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Alex G. Oude Elferink

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## Maritime Delimitation Between Denmark/Greenland and Norway

ALEX G. OUDE ELFERINK

Netherlands Institute for the Law of the Sea  
School of Law, Utrecht University  
The Netherlands

*This note discusses the recent agreement between Denmark/Greenland and Norway delimiting the maritime boundary between the Norwegian territory of Svalbard and Greenland.*

**Keywords** delimitation, Denmark, Greenland, Norway, Svalbard

On 20 February 2006, the Government of the Kingdom of Denmark together with the Home Rule Government of Greenland and the Government of the Kingdom of Norway concluded an agreement on a maritime boundary between Greenland and Svalbard.<sup>1</sup> The Agreement delimits the continental shelf, and the exclusive economic zone of Greenland and the fishery protection zone around Svalbard. The Agreement is concerned only with delimitation within 200 nautical miles.<sup>2</sup>

Article 1 of the Agreement indicates that the boundary has been determined on the basis of the median line between the relevant coastlines of Greenland and Svalbard and on the basis of the negotiations between the parties. The total area of overlapping 200-nautical-mile zones measures some 150,000 square kilometers, and the length of the boundary, which consists of 11 straight line segments, is about 800 kilometers.<sup>3</sup> The northern terminus of the boundary (point 1) is at the intersection of the 200-nautical-mile limits of Greenland and Svalbard. The same applies for the southern terminus (point 12) of the boundary. The median line boundary has been simplified for practical reasons and has been somewhat adjusted in relation to the Danish Tobias Ø (Tobias Island).<sup>4</sup> This island, which is located at approximately 79°20' N, 15°48' W, lies about 70 kilometers to the east of the coast of northeast Greenland and has a length of some 2 kilometers. Tobias Ø is the only island off the coast of northeast Greenland that is not enclosed in the system of straight baselines along the coast of Greenland. The 70-kilometer distance of the island from the mainland might suggest there is a significant impact on the median line. However, because Tobias Ø is aligned with the general north-south direction of the islands fringing the coast of Greenland, its impact is not that pronounced.

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Address correspondence to Alex G. Oude Elferink, Netherlands Institute for the Law of the Sea, School of Law, Utrecht University, Achter Sint Pieter 200, 3512 HT Utrecht, The Netherlands. E-mail: a.oudeelferink@law.uu.nl

The parties both applied the median line principle to delimit the 200-nautical-mile zones between Greenland and Svalbard in their national legislation.<sup>5</sup> However, they had not calculated the line because of the lack of information on the relevant basepoints.<sup>6</sup> New baselines for Svalbard were established in 2001 and for Greenland in 2004.<sup>7</sup> This paved the way for the precise definition of the median line and the parties agreed to delimit their mutual boundary on the basis of the median line principle in consultations during the first half of 2005.<sup>8</sup> The 2006 Agreement was concluded after two rounds of negotiations between the Norwegian and Danish and Greenlandic authorities in December 2005 and January 2006.

The preamble of the 2006 Agreement indicates that the parties intend to revert to the delimitation of the continental shelf beyond 200 nautical miles in connection with the establishment of the outer limits of the continental shelf. Article 3 of the Agreement indicates that it is without prejudice to the parties' views on questions not governed by the Agreement. This reference also covers the delimitation of the continental shelf beyond 200 nautical miles.<sup>9</sup> Norway made a submission on the outer limits of its continental shelf beyond 200 nautical miles to the Commission on the Limits of the Continental Shelf (CLCS) on 27 November 2006.<sup>10</sup> That submission also concerns the outer limit of an area that extends beyond 200 nautical miles to the north of the northern endpoint of the boundary of the 2006 Agreement. Denmark has not yet made a submission to the Commission.<sup>11</sup>

The paper submitting the 2006 Agreement to the Danish Parliament indicates that the interpretation of the 1920 Svalbard Treaty<sup>12</sup> is an example of a question that is covered by the "without prejudice" provision of Article 3 of the Agreement.<sup>13</sup> That Treaty recognizes the sovereignty of Norway over the Svalbard archipelago, but at the same time guarantees the nationals of other contracting parties to the Svalbard Treaty equal rights to exercise specified economic activities in Svalbard. The 1920 Treaty was concluded at a time when Norway only had a 4-nautical-mile territorial sea. Norway considers that the 1920 Treaty does not apply to the continental shelf and the fishery zone around Svalbard. Not all contracting parties to the Svalbard Treaty share this view.

Article 2 of the 2006 Agreement contains a provision on the occurrence of transboundary mineral deposits.<sup>14</sup> The provision establishes a consultation mechanism and the circumstances under which an agreement concerning the exploitation of such resources shall be concluded. A provision on transboundary mineral deposits was also included in the 1995 delimitation agreement between Denmark and Norway with respect to the area between Jan Mayen and Greenland.<sup>15</sup> In comparison to the 1995 Agreement, the 2006 Agreement contains a number of additional elements. The 2006 Agreement specifies that an agreement concluded pursuant to Article 2 is to specify the manner in which any deposit is to be most effectively exploited and how the proceeds are to be apportioned. Moreover, Article 2 stipulates that, if the parties fail to agree, they shall jointly consider all the options for resolving the impasse including seeking the opinion of independent experts.

The 2006 Agreement entered into force on 2 June 2006.

The delimitation between Greenland and Svalbard is in accordance with substantive delimitation law as developed by the international jurisprudence.<sup>16</sup> The coasts of Greenland and Svalbard in the area that is relevant for the delimitation within 200 nautical miles are opposite. The relevant coast of Svalbard is formed by its main island, Spitsbergen, and the island of Prins Karls Forland, which lies some 10 kilometers to the west of Spitsbergen. The relevant coast of Greenland is formed by a chain of islands off the northeast coast of Greenland itself. Although the relevant coast of Greenland arguably is longer than the relevant coast of Svalbard, it includes a number of smaller islands that are

a considerable distance apart. There is an overall balance between the two relevant coasts and the application of the equidistance method results in an equitable solution.

## Notes

1. Agreement between the Government of the Kingdom of Norway on the one hand, and the Government of the Kingdom of Denmark together with the Home Rule Government of Greenland on the other hand concerning the delimitation of the continental shelf and the fisheries zones in the area between Greenland and Svalbard, done at Copenhagen 20 February 2006, entered into force 2 June 2006 (hereafter the 2006 Agreement). An English translation of the Agreement (registered at the United Nations on 7 July 2006, Registration No. 42887) is reproduced as Appendix 1 to this Note. The authentic Norwegian text is contained in the proposal of the Norwegian Foreign Ministry for the approval of ratification of the agreement by Parliament (St.prp. nr. 51 (2005–2006)), available at <http://odin.dep.no/filarkiv/277854/stprp-ts051.pdf>. That text and the authentic Danish and Greenlandic texts of the Agreement are contained in the proposal of the Danish Foreign Minister for the approval of ratification of the agreement by Parliament (Forslag til folketingsbeslutning (B 114 (2005–2006)), available at [www.ft.dk/Samling/20051/beslutningsforslag/B114/som\\_fremsat.htm](http://www.ft.dk/Samling/20051/beslutningsforslag/B114/som_fremsat.htm).

2. 2006 Agreement, art. 1.

3. St.prp. nr. 51, *supra* note 1, at 3, and Forslag til folketingsbeslutning, *supra* note 1, para. 1. The latter paper gives a figure of 795 kilometers as the length of the boundary. The boundary is indicated for illustrative purposes on a chart annexed to the Agreement (2006 Agreement, art. 1). The chart is reproduced together with the Agreement in the Annex to this Note.

4. St.prp. nr. 51, *supra* note 1 at 2–3.

5. See: Forslag til folketingsbeslutning, *supra* note 1, para. 1.

6. *Id.*

7. Regulations relating to the limits of the Norwegian territorial sea around Svalbard (laid down by Royal Decree of 1 June 2001, English text reproduced in (2001), 46 *Law of the Sea Bulletin*, at 72–80, and Royal Decree on Amendment of Royal Decree on Delimitation of Territorial Waters of Greenland of 15 October 2004, English text reproduced in (2005), 56 *Law of the Sea Bulletin*, at 126–136.

8. Forslag til folketingsbeslutning, *supra* note 1, para. 1.

9. See also *ibid.*

10. The executive summary of the submission is available at [www.un.org/Depts/los/clcs\\_new/submissions\\_files/nor06/nor\\_exec\\_sum.pdf](http://www.un.org/Depts/los/clcs_new/submissions_files/nor06/nor_exec_sum.pdf).

11. Denmark/Greenland expect to have gathered the required data for a submission in 2008. See Forslag til folketingsbeslutning, *supra* note 1, para. 2.

12. Treaty on the Status of Spitsbergen of 9 February 1920, 2 *League of Nations Treaty Series* 8. Norway and Denmark are both parties to the Svalbard Treaty.

13. Forslag til folketingsbeslutning, *supra* note 1, para. 2.

14. Cooperation with respect to fisheries in the area between Greenland and Svalbard is addressed by a bilateral agreement between Norway and Denmark/Greenland of 1992 and is not addressed in the 2006 Agreement. See St.prp. nr. 51, *supra* note 1, at 3.

15. Agreement between the Kingdom of Denmark and the Kingdom of Norway relating to the Delimitation of the Continental Shelf in the Area between Jan Mayen and Greenland and of the Boundary Between the Fisheries Zones in the Area of 18 December 1965. English text reproduced in *International Maritime Boundaries*, vol. III, at 2524 (J. I. Charney and L. M. Alexander, eds., The Hague, Martinus Nijhoff, 1998).

16. This point is elaborated in some detail in the proposal of the Norwegian Foreign Ministry for the approval of ratification of the 2006 Agreement by Parliament. The proposal observes that recent cases decided by the International Court of Justice have confirmed the provisional equidistance line as a starting point for the delimitation process and indicate various geographical circumstances that can lead to an adjustment of that line. The size of the landmass, population size, and other

socioeconomic circumstances are not to be taken into consideration. In the area between Greenland and Svalbard, there are no geographical circumstances that warranted a significant modification of the median line. St.prp. nr. 51, supra note 1, at 2.

Reportedly, the relevance of socioeconomic factors has been invoked by the Russian Federation with respect to the delimitation of the maritime boundary between itself and Norway in the Barents Sea. Norway maintains the position that there are no such circumstances justifying a boundary different from a median line.

## Appendix 1

### **Agreement between the Government of the Kingdom of Norway on the one hand, and the Government of the Kingdom of Denmark together with the Home Rule Government of Greenland on the other hand concerning the delimitation of the continental shelf and the fisheries zones in the area between Greenland and Svalbard**

The Government of the Kingdom of Norway on the one hand, and the Government of the Kingdom of Denmark together with the Home Rule Government of Greenland on the other hand,

Desiring to maintain and strengthen the good neighbourly relations between Norway and Denmark/Greenland, and

Intending to revert to the delimitation of the continental shelf beyond 200 nautical miles in connection with the establishment of the outer limits of the continental shelf,

Have agreed as follows:

#### *Article 1*

Within 200 nautical miles of the baselines from which the territorial sea of each Party is measured, the boundary line between the respective Parties' parts of the continental shelf in the area between Greenland and Svalbard, which also constitutes the boundary line between the exclusive economic zone of Greenland and the Fisheries Protection Zone around Svalbard, has been determined on the basis of the median line between relevant coastlines of Greenland and Svalbard and on the basis of negotiations between the Parties and established as straight lines joining the following points in the order specified below:

|           |                   |                  |
|-----------|-------------------|------------------|
| Point 1:  | 83° 43' 05.93'' N | 7° 59' 18.30'' E |
| Point 2:  | 83° 33' 23.74'' N | 7° 37' 47.16'' E |
| Point 3:  | 82° 20' 55.05'' N | 5° 51' 21.39'' E |
| Point 4:  | 82° 01' 10.72'' N | 4° 34' 05.01'' E |
| Point 5:  | 81° 17' 01.34'' N | 2° 12' 21.55'' E |
| Point 6:  | 79° 52' 55.98'' N | 1° 38' 14.63'' W |
| Point 7:  | 79° 13' 57.24'' N | 2° 21' 19.13'' W |
| Point 8:  | 79° 05' 23.99'' N | 2° 32' 16.13'' W |
| Point 9:  | 78° 20' 00.00'' N | 3° 20' 37.95'' W |
| Point 10: | 77° 36' 36.88'' N | 3° 12' 52.76'' W |
| Point 11: | 77° 11' 00.20'' N | 2° 54' 56.32'' W |
| Point 12: | 76° 54' 50.42'' N | 2° 47' 22.98'' W |

All straight lines are geodetic lines.

The points listed above are defined by geographic latitude and longitude in accordance with the World Geodetic System 1984 (WGS84).

By way of illustration, the boundary line and the points listed above have been drawn on the chart annexed to this Agreement.

## ***Article 2***

If the existence of a mineral deposit in or on the continental shelf of one of the Parties is established and the other Party is of the opinion that the said deposit extends onto its continental shelf, the latter Party may notify the former Party accordingly, at the same time submitting the data on which it bases its opinion.

If such an opinion is submitted, the Parties shall initiate discussions on the extent of the deposit and the possibility for exploitation. In the course of these discussions, the Party initiating them shall support its opinion by evidence from geophysical data and geological data, including in due course any drilling data, and both Parties shall use their best efforts to ensure that all relevant information is made available for the purposes of the discussions. If it is established during these discussions that the deposit extends onto the continental shelf of both Parties and also that the minerals in the continental shelf of the one Party can be exploited wholly or in part from the continental shelf of the other Party, or that the exploitation of the minerals in the continental shelf of the one Party would affect the possibility of exploitation of the minerals in the continental shelf of the other Party, agreement on the exploitation of the deposit shall be reached at the request of one of the Parties, including as to the manner in which any such deposit shall be most effectively exploited and the proceeds relating thereto shall be apportioned.

The Parties shall make every effort to resolve any disagreement as rapidly as possible. If, however, the Parties fail to agree, they shall jointly consider all of the options for resolving the impasse including inviting the opinion of independent experts.

## ***Article 3***

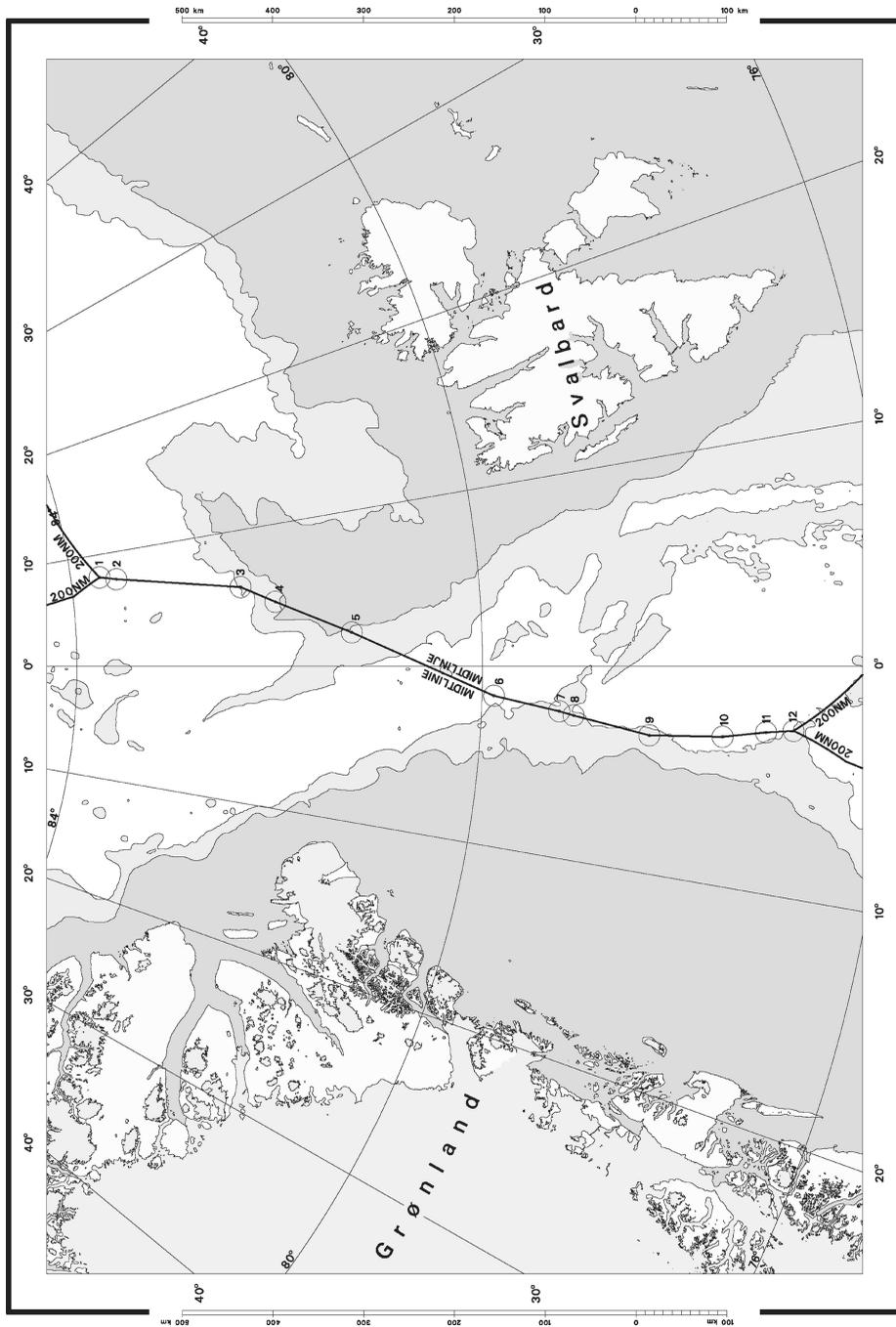
This Agreement is without prejudice to the respective Parties' views on questions that are not governed by this Agreement, including questions relating to their exercise of sovereign rights or jurisdiction over the sea and the sea-bed and its subsoil.

## ***Article 4***

This Agreement enters into force when the Parties have notified each other in writing that the necessary procedures have been completed.

Done at Copenhagen on the 20th day of February 2006 in duplicate in the Norwegian, Danish and Greenlandic languages, all three texts being equally authentic.

FOR THE GOVERNMENT OF THE KINGDOM OF NORWAY  
FOR THE GOVERNMENT OF THE KINGDOM OF DENMARK  
FOR THE HOME RULE GOVERNMENT OF GREENLAND



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