

CHAPTER 5: ARCTIC TERRITORIAL DISPUTES AND THE LAW OF THE SEA

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Introducing Territorial Disputes in the Arctic

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There is currently no territorial dispute in the Arctic based on land claims, after Denmark and Canada reaching an agreement on the Hans Island in 2022. On the other hand, as the Arctic waters become more navigable as the glaciers melt, there are disagreements between the coastal states, especially regarding the applications made to the CLCS for the purpose of extending the continental shelf.

The Arctic region consists of an ocean surrounded by landmasses. The landmasses belong to Canada, Denmark (Greenland), Norway, Russia, USA (Alaska), and technically Iceland (Grimsey Island). Therefore, these five countries are delineated as coastal, rim or littoral states. Territorial or land claim disputes in the Arctic between these states have been rare, as the ocean encompasses most of the area. In contrast, disputes over maritime boundaries have been more intense, where states have overlapping claims over some areas. For this reason, international maritime regulations are generally applied in disputes arising in the Arctic. Here, the United Nations Convention on the Law of the Sea (UNCLOS) functions as the most important body applied by the Arctic states. Among the Arctic states, the US is not party to the UNCLOS although has historically agreed to follow the UNCLOS as customary law.

In the Arctic, in recent history, interstate disputes based on territorial claims have emerged over islands only. Some of these conflicting claims have been resolved through interstate agreements, as in the case of Svalbard. The uncertain status of Svalbard, which is an archipelago, was resolved with the Spitsbergen Treaty signed in 1920. Although the sovereignty of the island was given to Norway by the provisions of the relevant agreement stipulating the demilitarization of the island, the parties of the agreement were given equal rights in commercial activities on the island. Yet, ambiguity on waters around the island still remains among the parties of the Svalbard Treaty, which makes no mention of its provisions being applicable on the continental shelf or in waters outside the territorial waters of the archipelago.

Another island in dispute over maritime boundaries is the island of Jan Mayen, which is almost equidistant from Denmark, Norway and Iceland. Thanks to the efforts of the conciliation commission established in 1980, this problem was resolved between the two countries concerned, with the acceptance of a common maritime area between Norway and Iceland in 1981. Denmark, another side of the debate about the maritime areas on the island, also claimed rights on Jan Mayen. However, with the decision of the International Court of Justice (ICJ) in 1988, 64,600 km² of area between Norway and Denmark was divided.

The dispute over the Hans island -the last territorial dispute in the Arctic- is known to be the only territorial dispute in the Arctic until 2022. Hans Island -Tartupaluk in Inuit- is located between Canada's Ellesmere Island and Greenland and is equidistant from the two islands. Although there is no human settlement on the island, it has a strategic location and potential for hydrocarbon resources. Hence, both Denmark and Canada claimed full sovereignty over the island. Uncertainty about the island's sovereign status since 1973 has caused a low-key dispute between Canada and Denmark (the Whiskey wars, with spirits being exchanged). The dispute over the Hans Island began in 1973 after attempts to re-demarcate maritime boundaries. The status of the island was left to the next negotiations while the maritime areas were determined throughout the years. In particular, the visit to the island by Canadian military units in 1984 and the leaving of the Canadian flag and the symbolic bottle of Canadian whiskey on the island were met with a reaction by Denmark. Denmark, on the other hand, responded by visiting the island with the prime minister's visit and leaving the symbolic bottle of Danish drink, schnapps. The continuing uncertainty about the status of the island has led to the emergence of solution proposals between the two countries. As a matter of fact, in 2005, both countries decided to work in coordination to solve the problem, and agreed to establish a joint task force in 2018. Thanks to the work of this joint task force, the dispute on the island, which has been between Canada and Denmark for almost half a century, was resolved in 2022, with the two sides agreeing on certain issues. According to the relevant agreement, the island will be shared equally between both countries.

Owing to the impacts of climate change in the Arctic Ocean, large amounts of glacial meltdowns have also revealed problems related to the expansion of the continental shelf. Since the Arctic waters become more accessible, coastal states get more affiliated in order to draw advantages from these waters. It is possible to extend the continental shelf, which is at a distance of 200 nautical miles under normal conditions, by applying to the Commission on the Limits of the Continental Shelf (CLCS) within UNCLOS. Here, the possibility of states to apply to the commission has caused disputes between them. All coastal states -except the US- have applied to CLCS to expand their continental shelf. Since US is not a party to the UNCLOS, there is no issue of submitting its claim to the CLCS. For example, Denmark, Canada and Russia have applied to CLCS for Lomonosov and Gakkel Ridges, while Canada and Russia have applied for Alpha Rise regarding the extension of the continental shelf. Also, looking at the disputes over maritime areas, the US and Canada have overlapping claims over the Beaufort Sea, and Denmark and Canada over the Lincoln Sea. On the Barents Sea, there was nearly a half-century-long dispute between Norway and Russia; however, in 2010, the two countries reached an agreement on the equitable sharing of areas on this area.



One of the disputed issues regarding marine areas in the Arctic is over the Northern Sea Route and the Northwest Passage. There are counter arguments among certain Arctic states over the status of these new sea routes, which offer significant opportunities for commercial shipping between Asia, Europe and America. For example, the Northern Sea Route, is considered a national route by Russia, while the US insists that this route is an international strait. On the other hand, there is a dispute between Canada and the US over the Northwest Passage. According to Canada's claims, the NWP should be considered within the scope of internal waters, while according to the US, this should be considered as an international strait.

Disputes Among the Arctic States

Dispute	Parties	Status
Beaufort Sea	Canada-US	Unsolved
Lincoln Sea	Canada-Denmark	Unsolved
Hans Island	Canada-Denmark	Solved
Jan Mayen	Denmark-Iceland-Norway	Solved
Lomonosov and Gakkel Ridges	Canada-Denmark-Russia	Unsolved
Alpha Rise	Canada-Russia	Unsolved
Barents Sea	Norway-Russia	Solved
Northern Sea Route	Russia-US	Frozen
Northwest Passage	Canada-US	Frozen

For more on this, read...

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Pharand D, 'The Arctic Waters and the Northwest Passage: A Final Revisit' (2007) 38 Ocean Development & International Law 3