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INTERIM REPORT

OF THE

NATIONAL ADVISORY PANEL ON MARINE  
PROTECTED AREA STANDARDS

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Submitted to  
the Minister of Fisheries, Oceans and the Canadian Coast Guard

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## ACRONYMS

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DFO	Fisheries and Oceans Canada
ECCC	Environment and Climate Change Canada
ICE	Indigenous Circle of Experts
IPA	Indigenous Protected Areas
IUCN	International Union for the Conservation of Nature
MPA	Marine Protected Area
OECD	Other Effective Area-Based Conservation Measures
PC	Parks Canada

## INTRODUCTION

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Around the world, concerns are mounting about the declining health of our oceans. Canada has joined other countries in making clear commitments to strengthen ocean management and conservation, including through the establishment of marine protected areas (MPAs).

The National Advisory Panel on Marine Protected Area Standards was created in March, 2018 to offer guidance to the Minister of Fisheries, Oceans, and the Canadian Coast Guard on the development of protection standards for federal MPAs. The Panel's work has included eight meetings on Canada's three coasts, in which it heard from intervenors and deliberated extensively, and consideration of online submissions from across Canada. The Panel is now at a point where it can offer an interim report based on what it has learned.

In offering guidance, the Panel was invited to consider the framework of categories and protection standards developed by the International Union for the Conservation of Nature (IUCN). The Panel has been asked to offer advice on Indigenous Protected Areas (IPAs) drawing on the "relevant recommendations of the Indigenous Circle of Experts."<sup>1</sup>

In Canada, there are two federal departments and one agency that have the mandate to establish MPAs: Fisheries and Oceans Canada (DFO), Environment and Climate Change Canada (ECCC), and Parks Canada (PC).<sup>2</sup> These agencies have sometimes worked in partnership with

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<sup>1</sup> National Advisory Panel on Marine Protected Area Standards Terms of Reference <http://www.dfo-mpo.gc.ca/oceans/conservation/advisorypanel-comiteconseil-eng.html> The Panel's Terms of Reference refer to Indigenous Protected and Conserved Areas. We will use IPAs as a synonym throughout our report.

<sup>2</sup> The MPAs under Fisheries and Oceans Canada are called *Oceans Act* MPAs. MPAs under Parks Canada are National Marine Conservation Areas while the MPAs created by Environment and Climate Change Canada are called marine National Wildlife Areas and marine Migratory Bird Sanctuaries.

Indigenous peoples and provinces to jointly establish or co-manage MPAs. The Panel's recommendations should apply consistently to MPAs created through each of these processes, which will lead to consistent protections across Canada and therefore more effective MPAs.

This report begins with an introduction to the IUCN framework and a discussion of Indigenous Protected Areas. Then, it reports on what Panelists have heard in their broad consultations across the country with diverse intervenors. The report next introduces a series of principles which will serve as a basis for the final report. It concludes with a section on the IUCN standards and how they may shape the Panel's final recommendations.

### IUCN framework as a baseline

The IUCN is the internationally-recognized expert body for the conservation of nature. This Panel's task is to consider IUCN categories and standards and offer recommendations on their application in Canada. The IUCN defines a protected area as:

*A clearly defined geographical space, recognized, dedicated, and managed through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values.*<sup>3</sup>

The IUCN recognizes that while MPAs have conservation as the *primary* objective, other effective area-based conservation measures (OECM) can also deliver biodiversity protection. OECMs offer biodiversity protection as a *secondary* outcome regardless of their primary management objective:

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<sup>3</sup> N. Dudley (ed.) 2008. *Guidelines for Applying Protected Area Management Categories*. IUCN: Gland, Switzerland.

*A geographically defined area other than a Protected Area, which is governed and managed in ways that achieve positive and sustained long-term outcomes for the in situ conservation of biodiversity with associated ecosystem functions and services and, where applicable, cultural, spiritual, socioeconomic and other locally relevant values..<sup>4</sup>*

The Panel will consider the relationship between MPAs and OECMs in Canada in its final report.

Canada participates as a voting member of the IUCN, and Canadian scientists were involved in creating the MPA and OECM standards and guidelines. The Panel believes that Canada's continued alignment with the IUCN MPA framework offers significant value. First, the interconnectedness of all Earth's oceans means that the protection of ocean health is an international responsibility, and formal alignment with the IUCN framework will help Canada collaborate effectively with other countries in international research, monitoring, and evaluation initiatives. Second, alignment with the IUCN framework means that Canadian standards will be understood by, and have credibility with, the international community. The Panel's recommendations will address the applicability of the IUCN framework to federal MPAs. They will also recognize the importance of flexibility and practicality to respond to the diverse needs of Indigenous peoples and stakeholders across the country.

### **Indigenous Protected Areas**

MPAs are one tool for marine protection and conservation. IPAs are another emerging tool to achieve biodiversity protection and enhancement—if they achieve these goals and meet the IUCN definition, IPAs may be accepted as MPAs. While the primary purpose of MPAs is to further biodiversity and associated ecosystem services and cultural values, IPAs may be created

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<sup>4</sup> Convention on Biological Diversity's Subsidiary Body on Scientific, Technical and Technological Advice 6 July 2018. *Recommendation on Protected Areas and Other Effective Area-Based Conservation Measures to the Conference of the Parties*. CBD/SBSTTA/22/L.2. Note that this definition has been proposed for adoption by the Conference of the Parties at its fourteenth meeting in October 2018.

to advance a broader range of objectives relating to Indigenous self-determination, conservation, cultural preservation, economic development, and resource management. In other words, IPAs *could* be MPAs but not all IPAs *will* be MPAs.

*A New Shared Arctic Leadership Model* (authored by Panel co-chair Mary Simon)

describes the basic principles that underpin the IPA concept:

*Indigenous protected areas are based on the idea of a protected area explicitly designed to accommodate and support an Indigenous vision of a working landscape. This kind of designation has the potential to usher in a broader, more meaningful set of northern benefits and bring definition to the idea of a conservation economy.<sup>5</sup>*

The Panel believes that IPAs hold great promise as tools to advance conservation and biodiversity protection alongside cultural and socio-economic values. They can also serve as a way to give effect to legal obligations and policy commitments in support of Crown-Indigenous reconciliation and nation-building. IPAs have the potential to create economic, employment and educational benefits, and to recognize stewardship and management authorities of Indigenous peoples.

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## WHAT THE PANEL HAS HEARD

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The Panel has learned much from Indigenous peoples and many individuals and organizations working in academia, aquaculture, commercial and recreational fishing, environmental conservation, extractive industries, and the shipping industry. It is clear that people who work and live in coastal communities care deeply about those communities, care about ocean health, and hold generations of knowledge about the ocean. While the Panel

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<sup>5</sup> Mary Simon, Minister's Special Representative (2017). *A New Shared Arctic Leadership Model*.

heard many different perspectives in its meetings across the country, a number of consistent themes emerged:

- **Deep concern about the state of the world’s oceans, and Canada’s three oceans in particular.** The productivity and biodiversity of marine life, from corals to fish to whales, is in decline around the world. Scientific predictions for the future of ocean ecosystems are sobering. The Panel has heard that Canada’s oceans are precious and that their resources should be passed down to future generations.
- **Deep concern for the well-being of ocean-dependent communities and for the many Canadians who have an economic interest in the ocean.** The current process of MPA development can create uncertainty and pose a barrier to realizing the economic potential of marine industries such as oil and gas and fisheries. In the Atlantic provinces, both the Premiers of Nova Scotia and Newfoundland and Labrador made this case forcefully.
- **Concerns that MPAs and OECMs in Canada are not as effective as they could be in delivering their intended conservation goals.** Many intervenors pointed to the need for stronger and more consistent standards for both MPAs and OECMs, along with better investment in management, stewardship, and monitoring. Many intervenors also expressed concern that Canada’s focus on reaching time-bound numeric targets is resulting in “paper parks” that lack strong conservation standards, and that present a real risk of diverting resources from the establishment of meaningful MPAs and OECMs.
- **Awareness of the limitations of MPAs as ocean management tools.** Several intervenors pointed out that, while area-based protection measures such as

MPAs are important, they are not proven to be effective tools for certain purposes such as pollution prevention or the management of migratory fish stocks. Some also noted that climate change and ocean acidification are altering marine habitats in unpredictable ways, requiring a wider range of management tools.

- **Lack of clarity regarding the relationship between federal departments and agencies and offshore petroleum boards.** At present there is potential for conflict between the petroleum boards and federal agencies such as DFO with regard to oil and gas development in areas set aside as MPAs and OECMs. This can lead to concerns about fairness and equitable treatment across different economic sectors. The Panel was told, for example, of instances in which the commercial fishery agreed to closures in order to protect key habitat in marine refuges, only to see oil and gas permits issued in the same area.
- **Broad agreement on the value of applying the IUCN categories to Canada.** Intervenors that referenced the IUCN saw strong value in the certainty, consistency, and international collaboration enabled by the IUCN guidelines. Some cautioned against using these categories as a “one size fits all” approach that ignores the distinct rights, circumstances, and aspirations of Indigenous peoples, as well as the realities of Canada’s varied ecosystems and communities.
- **The need to recognize Indigenous territories, title, and rights.** In many parts of Canada, treaties, settlement agreements, and co-management agreements set out particular processes and governance structures that will guide the establishment of MPAs. One of the most consistent comments that we heard is that regardless of the existence of formal agreements or

arrangements, Indigenous peoples must be meaningfully involved from the outset of any MPA process. This includes meaningful engagement in all aspects of planning and design, management, and governance of MPAs.

- **The importance of Indigenous knowledge in conservation.** Indigenous knowledge offers insights and perspectives that are not captured by other forms of science. “Two-eyed seeing”<sup>6</sup> or the concept of “ethical space”<sup>7</sup> both offer a way to unite these ways of knowing. Complementary perspectives will strengthen the planning and design, management, and governance of MPAs.
- **Strong support for IPAs.** Many intervenors advocated that Canada take steps to better recognize and support IPAs. At the same time, they consistently stressed that the purposes and design of IPAs must reflect the specific circumstances of Indigenous peoples and their varied relationships with the Crown.

## PRINCIPLES

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Against the backdrop of what the Panel has heard, the following principles will guide its recommendations:

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<sup>6</sup> Two-eyed seeing is “to see from one eye with the best in our Indigenous ways of knowing and with the other eye with Western (mainstream) ways of knowing.” Albert Marshall and Cheryl Bartlett “Two-Eyed Seeing for Environmental Sustainability.” September 2010.

<sup>7</sup> “The focus of ethical space is on creating a place for knowledge systems to interact with mutual respect, kindness, generosity and other basic values and principles. All knowledge systems are equal; no single system has more weight or legitimacy than another.” *We Rise Together: Achieving Pathway to Canada Target 1 Through the Creation of Indigenous Protected and Conserved Areas in the Spirit and Practice of Reconciliation*. Indigenous Circle of Experts

**Effectiveness of conservation and biodiversity protection:** The protection of biodiversity, ecosystem services, and associated cultural and community values is the primary purpose of MPAs. The extent to which MPAs can be designed to meet this overarching purpose, along with their specific conservation objectives, will be at the heart of the Panel's recommendations

**Respect for Indigenous rights:** Indigenous peoples are rights holders in conservation planning and management, and their authorities and expertise are essential to marine conservation. All MPA designations must respect constitutionally-protected Indigenous and treaty rights. The Panel will look for opportunities to strengthen partnerships between the Crown and Indigenous peoples, and to ensure Indigenous knowledge is fully embedded alongside other sciences in the planning and design, governance, and management of IPAs and MPAs.

**Delivering social and economic benefits:** Well-managed MPAs and IPAs can deliver important economic benefits both directly through conservation-oriented employment, community economic development, and capacity-building; and indirectly, by enhancing the overall productivity of marine ecosystems that support socially and commercially valuable resources. Robust planning processes engage all interests around clear objectives, resolve conflicts among competing resource uses, and deliver certainty for businesses and investors. The Panel's recommendations will recognize that MPAs and economic and social interests are not necessarily in opposition.

**Clarity and transparency:** Objectives, rules, management processes, monitoring, and governing structures should be clear, and well-communicated. Processes that involve stakeholders and rights holders should be accessible to all. The Panel will look for opportunities to strengthen engagement and build confidence in MPA planning and management processes.

**Flexibility to reflect diverse circumstances:** Canada has the longest coastline of any country in the world, and its three oceans encompass very diverse marine and coastal ecosystems. Canada's MPAs to date have been characterized by experimentation and regional diversity and a 'one-size-fits-all' approach is not possible. Each MPA or IPA will be rooted in the needs of a particular region and community and its design will reflect the knowledge, needs, and aspirations of coastal communities and Indigenous peoples. The Panel's alignment with the IUCN framework will remain responsive to Canada's distinct bioregions and cultures.

**Quality matters:** Delivering meaningful biodiversity protection is more important than hitting numeric targets. Resources must be targeted to areas of high ecological value. Likewise, quality planning and management processes that enable real collaboration between the Crown and Indigenous peoples, and that provide for meaningful engagement of stakeholders, cannot be rushed. The Panel will aim to ensure that up-front investments in good MPA planning and design are ultimately repaid in more effective and durable outcomes.

## NEXT STEPS

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MPAs are not the only tool for sustainable ocean management. Environmental laws, resource management regulations, and other spatial planning tools are all part of Canada's ocean management toolkit. MPAs are specifically aimed at protecting important habitats, features, and ecosystem functions. The Panel will focus its recommendations on ensuring that MPAs in Canada are as effective as they can be in fulfilling this aim.

The IUCN sets out four broad standards as a foundation for evaluating key elements of effective MPAs:

- **Good governance** to recognize and promote the rights of Indigenous peoples and local communities, ensure clear accountability and decision-making arrangements, support meaningful stakeholder engagement, and maintain transparency and effective communication;
- **Sound planning and design** to ensure MPAs are established at the right scale, in the right places, for the right reasons, and with clear management plans including provisions for adaptation over time;
- **Effective management** to deliver well-constructed and defined conservation objectives while enabling compatible activities and uses. This includes restrictions on potentially damaging activities as defined by the rigorous application of science, Indigenous knowledge, and local knowledge. Building capacity for robust management, monitoring, and reporting is also important.
- **Conservation outcomes** that demonstrate successful long-term conservation of natural values along with associated ecosystem services and cultural values. These outcomes will be determined in part, by the strength of protections.

In the final report, the Panel will offer a suite of recommendations linked to these standards that will support the creation of effective MPAs in Canada. The Panel's recommendations will also aim to advance the work that is already under way to recognize IPAs as essential and well-integrated components of protecting marine ecosystems in Canada's oceans.

The Panel has been impressed with the quality of perspectives that it has heard. Canada's oceans are a precious and vital resource and everyone who has appeared before the Panel has been seized by the need to act decisively. The final report of the Panel will honour this commitment to protect the future of Canada's oceans.