



Oceans North Canada Submission to MPA Standards Panel

July 31 2018

Dear Panel Members,

First, we appreciated the opportunity to present to you in Moncton and our written submission will address several of the issues we raised during our oral presentation.

Our submission responds to several of the key questions posed by the Panel:

MPA Standards

Consistency across all tools:

In Canada, given the number of tools we are using to protect our coastal and marine environments, we recommend that any advice on Standards for protection apply across all of these tools including Fisheries Act closures that have been used to create “marine refuges” or Other Effective Conservation Measures (OECMs). The Aichi Target 11 includes OECMs and Canada’s marine protection agenda has relied heavily on Fisheries Act closures (4.48% are under the Fisheries Act) to meet its commitments in a timely manner. It is imperative that the Standards Panel consider OECMs in its deliberations and that advice extend to OECMs.

Canada should adopt Standards that preclude industrial activity within areas considered as marine protected areas or OECMs. Such activity that should be expressly prohibited includes:

- Bottom trawling
- Open net pen aquaculture
- Seabed mining
- Oil and gas exploration
- Renewable energy deployment*

There is adequate science on the impacts of all of these activities on biodiversity to warrant prohibitions within Canada's protected areas. This also sets the stage for clear prohibitions of specific activities and leaves open the discussion on no take areas, low impact fisheries, FSC fisheries and recreational use.

Standards on Process and Governance

We also recommend that Canada adopt Standards on process and governance and explore the possibility for standards of monitoring. Because the Canadian government stalled on implementing the Oceans Act and moving ahead on Aichi Target 11, many coastal communities and marine industries are feeling pressed for time to engage across all areas where marine protection is proposed. In order to ensure that marine protection is not opposed by the very communities and industries who depend on the renewable resources (fisheries) of the oceans, it is imperative that Standards include the process leading up to actual protection. We recommend the following:

- DFO take a whole of government approach with other government departments and with input from rights-holders and stakeholders a process for **bottom up community based MPAs**. This could include a process for communities to propose an area for a marine protected area, use of Indigenous and local knowledge, setting objectives that support community outcomes, focus on aspects of economic development that could be derived from MPAs and establishment or adoption of global principles for community based MPAs. Many countries have lessons learned from bottom up approaches and Canada would do well to learn from these and better be able to integrate its sustainable fisheries policies and objectives with coastal marine protected areas
- **DFO co-develop governance Standards** once MPAs and other protective measures are established, with a clear objective of shared decision making. There is a lack of trust in government in many coastal areas and also a sense that MPAs could be changed with a change of government. Clear power sharing governance systems could set the stage to rebuild trust and to ensure that management is not subject to political whims but is based in long term shared goals and objectives.
- **DFO co-develop monitoring Standards** so that there are consistent and comparable methods of engaging communities in monitoring, engaging industry and in what is measured and how it is measured so that over time effectiveness of MPAs and OECMS can be properly assessed. Common metrics and evaluation mechanisms should be adopted like releasing "state of the MPA" reports, and where possible geographically and technically, integrated into citizen science and community monitoring programs. Engagement in MPAs is going to be important to ensure that Canadians support them and that we begin to consider marine protection as important as terrestrial protected areas.

Our suggestions are based on our deep engagement in processes across the Canadian Arctic and more recently in Eastern Canada where we have seen distrust of the marine protected area agenda in part because of how quickly it is happening – many coastal communities do not know that Canada committed to 10% in 2010 and are not familiar with Canada's laws and policies. We also feel that while international targets and commitments are very helpful, Canada has lagged in taking ownership of the

fact that it is an ocean nation, with the longest coastline in the world and three ocean basins. The ocean was and will continue to be a vital part of who we are, our culture and our economy. Canadians believe that much more of our ocean is protected than actually is, and Canadians who rely on the ocean for their livelihoods feel that more protection may negatively impact them. We support using the best available science and targeting research priorities to pervasive impacts such as climate change and marine pollution and plastics as both of these human induced impacts will have influence the effectiveness of our protected areas. Indigenous and local knowledge is critical particularly in areas where there has been little science and also to ensure that new knowledge systems are integrated into MPA processes and governance. Concerted outreach and engagement of provincial and municipal governments is also critical to moving ahead on protected areas, as the opposition is often coming from sub-national governments who fear restrictions on economic activity, without adequately understanding the potential benefits of marine protection or the need to reduce the impacts of human activities on the marine ecosystem if we are to continue to gain economic benefits.

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Indigenous Protected Areas.

What role do indigenous approaches play in shaping your suggestions? What kinds of guidelines will help Canada to honour its commitments to reconciliation and new relationships with Indigenous peoples? It is worth reflecting on the direct connection between the preservation of nature and achieving full reconciliation in Canada.

Reconciliation between Aboriginal and non-Aboriginal Canadians, from an Aboriginal perspective, also requires reconciliation with the natural world. If human beings resolve problems between themselves but continue to destroy the natural world, then reconciliation remains incomplete. This is a perspective that we as Commissioners have repeatedly heard: that reconciliation will never occur unless we are also reconciled with the earth.¹

In order to achieve this condition, Canada must begin to create a structure within which IPAs can be co-created with Indigenous governments and communities. We present the following recommendations on IPAs:

- A. **Standardized Indigenous Protected Area definition:** Creating clarity and certainty around what an IPA is and what it is not is essential to realizing the promise IPAs hold as a meaningful mechanism to protect Canada's natural heritage. There are many existing protected area definitions that could be drawn upon that already exist in federal or provincial law. We would strongly encourage specific elements to be included, such as: (1) active stewardship programming, (2) protection of culture and language, and (3) clear indigenous governance and co-designation of the protected area.

¹ What We Have Learned: Principles of Truth and Reconciliation,, p. 123. Available at http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Principles_2015_05_31_web_o.pdf

B. Joint Designation

Joint dedication or declaration of the protected area by both the relevant non-indigenous government(s) (federal, provincial, territorial) and the relevant indigenous community (or communities) or government(s).

C. Process for and Encourage Nomination Of Area By Aboriginal Interest or Community

A clear process by which areas gets selected and put forward by an indigenous government, nation, land claim organization, or community with the express intent of being designated an IPA. This important step has the potential to expedite the marine protected areas process by beginning with a proposal from and indigenous entity rather than government spending years selecting an “area of interest.”

D. Clear summary and rationale of Conservation And Cultural Goals

A review of the important aspects of the proposed IPA pertaining to social, biodiversity, economic, and cultural principles. The objective being to engender a locally driven, purposeful and effective management effort that implements the goals of the IPA.

E. Creation Of A Management Plan

The design of a management plan that meets IUCN guidelines is a crucial step. Potential elements could speak to setting goals to protect biodiversity, determining permissible and prohibited activities, managing for biodiversity outcomes, ensuring the conservation designation will apply for an indefinite time period, and safeguarding cultural and social sites and customary practices.

F. Benefits to Indigenous people

Indigenous led on the land stewardship programs are an essential component of the IPA design. These programs create economic opportunities like training, jobs, and businesses ventures. Simultaneously, they provide an important link to culture, language, youth-elder knowledge sharing, mental health and wellness, and a number of other important community services.

G. Naming

There is power and symbolism in naming. IPAs should use appropriate original Indigenous place names.

H. Legislation Or Clear Agreement

There are legal and policy options available to recognize and bring statutory force to IPAs. These include: (1) creating a stand alone piece of legislation, (2) amending existing legislation to explicitly account for IPAs, or (3) issuing government of Canada policy guidance.

IUCN Guidelines

The larger problem in Canada is that the application of the IUCN guidelines has been inconsistent and Canada has not communicated to the public that it is using an international system to categorize its MPAs. Globally, the greatest challenge to the MPA guidelines is their communication and

implementation. As such Canada has an important role to play in ensuring that we apply these guidelines effectively within our waters and are thus better able to compare our MPA objectives and outcomes globally. Canada generally adheres to international best practices and in many fora has a hand in creating such standards. IUCN is also working on securing coastal livelihoods and this is rarely discussed in the context of IUCN MPA Guidance. Linking in other national objectives that help to achieve international goals is also important – and these include the Sustainable Development Goals, including but not limited to Goal 14 Life Below Water, the United Nations Declaration on the Rights of Indigenous Peoples, additional Aichi Targets including 6, 12, 14 and 18.

As a new treaty is negotiated to protect biodiversity on the high seas, it will be even more important to ensure that Standards are applied across national and international boundaries as marine ecosystems and species should be managed consistently with an ecosystem approach.

To our knowledge, there are no circumstances that pose challenges to implementing and applying the IUCN guidelines in Canadian coastal and marine areas. Standards can ensure that there is trust and predictability when MPAs are being considered as conservation tools. Currently, the lack of Standards and the opening of oil and gas leases within areas that have been actively set aside by the fishing industry is undermining good relationships, trust and good will to continue to work together with government and ENGOS on a marine conservation agenda. The lack of Standards also erodes public trust as Canadians cannot be sure that the government is adequately protecting biodiversity.

Conclusion

We wish you the best in your deliberations and encourage you to be clear and strong in your recommendations with a view that your advice will influence Canada's marine governance and biodiversity protection as well as application of current laws and regulations for generations to come. You have an opportunity to set the stage for a respectful process for the establishment of Indigenous Protected Areas in Canada, which is important as we embark upon the path towards reconciliation.

Sincerely,



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