

Norway put on notice of BIT dispute

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Norway could face its first ICSID claim if it is unable to resolve a dispute with a group of Latvian and Lithuanian fishermen over rights to fish snow crab along the coast of the Norwegian island of Svalbard.

An investment arbitration would be merely the last in a string of legal disputes connected to the case, which touches on a number of international treaties, as well as domestic Norwegian legislation, with related claims having been heard before Norwegian courts and European Free Trade Association's (EFTA) Surveillance Authority.

A spokesperson for Norway's Ministry of Trade, Industry and Fisheries has confirmed to *IAReporter* that a Latvian and a Lithuanian company served a notice of dispute on Norway on February 27, 2017. The letter concerns alleged breach by Norway of provisions in the country's bilateral investment treaties with Latvia and Lithuania.

The Ministry adds that it replied to the notice on April 21, 2017, indicating that it does not see the dispute as falling under the relevant BITs. To date, no arbitration has been filed.

Norway has thus far not released a copy of the dispute notice, however details of the dispute can be gleaned from prior media coverage of earlier permutations of the dispute. These local reports also suggest that the claimants have threatened to pursue ICSID-based arbitration if the case proceeds further.

According to earlier [reports](#), the group of claimants are represented by Lithuanian law firm Glimstedt Bernotas & Partners, whose name also appears on the EFTA complaint. (We've reached out to that firm to confirm their involvement in the BIT threat, and for further details of the dispute.)

Norwegian legislation clashes with EU licence granting?

According to some [observers](#), at the heart of the dispute are differing interpretations of the Svalbard Treaty, which grants Norway sovereignty over the Svalbard islands while guaranteeing the other signatories access, including for commercial fishing. Norway [appears](#) to interpret the treaty as granting it sovereignty over natural resources in the area, and has passed legislation putting restrictions on both Norwegian and European vessels fishing of snow crab in the Barents sea.

In 2016, the European Commission granted fishing licences to several vessels from EU member states to fish for snow crab in the Barents sea, in accordance with the Convention on Future Multilateral Cooperation in North-East Atlantic Fisheries (NEAFC). Norway subsequently detained and charged at least two Baltic vessels in domestic courts for illegal fishing, although the defendants [prevailed](#) in at least one of these cases, on the grounds that Norwegian law cannot supersede the NEAFC.

Also in 2016, a number of enterprises from EU member states (the names of which have been redacted from the [complaint](#)) initiated a claim against Norway at the EFTA Surveillance Authority, alleging the country's legislation related to snow crab fishing was in violation of the European Economic Area Agreement. On October 4, 2017, the EFTA Surveillance Authority [dismissed](#) the claims.

Following dismissal of the EFTA claim, the fisherman notified Norway of a potential ICSID arbitration