regional seas program or other mechanism, as appropriate, for increased cooperation in Arctic marine areas,”¹ and “to make recommendations on the nature and scope of any such mechanisms.”² Looking ahead to the future of the Arctic, the Task Force conducted a systematic assessment of the Arctic States’ needs for cooperative mechanisms to achieve the strategic goals set by Arctic Council Ministers, including progress toward implementing an ecosystem-based approach to management. In the course of this needs assessment, the Task Force looked at existing marine cooperation that occurs through the Arctic Council, different forms of regional marine cooperation near and far from the Arctic region, and emerging global developments, including ongoing work in the United Nations on the conservation and sustainable use of marine biodiversity beyond national jurisdiction.

Having compared and contrasted the Arctic Council’s approach to marine stewardship with regional marine cooperation around the world, the Task Force identified a range of needs and opportunities for enhancing and strengthening the Council’s role in Arctic marine stewardship. While some of these needs could potentially be met by enhancing existing Arctic Council initiatives, others add entirely new dimensions of marine cooperation to the Arctic Council, and likely necessitate a corresponding addition of new institutional capacity.

With a view to establishing a new Arctic Council subsidiary body and other complementary enhancements to meet our future needs for cooperation related to Arctic marine areas, the Task Force makes the following recommendations to the Arctic Council. The Task Force should continue to work during the Finnish chairmanship, with a new mandate building upon its work to date, to negotiate the terms of reference for a new subsidiary body and to identify potential complementary enhancements to existing Arctic Council mechanisms.³ In negotiating these terms of reference, the Task Force should, *inter alia*,

¹ Iqaluit Declaration, 2015, paragraph 43.

² Senior Arctic Officials’ report to Ministers, Iqaluit, Canada, 24 April 2015, pp. 77-78.

³ The Task Force shares the understanding that the decision on the establishment of a subsidiary body would only follow agreement on the Terms of Reference for such a body.

- A. define the competence, function and responsibility of the new subsidiary body and how it will work with existing Arctic Council mechanisms (e.g. SAOs, PPs and Working Groups);
- B. ensure that the new subsidiary body complements and enhances the marine stewardship work already taking place in the Arctic Council;
- C. allow for stepwise flexibility to phase in and add functions over time.

I. Assessment of Future Needs for Arctic Marine Cooperation

The Task Force began its assessment of future needs at the broadest level, working from strategic objectives adopted by the Arctic Council at the Ministerial level. Through a series of recent Ministerial Declarations, the Arctic Council has recognized the need for implementing an ecosystem-based approach to management as a strategic objective. In 2015, Arctic Council Ministers adopted a strategic vision⁴ for the Arctic marine environment and four strategic goals⁵ for the coming decade in the Arctic Marine Strategic Plan 2015-2025. This strategic direction served as a point of departure for the Task Force and framed its deliberations.

The Task Force was likewise guided by the United Nations Convention on the Law of the Sea as the legal framework for all marine cooperation. In particular, Article 197 of the Convention provides that “States shall cooperate on a global basis and as appropriate on a regional basis for the protection and preservation of the marine environment, and that characteristic regional features are to be taken into account.”

In accordance with its mandate, the Task Force looked ahead to the future of the conservation and sustainable use of the Arctic marine environment. The challenges related to climate change and increasing human activities cannot be fully or accurately anticipated, but will most likely demand even more of our marine

⁴ The strategic vision adopted in the Arctic Marine Strategic Plan 2015-2025 is: “Healthy, productive, and resilient Arctic marine ecosystems that support human well-being and sustainable development for current and future generations.”

⁵ The four strategic goals adopted in the Arctic Marine Strategic Plan 2015-2025 are:

Goal 1: Improve knowledge of the Arctic marine environment, and continue to monitor and assess current and future impacts on Arctic marine ecosystems.

Goal 2: Conserve and protect ecosystem functions and marine biodiversity to enhance resilience and the provision of ecosystem services.

Goal 3: Promote safe and sustainable use of the marine environment, taking into account cumulative environmental impacts.

Goal 4: Enhance the economic, social and cultural well-being of Arctic inhabitants, including Arctic indigenous peoples and strengthen their capacity to adapt to changes in the Arctic marine environment.

cooperation in the future. Accordingly, the Arctic States need flexible cooperative structures that will enable us to fulfill our role as the primary Arctic marine stewards into the future, and recognize that such structures may need to evolve to meet changing circumstances.

The Task Force examined existing mechanisms for marine cooperation in the Arctic region, particularly those within the Arctic Council. The Arctic Council is already extensively engaged in matters related to the marine environment, filling its role as the Arctic States' primary tool for science-based regional cooperation concerning the Arctic marine environment. Our deliberations have greatly benefitted from the participation in the Task Force meetings of the Chairs and Secretariats of PAME, EPPR, CAFF, and AMAP and Observers. Amidst rapid change in the Arctic, and a rising profile in global affairs, the Arctic Council's workload has grown substantially since its establishment in 1996. We anticipate continued growth in the marine issues confronting the Council, as human activities in the Arctic increase, and as we "continue our work to strengthen the Arctic Council to meet new challenges and opportunities for cooperation, and pursue opportunities to expand the Arctic Council's roles from policy-shaping into policy-making."⁶

The Task Force considered frameworks, fora, and processes within and beyond the Arctic that are relevant to addressing the challenges and opportunities in a changing Arctic. Between the global and regional institutions and agreements addressing matters such as shipping, contaminants, marine pollution, and biodiversity, and regional mechanisms such as Regional Fisheries Management Organizations, many of the issues affecting the Arctic marine environment are addressed on a sectoral basis. There is a need for holistic, integrated Arctic regional cooperation to complement specialized sectoral mechanisms. The Arctic States, including the Permanent Participants and Arctic inhabitants, are uniquely placed to serve as stewards for Arctic marine ecosystems as a whole, including through taking an integrated approach that cuts across sectors and jurisdictional boundaries, and applying our unique knowledge of Arctic marine ecosystems, including traditional knowledge.

The Task Force reviewed mechanisms for regional cooperation in marine stewardship around the world. We are grateful to the International Council for the Exploration of the Sea (ICES); the North Pacific Marine Sciences Organization (PICES); the International Arctic Science Committee (IASC); the OSPAR Commission; the Baltic Marine Environment Protection Commission (HELCOM); and the Sargasso Sea Commission for their presentations at the first Task Force meeting.

The Task Force took note of global developments relating to marine stewardship. In particular, we have taken note of important developments within the United Nations, such as the adoption of the Sustainable Development Goals, including a separate goal on oceans, and the establishment of the Preparatory Committee to develop elements of a new agreement under the Law of the Sea Convention on the

⁶ Kiruna Vision Statement, May 15, 2013.

conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction (BBNJ) before the end of the 72nd Session of the United Nations General Assembly.⁷ We are cognizant that the commitments our respective governments undertake in global fora, and regional marine cooperative mechanisms both near and far from the Arctic, represent the standards against which our marine cooperation outcomes will be measured.

The Task Force recognizes that marine ecosystems do not necessarily correspond to the boundaries delimiting our national jurisdiction or areas beyond national jurisdiction. An ecosystem approach requires a coordinated approach to stewardship, including Arctic marine areas beyond national jurisdiction.

The Task Force recognizes that an ecosystem approach demands extensive knowledge inputs. The Arctic Council has made significant knowledge contributions in this regard and it is imperative to prioritize the finite resources of our national marine science programs to ensure we are obtaining the science and traditional knowledge needed for sound decision making. We seek opportunities to stretch our respective science resources further through regional cooperation, and to leverage marine science capacity beyond the region.

The Task Force considered the Arctic Council's distinctive approach to regional marine cooperation. The Arctic Council's marine science and policy collaboration aims to inform, coordinate, and assist sound management decisions by competent authorities. The Task Force has assessed needs to further enhance and strengthen the Arctic Council's marine stewardship through facilitating closer coordination and collaboration among the States, competent organizations, and Arctic indigenous peoples involved in managing the marine areas of the Arctic.

The Task Force identified the following functional needs for fulfilling our role as the principal stewards of the Arctic marine environment into the future.

- **Extending cooperation throughout marine stewardship cycle.**

The Task Force assesses a need to extend the reach of Arctic regional cooperation throughout the entire cycle of marine stewardship: from the planning of scientific research, to obtaining the requisite knowledge (including traditional and local knowledge), to carrying out observations and monitoring, to the conduct of scientific assessments, to formulation of policy and recommendations, to implementation of policy and, to monitoring and assessment of the policy's effectiveness. While implementation authorities ultimately reside with each State, we see opportunities for greater cooperation within the Arctic Council, including the Permanent Participants, and with other stakeholders throughout the cycle.

⁷ A/RES/69/292. Discussions to date within the Preparatory Committee have addressed area-based management tools beyond national jurisdiction, such as marine protected areas, and environmental impact assessments. Such global developments may become relevant for the Arctic, and further marine cooperation developments within the Arctic Council may likewise become relevant for such global processes.

- **Integration across sectors and jurisdictional boundaries.**

Integration is at the heart of an ecosystem-based approach to management, and will be important for the Arctic Council's role in Arctic marine stewardship in the future. A large portion of Arctic marine areas are within national jurisdiction and managed by the coastal States. In addition, international sectoral mechanisms addressing human activities such as fishing, and shipping, have mandates in parts of the Arctic. The Task Force assesses a need to endow the Arctic Council with enhanced capacity to offer an integrated, holistic picture of Arctic marine ecosystems—across sectors and jurisdictional boundaries—to enable an ecosystem-based approach to management by States and competent international organizations.
- **Integration of knowledge.**

It is important to enable marine managers to make informed decisions benefiting from the marine science programs of the Arctic States, traditional and local knowledge of Arctic inhabitants, and scientific knowledge and capacity from beyond the region.
- **Strengthening the science-policy interface.**

The Task Force assesses a need to enhance cooperation to ensure our science priorities align with our management needs. The Arctic Council has a successful record of collaborative science to highlight environmental challenges for policymakers. We see opportunities for a more regular and systematic dialogue among senior level marine scientists, traditional knowledge holders and managers, to inform the Arctic marine science community of managers' knowledge needs, and to ensure managers have access to the most current research results and insights regarding the region.
- **Regional cooperation in the development and regular assessment of ecological quality indicators and objectives.**

Toward enabling an adaptive, ecosystem approach to management, the Task Force assesses a need for enhanced cooperation to develop ecological quality indicators and objectives, along with routine monitoring and assessment, using existing work and structures where possible and adding possible synergies and coordinating functions.
- **Regional cooperation on area-based stewardship.**

The Task Force has identified a range of future needs relating to increased Arctic Council cooperation on area-based stewardship measures, including for marine areas beyond national jurisdiction. All delegations agree that any regional measures must be in accordance with the law of the sea.
- **Regional assessment, monitoring and accountability.**

The Task Force sees a need to measure our progress, as a region, toward the marine-related policy goals we set for ourselves.

- **Communication and advocacy of Arctic marine stewardship.**
The Task Force sees a need to broadly communicate the work and priorities of the Arctic Council on marine stewardship and strengthen the ability to advocate marine issues with other international bodies and organizations.
- **Coordination of marine-related work within the Arctic Council and by the Arctic Council with other relevant bodies.**
Encouraged by initiatives for coordination across Working Groups on cross-cutting marine-related matters, the Task Force sees a need for more regular, institutionalized, and formalized coordination of marine issues within the Arctic Council and for establishing cooperative mechanisms with other relevant international and regional bodies.

While some of these functional needs could be met by enhancing existing Arctic Council initiatives, others would add new dimensions of marine cooperation to the Arctic Council, and could necessitate a corresponding addition of new institutional capacity and frameworks.

To the extent that the Arctic States decide to develop additional marine cooperation capacity to address these needs over time, the Task Force is of the view that this capacity should reside within the Arctic Council.

To address the identified needs, the Task Force considered several potential mechanisms, including:

- a new Arctic Council subsidiary body to enhance coordination and integration on marine matters;
- ministerial processes engaging ministries responsible for various marine related sectors;
- an Arctic marine Expert Group;
- a regional sea programme;
- dedicated SAO meetings on marine cooperation issues;
- enhancing the mandate of the PAME Working Group;
- enhancing marine professional capacity (staff) within the Arctic Council Secretariat.

The Task Force discussed many of these potential options as complementary, rather than mutually exclusive.

II. Values and Principles for Marine Cooperation

In the course of its deliberations, the Task Force identified the following values and principles that should guide Arctic marine cooperation into the future:

- A. The special role and responsibility of the Arctic States for marine stewardship in the Arctic region.
- B. Arctic marine cooperation should benefit the Arctic and its inhabitants, and must involve Arctic indigenous peoples through the Permanent Participants.
- C. Regional cooperation on implementation of shared obligations under relevant international instruments (e.g., UNCLOS, and other instruments to which the Arctic States have subscribed).
- D. Regional cooperation in implementing an ecosystem-based approach in the Arctic as a whole, including in areas beyond national jurisdictions, based on the best available scientific information and a balance between conservation and sustainable use of marine resources.
- E. Cooperation in the conduct of scientific research concerning Arctic marine areas.
- F. Arctic marine cooperation should develop among the Arctic States and evolve within the Arctic Council, consolidating and strengthening the Council's marine work.
- G. Strengthen the role of indigenous peoples and local communities in Arctic marine cooperation.
- H. The Arctic Council's marine stewardship efforts should be given a stronger and more visible profile.
- I. Respect for the sovereignty, sovereign rights, jurisdiction and obligations of the Arctic States, including sovereign rights over the continental shelf as reflected in UNCLOS.
- J. Respect for all States' obligations and freedom of the high seas as reflected in UNCLOS.
- K. Arctic regional follow-through on Arctic Council marine-related recommendations
- L. Complement, not duplicate existing work, avoiding unnecessary bureaucracy.
- M. Flexibility and adaptability; can evolve over time to meet changing circumstances and needs.
- N. Openness to potential contributions to Arctic marine cooperation by relevant stakeholders.

III. Recommendations of the Task Force on Arctic Marine Cooperation

In addition to “identifying future needs for strengthened cooperation for Arctic marine areas”, the mandate directs the Task Force it to identify in its report to Ministers “whether the Council should begin negotiations on a cooperation mechanism for Arctic marine areas,” and to “make recommendations on the nature and scope of any such mechanisms.”⁸

The Task Force is of the view that the needs identified in Section I could best be addressed in a manner consistent with our shared value of complementing, rather than duplicating, the Arctic Council’s existing marine cooperation, by situating any new marine cooperation mechanisms within the Arctic Council. In particular, the Task Force sees promise in further exploring the establishment of a new Arctic Council subsidiary body,⁹ in combination with complementary enhancements to existing Arctic Council mechanisms. In view of the extensive marine cooperation already underway within the Arctic Council, identifying the optimal functions, competence, and responsibility of a possible marine cooperation subsidiary body, and other coordinated enhancements to the Arctic Council, is a detail-intensive endeavor that extends beyond the Task Force’s present two-year mandate.

Accordingly, with the view to establishing a new subsidiary body and other complementary enhancements to meet the needs identified in Section I, the Task Force makes the following recommendations to the Arctic Council. The Task Force should continue to work during the Finnish Chairmanship, with a new mandate building upon its work to date, to negotiate the terms of reference for a new subsidiary body and identify complementary enhancements to existing Arctic Council mechanisms.¹⁰

In negotiating the terms of reference, the Task Force should, *inter alia*,

- A. define the competence, function and responsibility of the new body and how it will work with existing Arctic Council mechanisms (e.g. SAOs, PPs, and Working Groups)
- B. ensure that the new body and other possible new mechanisms for cooperation complement and enhance the marine stewardship work already taking place in the Arctic Council

⁸ Senior Arctic Officials' Report to Ministers, Iqaluit, Canada, 24 April 2015, at 77-78.

⁹ As an Arctic Council subsidiary body, a new marine cooperation mechanism would be subject to the Arctic Council’s Rules of Procedure and Observer Manual for Subsidiary Bodies, as well as the overall management of the SAOs.

¹⁰ The Task Force shares the understanding that the decision on the establishment of a subsidiary body would only follow agreement on the Terms of Reference for such a body.

- C. allow for stepwise flexibility and adaptability to phase in and add functions over time based on experience and evolving needs due to changing circumstances.

Among the important issues to be addressed through negotiations on the Terms of Reference of a possible subsidiary body is the function of such a body in relation to the SAOs, PPs, and Working Groups on marine matters within its competence. The Working Groups address some aspects of many of the functions identified in Section I, and it is essential to design any new body to complement, enhance and build on the Arctic Council's existing marine cooperation. The Task Force therefore recommends that the Working Group Chairs, or their designee, should participate in its work in order to provide relevant factual and technical information on their work. The Task Force should also identify relevant external bodies with whom the new subsidiary body should cooperate.

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