Submission to the

National Advisory Panel on MPA Standards

Government of New Brunswick

JULY 16, 2018

Introduction/Summary

On behalf of the Province of New Brunswick, through our Department of Intergovernmental Affairs (IGA), we please to make the following submission to the National Advisory Panel on Marine Protected Area (MPA) Standards. Please note this submission is based on work and feedback from the Departments of Agriculture, Aquaculture and Fisheries; Energy and Resources Development; Transportation and Infrastructure; Tourism and Culture and the Aboriginal Affairs Secretariat.

New Brunswick has a long history of collaboration with Fisheries and Oceans Canada in implementing Marine Protected Areas in water surrounding the province. Whether through the Canadian Council of Fisheries and Aquaculture Ministers' Ocean Task Group, the establishment of the Musquash MPA, analysis of the Shediac Valley Area of Interest or the development of Marine Protected Area Networks in the Scotia-Fundy or Gulf regions, New Brunswick has been an active participant.

The NB Fisheries Renewal Framework was developed by industry and government in 2009 to guide the strategic development of the fish and seafood sector within the province. The Framework recognizes that vibrant coastal communities are dependant on a healthy marine environment to support long term sustainable development. It also recognizes that NB's access to exports markets depends on being internationally recognized for the quality and sustainability of our products.

Marine Protected Areas and other conservation measures are an important part of ensuring a sustainable fish and seafood economy. Conservation -- protecting the ecological functions of the marine environment -- is the opposite of development. Conservation is the choice of conserving ecological functions because they represent a greater benefit than the cost of forgoing the potential development opportunities.

From that perspective, marine protected areas represent the trade-off between the immediate economic gains forgone-the costs- and the longer-term economic gains – the benefits – available from conservation efforts. To make those trade-offs, effective cost-benefit analysis is required.

As the marine environment is ever changing and economic conditions evolve over time, the cost-benefits of conservation measures must be re-evaluated over time. The actual contribution to conservation realized from the marine protected areas management regulations must also be assessed over time. A final consideration of the cost-benefit analysis must also be ensuring an equitable distribution of the costs and benefits across the society and the country.

MPA standards should be based more on the principles of MPA development and management than on a list of arbitrary go/no-go activities. As identified in the International Union for the Conservation of Nature (IUCN) Guidelines, effective MPA's include conservation regulations that serve the conservation objectives of the MPA, rather than being a list of permitted or prescribed activities. Those standards should include science-based decision making, effective cost-benefit analysis, regular review of how well the management measures are serving the conservation objectives, and regular review of the cost-benefit performance of MPA's once established.

New Brunswick involvement with Marine Protected Area

CCFAM work on MPA 2003-2006

The Canadian Council of Fisheries and Aquaculture Ministers (CCFAM) was established by formal agreement in 1999 for the federal government and the governments of the provinces and territories to contribute effectively to the maintenance of ecologically sustainable fisheries resources and habitats and to the development of an ecologically sustainable and economically viable fisheries and aquaculture industry. [1]

The Oceans Task Group within CCFAM was created in 2005 to provide coordination and collaboration on developing and implementing Canada's Ocean Strategy. New Brunswick has been a participant in the Oceans Task Group since its inception.

New Brunswick also participated in the Ocean Act planning exercises in the Eastern Scotian Shelf Integrated Management and the Gulf of St. Lawrence Integrated Management exercises, within the Large Oceans Management Areas process.

Musquash Estuary Marine Protected Areas

One of Canada's first marine protected areas was created in Southern New Brunswick with the enactments of regulations to create the Musquash Estuary Marine Protect Area. The Musquash Estuary was designated an MPA because of the commercial and non-commercial fisheries, unique habitats, and areas of high biological diversity and biological productivity found there. The MPA is administered by the Oceans and Coastal Management Division of DFO-Maritimes. Advice on the management of the MPA is provided by the Musquash Advisory Committee, with representatives of governments, non-government organizations, industry, First Nations, and community groups that have an interest in the MPA.

Review of the Shediac Valley Area of Interest

In the early rounds of MPA considerations, New Brunswick participated actively in the review of a proposed Shediac Valley Area of Interest (AoI) east of the Acadian Peninsula in the Gulf of St. Lawrence. The extensive review concluded that the creation of an MPA would not provide protections to the area that were not already in place through fisheries management measures.

On-going CCFAM and bilateral DFO planning activities

With the 2016 initiative to accelerate MPA creation, NB has actively participated in the CCFAM Oceans Task Group, while at the same time participating in consultations with DFO-Gulf and DFO-Maritimes in the creation of the MPA Network plans.

General considerations related to MPA

Early discussions on the creation of ocean-based MPA's centered almost exclusively on their use as a fisheries management tool. Over the past decade there has been an increasing shift towards nature conservation. Although conservation is an important objective, the shift has not necessarily been effectively communicated and many stakeholders continue to question the "fisheries" benefits of MPA's when those benefits may not be within the scoping exercise for particular sites.

[1] *Agreement on Interjurisdictional Cooperation with Respect to Fisheries and Aquaculture*, 1999

We remain concerned that MPA development may be driven by arbitrary targets enshrined in international agreements. Although targets are required to ensure continued progress toward conservation objectives, the process must remain focused on conservation benefits, rather than process.

We maintain that MPA's must have clear conservation goals and measures to assess their effectiveness. Development and conservation are two sides of the same issue; either we engage in development for the economic benefits it provides, or we conserve areas for the benefits conservation provides. By definition, conservation signifies a decision not to develop. Forgoing development for conservation is a decision that should be enlightened by fact and careful consideration within each potential MPA site. The cost/benefit analysis is necessarily based on current conditions, both environmental and economic. Over time, both environmental and economic conditions change, meaning the cost/benefit calculation will also change. MPA's need to have clear conservation objectives to ensure the trade-offs made at establishment remain valid over time.

Allocation of costs/benefits should be concrete. The costs of excluding current activities are easy to quantify, the benefits of conservation harder. Estimating costs/benefits at some future point are still harder. Criteria for MPA should include mechanisms to reassess the cost/benefit ratio at some point in the future, as well as exit strategies should an MPA no longer provide benefits that outweigh costs.

In addition to the ongoing assessment of costs/benefits, consideration of equity in the distribution of cost and benefits should be framed in MPA criteria. Is it reasonable to provide benefits "for all Canadians", while the costs are borne by a small group of people, within a sector or a specific geography?

Specific considerations in the New Brunswick context

New Brunswick is one of the most rural jurisdictions in the country. Many coastal communities are almost totally dependent on the marine environment.

In 2007, the Department of Agriculture, Fisheries and Aquaculture and the fisheries industry developed the Fisheries Renewal Framework; a twenty-year plan to generate long-term, sustainable economic activity within our coastal communities. The Framework is based on an industry that is recognized internationally for the quality and sustainability of our fish and seafood products.

The viability of the fish and seafood sector depends on conserving a healthy, functioning marine environment; careful management of fish stocks; maximum value for any extracted resource; and top-quality products. To attain those objectives, we must not only be wise stewards of the marine environment, we must be recognized as such.

MPA's are an important tool in marine productivity and resilience; compliance with international standards is important to establishing the recognition of sound stewardship necessary for maximum value and market advantage.

At the same time, development in the marine environment is often one of the only options available for viable communities. Energy development, either extractive industry like oil and gas development, renewable industries like wind and tidal power, or tourism all present opportunities within the province. Marine spatial planning must also accommodate modern infrastructure, be it transportation infrastructure, ferry services to reach our island communities or energy and communication transmission networks. Being able to address these opportunities, while still providing strong environmental stewardship, will often mean the difference between community survival and regional out-migration.

Detailed consideration of Panel written submission questions

1. *What practical recommendations do you have for creating standards for marine protected areas?*

    a. *On what do you base these suggestions? Best available science, indigenous knowledge, eco-system approach, local knowledge or something else?*

    Marine Protected Areas should be based on conservation principles, robust cost/benefit analysis, clear conservation objectives for areas of interest and with measures for regular adjustment based on results and future cost/benefit scenarios. MPA creation should also be based on equitable distribution of costs and benefits between sectors and according to geographic considerations.

    The principles should also include provisions for an eco-system based approach, scientifically-based decision making that is also informed by indigenous and local knowledge. It should embody the precautionary approach or principles where scientific evidence or local and indigenous knowledge is not readily available. These considerations are already well-developed in other sectors and should be accommodated within the MPA framework to allow a consistent decision-making approach.

    The conservation objectives for large ocean management areas, e.g., Gulf of St. Lawrence or Eastern Scotian Shelf, should inform MPA Network planning. Individual conservation sites should be assessed as to their contribution to the overall conservation objectives for the Large Ocean Management Areas (LOMA) and should themselves have clearly articulated conservation objectives.

    MPA should only be created when it is demonstrable that the conservation objectives are best achieved through the MPA tool, rather than other conservation tools: National Marine Conservation Areas, critical habitat designation, marine refuges, fishing zone closures and environmentally sensitive area designation.

    Conservation objectives should drive management measures within the MPA, rather than have a list of arbitrary "go/no-go" activities.

2. *What role do indigenous approaches play in shaping your suggestions? What kinds of guidelines would help Canada to honour its commitments to reconciliation and new relationships with Indigenous peoples?*

    We expect indigenous organizations, like our New Brunswick First Nations communities, to define the role they expect to play in developing guidelines and priorities. We would also expect engagement with First Nations at the earliest possible opportunity in MPA and MPA network development. Indigenous or traditional use studies may be available to help guide development of conservation objectives. MPA guidelines reflecting indigenous values, developed collaboratively with First Nations are required to continue the reconciliation agenda, and to protect the honour of the Crown.

Indigenous peoples' participation should start at the on-set of the planning process and continue through network development, candidate site selection, analysis, designation, management and assessment.

3. *The IUCN has developed an existing structure to categorize marine protected areas. What do you see as the strengths and weaknesses of the IUCN Guidelines?*

From our perspective, the IUCN guidelines are a tool for classification on MPA's to facilitate clarity of purpose and standardized international reporting on compliance with international obligations. As indicated in the document itself, the categories are not conceived as being hierarchical; nor are they a list of "go/no-go" activities within MPA's of difference categories.

The activities permitted or prescribed within a specific MPA should be determined by the conservation requirements of the specific MPA.

The descriptions of the IUCN categories do provide an interesting scope for the general objectives of conservation areas, by clearly articulating the overarching conservation objective within each. A conservation area established primarily to protect a pristine environment and ensure only the lightest changes through human activity has a conservation objective much different from one that aims to protect a particular species or habitat, or one that seeks to protect the integrity of interaction between people and a unique environment.

We would expect that Marine Protected Areas (within their Oceans Act meaning) would most often be limited to only a few of the IUCN categories, e.g., Category III sites protecting a specific natural monument, Category V sites seeking to safeguards cultural interactions and Category VI sites seeking to conserve ecosystems and habitats with their associated cultural and traditional resource management systems.

Category I and Category II sites would appear to be more effectively conserved through tools like National Marine Conservation Areas or natural reserves, while Category IV sites would to be better served by critical habitat designation, marine refuges or environmentally sensitive area designation.

Using IUCN category "go/no-go" activity lists risks creating an expectation that some activities will be prohibited or allowed in a particular area when those prohibited or allowed activities are not supportive of the specific conservation objectives. Although we advocate for objective-based designation and management measures, there is a need to avoid creating expectations that are subsequently frustrating if broad public support for the process is to be maintained.

4. *Overall, do the Guidelines developed by the IUCN work well in the Canadian context?*

The Guideline description of categories based on their primary objective provide a useful framework for scoping the primary conservation objective of an potential conservation area. Within the Canadian context, there are variety of legislative and regulatory tools available for meeting the different types of conservation objectives. MPA's with the *Ocean Act* context are only one of the tools available. Any criteria or standards for MPA's should include a determination that the MPA tool chosen is appropriate.

5. *Are there specific circumstances unique to Canada that pose challenges or present opportunities for the use of the IUCN guidelines? What might there be? How should these circumstances be addressed?*

Canada has the advantage of a mature legislative and regulatory framework for management of the marine space. We also have a strong scientific community and programming to further conservation and marine stewardship.

We are challenged by our historical first-come/first-serve approach to marine space, where assessment and decision making are often limited to the most recent development proposal. Although some work has been completed on Large Ocean Management Areas (LOMAs), we have not brought forward comprehensive marine space planning.

Within the *Oceans Act*, tools already exist for spatial planning. It would further conservation objectives to renew marine spatial planning efforts to identify what types, scope and intensity different marine space users should be pursued. In addition to providing more stability and predictability for proponents, spatial planning would encourage more "eco-system aware" development, allow for priority integration of nature conservation requirements and incorporate cumulative effects in analysis.