



The Other Moratorium – Freezing Central Arctic Fisheries as the Ice Withdraws

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Over the past months, the need to protect the High North from the environmental risks inherent to economic development has become a central issue. In particular, many groups have warned against the hazardous nature of offshore oil exploration in the waters of the Arctic Ocean, suggesting a moratorium on drilling activities. However, virtually all of the important oil and gas resources to be found in the region are located within the territorial jurisdiction of the five coastal states (Norway, Denmark for Greenland, Canada, the United States and Russia), thus reducing the likelihood of regional support for such a proposal at any time in the near future. This proposal is however not the only moratorium currently suggested for the region. Parliamentarians and scientists have also suggested freezing the development of fisheries

in the Central Arctic until a proper governance model is set in place. While this proposal is contested by some of the key regional players, there are good arguments to suggest that such an approach could present benefits to all relevant actors and hence could attract further support.

A regional consensus on the regulation of fisheries in the High Arctic is particularly relevant as marine living resources occurring beyond the limit of 200 nautical miles fall outside of the jurisdiction of the coastal states. Indeed, the UN Convention on the Law of the Sea (UNCLOS) provides that in principle, “[a]ll States have the right for their nationals to engage in fishing on the high seas.” The convention merely states a duty of all interested states to cooperate with each other in the management of the fish stocks. These weak provisions have been criticized for



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failing to address the “tragedy of the commons.” The subsequent Fish Stocks Agreement signed in 1995 further defines the role of regional fisheries management organizations, expressing the duty of states to establish an organization or cooperate with any relevant existing ones.

In this context, several actors have expressed their support for a moratorium on the development of Arctic fisheries. In 2008, the US Congress adopted a joint resolution calling for the establishment of an agreement to ensure the sustainable management of fisheries in the Arctic. Until such a framework is established, the congress recommended halting the development of new fisheries in the region. The European Union has also repeatedly expressed support for a temporary ban on new fisheries in the Arctic Ocean.

before proceeding with any new fisheries.

So far, no international organization or forum has yet addressed the issue of fisheries management in the Arctic. Despite its broad mandate covering cooperation on “common Arctic issues, in particular issues of sustainable development and environmental protection in the Arctic”, neither the Arctic Council nor its working groups have specifically addressed fisheries management. In 2007, its members have expressed their preference to deal with such issues “within the context of existing framework.”

This lack of interest has however been more recently addressed by the five Arctic coastal states which emphasized in 2008 their “stewardship” of the Arctic Ocean and have engaged since then in a more informal form of regional



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This proposal gained additional momentum in April 2012, with the open letter signed by 2000 scientists urging the leaders of the Arctic coastal states to set a “precautionary management system for central Arctic Ocean fisheries”, including the establishment of a “robust management, monitoring, and enforcement regime” and the prohibition of exploratory fishing until sufficient scientific data is available to assess sustainable catch levels.

The 1980 Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR) provides an inspiring example of a best practice that could be applied in the High North. CCAMLR sets the framework for the management of fisheries in the Southern Ocean on the basis of an ecosystem approach. It also applies a precautionary approach with regards to the emergence of new fisheries, requesting member states to notify the commission and wait for a scientific review and a formal approval

cooperation parallel to the Arctic Council. During their second ministerial meeting in 2010, they emphasized the existence of a comprehensive international legal framework and their own “unique interest and role” to play in Arctic fisheries management. While they noted that commercial fisheries are not expected to develop in the short term, the five states did call for the convening of a special senior officials meeting dedicated to Arctic fisheries. The senior officials of the coastal states noted the current lack of scientific data on the impact of climate change on Arctic fish stocks and invited a subsequent meeting at the expert level to evaluate relevant information. While the launch of this process constitutes a welcomed first step towards regional cooperation on the fisheries in the Central Arctic, this process is however unlikely to provide guarantees to other interested actors that it would ensure sustainable exploitation of future fish stocks. Indeed, this process currently



takes place outside of any formal framework and provides no opportunities for the engagement of other actors. A more transparent (and perhaps also more inclusive) approach would better demonstrate the stewardship of the five coastal states.

A recent report by the UN Food and Agriculture Organization evaluated that 85% of world fish stocks are either fully exploited, overexploited, depleted or recovering from depletion. This situation is likely to increase pressure for the de-

velopment of fisheries in the high Arctic, as the competition for resources will be exacerbated in the future. In this context, the remaining time before this new industry becomes economically viable should be seen as an opportunity for the interested states to set an adequate regulation framework to prevent the region from becoming another example of the mismanagement of fish stocks.

LITERATURE

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