



EXECUTIVE SUMMARY

SUSTAINING CANADIAN MARINE BIODIVERSITY: POLICY AND STATUTORY PROGRESS (2012-2019)

A Report by the Policy Briefing Committee of the
Royal Society of Canada Expert Panel Report (February 2012)

ROYAL SOCIETY OF CANADA POLICY BRIEFING COMMITTEE REPORT **SUSTAINING CANADIAN MARINE BIODIVERSITY: POLICY AND STATUTORY PROGRESS (2012-2019)**

Background: In 2009, the *Royal Society of Canada (RSC)* identified a series of urgent scientific and public policy questions. It established a series of five Expert Panels to study the issues and provide recommendations for next steps. It is now timely to revisit the findings of these Expert Panel Reports. What impact have they had? Have their recommendations been implemented? What are the next steps in terms of policy options?

To answer these questions, the *RSC* is establishing a Policy Briefing Committee (PBC) for each Expert Panel Report. The tasks of each PBC are to:

- describe the context, findings, and recommendations of the report;
- track policy developments in relation to the panel's findings and recommendations; and
- identify future policy challenges and implementation options.

An important distinction from the work of each original expert panel is that the PBCs will not undertake reviews of the scientific literature, but instead focus on matters with respect to findings and recommendations issued by the reports and subsequent public policy developments.

This Policy Briefing Committee Report examines policy and statutory developments since publication of the *RSC's* 2012 Expert Panel Report on *Sustaining Marine Biodiversity: Responding to the Challenges Posed by Climate, Change, Fisheries, and Aquaculture*.

Members of the Policy Briefing Committee on Sustaining Canadian Marine Biodiversity:

PROF. JULIA K. BAUM, Department of Biology, University of Victoria

DR. SUSANNA D. FULLER, Senior Projects Manager, Oceans North

PROF. JEFFREY A. HUTCHINGS, FRSC, Department of Biology, Dalhousie University (Chair)

MR. JOSH LAUGHREN, Executive Director, Oceana Canada

PROF. DAVID L. VANDERZWAAG, Canada Research Chair in Ocean Law and Governance,
Marine & Environmental Law Institute, Schulich School of Law, Dalhousie University

A. EXECUTIVE SUMMARY

OVERARCHING FINDINGS OF THE 2012 EXPERT PANEL

- Canada faces significant challenges in its efforts to conserve and sustain marine biodiversity in light of climate change, fisheries, and aquaculture;
- Canada should fulfil national and international obligations to protect existing diversity and to rebuild depleted populations and species to restore natural diversity;
- Such a strategy would restore the natural resilience of Canada's ocean ecosystems to enable them to adapt in response to challenges posed by climate change and other anthropogenic activities.

IMPACT OF THE 2012 EXPERT PANEL REPORT ON SUSTAINING MARINE BIODIVERSITY

- The Report has been cited more than 75 times in documents, reports, and other submissions by NGOs, Government, Industry-Affiliated Organizations, and Academia;
- The Report has had impact by providing an objective assessment of, and recommendations for, strengthening commitments to sustain marine biodiversity;
- There have been significant developments to Canadian policy and law, including amendments to the *Fisheries Act*, that align with the Report's recommendations.

POLICY AND STATUTORY DEVELOPMENTS SINCE THE 2012 EXPERT PANEL REPORT

Good Progress by the Government of Canada is reflected by:

- prioritizing oceans stewardship and biodiversity conservation;
- strengthening the evidentiary use of science in decision-making;
- amending statutes, such as the *Fisheries Act* and *Oceans Act*;
- exceeding the goal to protect 10% of marine and coastal areas by 2020;
- increasing transparency & accountability through public release of mandate letters.

Moderate Progress by the Government of Canada is reflected by:


- explicit provisions for stock rebuilding in the *Fisheries Act*;
- statutory application of a Precautionary-Approach fisheries reference point;
- consultations on the development of potential federal aquaculture legislation;
- public reporting of progress in achieving targets for biodiversity and fisheries status;
- increased transparency on listing decisions for aquatic species at risk.

There has been **Limited or Insufficient Progress** in:


- incorporating climate change in decisions on fisheries, oceans, or marine biodiversity;
- resolving regulatory conflict (conserve/exploit) within Fisheries & Oceans Canada;
- marine spatial planning to mitigate conflict as ocean-use pressures increase;
- reducing ministerial discretion on matters related to fisheries and oceans;
- clarifying ambiguities in sustainable fisheries policy on the Precautionary Approach.

B. TRACKING POLICY AND STATUTORY PROGRESS SINCE 2012


RSC 2012 EXPERT PANEL RECOMMENDATION 1: *Establish international leadership in oceans stewardship and biodiversity conservation as a top government priority.*

 **GOOD PROGRESS:** (i) policy and statutory renewal; (ii) public release of mandate letters; (iii) new investments in government science; and (iv) multiple audits under the auspices of the Office of the Auditor General.


RSC 2012 EXPERT PANEL RECOMMENDATION 2: *Resolve regulatory conflicts of interest within DFO (i.e., Fisheries & Oceans Canada) that affect Canada's obligation to sustain marine biodiversity.*

 **LIMITED PROGRESS:** (i) new provision in the *Fisheries Act* for independent advisory bodies; and (ii) increased ministerial accountability through publicly available mandate letters.


RSC 2012 EXPERT PANEL RECOMMENDATION 3: *Reduce the discretionary power in fisheries management decisions exercised by the Minister of Fisheries and Oceans.*

 **MODERATE PROGRESS** evidenced by a new *Fisheries Act* that: (i) provides for stock rebuilding; (ii) formalizes application of a Precautionary-Approach fisheries reference point; and (iii) provides for establishment of independent advisory bodies.


RSC 2012 EXPERT PANEL RECOMMENDATION 4: *Rapidly increase DFO's rate of statutory and policy implementation.*

 **LIMITED PROGRESS:** (i) revised *Oceans Act* allows for increased establishment of Marine Protected Areas; (ii) new commitment to render listing decisions under the *Species at Risk Act* within 36 months; and (iii) new statutory acknowledgement, in the *Fisheries Act*, of elements of Sustainable Fisheries Framework policies.

RSC 2012 EXPERT PANEL RECOMMENDATION 5: *Implement statutory renewal to fulfil national and international commitments to sustain marine biodiversity.*

 **MODERATE PROGRESS** reflected by: (i) amended *Fisheries Act*, *Oceans Act*, and *Canada Petroleum Resources Act*; (ii) consultations on potential federal aquaculture legislation; and (iii) new policy for species-at-risk listing decisions for aquatic species.

RSC 2012 EXPERT PANEL RECOMMENDATION 6: *Establish national operational objectives, indicators, and targets for marine biodiversity.*

 **MODERATE PROGRESS** reflected by (i) national reporting of progress towards achieving Canada's biodiversity targets and (ii) audits to track progress in improving marine fisheries stock status and implementing marine policy commitments.

C. Looking Ahead: Recommendations

1. *Ensure climate change impacts and projections are incorporated into decision making and planning processes related to marine biodiversity.*

- Effects of climate change on species and ecosystems are not readily reversible;
- The IPCC (Intergovernmental Panel on Climate Change) 2019 *Special Report on the Ocean and Cryosphere in a Changing Climate* highlighted the urgency of prioritizing ambitious, coordinated action to address unprecedented, enduring ocean changes;
- Failure to incorporate climate change in ocean-related policies will have significant consequences for Canada's marine biodiversity, fisheries, and aquaculture.

2. *Resolve regulatory conflicts of interest affecting progress in fulfilling obligations to sustain marine biodiversity.*

- DFO has responsibilities both to conserve and exploit marine biodiversity;
- This regulatory conflict impedes progress in sustaining marine biodiversity;
- Limit or eliminate real and perceived regulatory conflicts of interest; strengthen ministerial accountability for policy commitments to use and conserve biodiversity; financially account for environmental costs associated with biodiversity loss.

3. *Limit the discretionary power in fisheries management decisions exercised by the Minister of Fisheries and Oceans.*

- Ministerial discretion hinders progress in sustaining marine biodiversity;
- Discretion permits the fishing of stocks in the critical zone, such as NL's northern cod;
- Regulations are required to give effect to the *Fisheries Act's* rebuilding provisions, ideally to maintain stocks at levels that maximize long-term sustainable harvests.

4. *Clarify ambiguities in Canada's sustainable fisheries policy framework.*

- The Precautionary Approach (PA) is open to misuse and misinterpretation;
- Policy should unambiguously clarify the roles of science, fisheries management, and vested interests in setting PA-compliant rebuilding targets and harvest decision rules;
- Science advice should always be publicly distinguishable from other sources of advice during implementation of the PA in fisheries management decision-making.

5. *Advance and implement marine spatial planning (MSP).*

- Increased use of coastal waters is intensifying spatial conflict between activities such as infrastructure projects, fishing, aquaculture, shipping, and protected areas;
- Meaningful, respectful, coordinated efforts to advance and implement MSP, with comprehensive zonal ecosystem-based initiatives, has potential to mitigate conflict;
- The *Oceans Act* should be revised to explicitly require MSP, establish clear planning procedures, and provide for enforceability of finalized plans.