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COOPERATION
IN THE ARCTIC**

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The report continues work held in line with the “Roadmap for International Cooperation in the Arctic” project organized by the Russian International Affairs Council (RIAC). The report covers the results of international cooperation in the Arctic region in 2013. The authors focused on four basic areas of cooperation: strengthening of the Arctic Council, fisheries regulation, vessel traffic issues, and harmonization of national environmental legislation.

The views and opinions of authors expressed herein do not necessarily state or reflect those of RIAC.

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FOREWORD FROM RIAC

Interest to the Arctic region grows with every passing year. The region remains in focus both in Russia and globally, as evidenced by the growing number and higher level of forums devoted to pressing issues of the Arctic agenda. Russian-hosted International Forum *THE ARCTIC – TERRITORY OF DIALOGUE* plays a leading role among them. The forum's third session held in September 2013 in Salekhard was addressed by the President of the Russian Federation.

Issues on the Arctic cooperation agenda are manifold and diverse: from economic development and expansion of mineral resource exploration and production to shipping, fishing, research, and major infrastructure projects. In anticipation of Arctic shelf resource development, the mapping and delimitation of its national boundaries in the Arctic Ocean, as well as establishment and implementation of environment protection standards, commands increased attention.

The growing scale of Arctic economic expansion gives rise to valid concerns for protection of extremely fragile Arctic ecosystems already impacted by climate change. Existing and emerging issues of safety acquire a new meaning, such as monitoring and control of operations in Arctic marine regions; emergency response; and search and rescue. A subject of special importance is human safety in conditions of the changing Arctic climate and adaptation of the population (especially native population) to those changes.

A year ago, RIAC summarized the current issues of international cooperation in the Arctic and prepared proposals for its development in the near future. Four areas have been selected for the first annual report on the status of international cooperation in the Arctic: the role of the Arctic Council in the development

of regional cooperation; international fisheries in the Arctic; regulation of marine shipping; and prospects for harmonizing environmental legislation of the Arctic coastal states. These issues are examined at the “Arctic: Region of Development and Cooperation” international conference, which is organized by RIAC in partnership with a list of reputed Russian and foreign organizations in Moscow on December 2–3, 2013. We hope to see constructive discussions of main Arctic issues and implementation of immediate proposals, developed during the expert meetings.

Igor Ivanov

President of RIAC,

RAS Corresponding Member

SUMMARY

Economic expansion in the Arctic forces coastal states to look for solutions to a number of complex issues. They are particularly increasingly confronted with the need to **gradually harmonize national legislation, standards and regulations in various fields**. This conclusion permeates all sections of this Report.

Environmental protection legislation of Arctic coastal states, their shipping regulations to ensure safety and prevent pollution of Arctic marine environment, as well as their fishery regulations, are quite different from state to state. Finding a common denominator among them will help cut down the cost of Arctic development. At the same time solution of this problem is held back by economic considerations.

There are various ways of dealing with the issue: by changing national laws to accommodate the experience and best practices of other states; through bilateral and regional arrangements; through harmonization of international obligations of coastal states; and by amending universal conventions and treaties.

Strengthening the Arctic Council

The Arctic Council is growing into an authoritative regional intergovernmental forum. Prospects for its further consolidation depend on increased cooperation in a number of fields:

- The Council, its working groups and the Secretariat created in 2013 may contribute significantly to a systematic comparative analysis of legislation and other regulatory instruments of member-states in the main areas of Arctic economic activities. Results of such analysis may then provide foundation for harmonizing the rules and standards applied in the Arctic.

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- Inventorying the Arctic Council states' participation in international conventions and agreements applicable in the Arctic. Arctic Council's working groups have done some work in this direction, but the effort needs to be made systematic to prepare recommendations on harmonizing international obligations of the Arctic states wherever the need is pressing.
 - Organizing monitoring of implementation of working groups recommendations.
 - Holding consultations to reconcile approaches and develop a common position of the Arctic Council states on issues of mutual interest discussed by international organizations with broader membership.
 - Expanding practical cooperation within the framework of agreements on cooperation on aeronautical and maritime search and rescue and on marine oil pollution preparedness and response to, including the holding of regular joint exercises.

Given the growing dynamics of economic activity and international cooperation in the Arctic, it is worth considering holding Arctic Council ministerial meetings annually rather than biennially. It is also worth considering establishing a mechanism for convening extraordinary ministerial meetings as the need arises.

The year 2016 will mark the twentieth anniversary of the Arctic Council. In this connection it appears practicable to contemplate holding an Arctic Summit in 2016.

Agreement concerning fisheries in the Central Arctic Ocean

Ongoing consultations by five Arctic coastal states concerning the need to develop an intergovernmental agreement to govern fisheries in the Central Arctic Ocean should be **upgraded to proper negotiations to ensure speedy development of the relevant instrument.**

The draft agreement that has been revised as a result of the ongoing consultations represents a solid basis for the finalization of negotiations without unnecessary delay.

The conclusion of the agreement fully meets the interest of the Russian Federation and that of other Arctic coastal states and will provide a new impetus to their cooperation including conducting research in the Central Arctic Ocean.

Russian–Norwegian fisheries cooperation

Work to introduce uniform technical measures of fishery regulation in the Barents Sea must be completed within the framework of the Joint Norwegian–Russian Norwegian Commission. That will allow making full use of cooperation potential provided by the 2010 Russian–Norwegian Treaty for the purposes of rational management of the living resources of the Barents Sea.

The Polar Code

The effort to develop an International Code of Safety for Ships Operating in Polar Waters has been repeatedly delayed. The Code's adoption is not the sole, but still a crucial, prerequisite for stimulating international shipping in the Arctic including the Central Arctic Ocean.

In view of protracted character of the Polar Code negotiation, it would be practical to consider alternative options for harmonizing vessel traffic rules in the Arctic. This may be done through both harmonizing corresponding regulations of coastal states on bilateral and/or multilateral (regional) basis, as well as by making mandatory already agreed the provisions of the forthcoming Code through amending international conventions, such as the International Convention on Safety of Life at Sea or the International Convention for the Prevention of Pollution from Ships, without waiting for the Code to be fully developed.

INTRODUCTION

The outgoing year has been rich in events highlighting international cooperation in the Arctic. The Russian Federation made important decisions regarding its policy in the region. High-level dialogue forums to discuss relevant issues of the Arctic agenda are becoming regular.

Holding the annual Arctic Frontiers forum in the Norwegian city of Tromsø every January has turned into a good tradition.

January 2013 saw approval of the Rules of Navigation in the Area of the Northern Sea Route. In March the Russian Federation Government established the Northern Sea Route Administration. These are practical consequences of the last year amendment of the Russian legislation concerning state regulation of merchant shipping in the area of the Northern Sea Route.

In February, Arctic states' ministers met in Sweden to discuss environmental issues.

That same month the Development Strategy of the Arctic Zone of the Russian Federation and National Security for the Period up to 2020 was approved. Under discussion is a law on the Arctic Zone of the Russian Federation intended, among other things, to provide for statutory delineation of its boundaries.

In April of 2013, Senior Arctic Officials of the Arctic Council met in Salekhard under the auspices of the Russian Federation Security Council for an international conference on technogenic and environmental security in the Arctic.

The five Arctic coastal states continued consultations on the conservation of fish stocks in the Central Arctic Ocean in April–May and later in November 2013.

In May 2012, the eighth ministerial meeting of the Arctic Council was held in Kiruna, Sweden, during which an Agreement on Cooperation on Marine Oil

Pollution Preparedness and Response in the Arctic was signed. New observer-states were admitted.

June 2013 saw the 20th anniversary meeting of heads of government of the Barents/Euro-Arctic Council in Kirkenes, Norway.

The same month, chiefs of general staff of the Arctic Council states gathered for their second meeting in Ilulissat, Greenland, where they discussed common approaches to the current situation in the region and the holding of joint operational and combat training events.

The Arctic Council's Permanent Secretariat has been established, and the Project Support Instrument has become operational.

July 2013 marked the end of a transitional period during which, under provisions of the 2010 Russian–Norwegian Treaty concerning Maritime Delimitation and Cooperation in the Barents Sea and the Arctic Ocean, old fishing rules were applied in the formerly contested area.

In August 2013, the first comprehensive search-and-rescue center of the Russian Ministry of emergency situations opened in Naryan-Mar. Norway began developing a Northern safety and emergency preparedness resource center in Porsanger in late 2012. The Center will be tasked with developing cooperation between Norway, Russia and Finland in cross-border search and rescue. A branch of the center is to open in Arkhangelsk.

In late September 2013, the city of Salekhard hosted the third forum in the series *The Arctic – Territory of Dialogue*, which was addressed by the President of the Russian Federation. A week later an international high-level forum was held in the capital of Iceland.

Arctic coastal states continue their effort to establish the outer limits of their continental shelf in the Arctic Ocean. Denmark is to submit its claim (on behalf of Greenland) to the Commission on the Limits of the Continental Shelf by the end of 2013. Canada, Russia and the United States continue gathering data to substantiate their claims. All Arctic states are guided in their effort by criteria established by the 1982 UN Convention on the Law of the Sea.

The list of events illustrating expanding cooperation in the Arctic in the outgoing year goes on and on. The Agenda is extensive and full. This Report does not purport to provide a comprehensive review of the Arctic agenda, but rather to examine four topics: expansion of regional cooperation in the Arctic and the role played in it by the Arctic Council; open issues of international fisheries; prospects for finalizing the International Code of Safety for Ships Operating in Polar Waters by the International Maritime Organization; and methods of harmonizing environmental protection legislation of the Arctic coastal states.

The idea permeating all sections of the report is that given expanding economic development in the region, progressive harmonization of Arctic states' legislation and regulatory instruments acquires vital importance.

Significant differences in Arctic states' environmental legislation rated by experts as most restrictive in Canada, the U.S. and Greenland, fairly strict in Norway and most liberal in Russia whose shelf contains most of the region's estimated hydrocarbon resources, give rise to concern that resource development in the Arctic will be most dynamic in areas with least restrictive regulations. This scenario is fraught with dire environmental consequences not only for the Russian Arctic, but for the entire region. Harmonization of environmental protection regimes of the coastal states and the closing of the gap between them to the extent possible would allow to reasonably synchronizing conditions for economic development in the Arctic and minimize potential environmental damage.

Adoption of harmonized requirements for maritime safety and prevention of Arctic marine pollution from ships is not the sole, but a crucial prerequisite for the development of regular international shipping in the region. Existing Arctic navigation regimes established by coastal states differ considerably. Russia and Canada have the most restrictive regulations, while the United States practices a much more liberal regime shared, with some reservations, by Norway. Finding a common denominator for these practices is largely associated with development of the Polar Code.

Establishing uniform technical rules for fishing is a key prerequisite for effective fishery development in the most productive waters of the Arctic. This is the focus of Russian-Norwegian fisheries cooperation. As the harvest in Eastern Arctic seas may grow, the issue is expected to gain prominence in Russian-American cooperation as well.

Harmonization of national regulations of the coastal states is not an easy task. Its accomplishment is hindered not least by economic considerations since the introduction of stringent environmental requirements carries with it a fairly high price. But it will have to be done lest the price of Arctic development turn out to be even higher.

1. REGIONAL COOPERATION: THE ARCTIC COUNCIL

The Arctic Council has made substantial headway in consolidating its operational and organizational development as the leading forum of regional cooperation. The practice of adopting binding regional agreements is being established. Conditions have been created for financial support of Arctic Council projects. Decisions have been finally taken with regard to the controversial issue of expanding the number of Arctic Council observers. The eighth ministerial meeting of the Arctic Council on May 15, 2013, in Kiruna, Sweden, stated that the Arctic Council “has become the pre-eminent high-level forum of the Arctic region.”¹

The Arctic Council’s journey is a graphic example of how regional arrangements and consensus-based fora, while not being classical chartered and treaty-founded international organizations, can, nevertheless, play an important part in building trust between their members, developing cooperation and making joint decisions reflecting their common interests.

“A strong Arctic Council” is how member states see it today. The Kiruna meeting highlighted the need to continue strengthening the organization. Senior Arctic Officials were requested to recommend ways and means to this effect including “identifying opportunities for Arctic states to use the Council’s work to influence and shape action in other regional and international fora.”² The recommendations are to be presented at the next ministerial meeting in 2015 to convene in Canada, the current chairman of the organization.

This brings to the foreground the need to define further steps to consolidate the Arctic Council, determine main directions of its cooperation with other

¹ Vision for the Arctic, Kiruna, Sweden, 15 May 2013. URL: <http://www.arctic-council.org/index.php/en/document-archive/category/425-main-documents-from-kiruna-ministerial-meeting>

² Kiruna Declaration. URL: <http://www.arctic-council.org/index.php/en/document-archive/category/425-main-documents-from-kiruna-ministerial-meeting>.

regional and broader-scope international organizations participating in regulating maritime operations in the Arctic.

1.1. STRENGTHENING THE ARCTIC COUNCIL: WHERE WE ARE NOW

In 2013 the Arctic Council was consolidated and institutionalized as the leading high-level regional forum. In January of 2013, the Permanent Secretariat of the Arctic Council was established in Tromsø, Norway. The Secretariat Director has been appointed. An appropriate agreement has been signed with the host country of Norway. The ministerial meeting in May of 2013 approved several documents making up legal foundation for the Secretariat operation: Terms of Reference, Staff rules, Financial rules, Roles and Responsibilities of the Director, and the Budget for 2013. In June 2013, the Secretariat became fully operational.

Since 2011 Arctic Council member-states have signed a number of legally binding agreements drafted by the Council's Task Forces. The year 2011 saw the signing of the Agreement on Cooperation in Aeronautical and Maritime Search and Rescue in the Arctic. The Agreement has entered into force. Its implementation has begun. The first joint exercises of the Arctic states took place in Canada and Greenland in 2011 and 2012.

In May 2013 the second Arctic Council member states agreement On Cooperation on Marine Oil Pollution Preparedness and Response in the Arctic (for detail see Section 4 of this Report) was signed in Kiruna, Sweden. The Agreement envisions development of national, bi-national and multi-national contingency plans, personnel training and exercise to develop effective response measures.

A task force has been created to develop an Arctic Council action plan or another arrangement for oil pollution prevention. A decision has been made to establish another task force to develop arrangements to achieve enhanced black carbon and methane emission reductions in the Arctic. Both task forces are to report on their findings and recommendations at the next ministerial meeting in 2015.

Arctic Council working groups have conducted extensive research and developed **recommendations** on many issues of preventing pollution of the Arctic from land or ships, preserving Arctic ecosystems, biodiversity and sustainable development. The recommendations formulated in working group reports are then approved by foreign ministers of the Arctic Council member states. Though not mandatory, those recommendations envision the member nations taking corresponding action and report on their progress to future ministerial meetings. With further strengthening of the role of the Arctic Council the focus will shift

from policy-shaping to policy-making³ and to putting the emphasis on the proper implementation of the decisions taken.

The effort to launch the **Arctic Council Project Support Instrument (PSI)** has been completed. The Arctic Council established the PSI in 2005. The U.S. joined it in 2012. Designation of the VTB (Foreign Trade Bank) as the authorized Russian Bank to perform transactions, made possible execution of agreements between the Northern Environmental Financial Corporation (NEFCO), acting as administrator of the Arctic Council Project Support Instrument, and Russian counterparts and putting the agreement on cooperation between NEFCO and the Russian Federation into force.

The launching of the Instrument gave the Arctic Council certain financial independence (albeit modest) to develop, assess and implement specific pilot environmental projects. A case in point for successful Arctic Council Working Groups' project activity is the completion of the Pilot project in the Russian Federation that prevented discharge of 7,000 metric tons of expired pesticides.

Member states' contributions and claims initially expected to amount to €3 m reached €15.9 m in 2013. Ten priority projects have been selected for financing by the PSI. In 2013–2015 the bulk of the funds will be spend to finance projects aimed at integrated hazardous waste and organic pollutants management (40%), mitigation of mercury release to the environment (25%) and reduction of short-lived climate pollutants.

The Russian Federation is the main contributor and, at the same time, the principal recipient of the PSI financing. The lion's share of Arctic Council's projects is implemented in Russia.

The growing role of the Arctic Council is further illustrated by enhanced interest from the business community. In the last few years, the Council has been actively debating feasibility of creating a **Circumpolar Business Forum** that would enable communication between the business community interested in Arctic projects, Arctic governments and the indigenous peoples organizations. A Task Force to facilitate the establishment of a Circumpolar Business Forum has been created. This initiative is supposed to be implemented during the Canadian Chairmanship of the Arctic Council (2013–2015).

There have been other meetings and events formally held outside the framework of the Arctic Council, but closely associated with it. Sweden (the 2011–2013 Chairman of the Arctic Council) initiated the Arctic environment ministers meeting in February 2013. In June of the same year, Ilulissat, Greenland, hosted the second Meeting of the Chiefs of Staff of the Arctic Council states within

³ Vision for the Arctic, Kiruna, 15 May 2013. URL: <http://www.arctic-council.org/index.php/en/document-archive/category/425-main-documents-from-kiruna-ministerial-meeting>

the framework of the Agreement on Cooperation on Aeronautical and Maritime Search and Rescue in the Arctic (the first meeting was held in Canada in 2012). It is agreed that such meetings shall be held annually. All of the above signifies not only a high degree of flexibility of the Arctic Council bodies, but also of considerable interest on the part of its members in expanding cooperation for the common benefit.

The growing number of non-Arctic states wanting to acquire **Arctic Council Observer** status is another indication of the growing prestige of the regional forum. Discussions of this issue have been unduly agitated in the last few years. Action by the Kiruna ministerial meeting alleviated the pressure, while not removing it entirely. The revised Arctic Council Rules of Procedure, approved by the meeting, updated the status, rights and duties of Arctic Council Observers. The provisions were further elaborated in the Observer Manual⁴ adopted by Senior Arctic Officials.

China, India, Italy, Japan, Republic of Korea and Singapore received Arctic Council Observer status in Kiruna. At the same time the meeting reiterated that “Decisions at all levels of the Arctic Council are the exclusive right and responsibility of the eight signatories to the Ottawa declaration” of 1996, thereby removing most of the issues related to non-regional observers’ participation in the Arctic Council’s activities. However, debates over the issue are not over.

1.2. ARCTIC COUNCIL AND REGIONAL GOVERNANCE

In discussions of further strengthening of the Arctic Council, extremes should be avoided including illusions of self-sufficiency or exclusive responsibility of the forum to govern over all issues of marine Arctic development. Arctic states’ national laws and decisions taken within the Arctic Council are not the only sources of governance for issues arising from the process.

Universal norms of International Law and International Maritime Law are equally applicable. Therefore, as the Arctic Council grows stronger, the issue of the scope and boundaries of its competence as a regional forum acquires increased significance. The Arctic Council actions may not transcend sovereign rights and jurisdictions of the eight Arctic nations. At the same time the Arctic agenda has many issues pertaining to rights and responsibilities of third (non-Arctic) states.

For instance, the Arctic Council does not discuss issues concerning establishing the outer limits of the continental shelf of Arctic coastal states. That is a

⁴ Arctic Council Observer Manual for Subsidiary Bodies. URL: <http://www.arctic-council.org/index.php/en/about-us/arctic-council/observers>

subject to the provisions of the 1982 UN Convention on the Law of the Sea and are dealt with on the basis of procedures established by the Convention including review of coastal states' claims by the Commission on the Limits of the Continental Shelf. The Arctic Council has not been involved in regulation of maritime traffic until now. These matters fall within the competence of the International Maritime Organization (IMO). The Arctic Council does not regulate fisheries either. They fall under are ruled by the authority of regional fisheries management organizations (RFMOs) or arrangements created under the 1995 Agreement related to conservation and management of straddling fish stocks and highly migratory fish stocks. There are several arrangements which extend their authority into the Arctic: the North-Eastern Atlantic Fishery Commission (NEAFC), the North Atlantic Salmon Conservation Organization (NASCO) and a number of others. Currently, the development of another agreement concerning fisheries in the Central Arctic Ocean is under consideration (see Section 2.1 of this Report).

Therefore, the important issue for the foreseeable future will be not only identifying key areas and ways to strengthen the Arctic Council, but also establishing cooperation via its Secretariat with specialized regional and universal organizations.

The following main areas of activity for the Arctic Council as a high-level regional intergovernmental forum are:

- **Prepare and conclude regional agreements** including ones building upon provisions of global international conventions and treaties. Examples of such activity are provided by the 2011 Agreement on Cooperation on Aeronautical and Maritime Search and Rescue in the Arctic concluded pursuant to corresponding stipulations of IMO and ICAO documents, and the 2013 Agreement on Cooperation on Marine Oil Pollution Preparedness and Response in the Arctic further pursuing the provisions of the 1990 International Convention on Oil Pollution Preparedness, Response and Cooperation and of the 1969 International Convention relating to intervention on the High Seas in Cases of Oil Pollution Casualties.
- **Develop regional cooperation** between member states and partners. This potential is already implemented in the form of various programs and specific projects by Arctic Council working groups, and joint research.
- **Cooperate with specialized international organizations.** So far the Arctic Council has had no official relationships with other international organizations, although its working groups, when deliberating issues pertaining to shipping, for one, coordinate closely with relevant committees of IMO, in particular, when developing manuals for Oil Spill Preparedness and Response in Ice Conditions. The current Arctic Council agenda provides for closer cooperation of its members as they participate in the development of the IMO Polar Code (see Section 3 of this Report).

If at some point Arctic countries agree on creating marine protected areas in the Arctic Ocean, they will seek a decision within the framework of the MARPOL Convention. If they want to close parts of the Arctic Ocean sea floor beyond their continental shelf to exploratory drilling or mineral resource production, they will have to resolve the issue in cooperation with the International Seabed Authority. But that is an issue of a more distant future.

Creation of the Arctic Council Permanent Secretariat allows making official cooperation with specialized international organizations systematic by concluding of corresponding memoranda of cooperation.

1.3. FURTHER STRENGTHENING OF THE ARCTIC COUNCIL

The Arctic Council is the only regional forum bringing together all Arctic states without exception. This circumstance determines its central position within the framework of regional governance with due account for the rights and interests of non-regional states, and the competence of broader international regimes and specialized organizations. Further consolidation of the Arctic Council and formation of a regional governance regime may be achieved through action in the following areas.

Gradual **harmonization** of Arctic Council states' **national environmental legislation** pertaining to principal economic activities in marine Arctic, primarily exploration and production of mineral resources from the Arctic shelf; maritime safety and prevention of marine pollution from ships; technical measures regulating fisheries. Some action by the Arctic Council states may be taken to further pursuit and implement decisions by broader specialized international organizations, such as FAO or IMO. Recommendations from the Arctic Council working groups, in particular those concerning oil and gas exploration on the Arctic shelf, may serve as the starting point for harmonizing national standards.

Harmonization of Arctic states' national legislation is instrumental for creation of an Arctic regional regime which would operate subject to the coastal states' jurisdiction and sovereign rights. This is a realistic alternative to developing regional arrangements on all of the above listed issues.

Harmonization of international environmental obligations. Not all Arctic Council states have joined the UN ECE Convention on Environmental Impact Assessment in a Transboundary Context (the Espoo Convention) or its Protocol on Strategic Environmental Assessment (see Section 4 of this Report). Not all states joined the Aarhus Convention on Access to Information and Public Participation in Decision-making and Access to Justice in Environmental Matters.

The Arctic Council working groups, with assistance from the Secretariat, might create an inventory of international environmental obligations of the

member states. The Council could assist its members with the ratification and implementation of corresponding international agreements.

As a first step the Arctic Council members could agree to begin applying appropriate international instruments in their economic activities in the Arctic without waiting for ratification of those conventions by all states.

Monitoring implementation of working groups' recommendations approved by Arctic foreign ministers. The goal of such monitoring should be full and accurate implementation by the member-states of recommendations developed in the working groups.

Holding consultations of Arctic Council member states on issues of common interest discussed in other international organizations. The purpose of such consultations would be consolidation and development of a common position for its subsequent promotion in appropriate organizations. Interested Arctic Council Observer states could be invited to such consultations which could be held at the Arctic Council Secretariat or within the framework of corresponding international organizations.

Maximal possible **enhancement of cooperation within already existing agreements of the Arctic Council member states**, such as the Agreement on Cooperation on Aeronautical and Maritime Search and Rescue and on Marine Oil Pollution Preparedness and Response. In addition to the agreements' provisions for sharing expertise, best practices, holding conferences and seminars, it would be advisable to promote and expand practical cooperation in these areas as well as conducting joint exercises.

The Arctic Council states' current capabilities are clearly insufficient to respond to emergencies within their zones of responsibility. Their development will take a long time given the limited and often decreasing budgetary resources and severe climate and weather conditions. It is helpful to raise cooperation between Arctic Council states to a level that would make them natural partners in emergency prevention and response, with or without assistance from third countries.

In view of acceleration of the changes occurring in Marine Arctic – involving both climate and economic development – it is expedient to consider holding Arctic Council ministerial meetings annually instead of every other year. An alternate solution may be development of procedure to call special or extraordinary ministerial meetings when warranted by developments.

The growing role of the Arctic Council and its authority as the central forum of regional cooperation of states, indigenous peoples' and non-governmental organizations could be highlighted by **convening an Arctic Summit in 2016**, the year marking the 20th anniversary of the Ottawa declaration that created the Arctic Council.

2. OPEN ISSUES OF INTERNATIONAL FISHERIES

The 2012 proposals for the Roadmap of International Cooperation in the Arctic⁵ highlighted the special significance of Russian-Norwegian cooperation in fisheries. The harvest under Russian–Norwegian agreements accounts for over half of the Russian Arctic catch. The important role of Russian-American cooperation was also noted.

Russian fishing vessels also harvest the waters of Iceland, Greenland and the Faroe Islands. Although the Russian catch in the Faroe Islands exclusive economic zone (EEZ) accounts for approximately 11% of the total Russian Arctic take, it cannot compare to the Russian-Norwegian cooperation. Russian fishermen do not fill their allocated quotas, particularly in Greenlandic waters, which leads to their gradual reduction. There is hardly any Russian harvest in the exclusive economic zone of Canada.

New issues emerge on the Arctic fisheries agenda. In the past, there was no commercial fishing in the Kara, Laptev, East Siberian, Chukchi, Beaufort or Baffin seas, or in the central part (the enclave) of the Arctic Ocean. However, in recent years, an increasing area (40% or more) of the enclave has been losing its ice cover in summer. For the foreseeable future, **the most promising eventual fishing area in the enclave is the Chukchi Plateau, adjacent to exclusive economic zones of Russia and the United States. The Chukchi Plateau lies outside of the fishery jurisdictions of Arctic coastal states. Therefore, there is nothing to prevent vessels of distant-water fishing nations to begin experimental harvest in the area.**

Against this background, the road map proposals raised the issue of the need for an **urgent development of an instrument for research and conservation**

⁵ Zagorski A.V. et al. The Arctic. Proposals for the International Cooperation Roadmap / I.S. Ivanov, Editor-in-Chief, RIAC. Moscow. Spetskniga, 2012.

of fish resources in the Central Arctic Ocean.⁶ In this Report we attempt to further elaborate on this proposal.

In the sphere of Russian–Norwegian and Russian–U.S. cooperation in fisheries, particularly in regards to conservation of fish stocks in the Central Arctic Ocean, many unresolved issues still remain.

2.1. AGREEMENT CONCERNING FISHERIES IN THE CENTRAL ARCTIC OCEAN

Russian experts repeatedly raised the issue of fisheries regulation in the enclave. Alexander Glubokov and Mikhail Glubokovsky drew attention to this, highlighting the importance of examining the issue of third (non-Arctic) states' access to the region's fisheries.⁷ Inna Melnichuk together with Trevor Taylor and Scott Highleyman consider the need to develop an international agreement to regulate fishing in the Central Arctic Ocean.⁸ A number of experts believe conditions to be ripe for creating a new Arctic Ocean regional fisheries management organization (RFMO) in the Arctic Ocean.⁹ Kamil Bekyashev has developed proposals that could become the foundation for developing a Convention establishing such an RFMO.¹⁰

The Coordinating Board of the Northern Basin Fisheries Associations and Agencies has come out in favor of preparing an intergovernmental arrangement on conservation and management of living resources in the Central Arctic Ocean believing that the emergence of unregulated harvest in the region may have “destructive” consequences.¹¹

⁶ Zagorski A.V. et al. *The Arctic. Proposals for the International Cooperation Roadmap* / I.S. Ivanov, Editor-in-Chief, RIAC. Moscow. Spetskniga, 2012. P. 18.

⁷ Glubokov A.I., Glubokovsky M.K. *International Legal Regulation of Arctic Seas' Fisheries* // A.V. Zagorsky (ed.), *The Arctic – a Zone of Peace and Cooperation*. Moscow: IMEMO, 2011. P. 106 (in Russian).

⁸ Highleyman S., Taylor T., Melnichuk I. *International Agreement on Conservation and Management of Fisheries in the Central Arctic Ocean* // *Fish Resources*. 2011. N 2. P. 14–17 (in Russian).

⁹ Bekyashev D.K. *Arctic States Cooperation against illegal, unregulated and unreported harvest of aquatic biological resources* // Vylegzhanin A.N. et al. *International Cooperation in Environmental Protection, Conservation and Rational Management of Biological Resources of the Arctic Ocean*. International Sc. Symp. Docs. (Moscow, September 4, 2012, RIAC): *Workbook* / I.S. Ivanov, Editor-in-Chief; RIAC. Moscow, Spetskniga, 2012. P. 43 (in Russian).

¹⁰ Bekyashev K.A. *International Regulation of Fisheries in the Arctic* // *Arctic Marine Territories – Contemporary Legal Aspect*. Collection of Academic Papers. Moscow: Magistral Publishers, 2013. P. 142–143 (in Russian).

¹¹ Zilanov V.R. *New Challenges for Arctic Fisheries* // Vylegzhanin A.N. et al. *International Cooperation in Environmental Protection, Conservation and Rational Management of Biological Resources of the Arctic Ocean*. International Sc. Symp. Docs. (Moscow, September 4, 2012, RIAC): *Workbook* / I.S. Ivanov, Editor-in-Chief; RIAC. Moscow, Spetskniga, 2012. P. 45–46 (in Russian).

An International Symposium organized by RIAC in September 2012 discussed possible ways to resolve the issue as follows:¹²

Option 1 is to do nothing hoping that commercial harvest in the enclave will remain economically unfeasible for a long time, or that distant-waters fishing states will not harvest the area in any case.

Option 2 is to extend the mandate of the North-East Atlantic Fisheries Commission (NEAFC) to the entire enclave area. Currently NEAFC covers about 8% of its area.

Option 3 is to create a new RFMO to cover Central Arctic Ocean.

Option 4 is to delegate the fisheries management in the Central Arctic Ocean to the Arctic Council.

Finally, option 5 is to develop an intergovernmental agreement which would introduce a de-facto moratorium on commercial fisheries until a science-based decision is made on the need for establishing a full-scale RFMO.

For many reasons, a significant number of experts prefer the latter option. In 2012, we included this proposal into the Roadmap for International Cooperation in the Arctic¹³ believing it to be the optimal solution.

Since 2010, the conservation of fish stocks in the Central Arctic Ocean has been discussed at bilateral and multilateral consultations by experts and representatives of Arctic coastal states: Denmark, Canada, Norway, Russia and the U.S. Multilateral consultations were held in Oslo, Norway, in 2010; Anchorage, Alaska, U.S., in 2011; Washington, D.C., U.S., in April–May 2013; and Nuuk, Greenland, Kingdom of Denmark, in November of 2013.

Those discussions and consultations have resulted in an emerging consensus of the Arctic nations on a number of issues related to fisheries conservation in the enclave of the Arctic Ocean:

Firstly, the Arctic coastal states are not interested in continued opportunities for unregulated harvest of aquatic biological resources in the enclave. They are particularly concerned about the possibility of harvest by non-Arctic states.

Secondly, at the present time, the issue is not about creating a full-fledged RFMO or agreement to ensure conservation and rational use of aquatic biological resources of the Central Arctic Ocean. All Arctic coastal states consider the creation of such an organization to be premature. Prospective aquatic biological resources and their dynamics need to be carefully studied and monitored before

¹² See: Highleyman S. Preventing Unregulated Fishing in the High Seas of the Central Arctic Ocean // International Cooperation in Environmental Protection, Conservation and Rational Management of Biological Resources of the Arctic Ocean. International Sc. Symp. Docs. (Moscow, September 4, 2012, RIAC): Workbook / I.S. Ivanov, Editor-in-Chief; RIAC. Moscow, Spetskniga, 2012. P. 34–36 (in Russian).

¹³ Zagorski A.V. et al. The Arctic. Proposals for the International Cooperation Roadmap / I.S. Ivanov, Editor-in-Chief, RIAC. Moscow. Spetskniga, 2012. P. 19.

it will be possible to determine (based on sound science data) which local fish stocks need to be covered by conservation and management measures.

Thirdly, for this reason, the emphasis is on the need for systematic research and monitoring of the enclave biological resources and their stock dynamics in conditions of climatic changes.

However, **differences persist among participants of the consultations** on a number of issues. Those differences are not about the need for developing measures to protect fish stocks in the enclave, but about the **timeframe for taking such measures** and the need for **third parties (non-Arctic states) participation in the process**.

The U.S. (the initiator of the consultations), Denmark and Canada support an intergovernmental agreement. Norway, while not greatly interested in such an agreement considering that commercial fishery development is hardly feasible in the deep sea region of the Arctic Ocean adjacent to its marine borders, would accede to the it given the general agreement of the other Arctic coastal states.

The Russian perspective is based, firstly, on the expectation that commercial harvest in the enclave will not become economically viable any time soon. Furthermore, coordination of fishery management measures in this area at a premature stage may have the reverse of the intended effect by provoking experimental harvest by non-Arctic states.¹⁴ For this reason, at the present stage, it is preferable to conduct systematic studies and monitoring of the enclave biological resources so as to begin coordinating practical measures for their conservation and management at a later stage on the basis of sound scientific data.

Secondly, the idea of involving non-Arctic nations in the signing of the Agreement causes doubts.

However, those doubts should not prevent the beginning of proper negotiations to draft an agreement concerning fisheries in the Central Arctic Ocean. The development and signing of the agreement would entail smaller costs than inaction.

High-latitude biological resources harvests in the Arctic seas, albeit on a limited scale, may occur sooner than is generally assumed. For that reason, preclusion of unregulated harvest in the enclave meets the interests of the Arctic coastal states, primarily, Russia and the United States. The example of the Bering Sea enclave fish stock depletion and low effectiveness of belated steps by Russia and the U.S. towards developing the 1994 agreement makes a compelling case for the need to take the necessary measures in the Arctic enclave.

¹⁴ Although consultations by the coastal states are no secret, not one of the non-Arctic nations has used them as an opportunity to begin developing its own "harvest history" in the enclave thereby claiming the right to participate in shaping up a regime of conservation and rational use of aquatic biological resources in the Central Arctic Ocean.

Coordination of such measures at the earliest possible stage, without waiting for comprehensive research in the enclave, not only does not contradict, but fully conforms with the concept of precautionary approach which is the foundation of the 1995 Agreement on Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (hereinafter – the 1995 Agreement) signed by all Arctic coastal states. Article 6.2 of the Agreement states that “the absence of adequate scientific information shall not be used as a reason for postponing or failing to take conservation and management measures.”

The longer the delay in adopting measures to regulate experimental harvest in the enclave by third party states, the higher the probable costs.

Although the 1995 Agreement allows to deny access to the fishery resources, to which the relevant measures apply, to states which don't participate in a relevant agreement (Article 8.4), it does not allow limiting the number of parties voluntarily or applying the agreement “in a manner which discriminates against any State or group of States having a real interest in the fisheries concerned” (Article 8.3). The Agreement provides (Article 9.2) that states cooperating in the formation of a regional arrangement “shall inform other States which they are aware have a real interest” in it of their plans.

Therefore it appears practical **to turn the current consultations into proper negotiations aiming to draft and sign an agreement concerning fisheries in Central Arctic Ocean without delay.** The draft of such an agreement prepared by the United States and revised in the course of consultations is a solid base for the speedy conclusion of the negotiations.

The drafting of the agreement should proceed from the following:

1. The main *purpose of the agreement should be to prevent unregulated fishing in the Central Arctic Ocean.* It is important to have clarity on this issue since participants of the consultations at times have different understanding of the purpose of the arrangements under discussion.

The agreement is also intended to promote cooperation of states in scientific assessment of the biological resources stocks in the enclave and evaluation of their dynamics, as well as effective monitoring, control and surveillance.

2. *Area (region) of application of the agreement.*

The U.S. draft proposed definition of the area of application of the agreement (“single high seas portion of the Central Arctic Ocean that is entirely surrounded by waters under fishery jurisdictions” of the five coastal states) in combination with proposed measures (parties to the agreement “shall authorize fishing vessels entitled to fly their flags to conduct commercial fishing in the Agreement Area only pursuant to one or more regional or subregional fisheries management organizations or arrangements”) is in full accordance with the purpose of the agreement.

Such a definition does not question the mandate of NEAFC, which extends over a small part of the enclave, since it does not exclude harvest authorized by that organization. At the same time it introduces a de-facto ban on commercial fishing in the rest of the enclave until measures for science-based conservation and management are developed.

Such an approach does not prejudice any forthcoming decision concerning the creation of a new RFMO with a mandate covering the larger part of the enclave excluding the area covered by NEAFC. Many experts believe that due to considerable differences in biological productivity between Atlantic and Eastern Arctic seas, a new organization is needed, rather than the extension of the NEAFC area of operation.

3. Cooperation of states in scientific research of aquatic biological resources, effective monitoring, control and surveillance.

As they pledge to abstain from commercial fishing, contracting parties should agree on a mechanism of cooperation in research and assessment of aquatic biological resources of the enclave, including assessment of the possible impact that commercial fishing may have on non-target, associated and dependent species. They would also need to agree on standards for collection, reporting and verification of data, and create mechanisms for cooperation in effective monitoring, control, surveillance and enforcement of the agreement.

The provision for regulating scientific research, including possible harvest for scientific purposes, in the Central Arctic Ocean is of key significance for Russia.

The U.S. draft of the agreement provides for the establishment of a **joint program of scientific research** to improve understanding of the enclave ecosystems, and determine whether fish stocks might exist there that could be harvested on a sustainable basis and the possible impacts of such fisheries on the ecosystems of the Central Arctic Ocean. Appropriate research and assessment would allow obtaining scientific advice regarding practicality of establishing an RFMO in the Central Arctic Ocean for the purposes of conservation and management of its biological resources.

Russia and the U.S. have a shared interest on this issue. It is appropriate not only to provide for scientific harvest of biological resources in the enclave, but also to create a flexible mechanism for determining composition and size of catch depending on the target resource density and spatial distribution. Otherwise, it will be impossible to assess the status stocks and the prospects for their commercial harvest.

To address this issue, all parties to the Agreement will have to coordinate the methodologies for estimating the scientific catch necessary to adequately accomplish research objectives during research expeditions, and at the same time, to not undermine the stocks or Arctic marine ecosystems.

The United States proposes financing the implementation of the joint research program through **voluntary contributions**. This is a welcome initiative, provided all contracting parties without exception make voluntary contributions into a joint research fund.

This issue is closely linked to the **expedience of Russia pursuing its own program to study aquatic biological resources of the Arctic** including the Central Arctic Ocean. Financial and material support of current research on the Russian Arctic biological resources (conducted mainly in the Western Arctic and to a much lesser degree in Eastern Arctic seas) falls short of resources available to Norwegian or U.S. researchers. Russian organizations do not conduct any systematic studies of aquatic biological resources in high-latitude Arctic beyond the Russian EEZ. Unless the situation changes, Russian research organizations will not be able to participate at an adequate scale in studying the biological resources of the Central Arctic Ocean.

4. Third parties.

Non-arctic states' participation in the agreement concerning fisheries in the Central Arctic Ocean and the joint research program is one of the most controversial issues of the current discussion.

Discussions at the RIAC revealed a popular point of view that supported either turning the agreement into an exclusive club whose membership would not be available to non-Arctic states, or spelling out in the agreement priority rights of the coastal states.

However, those discussions also revealed that **non-discriminatory engagement of interested non-Arctic states and organizations in the agreement would be a better stimulus for them to abstain from fishing in the area, than attempts to exclude them, or reserve preemptive rights for the coastal states.**

Consultations during the last few years fostered a conviction (albeit not a unanimous one) that after the Arctic states reach agreement in principle, other states and organizations interested in fishery resource conservation in the Central Arctic Ocean should be invited to sign the agreement.

In any case, the agreement should include a provision that only countries that are parties to it and contribute to its purpose, and, in particular, the purpose of joint research program implementation may participate later in the creation of an RFMO in the Central Arctic Ocean.

5. Enforcement.

Only the inclusiveness of the agreement as regards the participation of interested non-Arctic states can justify including in it a provision borrowed from Article 33 of the 1995 Agreement, that reads: the parties take measures consistent with the international law to deter activities of vessels flying the flags of non-parties that undermine the effective implementation of this agreement.

Until an RFMO is formed in the Central Arctic Ocean, the parties may be guided in the enforcement of interim measures by Part VI of the 1995 Agreement.

6. Peaceful settlement of disputes.

The U.S. draft agreement lacks provisions on peaceful settlement of disputes. Such provision shall be included and modeled on means of peaceful settlement of disputes provided in the 1982 UN Convention on the Law of the Sea. Those provisions are applicable under the 1995 Agreement.

7. Institutions.

At this point in time, institutionalization of the agreement concerning fisheries in the Central Arctic Ocean is not considered, since establishing of an RFMO in the area is not on the agenda.

The U.S. proposed format of holding **regular review conferences of the contracting parties** appears optimal, although periodicity of such conferences could be discussed and amended as the arrangement's provisions begin to be implemented.

At the same time, since the main activity under the agreement will be cooperation in scientific research of biological resources of the Central Arctic Ocean, effective monitoring, control and surveillance, it would be practical to provide for establishing under the agreement an appropriate committee or commission to coordinate activities of the parties and provide coordinated reports and recommendations for regular conferences. The U.S. draft agreement provides for such an opportunity.

8. Procedure for decision making on forming an RFMO.

The agreement under discussion is aimed at achieving a joint science-based decision on the feasibility of an RFMO or of a regional agreement to regulate fisheries in the Central Arctic Ocean. For this reason it shall include provisions describing terms and procedure for taking appropriate action.

2.2. RUSSIAN–NORWEGIAN COOPERATION

During the nearly four decades since the signing of the first Norwegian-Russian Agreement on Cooperation in Fisheries, a well-adjusted mechanism for its implementation has been developed. It has stood the test of time and proven its efficiency in maintaining sustainable commercial stocks of aquatic biological resources. The Joint Norwegian-Russian Fishery Commission (JNRFC) has been the key instrument of this cooperation.

At the same time, problems did arise from time to time that demanded cooperation in finding mutually acceptable solutions. The principal issues on the Russian–Norwegian Agenda for cooperation in fisheries, including ones that arose after the 2010 Treaty concerning Maritime Delimitation and Cooperation

in the Barents Sea and the Arctic Ocean entered into force, have been summed up in the proposals for the Arctic international cooperation roadmap published by RIAC in 2012.

Regulation of fishing in the previously disputed grey area¹⁵ has been an open issue for the past two years. The 2010 Treaty (Article 2 of Attachment I) established a two year transition period following the treaty's entry into force during which the parties continued fishing under previous terms applying their own technical standards established for their own fishing vessels. During that time the parties were to develop and coordinate uniform fishery regulations for the area.

The transition period ended July 7, 2013. By then, the working group established within the framework of the JNRFCA had completed "in principle" the development of uniform technical measures to regulate joint stocks fishery in the Barents and Norwegian seas. But the work has not been completed in full which enables Norway to introduce its own rules in its part of the previously disputed area thereby impeding Russian fishing in this important sector.

The issue of **detainment of Russian vessels by the Norwegian Coast Guard within the Spitsbergen fisheries protection zone** has not been resolved. According to available data, five Russian vessels were detained between January of 2012 and February of 2013. Unlike in 2011, when vessels were detained for disposing scientific catch,¹⁶ the latest detentions occurred on different grounds, such as: unintended catch disposal overboard; unreported fishing in the Spitsbergen fisheries protection zone; inaccurate recording of catch in ships' log books; suspected unreported transfers of fish product; or accusations of illegal disposal of dead or dying fish into the sea. In one case, the captain made a mistake when submitting the documents to communicate the vessel's intention to fish in the waters of the neighboring state. He sent the required document package to the Norwegian Directorate of Fisheries via e-mail, as was prescribed by the outdated rules, whereas the new rules required the information to be transmitted only by fax.

The Russian public is very sensitive to the news of Russian fishing vessels detainment by the Norwegian Coast Guard, which prompts calls for patrolling the waters around Spitsbergen by the Russian Coast Guard. We, however, believe that **a long-term settlement of this issue is linked, primarily, to the development**

¹⁵ The concept of a "previously disputed area" is new. It appeared in the 2010 Treaty. Earlier agreements did not use this term. Experts would talk about a "grey zone", where temporary fishing rules applied before the maritime delimitation by the countries. The 2010 Treaty does not define the "previously disputed area" or its limits.

¹⁶ The problem is caused by differences in Russian and Norwegian legislation. While the current Russian law demands that scientific catch be disposed overboard and prohibits its delivery to the shore, Norwegian law prohibits overboard disposal and requires onshore delivery of the research catch. This difference has all but paralyzed joint Russian-Norwegian research of the ABR necessary to ensure productive cooperation. Proposals to the Roadmap of Arctic International Cooperation state that changing the Russian law would provide a logical and sensible solution.

of uniform fishing rules by Russia and Norway which would preclude occurrence of similar incidents in the future. Many years of cooperation experience within the JNRFC framework allows expectation of positive solutions to specific problems arising in the course of cooperation.

To resolve the issue of detainment of the Russian fishing vessels and to define a clear system of harvest management, the JNRFC 42d Session in October 2012 resolved to continue developing uniform guidelines for the Barents and Norwegian Sea fisheries oversight.

In January 2013, a Russian–Norwegian Technical Working Group met in Moscow to develop electronic communication specifications. Russia has developed an electronic fishing log system. In 2012, the system was tested by 20 Russian vessels operating in the Northern Basin.

Under the Coordinated Protocol for Russian-Norwegian electronic exchange of data on catch and fishing vessel activities, a plan for testing the system of electronic exchange between the Russian and Norwegian fishing monitoring centers was coordinated. Agreement has been reached to establish a transitional period beginning on July 1, 2013, during which fishing information and records may be communicated both in accordance with the new rules, and in electronic format. An updated version of the memorandum on cooperation in fishery oversight was approved.

In March 2013, the Permanent Russian-Norwegian Committee on Fishery Management and Control met in Tromsø (Norway) to review practical issues of applying the interim simplified permitting process to fishing vessels harvesting shrimp in the Russian exclusive economic zone.

To improve bilateral cooperation, an agreement on cooperation between the Norwegian Fishermen's Association and Russian commercial fishermen and aquaculture businesses was signed in Murmansk on March 15, 2013.

Other minor issues of Russian–Norwegian fishing cooperation arise on a regular basis and are resolved in the spirit of cooperation. **Veterinary certification of fish products** is a new issue. In 2011 and 2012, Russia became the largest importer of Norwegian fish, primarily Atlantic salmon and trout. In 2012, Norwegian fish export to Russia reached a record €820 m, surpassing 2011 figures by 15%. But the recent certificate was initialed by the Russian Agriculture Agency (Rosselkhoznadzor) and the Norwegian Plant, Fish, Animal and Food products Oversight Service in 2007 and is no longer compliant with new requirements of the Customs Union of Russia, Belarus, and Kazakhstan. That resulted in a growing number of violations of the ECU veterinary and sanitary standards by Norwegian fish exporters. On February 1, 2013, Russia and Norway introduced a new veterinary certificate for fish import.

2.3. RUSSIAN–U.S. COOPERATION

The draft U.S.–Russia agreement on conservation and management of live resources of the Northern Bering Sea has been deliberated within the U.S.–Russia Intergovernmental Consultative Committee on Fisheries (ICC). Its 24th session was held in Girdwood, Alaska, in September 2013. An important part of the Agreement will be a section dealing with prevention and preclusion of illegal, unreported or unregulated harvest. The so far unresolved issue of exercising reciprocity in fishing privileges by the parties' fishing vessels in their respective exclusive economic zones remains the principal stumbling block toward signing the new agreement.

3. VESSEL TRAFFIC REGULATION

Persisting interest in Arctic shipping is explained by its growth in the last years, expectations of international (transit) shipping development along the Northern Sea Route (and later along the Canadian Northwest Passage), and the need to ensure safety of the expanding shipping operations and prevent pollution of marine environment.

At the same time the majority of experts are cautious in their assessment of the prospects of using Arctic routes for regular international marine traffic. Many issues need to be resolved to turn those plans into reality.¹⁷ In addition to the high cost of ships designed and equipped for Arctic operations, there exist considerable risks linked to weather and ice. The Arctic has virtually no modern transportation infrastructure including ports, ship maintenance and service facilities. There is a need for considerable enhancement of capabilities for search and rescue, and emergency response including oil spill response in remote regions of the Arctic. Much work is to be done to put in place an adequate ice monitoring system and ship tracking system. Hydrographic and cartographic work also requires considerable investment.

Expansion of shipping raises the issue of its regulation in the “bottleneck” area of the Bering Strait to protect highly productive ecosystems of the Bering Sea from irreparable damage.

Harmonization of national shipping rules is a separate issue including not only requirements for ship design and equipment, crew training, and marine pollution prevention, but also responsibility for damage, insurance and the like. The majority of Arctic shipping regulatory issues are being elaborated in connection

¹⁷ See: Marine Traffic in the Arctic. A Report Commissioned by the Norwegian Mapping Authority. Oslo: Analyse & Strategi, 2011.

with the drafting of the **International Code of Safety for Ships Operating in Polar Waters** (the Polar Code) by the International Maritime Organization (IMO). True, **the Polar Code development has become increasingly protracted prompting some states to begin discussing alternative ways of developing uniform shipping rules for the Arctic Ocean.**

3.1. TRENDS AND PROJECTIONS

It is difficult to draw a full picture of the growing Arctic shipping. The most comprehensive and detailed survey was performed in 2009 by the Protection of the Arctic Marine Environment Working Group of the Arctic Council.¹⁸ The survey used 2004 data and presented a “snapshot” picture which did not reflect Arctic shipping development dynamics. The data of the 2009 survey can be correlated only with results of the working group’s attempt to analyze the state and prospects of Arctic shipping undertaken nine years earlier.¹⁹ Another attempt to summarize the trends was made by the working group in preparation of the 2013 Arctic Ocean Review.²⁰ All the reports recognize the lack of data for a comprehensive assessment and quantitative forecast of Arctic shipping development. The same shortcoming may manifest itself in the new review, the preparation of which will continue in 2013–2015.

Nevertheless, **the main trends in Arctic shipping development are apparent. One of them is its considerable, albeit uneven, expansion.** The fastest growth occurs in the Western Arctic (Atlantic) marine regions (Barents, Norwegian, and Greenlandic seas) as well as in the Bering Sea. Colder seas of the Arctic Ocean see a growth of shipping as well, but here it is seasonal due to unfavorable ice conditions during the greater part of the year.

The main share of Arctic shipping (about one half) is linked to the fishing industry which also concentrates in the Western Arctic and Bering seas. Passenger traffic is growing, mainly due to the development of tourism in Norwegian, Greenlandic and Icelandic waters. Prospects of cargo shipping expansion are linked to the destination shipping – massive imports of technology and materials into the area to build the necessary infrastructure both in terrestrial and, to a lesser extent, in maritime Arctic, as well as with expected growth in the export of extracted mineral and hydrocarbon resources.

¹⁸ Arctic Council. Arctic Marine Shipping Assessment 2009 Report. URL: http://www.pame.is/images/stories/AMSA_2009_Report/AMSA_2009_Report_2nd_print.pdf

¹⁹ PAME – Snap Shot Analysis of Maritime Activities in the Arctic. Revision No. 01. Report No 2000-3220 / Norwegian maritime Directorate. URL: http://www.pame.is/images/stories/PDF_Files/Doc_lib/RPA/Norwegian_maritime_directorate.pdf

²⁰ Arctic Ocean Review Project 2009–2013. Final Report Phase II 2011–2013. 8th Arctic Council Ministerial Meeting, Kiruna, Sweden, 15th of May 2013.

There is discussion of a possible use of Arctic routes connecting the Atlantic and Pacific oceans for regular international transit. Its volume has grown considerably in the last few years along the Northern Sea Route. The number of ships that transited the NSR was 4 in 2009, 11 in 2010, 41 in 2011, and 46 in 2012. The volume of transit freight was 0.11, 0.82 and 1.26 million ton respectively. No final data are yet available for 2013, but preliminary estimates show that transit traffic along the Northern Sea Route will remain at the level of 2012 both in vessels and tonnage, or it may go down slightly.

Expectations of further expansion of Arctic marine shipping for the period until 2020 are based on the projections of the trends described above. In addition to a further growth of traffic along traditional shipping routes, there are **expectations of considerable expansion of marine export of resources produced in terrestrial Arctic by the end of this decade**. Growth estimates may differ significantly. However, the Russian Ministry of transportation and the Arctic Council Working Group have come up with identical forecasts of cargo traffic along the Northern Sea Route at approximately 40 million tons by 2020 (mostly tankers and bulk cargo). That would amount to a tenfold increase in the volume of NSR cargo traffic compared to 2012.²¹

At the same time assessments of cargo traffic increase along the Canadian Northwest Passage are cautious. There are many reasons why experts do not anticipate establishment of regular traffic routes between the Atlantic and Pacific oceans by 2020, one of them being slower contraction of the ice cap in the Canadian Arctic in the summer. For the same reason experimental cargo traffic in the region also falls short of the volumes shipped along the Northern Sea Route. The first bulk carrier loaded with coal and owned by the Nordic Bulk Carriers Company of Denmark transited the Northwest Passage in September 2013 following a lengthy preparatory period.

For the foreseeable future, there can be no comparison between Arctic transit shipping and cargo traffic via the Suez (740 million tons in 2012) or Panama (218 million tons) canals.

3.2. THE POLAR CODE

The forecast expansion of trans-Arctic vessels traffic brings up the issue of developing coordinated measures to ensure safe operation of ships in Arctic waters and prevention of marine pollution from ships. Another stimulus for discussion of such measures is the understanding that **development of harmonized**

²¹ The NSR cargo traffic data do not include the growing volume cargo transiting through northwestern Russian ports of Murmansk and Arkhangelsk that are not considered part of the NSR.

shipping rules for the Arctic may further stimulate growth of international shipping in the region.

Russia and Canada have the most stringent requirements for ships transiting the Northern Sea Route and the Northwest Passage. Denmark has its own set of less restrictive rules for navigation in Greenlandic waters. The U.S. and Norway have the most liberal shipping regimes, though they too have lately introduced certain regulations. The U.S. adopted measures to protect marine mammals. Norway introduced a ban on heavy fuel.

No special rules apply to vessels traffic in the Central Arctic Ocean which remains sporadic at this time. Only global norms regarding safety of life at sea (the SOLAS Convention) and protection from pollution from ships (the MARPOL Convention) are applicable there.

The International Maritime Organization (IMO) adopted first the Guidelines for Ships Operating in Arctic Ice-Covered Waters (2002) and then Guidelines for Ships Operating in Polar Waters (2009). Provisions of the latter guidelines cover operations in both the Arctic and the Antarctic. Both sets of guidelines are optional. With the growth in Arctic shipping the need arises for the IMO to develop mandatory rules – the Polar Code.

In 2008 the five Arctic coastal states (Canada, Denmark, Norway, Russia and the United States) stated their intent to work together (including through the IMO) to strengthen existing and develop new measures to improve the safety of maritime navigation and prevent or reduce the risk of ship-based in the Arctic Ocean. In 2009, the Working Group of the Arctic Council for the Protection of Arctic Marine Environment (PAME) recommended development of a mandatory Polar Code in the IMO. The importance of an expeditious completion of the work on the mandatory Polar Code on shipping was stressed by the Arctic Council in its Kiruna Declaration adopted by the Council's eighth session in May 2013.

Denmark, Norway and the U.S. initiated the development of the Polar Code in 2009. The initiative is supported by Canada, whose long-term strategy is to gradually harmonize domestic vessels traffic regulation in the Arctic waters with generally accepted international standards.²² However, Canada has some reservations as to what concessions may be considered acceptable compromise for the sake of the Code development and what may not. For one, Canada is not prepared to relax its zero discharge policy in the Arctic.

The development of the Code began in 2010. The purpose of the document is to ensure safe operation of ships and prevent marine pollution in the Arctic. Two IMO committees are engaged in elaborations of corresponding rules and

²² Canada: Committed to the Goals of the International Maritime Community TP 14916 E (2011). URL: <http://www.tc.gc.ca/eng/marinesafety/tp-tp14916-menu-182.htm>

procedures: Maritime Safety Committee (its Sub-Committee on Ship Design and Equipment) and the Marine Environment Protection Committee. The Code developers are facing a challenge of finding a common denominator for different and diverging interests and positions of the coastal states (that do not have a common stand in the IMO), flag states, ship owners, classification societies and environmental organizations.

The IMO Sub-Committee on Ship Design and Equipment made **good headway in elaborating the Polar Code provisions**²³ in 2010–2013 developing requirements for the design, main power plant and other machinery, equipment and supplies of ships operating in polar waters, as well as for crew training for operations in ice-conditions and low outside temperatures.

It has been agreed that the Code will have mandatory and optional parts. Following deliberations of various options to make some sections and provisions mandatory, it was decided to do so by way of corresponding amendments to the SOLAS and MARPOL Conventions. The Code will apply both in the Arctic and the Antarctic, although applicable standards may differ depending on specific shipping conditions.

Mandatory requirements for ship design, construction, and equipment, crew training and marine pollution prevention are based on evaluation and analysis of risks run by ships in different ice conditions. The voluntary part consists of guidelines for operating in Arctic or Antarctic waters. To operate in polar waters, ships will need a certificate issued by the flag country Maritime Administration or appropriate classification society. Differences of approach between various classification societies will be overcome by including in the Code a Polar class equivalency matrix.

The first stage of work on the Polar Code envisages development of requirements for passenger and cargo ships covered by the SOLAS Convention; further on requirements for non-convention ships including fishing and recreational vessels will be developed. Code provisions will be fully applicable to newly built vessels. Some of its provisions that do not require structural modifications will be applied to all ships operating in polar waters.

Deliberations of the Polar Code revealed **serious divergence** of views among participants.

Debates of additional measures to prevent marine environment pollution presented many challenges. It had to be postponed for a year in 2012. Environmental organizations initiated discussion of such issues as a ban on overboard disposal of any waste, bilge or gray water in the Arctic; further reductions in emissions of

²³ Frolov A.I. Current Directions Of IMO Activities // Science and Transportation. 2012. N 2. P. 14 (in Russian); Peresyarkin V., Tsoy L., Shurpyak V. The International Polar Code: Russian proposals // Marine fleet. 2012. N 4 (in Russian). URL: http://www.test.morvesti.ru/analytics/index.php?ELEMENT_ID=16937

black carbon, nitrogen and sulfur oxides; and a ban on the use of heavy fuel. Many of these requirements are already standard for some Arctic states, which support their inclusion in the Code. If the requirements are not included in the Code, those states will face a hard choice of either lowering their national standards, or continuing enforcement of their national standards in augmentation of the Polar Code requirements. The latter choice would jeopardize the Polar Code purpose of developing uniform shipping rules for Arctic waters. For Russia stringent environmental standards are primarily an economic issue.

Ship owners express no particular enthusiasm over stricter requirements in ship design and equipment. For them the issue is not only that of additional expense dictating whether or not to build polar class vessels, but also of competitive advantage. There is no unanimity on how to apply Polar Code standards to fishing vessels.

Enforcement of the Polar Code and its requirements is a pivotal issue in the discussion. Is the polar operations certificate issued by flag state maritime administration or appropriate certification agency sufficient for the vessel to operate in the Arctic, or should coastal states retain the right to administer the implementation of the Code as Russia and Canada do today with regard to their domestic rules?

The parties involved in the Polar Code development diverge on other issues as well. Highly restrictive standards are unacceptable to some participants, while the compromise solution involving minimal requirements brings protests from several Arctic states.

It is not surprising therefore that **the development of the Polar Code falls behind schedule**. It was initially intended to be completed in 2012. Then completion date was moved to 2014 and 2016 for non-convention vessels including fishing vessels. However, negotiations' participants are skeptical about making the new deadline. Many hold the view that, at this time, it is hardly possible to estimate the actual time required to complete the work. The very history of the Polar Code is the case in point. The IMO initially began discussing it back in 1992. Then, too, the intent was to develop legally binding requirements for ships operating in Arctic waters. Ten years later, the work ended with the adoption of the first set of voluntary guidelines followed seven years later by a second set of guidelines – also voluntary.

3.3. ALTERNATIVES TO THE POLAR CODE

Since the timeframe for the Polar Code completion is uncertain, proposals have been made lately to provide alternative solutions to an international regime of uniform rules for safe operation of ships in Arctic waters and marine pollution

prevention. The most frequently mentioned alternative is **harmonization of national laws of the Arctic states or conclusion of a regional shipping agreement**, either through cooperation of the five coastal states or within the framework of the Arctic Council.

Denmark stated in its Strategy for the Arctic adopted in late 2011: “Should it prove that agreement on global rules cannot be reached, and in view of the especially vulnerable Arctic environment and the unique challenges of security, the Kingdom will consider implementing non-discriminatory regional safety and environmental rules for navigation in the Arctic in consultation with the other Arctic states and taking into account international law, including the Convention on the Law of the Sea provisions regarding navigation in ice covered waters.”²⁴ Agreement on harmonized shipping rules by the Arctic states prior to the Polar Code completion is also viewed as a possible solution by the European Commission.

Canada is, likewise, considering the possibility of conclusion of a regional agreement by the Arctic Council’s states should there be no consensus on the most contested issues of the Polar Code.²⁵

Gradual harmonization of the Arctic States’ national rules regulating vessels traffic concurrent with the development of the Polar Code was recommended by the PAME Working Group of the Arctic Council following its 2009 Arctic Marine Shipping Assessment. In the following years the Working Group conducted a comparative analysis of national legislations in several fields affecting the development of Arctic international shipping. However, the Group considers this effort to be not alternative, but complementary to the development of the international Polar Code by the IMO. The latter process is given priority.

Such position is well founded. Firstly, due to inherent difference in the Arctic States’ approaches to regulating shipping in the Arctic, reaching consensus will hardly be easier for them than it is for the IMO process participants. Whereas Canada and Russia are in favor of a fairly restrictive permission-based transit regime in their Arctic waters and control of transiting ships, the U.S. Coast Guard does not make any special rules for ships in their marine Arctic above general norms. Norway favors broader international norms for a number of reasons.

Secondly, even if the Arctic Council states reach agreement on regional shipping rules under Article 234 of the UN Law of the Sea Convention, such rules will not apply to shipping in the Central Arctic Ocean. Therein lies the main flaw of the “backup option” which envisions working out a regional arrangement between

²⁴ Denmark, Greenland and the Faroe Islands: Kingdom of Denmark Strategy for the Arctic 2011–2020. Copenhagen; Nuuk; Tórshavn, 2011. P. 18.

²⁵ See e.g.: Spears K.J. The urgent need for the Polar Code – Getting it right. URL: <http://www.canadian-sailings.ca/?p=4827>, posted on : October 17th, 2012; Gedeon J. Polar Code – Canadian IMO delegation member outlines framework and personal concerns. URL: <http://www.canadiansailings.ca/?p=6149>

the Arctic Council states or the five Arctic coastal states instead of adopting the Polar Code.

Taking into account the protracted character of the Polar Code development process, one could propose another option for creating international standards to ensure safety of shipping and prevent pollution of Arctic marine environment without waiting for the Code completion.

The introduction of binding requirements for ensuring safe and environmentally responsible shipping in the Arctic can be pursued gradually. As long as the Polar Code development process has resulted in a decision to make some of its provisions legally binding by amending the SOALAS or MARPOL Conventions, there is no reason why the process may not be started with introducing amendments that have already been discussed and accepted, primarily to the SOALS Convention.

This effort would, naturally, require close cooperation between the Arctic states to coordinate the extent of, and procedure for making the necessary changes at each stage while at the same time continuing the Arctic Council Working Group effort aimed at comparative analysis and progressive harmonization of Arctic states' national legislations in regulating shipping in the Arctic.

4. PROSPECTS FOR HARMONIZING NATIONAL ENVIRONMENTAL LEGISLATION

The Arctic is a region where climate change is particularly apparent.²⁶ The shrinking snow and ice cover plays an important part since the dark surface of land and water captures more heat than the white snow or ice. The waters arriving in the Arctic from the Atlantic Ocean have also grown considerably warmer, as has the air coming from more southerly regions. Summers bring extensive melting of multiyear ice, which shrank to unprecedentedly small area in 2012.

The rapidly changing natural conditions result in no less dynamic economic development. The melting of the ice opens up new opportunities for shipping in the Arctic Ocean, primarily along the Northern Sea Route, and pushes the fisheries boundary further north. Improvement of mineral extraction technology, especially oil and gas mining technology, allows the Arctic states to plan for offshore hydrocarbon production from their continental shelf. All those factors create new threats for fragile Arctic ecosystems. At present, shipping is the most pressing environmental challenge in the Arctic since both economic and environmental prerequisites for its development, as well as economic opportunities, are already in place.

Prospects for the expansion of Arctic shipping are linked to the development of hydrocarbon deposits on the Arctic coast and continental shelf. Several oil and gas projects in the Nenets and Yamalo-Nenets Autonomous Districts foresee marine transportation of oil and liquefied natural gas by tankers. Some of those projects are already under way.²⁷ Oil and oil-product shipping in conditions of polar seas represents a real threat to Arctic ecosystems due to the lack of proven

²⁶ See, e.g. URL: <http://www.arctic.noaa.gov/reportcard/>; <http://arctic.atmos.uiuc.edu/cryosphere/>; <http://climatechange.igce.ru>

²⁷ Vysotskaya N.A., Evdokimov G.P., I.I. Kostylev I.I. Development of Arctic oil and gas deposits and expansion of shipping along the NSR // Industrial North. 2012. N 4 (in Russian).

technology to respond to oil spills in ice conditions. Severe weather may prevent timely emergency response even if adequate response capabilities are in place.

Plans for offshore mineral resource extraction present another threat to Arctic environment. At present there is no oil or gas production from the Arctic Ocean continental shelf, but preliminary work for developing such projects has already begun. An oil platform has been installed at the Prirazlomnoye offshore oilfield in the Pechora Sea, but it is not yet producing. So far technological challenges and high costs of Arctic hydrocarbon extraction hold back the plans for its active development. But should they be implemented, the threat to the environment from those operations will be equal to, if not higher than that from the growth of shipping activities.

Given the active economic development of the Arctic, improvement of environmental protection legislation of the Arctic states and development of common approaches to statutory protection of the environment and of corresponding standards becomes increasingly important for minimizing negative consequences of human activities.

4.1. AGREEMENT ON COOPERATION ON MARINE OIL POLLUTION PREPAREDNESS AND RESPONSE IN THE ARCTIC

The Agreement was initiated by the seventh ministerial meeting of the Arctic Council in Nuuk, Greenland, in 2011. A Task Force consisting of representatives of national organizations and independent experts including those from environmental organizations was established to draft the agreement. The agreement was signed on May 15, 2013, at the Arctic Council's eighth ministerial meeting in Kiruna, Sweden. In addition, the Kiruna meeting adopted operational guidelines which, though not mandatory, contain a detailed description of practical implementation of the agreement.

The preamble to the agreement contains a number of important provisions. Firstly, it highlights two main international principles of environmental protection: the "polluter pays" and the precautionary approach. The first principle means that the polluter covers all expenses involved in oil pollution prevention and cleanup. The second principle obligates contracting parties to adopt pollution prevention measures.

The objective of the Agreement is to "strengthen cooperation, coordination and mutual assistance" on oil pollution preparedness and response in the Arctic to protect marine environment from pollution by oil (Article 1). The Agreement defines the territorial scope of its application which includes marine areas over which the parties exercise sovereignty, sovereign rights, or jurisdiction including their internal waters, territorial sea, exclusive economic zones and continental shelf, consistent with international law and located above the southern limits as

indicated in Article 3 of the Agreement. For the Russian Federation the boundary runs along the coastlines of the White, Barents, Kara, Laptev, East-Siberian and Chukchi seas, and the mouths of the rivers flowing into these seas seaward of the baselines from which the breadth of the territorial sea is measured.

The Agreement contains the parties' obligations to prevent and respond to incidents causing oil pollution. Each party shall maintain a national system for responding efficiently to such incidents promptly, and including, at a minimum, a national contingency plan or plans for preparedness and response to oil pollution incidents; a minimum level of pre-positioned oil-spill equipment commensurate with the risk involved and programs for its use; a mechanism or arrangement to coordinate response to an oil pollution incident with capabilities to mobilize the necessary resources if appropriate (Article 4).

Each party to the agreement shall designate a competent national authority or authorities with responsibility for oil pollution preparedness and response; create a national 24-hour operational contact point responsible for the receipt and transmission of oil pollution reports; and designate an authority or authorities entitled to act on its behalf to request assistance or decide to render the assistance requested. All those authorities are listed in appendices to the agreement (Article 5).

The agreement defines procedures for the parties' actions upon receiving information about oil pollution or threat thereof, and obligates each party to inform other states whose interests are affected or likely to be affected by such an incident (Article 6). It also contains articles that describe procedures for: requesting assistance from other party or parties; compensating expenses incurred in providing such assistance; exchanging information; holding joint exercises and cooperation.

The operational guidelines adopted concurrently with the agreement contain provisions regulating the states' cooperation, coordination and mutual assistance to ensure preparedness for and response to oil pollution of the Arctic marine environment. The document describes procedures for notification and request for assistance; response operations command and control; joint training and exercises; administration and other recommended measure to assist joint steps to ensure efficient oil pollution response. The operational guidelines supplement bilateral and multilateral agreements or arrangements of the parties.

The agreement does not contain any obligations going beyond the parties' national legislation. Its purpose is, primarily, to promote effective cooperation between the Arctic states in oil spill preparedness and response. The application of the agreement is to enhance the efforts of its parties in developing oil spill response technologies for ice conditions.

The Arctic Council ministerial meeting in Kiruna also approved a number of documents prepared by the Ecosystem-based Management Experts Group: an Ecosystem-based Management Report in the Arctic and Definitions and Concepts

of Ecosystem-based Management. A Declaration signed by the foreign ministers calls on the Arctic states to apply corresponding recommendations both within their national boundaries and beyond.

4.2. INTEGRATED MANAGEMENT OF THE MARINE ENVIRONMENT OF THE BARENTS SEA

The 2012 RIAC Proposals for the Roadmap of International Cooperation in the Arctic contain a recommendation to elaborate a concept for integrated management of the marine environment of the Barents Sea.²⁸ Norway devised its Integrated Management Plan for the Barents Sea – Lofoten Area in 2006 and renewed it in 2011.²⁹ The plan exemplifies an ecosystem approach to integrated management of diverse marine economic activities: oil and gas production, fisheries, marine shipping and environmental conservation. The plan's term is 2020. The plan is recommendatory, but is intended to guide relevant ministries and departments in making decisions on specific projects. The document identifies marine areas closed to hydrocarbon exploration or production, and establishes procedures for fisheries and creation of protected areas.

Norway's experience has highlighted potential practicability of developing an integrated management plan for the area of the Barents Sea under the jurisdiction of the Russian Federation. The feasibility and wisdom of such a plan are self-evident. However, nothing has been done to date beyond initial steps. Russian Federation Governmental Decree #2433 of December 20, 2012, On RF Government Program "Science and Technology Development" amended the World Ocean Federal Program whose purpose includes, among other things, development of measures for integrated management of coastal areas (within frameworks of strategies and programs for comprehensive social and economic development of coastal regions and municipalities), marine resources and territories.

To implement the program the Ministry of economic development of the Russian Federation announced a bid in February 2013 to "develop methodology for marine spatial planning and a plan for comprehensive (integrated) management of the Barents Sea incorporating international experience and best practices in using transboundary resources". The Zubov State Institute of Oceanography won the bid and signed the government research contract in April of 2013.³⁰ The

²⁸ Zagorski A.V. et al. *The Arctic. Proposals for the International Cooperation Roadmap* / I.S. Ivanov, Editor-in-Chief, RIAC. Moscow. Spetskkniga, 2012. P. 15.

²⁹ URL: <http://www.regjeringen.no/en/dep/md/Selected-topics/hav--og-vannforvaltning/havforvaltning/integrated-management-of-the-barents-sea.html?id=87148>

³⁰ URL: http://www.zakupki.gov.ru/pgz/public/action/contracts/info/common_info/show?contractId=7979566

term of the contract is November 15, 2013, which gives reason to expect the submission of a first draft Barents Sea use comprehensive (integrated) management plan by the end of 2013.

Still there is no fast or easy road from signing a research contract to implementing research results. Before being submitted to the Russian Government, the draft plan and research results will have to be reviewed by experts, public organizations and the industry, following which the process of approval by federal government agencies will begin.

4.3. HARMONIZATION OF INTERNATIONAL OBLIGATIONS OF THE ARCTIC STATES

Proposals for the 2012 International Cooperation Roadmap include the need to complete the Russian Federation's **ratification of the UN ECE Convention on Environmental Impact Assessment in a Transboundary Context** (the Espoo Convention, 1991) and Strategic Environmental Assessment Protocol (Kiev, 2003).³¹

At the request of the President of the Russian Federation, the Ministry for natural resources and the environment prepared drafts of ratification instruments, which were then coordinated with appropriate federal executive bodies. In November 2012, the ministry published the drafts on its website³² and submitted them, jointly with the Ministry of foreign affairs, to the Government of the Russian Federation. On July 23, 2013, the draft federal laws on ratification of the Espoo Convention and the Kiev Strategic Environmental Assessment Protocol were approved by the Russian Governmental Commission on Legislative activities and submitted to the Government.

Ratification of the Espoo Convention and the Kiev Strategic Environmental Assessment Protocol will require changes in the Russian legislation. The work has already begun. Provisions to improve procedures of environmental impact assessment and government environmental expert assessment meeting the corresponding requirements of the Espoo Convention have been included in the second reading of the draft federal law #584587-5 On Amending Certain Legislative Acts of the Russian Federation in the Area of Improving Environmental Protection Standards and Introducing Economic Incentives for Businesses Using Best Technology and Practices. The draft is under review by the State Duma and the Open Government of the Russian Federation.

³¹ Zagorski A.V. et al. The Arctic. Proposals for the International Cooperation Roadmap / I.S. Ivanov, Editor-in-Chief, RIAC. Moscow. Spetskniga, 2012. P. 14–15.

³² URL: http://www.mnr.gov.ru/regulatory/detail.php?ID=129454&sphrase_id=306174

4.4. COMPARATIVE ANALYSIS OF NATIONAL LEGISLATION

Many experts and organizations have stressed the importance of harmonizing the Arctic states' laws and standards. Systematic work in this area must be preceded by an extensive comparative analysis of national legislations by experts of corresponding states to identify differences and principal areas of their harmonization.

Some work has already been done. In particular, the Arctic Council Working Group for the Protection of Marine Environment performed a comparative analysis of Arctic Council states' legislations in several areas while preparing its review of Arctic shipping in 2009, and the Arctic Ocean report in 2013.

The UNEP/GEF project titled Russian Federation – Support to the National Plan of Action for the Protection of the Arctic Marine Environment (The Arctic NPA) published its results in 2010. One of the sections contains analysis of environmental protection and natural resource legislation of the Arctic states as to its effectiveness in protecting the Arctic natural environment and people.³³ The findings served as the basis for recommendations to use the Arctic states' experience to improve environmental protection legislation of the Russian Federation. The analysis contained a brief description of basic legislative acts of the U.S., Norway, Canada and Denmark regulating environmental protection mechanisms for various types of economic activity.

Many publications describing different components of Arctic development contain comparative analysis of various national legislations applicable to various kinds of economic development in the region. However, there has been no comprehensive or systematic comparative study of environmental legislation of the Arctic states to date – a study to define priority needs and areas for its harmonization. Given the scope of such an effort, we believe that **the first step to set up a systematic and comprehensive research into the issue may be undertaken within the framework of the Arctic Council.** Following review and approval by the Senior Arctic Officials, the Arctic Council working groups could develop a survey. The Arctic Council Secretariat created in 2013 could be tasked to circulate the survey questionnaire among the participating states, as well as collect and systematize written responses. The Secretariat could also organize an expert review of the results and prepare on their basis recommendations for further work.

³³ Analytical Materials on Improvement of Environmental Protection System in the Arctic Zone of the Russian Federation.// Improvement of Environmental Protection System. UNEP/GEF Project: The Russian Federation: Support for the National Plan of Action to Protect Arctic Marine Environment (the Arctic NPA), Moscow, 2010.

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