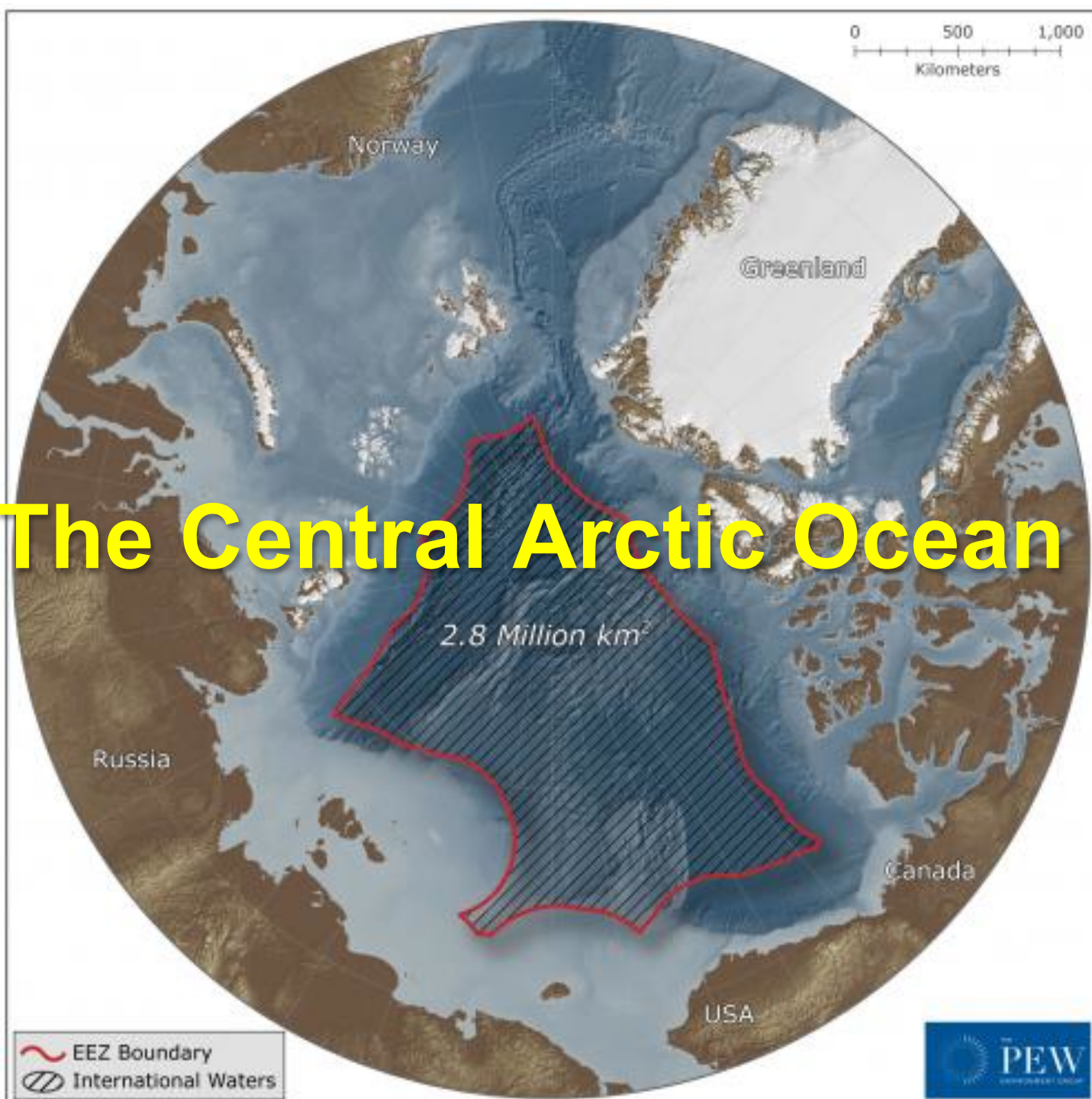


Stewardship of the Central Arctic Ocean:

The Arctic 5 versus the international community

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The Central Arctic Ocean



Ilulissat Declaration 2008

By virtue of their sovereignty, sovereign rights and jurisdiction in large areas of the Arctic Ocean the five coastal states are in a unique position to address these possibilities and challenges (climate change related impacts on vulnerable ecosystems, livelihoods of local inhabitants and indigenous communities, and the potential exploitation of natural resources).

An extensive international legal framework applies to the Arctic Ocean... This framework provides a solid foundation for responsible management ... we therefore see no need to develop a new comprehensive international legal regime to govern the Arctic Ocean.

The Arctic Ocean is a unique ecosystem, which the five coastal states have a stewardship role in protecting. ...We will take steps in accordance with international law both nationally and in cooperation among the five states and other interested parties to ensure the protection and preservation of the fragile marine environment of the Arctic Ocean.

Non - A5 Interests

Legal Framework Extensive – but not comprehensive

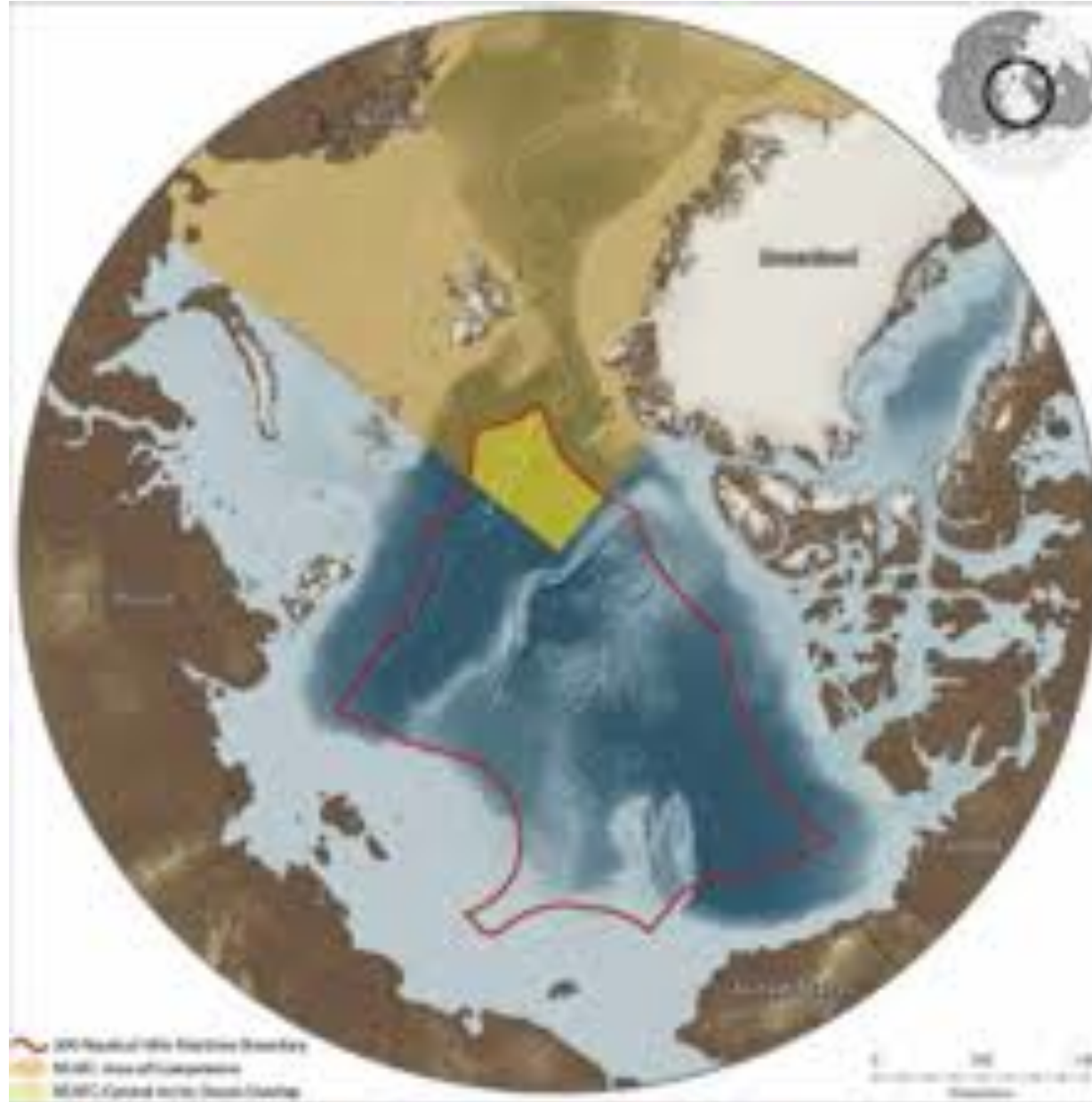
Jurisdictional allocations:

- Areas under national jurisdiction (AUNJ):**
 - Internal waters**
 - Territorial sea**
 - Exclusive economic zone**
 - Extended continental shelf**
- Areas beyond national jurisdiction (ABNJ):**
 - High seas**
 - The ‘Area’**
- Issues of international interest:**
 - Shipping and navigation – [Polar Code, Emergency Preparedness, Search and Rescue]**
 - High seas fishing and marine biodiversity**
 - Marine scientific research**

Arctic Ocean Fisheries Regime

- LOSC
- UNFSA
- NEAFC
- Norway-Russia Joint Commission
- NASCO
- ICCAT

(Map: Pew trusts)



Gaps in the Fisheries Regime

- **Need for basic fisheries research and the development of future scenarios about emerging fishing opportunities and effects on non-target species;**
- **Need for domestic regulation by coastal, flag, port and market states;**
- **Need for EIA and SEA mechanisms and procedures that can be applied to new or expanding fisheries in the Arctic marine area;**
- **Lack of a geographically comprehensive RFMO/A coverage for non-tuna or tuna like and non-anadromous species;**
- **Inherent shortcomings of the international fisheries regime including the non-applicability of the UNFSA to discrete high seas stocks.**

WWF (2009) – International Governance and Regulation of the Marine Arctic

Filling the Gaps

- **2007: US Senate joint resolution ‘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’**
- **2008: EU proposes expansion of NEAFC**
- **2009: US COFI side event proposal for international negotiations**
- **2009: UNGA ‘Oceans’ and ‘Sustainable Fisheries’ Resolutions- EU proposals for paras on Arctic Ocean fisheries (contested by Norway and others on basis of ‘special responsibility’)**
- **2010: 2nd Arctic Oceans coastal states ministerial – A% have ‘a unique interest and role to play in current and future efforts for the conservation and management of fish stocks’ in the Arctic Ocean.**
- **2010-2013: senior officials and science meetings**
- **2014: Nuuk agreement on desirability of interim measures re CAO**

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

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

- **Authorize 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.**
- **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...**
- **Promote compliance with these interim measures and with relevant international law, including by coordinating our monitoring, control and surveillance activities in this area.**
- **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.**

Interim Measures con't

These interim measures will neither undermine nor conflict with the role and mandate of any existing international mechanism relating to fisheries, including the North East Atlantic Fisheries Commission. Nor will these interim measures prejudice the rights, jurisdiction and duties of States under relevant provisions of international law as reflected in the 1982 United Nations Convention on the Law of the Sea, or the 1995 United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, or alter the rights and obligations of States that arise from relevant international agreements.

Limits of the Commitments

- applies to commercial fisheries only (possible abuse)
- high seas of CAO only
- RFMO/As 'that are or may be established'
 - NEAFC
 - Norway Russia Joint Commission (savings clause re 'any existing international mechanism')
- does not preclude fishing by NEAFC members in NEAFC area or by Norway or Russia pursuant to JC
- does not apply to non A5
- does nothing re broader MBD issue

‘The Way Forward’

- **Do nothing – the ‘watching brief’**
- **Develop principles/guidelines on exploratory fisheries**
- **Promotion of a ‘broader process’ and buy in of other states**
- **but does A5+5 violate rights/interests of other (non-invited) states? ie issues of ‘real interest’, new entrants, allocation of fishing opportunity, etc**
- **Call the A5’s bluff – push for strong content in Implementing Agreement on Protection of Marine Biodiversity in ABNJ**

Thank you