



Policy options paper

OPTIONS FOR ARCTIC MARINE COOPERATION

Introduction

Strengthening instruments for marine cooperation in the Arctic will help to improve the implementation of Arctic Council (AC) decisions and recommendations on marine issues and support a more effective governance system. This is necessary to assure the sustainability of the Arctic region and the healthy state of the Arctic Ocean. Better coordination, decision-making and implementation mechanisms must be put in place to address major barriers to proper implementation. The gap between technical and scientific analysis and policy design needs to be bridged. Monitoring and reporting within the AC need to be strengthened in order to bring legitimacy to the Council through rigorous implementation process.

This document outlines several options to facilitate Arctic marine cooperation within the AC. The options include:

- Creating strong Science, Policy and Implementation interactions through a new AC structure to support enhanced cooperation
- Creating an Arctic Council Marine Commission
- Establishing an Arctic Marine Cooperation Framework Agreement
- Building an Arctic Council Marine Implementation System

It is important to note that these options are not mutually exclusive but can complement one another. For instance, it is possible that a new Arctic Council structure could be implemented, and that a framework agreement could complement the restructured Council, and that an implementation system could also be combined with the other two approaches.

None of the options envisage doing away with the Arctic Council; they would work within the structure of the Council and within current operating procedures. The options do not prejudice the sovereignty of coastal states over their territorial seas, their sovereign rights and jurisdiction in their exclusive economic zones and regarding their continental shelves, or the rights of other states in these areas, in accordance with international law, including the United Nations Convention on the Law of the Sea.

These options would cover all marine sectors under the Arctic Council mandate, including but not limited to Arctic shipping management, oil spill prevention, national coordination of ecosystem-based approaches to management and cooperation to establish special management areas. In terms of geographic coverage, all options should apply to the entire Arctic marine environment as per the geographical area defined by the Council's activities, from the surface of the sea to, but not including, the seabed below. National EEZs and national territorial waters will also be included, though national sovereign rights will determine how each option operates under these circumstances.

WWF preferred options are a combination of options 1, 3 and 4, with a binding framework agreement as the preferred mechanism in option 3.

Option 1: Create strong Science, Policy and Implementation Interactions

1. Background

There are two major impediments to an effective and coordinated implementation of relevant marine Ministerial recommendations within the AC: i) disconnection between scientific analysis and policy decisions; and ii) insufficient coordination with regards to implementing AC decision/recommendations under national processes within and between Arctic States.

This is also true for other areas of the Arctic Council operations. Thus, it may be worth to reconsider the current structure and operation of the AC.

To address these issues, three subsidiary bodies should be created within the AC with separate but complementary responsibilities: *a science (or knowledge) coordination group, a policy coordination group, and an implementation coordination group*. These bodies would enhance the existing structure by integrating Working Groups (WGs), Task Forces (TFs) and Senior Arctic Officials (SAOs) into a more interactive system to allow for better coordination and implementation of marine and other decisions/recommendation.

2. Substantive issues and functions

The **science coordination group** would house the existing WGs and expert groups. Upon Ministerial requests, this group would produce scientific assessments and reports on specified topics, provide corresponding scientific and technical recommendations and identify new and emerging issues. These assessment and reports would then be forwarded to the policy coordination group.

The **policy coordination group** would recommend further action based on the scientific assessments/reports and scientific recommendations submitted by the science group and would be responsible for bringing the resulting policy recommendations to the attention of Ministers. The policy group would be composed of representatives from relevant governmental authorities, and strong participation by Permanent Participants (PP) in this process would be a priority given the importance of their roles in decision making. The policy group would be run by SAOs and would house the Task Forces. The Task Forces would play a role in helping the policy group to negotiate specific policy recommendations and instruments. In addition to developing policies based on information and recommendations provided by the science group, the policy group could also request further research to be conducted by the science group. Before passing policy recommendations on to Ministers, the policy group would pass its recommendations back to the science group to ensure draft policies are supported by scientific advice.

The implementation coordination group would consider the recommendations provided by the policy group and use them as a basis to develop general implementation plans which would include clear timelines and measures to guide Arctic States in developing national implementation plans, after such recommendations had been approved by the Arctic Council Ministers. This group would also identify other relevant international frameworks and provide for synergies, where appropriate. The implementation group could request additional research to be conducted by the science group to support the development of its implementation

plans, and could request from the policy group the development of further policy options.

AC Ministers and PPs would select appropriate representatives to serve on each of the above mentioned groups: science/traditional knowledge (TK) experts for the science group; policy experts for the policy group; and those with delegated authority to decide on marine implementation at the national level in their respective Arctic States for the implementation group.

3. Proposed coverage

Geographic: entire Arctic as per the geographical area defined by the Council's activities. National EEZs and national territorial waters are included, though national sovereignty will affect how this option operates.

Thematic: entire range of the topics addressed by the AC.

4. Relationship to Arctic Council and other institutions

Totally within the structure of the Arctic Council and under the mandate and directions of the Arctic Foreign Ministers. This option does not prejudice the sovereignty of coastal States over their territorial waters, nor their sovereign rights and jurisdiction in their EEZs and continental shelves, nor the rights of other States in these areas, in accordance with international law, including the United Nations Convention on the Law of the Sea.

5. Membership and rights

AC members and PPs would nominate their representatives to each of coordination groups. Observers could participate in the work of these groups as per the existing Rules of Procedure and the Observer Manual.

6. Implications

for Arctic Council structure:

- Establishes new bodies within the AC and requires appropriate changes in Rules of Procedure.
- Requires changes in the role of the AC Secretariat to provide for the expert facilitation/coordination of cross-cutting issues within coordination groups and by working with WGs and TFs as well as among coordination groups.

for costs:

- Requires meetings of new coordination groups while limiting the number of meetings of SAOs to only two during an inter-Ministerial period.
- Requires new positions in the AC Secretariat.

other:

- Provides for a solid, coordinated "single" approach to developing scientific and policy advice on cross-cutting issues (issues common to several WGs).
- Allows for developing solid scientific and technical advice while leaving policy decisions to appropriate level and body.
- Directly connects individuals in Arctic State governments who are responsible for national implementation.
- Shifts the attention to implementation and collaboration with national counterparts to create national plans which, as a collective, would increase the likelihood of a coherent implementation of the AC decisions/recommendations.

Option 2: Arctic Council Marine Commission

1. Background

This option builds upon an informal set of ideas to establish an Arctic Marine Commission which was presented by the U.S. at the second meeting of the Task Force on Arctic Marine Cooperation. The primary purpose of the Commission would be to better link science being conducted by the WGs with those who implement marine programs within the Arctic States as a means of strengthening marine implementation.

2. Substantive issues and functions

The mandate of the Commission would be based on the four strategic objectives of the Arctic Marine Strategic Plan 2015-2025, and its work would focus on ensuring full implementation of the entire Strategic Plan, regardless of which WG is responsible for a specific element of the Plan.

The Commission would be composed of high level representatives from each Arctic State with the required expertise in marine issues and the authority to implement marine related policies and strategies in their respective States, as well as Permanent Participants. The chair of the Commission would rotate among Arctic States and the Commission would report to the Ministers.

The Commission would coordinate the work of all WGs related to marine issues and, in doing so, facilitate a connection between the science and policy processes. It would also be responsible for providing policy recommendations to be further endorsed by Arctic Ministers on all marine related topics. The Commission members would collaborate on drafting general marine implementation plans and forward them to the Ministers for their consideration and approval. The Commission may send direct requests to the Working Groups for scientific and technical advice as well as for additional research in order to better inform policy decisions.

3. Proposed coverage

Geographic: marine Arctic as per the geographical area defined by the Council's activities. National EEZs and national territorial waters are included, though national sovereignty will affect how this option operates.

Thematic: All marine related elements of the Arctic Council agenda.

4. Relationship to Arctic Council and other institutions

The Commission would be entirely within the structure of the Arctic Council and under the mandate and directions of the Arctic Foreign Ministers. This option does neither prejudice the sovereignty of coastal States over their territorial waters, nor their sovereign rights and jurisdiction in their EEZs and continental shelves, nor the rights of other States in these areas, in accordance with international law, including the United Nations Convention on the Law of the Sea.

5. Membership and rights

Arctic Council members, Permanent Participants and Observers as per existing Rules of Procedure and Observer Manual.

6. Implications

for Arctic Council structure:

- Establishes a new body (and a new type of body) within the AC and requires appropriate changes in Rules of Procedure. Further, it may be considered to establish such a structure also for other (non-marine) areas of the AC work (a new commission or, by extension, several commissions may need to be formed, creating additional layers of organization within the Council).
- Requires additional support from the ACS.

for costs:

- Requires additional financial resources to provide for meetings of the Commission.

other:

- Facilitates improved implementation and strengthen the connection between WG results and Ministerial decisions.
- Helps to promote greater coherence in marine work between various sectors and promote coordinated pan-Arctic marine governance.
- Translates specific scientific and technical recommendations and advice into policy recommendations, connecting science with policy.
- Seeks to bring together all elements of marine work in the AC.
- Bridges work within the AC with those in charge of national level implementation.

Option 3: Arctic Marine Cooperation Framework Agreement to Strengthen Implementation Process

1. Background

In order to coordinate the various formal and informal elements of the marine agenda within the AC and to create a cooperative marine governance structure in the Arctic, a framework agreement could be adopted by Arctic Ministers.

2. Substantive issues and functions

The primary function of a framework agreement would be to facilitate cooperative actions by the eight Arctic states, acting through the AC Ministers, to achieve the agreed goals of the Arctic Marine Strategic Plan 2015-2015. A framework agreement would function through a system of Programmatic Action Agendas (PAAs) or protocols on key Arctic marine issues as identified by Arctic Ministers.

The proposed PAAs would include specific implementation timeframes and procedures to measure their success. Once approved by the Ministers, these PAAs would be implemented by national governments and where specifically agreed collectively through the Arctic Council. Continuing the current procedures of the AC, each PAA would be approved by consensus, though an Arctic State could choose to refrain from implementing a particular PAA.

The operative element of this option mirrors what is contained in the Arctic Council's Framework for Action on Black Carbon and Methane. The Arctic Council Secretariat (ACS), with the support of the WGs, can serve the Ministers in fulfilling actions stemming from the Framework Agreement. Ways and means to improve the effectiveness of Permanent Participants should be included as part of the Framework Agreement. Greater participation from Observers in implementation of PAAs would also be an important component.

The framework agreement could be established as a binding or non-binding agreement. A legally binding agreement would provide clear and strong legal support for a form of governance to coordinate management of the Arctic marine environment and demonstrate to the rest of the world the seriousness of purpose related to marine governance by Arctic states. A non-binding agreement would at least have the potential to establish fully coordinated, agreed, and monitored implementation of activities under the PAAs.

3. Proposed coverage

Geographic: The entire Arctic as per the geographical area defined by the Council's activities. National EEZs and national territorial waters are included, though national sovereignty will affect how this option operates. Includes the entire Arctic marine environment water column, but not the seabed.

Thematic: The whole range of marine topics addressed by the AC. Specific PAAs (covering specific topics related to the marine agenda) to be developed and added to the framework as and when decided by the Ministers.

4. Relationship to Arctic Council and other institutions

The framework outlined above would be entirely within the structure of the Arctic Council and under the mandate and directions of Arctic Foreign Ministers. Arctic Council Secretariat would serve as a secretariat for the agreement. This option does neither prejudice the sovereignty of coastal States over their territorial seas, nor their sovereign rights and jurisdictions in the EEZs and continental shelves, nor the rights of other States in these areas, in accordance with international law, including the United Nations Convention on the Law of the Sea.

5. Membership and rights

Arctic Council members, Permanent Participants and Observers as per existing Rules of Procedures and Observer Manual. Agreement can establish additional procedures and rules allowing for and regulating participation of observers.

6. Implications

for the Arctic Council structure:

- Does not require establishing new permanent structures.
- ACS should get mandate to serve also as a secretariat for the agreement [treaty] and most probably get additional staff.
- Requires amendments to the Rules of Procedure to address organisation of work on the agreement.

for costs:

- Requires additional financial resources for additional staff within the ACS and for additional meetings (one per inter-Ministerial period) serving as a meeting of the Parties to this agreement.

other:

- An established process for prioritizing the development and implementation features of PAAs would allow the cooperative mechanism to create an agenda which would enhance scientific cooperation, efficiency and productivity throughout the many existing scientific bodies concerned with the Arctic.
- PAAs through national commitments could magnify the potential of other organizations such as the International Maritime Organization (IMO) to support implementation.
- This process would include the development of specific guidelines for implementation to increase effectiveness.
- This option can be implemented through a binding or non-binding agreement.

Option 4: Building Arctic Council Marine Implementation System

1. Background

There are two major impediments to an effective and coordinated implementation of relevant marine Ministerial recommendations within the AC: i) disconnection between scientific analysis and policy decisions; and ii) insufficient coordination with regards to implementing AC decision/recommendations under national processes within and between Arctic States on marine issues. This includes almost every WG as they all perform some elements of marine related work. Enhanced coordination of WG under the leadership and facilitation of a strengthened Arctic Council Secretariat (ACS), combined with additional mechanisms for improved WG interactions, would address these challenges.

2. Substantive issues and functions

We propose three steps to enhance the coordination and integration of all elements of the marine agenda within the AC:

- 1) **introduce a system of regular “Arctic Council Marine Coordination Sessions”** (biennial meetings) to convene all WGs and all of their experts working on marine issues. The agenda for such meetings would include 3-4 specific cross-cutting issues addressing elements of the AC Marine Strategic Plan 2015-2025. In addition to specific topics, the meeting would assess progress on the AC Marine Strategic Plan as a standing agenda item. Guidelines would be established to specify and prioritize recommendations made by Arctic States on marine topics. Each Arctic State and PP would nominate a formal “marine representative” as the head of a consolidated marine delegation (consisting of national representatives to each WG). The coordination session chair would be selected on a rotational basis (to serve for two meetings). Coordination session results would be conveyed to SAOs in accordance with existing procedures.
- 2) **introduce a system of regular Ministerial meetings for Ministers responsible for marine implementation** (biennial). There would be a concrete agenda as per coordination session and advice would be strictly related to the implementation of the Marine Strategic Plan. Ministers, whose representation by sector and Ministries would be appropriate to the agenda, would only discuss how they plan to coordinate and cooperate on implementing AC decisions/recommendations on specific agenda items. They would not give guidance to Arctic Ministers (no directives to Foreign Ministers for a Ministerial declaration). Different Ministers could attend different meetings depending on agenda items.
- 3) **strengthen the ACS by providing it with a mandate to facilitate/coordinate/administer a “marine agenda” among the WGs** while serving as the Secretariat responsible for organizing coordination session and Ministerial meetings, including the preparation of meeting documents. This requires new position(s) in the ACS, including a marine expert/coordinator position that would be responsible for overseeing marine work. The position would serve the WGs, SAOs, ministers, chair and members of the coordination session by helping with information, organization, drafting, procedures, monitoring progress, reporting etc. No decision making power or ability to determine priorities for marine work would be granted to this position. The expert position would be under the direct supervision of the Director of the ACS and related activities would be reported as part of the ACS regular reports. The ACS

would also be responsible for making implementation progress reports from Arctic States on marine issues publically available.

3. Proposed coverage

Geographic: Entire Arctic as per the geographical area defined by the Council's activities. National EEZs and national territorial waters are included, though national sovereignty will put constraints on how this option operates.

Thematic: Whole range of the Arctic Council topics as per Marine Strategic Plan 2015-2025, including any identified new and emerging issues.

4. Relationship to Arctic Council and other institutions

Totally within the structure of the Arctic Council and within mandate and directions of Arctic Foreign Ministers. This option does neither prejudice the sovereignty of coastal States over their territorial seas, nor their sovereign rights and jurisdictions in the EEZs and continental shelves, as well as the rights of other States in these areas, in accordance with international law, including the United Nations Convention on the Law of the Sea.

5. Membership and rights

Arctic Council members, Permanent Participants and Observers as per existing Rules of Procedures and Observer Manual.

6. Implications

for Arctic Council structure:

- Uses existing AC structure without creating any new bodies but rather enhances, strengthens and integrates structures already in place.
- Brings decision makers to the table to discuss practical steps to enhance marine implementation at the national level.
- Facilitates cross-WG cooperation and joint work.
- All Working Group activities related to marine issues monitored and housed under one supervisor able to provide consolidated information to any AC body.
- Strengthens the ACS to help AC members and PPs more effectively promote the AC agenda.

for costs:

- Requires additional financial resources for additional position(s) within the ACS and for covering additional meetings.

other:

- Promotes inter-sectoral and cross-agency collaboration at the national and regional level as well as mainstreams marine issues in various sectors.
- Promotes greater implementation while boosting transparency within the AC and, by extension, the legitimacy of the organization for external audiences.
- Strengthens the accountability of the AC through an overview of all active marine projects.
- Monitors progress on the individual marine strategy goals while increasing the ease of reporting and provision of data.
- The ACS works closely with all members of the AC including the Chairmanship, Arctic States, Permanent Participants, Observers, Task Forces and WGs. These connections are an advantage when it comes to strengthening monitoring and reporting across the AC.