



## Spitsbergen: Legal Regime of Adjacent Marine Areas

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### **Annex 21: On the Status of Maritime Expanses Adjacent to Spitsbergen (Position of Ministry of Foreign Affairs of Iceland) (30 March 2006)**

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#### The Svalbard Issue

In the view of Iceland, the sole basis for any sovereign rights of Norway in maritime areas around Svalbard, including an exclusive economic zone and the continental shelf, is the Svalbard Treaty of 1920. The sovereign rights of Norway are subject to important limitations provided for in the Svalbard Treaty, including the principle of equality. These limitations apply equally on Svalbard, within the territorial sea, within an exclusive economic zone and on the continental shelf. The rights of Norway in an exclusive economic zone and on the continental shelf around Svalbard can obviously not be greater than the rights of Norway on Svalbard from which the first mentioned rights are derived.

As far as the continental shelf around Svalbard is concerned, in the view of Iceland it appertains to Svalbard and not to the mainland of Norway as maintained by the Norwegian authorities. The exploitation of any oil and gas resources of the continental shelf around Svalbard is subject to the provisions of the Svalbard Treaty, including the principle of equality.

The Norwegian authorities have repeatedly violated the provisions of the Svalbard Treaty. In 2004, after having refused to prolong the five-party Agreement on the management of the Atlanto-Scandian Herring stock and claimed a huge increase of Norway's share of the stock, the Norwegian authorities set a regulation limiting the fisheries from the herring stock in the so-called Fisheries Protection Zone off Svalbard, obviously in an attempt to improve their negotiating position. In the view of the Icelandic authorities, there was no scientific basis for such limitation and it was in breach of the provisions of the Svalbard Treaty. In 2005, the Norwegian authorities applied similar restrictions. Furthermore, they decided unilaterally to increase Norway's herring quota by 14%. For 2006, the Norwegian authorities have decided to raise the quota even higher, by 35%. In the view of

the Icelandic authorities these unilateral acts by Norway are both unjustified and irresponsible, and may undermine the conservation and management of the Atlanto-Scandian Herring stock.

As a consequence of the repeated violations by the Norwegian authorities of the provisions of the Svalbard Treaty, the Government of Iceland decided in August 2004 to initiate preparations for legal proceedings against Norway concerning the issue of Svalbard before the International Court of Justice in the Hague. The Icelandic authorities have received a very thorough Legal Opinion by a foreign legal expert which provides a good basis in this respect. Furthermore, bilateral consultations have been held with a number of Contracting Parties to the Svalbard Treaty and further consultations are planned in the near future.

Legal proceedings are obviously not a goal in themselves, but in the current circumstances they seem to be the only way for Iceland to protect its legitimate interests against an unreasonable and inflexible position by the Norwegian authorities and their repeated violations of the provisions of the Svalbard Treaty.

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