

The Law applicable to the Continental Shelf and in the Exclusive Economic Zone

Norway

General

Norway became a State Party to the 1982 LOS Convention¹ on 24 July 1996.² It is also a State Party to both the two implementing agreements: The 1994 Agreement³ and 1995 Fish Stocks Agreement.⁴

In September 1971 Norway acceded to and became State Party to the 1958 Continental Shelf Convention. Already in 1963 Norway had adopted a proclamation on the sovereign rights to explore and exploit the natural resources of the seabed and subsoil adjacent to its coasts.⁵ It was later introduced into legislation, to provide legal basis for regulating activities.⁶ The legislation was amended and extended to accommodate the outcomes of the third UN Conference on the Law of the Sea. Some legislation was adopted before Norway became State Party to the LOS Convention and even before it entered into force in 1994. The legislation was amended to adapt to changes in the law of the sea, e.g. the definition of the outer limit of the continental shelf. But importantly, new legislation was adopted to provide for the new rights and obligations established through the LOS Convention. The Exclusive Economic Zone Act was adopted already in 1976, which is the legal basis for the establishment of 200 miles zones off Norwegian mainland and islands from 1 January 1977.

The legislation providing the legal basis for establishing and regulating activities in the maritime zone usually includes references to its boundaries. There is a reference to bilateral boundary settlement agreements in the Territorial Sea and the Contiguous Zone

¹ United Nations Convention on the Law of the Sea, 10 December 1982, in force 16 November 1994, United Nations, *Treaty Series*, vol. 1833, p.3.

² Status of ratifications and accessions available on http://www.un.org/Depts/los/convention_agreements/convention_overview_convention.htm (18 September 2009).

³ Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982; New York, 28 July 1994, entered into force 28 July 1996, A/RES/48/263 Resolution adopted by the General Assembly available at http://www.un.org/depts/los/convention_agreements/convention_overview_part_xi.htm (21 September 2009).

⁴ The United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, New York 4 August 1995, entered into force 11 December 2001, United Nations, *Treaty Series*, vol. 2167, p. 3.

⁵ Royal Decree of 31 May 1963 No. 1 Relating to the Sovereignty of Norway over the Sea-Bed and Subsoil outside the Norwegian Coast, available on http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/NOR_1963_Decree.pdf (18 September 2009).

⁶ Act no. 12 of 21 June 1963 on exploration and exploitation of the subsea natural resources, available in English at <http://www.npd.no/en/Regulations/Acts/Scientific-research-act/> (17 September 2009).

Act.⁷ The implication is that these agreements are incorporated into the legislation. Not all the boundaries of the maritime zones beyond the territorial sea have been settled. This is reflected in the legislation: The contiguous zone⁸ and the exclusive economic zone⁹ shall not extend beyond the median line in respect of neighbouring states unless otherwise is decided through bilateral agreements. A somewhat different approach is used in respect of the delimitation of the continental shelf where it extends beyond 200 nautical miles: The continental shelf shall not exceed the median line unless call for by international law on the continental shelf beyond 200 miles or bilateral agreement with the relevant states.¹⁰ The purpose of these stipulations is to pronounce the Norwegian position on delimitation and not to make a unilateral determination of the boundaries. The outer limits of the maritime zones are delineated through references to the maximum distance permitted through the LOS Convention; e.g. 12 miles territorial sea and 200 miles EEZ. The baselines from which these limits are calculated are set in regulations.¹¹ This information (provided through charts and coordinates) is deposited with the Secretary-General of the UN in accordance with the LOS Convention.¹²

The breadth of the territorial sea has traditionally been 4 nautical miles measured from the baselines. But in order to regulate *inter alia* increasing international navigation in the waters off Norway, the *territorial sea* was extended from 1 January 2004 to 12 nautical miles applicable to mainland Norway, the island of Jan Mayen and the archipelago of Svalbard.¹³ The extension has not yet entered into force in respect of the territories claimed in the Antarctica. Norway has claimed a *contiguous zone* from 1 January 2004 beyond the territorial sea extending to 24 nautical miles to control the compliance with Norwegian customs, fiscal, immigration and sanitary legislation.¹⁴ As mentioned a 200 miles *exclusive economic zone* was established 1 January 1977 off mainland Norway. A 200 miles fishery zone was established off the island of Jan Mayen¹⁵ in 1980 and a 200 miles fishery protection zone was declared off Svalbard in January 1977.¹⁶ The EEZ

⁷ Act No. 57 on Norway's territorial waters and contiguous zone, 27 June 2003, Section 2, available in English at the *Law of the Sea Bulletin* No. 54, 2004, p.97, http://www.un.org/Depts/los/doalos_publications/LOSBulletins/bulletinpdf/bulletin54e.pdf (September 2009).

⁸ Act on Norway's territorial waters and contiguous zone, Section 4

⁹ Act No. 91 of 17 December 1976 relating to the Economic Zone of Norway, Section 1, available at http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/NOR_1976_Act.pdf (September 2009).

¹⁰ Act no. 12 of 21 June 1963 Relating to Exploration and Exploitation of Submarine Natural Resources, Section 1 and Act of 29 November 1996 No. 72 Pertaining to Petroleum Activities, Section 1-6 l)

¹¹ The baselines of mainland Norway are set in a regulation of 14 June 2002 no. 625 available in Norwegian at <http://www.lovdata.no/for/sf/ud/xd-20020614-0625.html> (14 September 2009).

¹² An overview over charts and positions deposited by Norway is available on <http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/STATEFILES/NOR.htm> (14 September 2009).

¹³ Royal Decree of 27 June 2003 No.798 on the enter into force of Act No. 57 relating to Norway's territorial waters and contiguous zone, available in Norwegian at <http://www.lovdata.no/for/sf/dl/ud-20030627-0798.html> (14 September 2009).

¹⁴ Act on Norway's territorial waters and contiguous zone, Section 4.

¹⁵ Royal decree 23 May 1980 no 4 on the establishment of a fisheries zone off Jan Mayen, available in Norwegian at <http://www.lovdata.no/for/sf/ud/xd-19800523-0004.html> (14 September 2009).

¹⁶ Royal Decree of 3 June 1977 no 6 on the Fisheries Protection Zone off Svalbard.

legislation includes a ban on foreign flagged vessels access to the living marine resources of the zone and provides legal basis for regulating the protection of the marine environment, marine research, laying of submarine cables and artificial islands and installations. In the 200 miles fishery zone and fishery protection zone the competence is limited to the regulation of the harvesting of living marine resources. The activities on the *continental shelf* are regulated through separate legislation. Under the legislation the petroleum resources of the continental shelf is the property of the State which also has an exclusive right to manage these resources.¹⁷

The legislation is amended consistently with the new definitions of the outer limits of the continental shelf under the LOS Convention.¹⁸ Norway has made two submissions to the Commission on the Limits of the Continental Shelf (CLCS) according to Article 76 paragraph 8 of the LOS Convention:

- 27 November 2006 on three areas in the North-east Atlantic¹⁹
- 4 May 2009 in respect of Bouvet Island and Dronning Maud's Land²⁰

The CLCS has adopted its recommendations in respect of the first submission in March 2009.²¹ Norway has accepted these recommendations.²² While fulfilling its obligation to submit information on the limits of the continental shelf within the set time limit, Norway has requested the CLCS not to take any action in respect of the information related to the continental shelf off Dronning Maud's land, which is the part of the Antarctica claimed by Norway.²³ The reason for this request is the restrictions on sovereignty claims undertaken by Norway in the 1959 Antarctica Treaty.

Observations

The legislation presented above is neither only defining limits nor establishing an overall Ocean Act. It has a sectoral approach, partly defining the outer limits of the respective zones and partly regulating the competence of the authorities to regulate and enforce compliance within these zones. The competence is further defined through more specific

¹⁷ Act no. 12 of 21 June 1963 Relating to Exploration and Exploitation of Submarine Natural Resources, Section 2 and Act of 29 November 1996 No. 72 Pertaining to Petroleum Activities, Section 1-1 and Section 1-2.

¹⁸ See previous footnote for reference to relevant legislation.

¹⁹ An executive summary of the Norwegian 2006 submission is available at http://www.un.org/depts/los/clcs_new/submissions_files/submission_nor.htm (14 September 2009).

²⁰ The executive summary of the Norwegian 2009 submission is available at http://www.un.org/depts/los/clcs_new/submissions_files/submission_nor_30_2009.htm (14 September 2009).

²¹ Summary of the Recommendations of the Commission on the Limits of the Continental Shelf in Regard to the Submission Made by Norway in Respect of Areas in the Arctic Ocean, the Barents Sea and the Norwegian Sea on 27 November 2006, available on http://www.un.org/depts/los/clcs_new/submissions_files/nor06/nor_rec_summ.pdf (14 September 2009).

²² Ministry of Foreign Affairs, Press Release, 15.04.2009, No.025/09 Extent of Norway's continental shelf in the High North clarified, available at http://www.regjeringen.no/en/dep/ud/press/News/2009/shelf_clarified.html?id=554718 (14 September 2009).

²³ The 2009 executive summary, pp.8-9.

legislation e.g. on the management of living marine resources, navigational safety and pollution-control.

There is a gradual spatial approach in newer legislation pertaining to the maritime areas. The 2009 Nature Management Act²⁴ aimed at preserving diversity of biology, landscapes and geology is also applicable to the maritime zones of Norway. The Act includes more specific objectives to protect the diversity of habitats and of ecosystems, applicable across sectoral legislation. It reflects the ecosystem approach, requiring a more spatial approach in the management of natural resources and the environment. One of the measures under the Act is marine protected areas. This measure is not applicable to the EEZ or the continental shelf as measures adopted under MPAs arguably may impede on the rights of other states under the Law of the Sea. The Planning Act²⁵ has recently been amended to be made applicable in maritime areas (one nautical miles from the baselines), including the internal waters and a minor part of the territorial sea.

However, spatial planning and a more holistic approach to management in the maritime areas beyond are mainly regulated through Government policy. It has been established that the ecosystem based approach is to be a central element in Norwegian ocean's policy.²⁶ The general policy has been followed up by plans for integrated management of maritime areas under Norwegian jurisdiction. The first plan was adopted in 2006 for the Barents Sea and Lofoten Islands.²⁷ A similar plan was approved for the Norwegian Sea in 2009²⁸ and a third is under planning for the North Sea. They involve spatial planning regulating different activities within particular vulnerable areas such as moratorium or regulations on the exploration and exploitation of petroleum and the establishment of obligatory sea lanes to guide vessels outside such areas. The traffic separation scheme in the Norwegian part of the Barents Sea was established through the IMO on the basis of the SOLAS and COLREG conventions.²⁹ The plan also includes an ecosystem based management of living marine resources as well as a policy to reduce long-range transboundary pollution.

Normally legislation does not establish the institutions responsible for regulating activities on land or in maritime areas. The authority under the legislation to adopt regulations or individual decisions is accorded to the relevant ministry (-ies). The competence may be delegated through executive orders to other ministries and/or

²⁴ Act of 19 June 2009 No. 100 relating to the management of the diversity of Nature (Nature Management Act) available in Norwegian at <http://www.lovdato.no/all/nl-20090619-100.html> (17 September 2009).

²⁵ Act of 27 June 2008 No. 71 relating to Planning and Building, Section 1-2, available in Norwegian at <http://www.lovdato.no/all/hl-20080627-071.html#map045> (14 September 2009).

²⁶ Report No.12 to the Storting (2001-2002) Protecting the Riches of the Seas, pp15ff, available at http://www.regjeringen.no/pages/1944164/STM200120020012000EN_PDFS.pdf (14 September 2009).

²⁷ Report No. 8 to the Storting (2005–2006) Integrated Management of the Marine Environment of the Barents Sea and the Sea Areas off the Lofoten Islands, available on http://www.regjeringen.no/upload/MD/Vedlegg/STM200520060008EN_PDF.pdf (14 September 2009).

²⁸ St.meld. nr. 37 (2008-2009) Helhetlig forvaltning av det marine miljø i Norskehavet (forvaltningsplan), available in Norwegian at <http://www.regjeringen.no/pages/2188395/PDFS/STM200820090037000DDDPDFS.pdf> (14 September 2009).

²⁹ COLREG.2/Circ.58 of 11 December 2006 New and Amended existing Traffic Separation Schemes

subordinate agencies. Together with the sectoral approach described above this means that a wide range of institutions are responsible for regulating the activities within and beyond 200 miles. Some examples to illustrate:

- Ministry of Fisheries/Directorate of Fisheries: Management of living marine resources (including bioprospecting and introduced alien species from the maritime zones of other states)
- Ministry of the Environment/Directorate of Nature Management and the Norwegian Pollution Control Agency: Measures to protect vulnerable species and areas (MPA) and prevention of pollution of the marine environment from certain sources
- Ministry of Energy/Norwegian Petroleum Directorate: Management of petroleum resources of the continental shelf
- Ministry of Trade and Industry/Maritime Directorate: Control of environmental and safety standards on Norwegian flagged vessels and foreign flagged vessels in Norwegian waters.

Under above-mentioned legislation Norway is exercising sovereign rights over the natural resources of the EEZ, fisheries zones and those of the continental shelf. Further, Norway asserts to some extent jurisdiction over foreign vessels, particularly in respect of safety and environmental protection. Installation established on the continental shelf involved in petroleum activities are also subjected to Norwegian jurisdiction.

Norwegian environmental policy and legislation is to an increasing degree applying the ecosystem approach, based on the developments after 1982, particularly the 1995 Fish Stocks Agreement and the 1992 Biological Diversity Convention. Still, the regulation is very much sectoral in approach, including in the implementation of the abovementioned plans of integrated management. The Ministry of the Environment has been accorded a coordinating role between the different agencies.

Sectoral Resource Management

As mentioned the legislation on resource management are to a large degree sectoral.

- *Energy*: A Bill has been submitted to the Parliament (Stortinget) on renewable energy production at sea, expected to be passed in its next session.³⁰ Under the Bill the right to exploit energy from wind, waves and tidal movement rests with the State. The State is also competent to grant licenses to start production and to regulate this activity.
- *Mineral Resources*: Under the 1996 Act on Petroleum Activities³¹ the State has property rights to petroleum resources on the continental shelf and is exclusively competent to manage these resources. Private and state companies may have access to

³⁰ Law proposition (Ot.prp.) No.107 (2008-2009) a Bill on the production of renewable energy at sea, available in Norwegian at <http://www.regjeringen.no/nr/dep/oed/Dokument/Proposisjonar-og-meldingar/Odelstingsproposisjonar/2008-2009/otprp-nr-107-2008-2009-.html?id=569843> (17 September 2009).

³¹ Act 29 November 1996 No. 72 relating to petroleum activities available in English at <http://www.npd.no/en/Regulations/Acts/Petroleum-activities-act/> (17 September 2009).

the exploration and exploitation of these resources under a licensing regime. According to the 1963 Act on the Scientific Exploration and Exploitation of Other Submarine natural Resources than Petroleum³² the right to other mineral resources lies with the State, which is competent to give other entities license to explore and exploit such resources.

- *Genetic Resources and Fisheries*: Under the 2008 Marine Resource Act³³ the living marine resources and its genetic material belong to the community of Norway. Under the Act the Ministry may adopt a wide range of measures, including total allowable catches, technical measures (e.g. gear restrictions and by-catch restrictions) and establish marine protected areas where harvesting is banned or restricted. The precautionary approach and ecosystem approach are important principles to be applied in the management of these resources. The Ministry may also regulate exploration and exploitation of genetic material (bioprospecting) through licensing schemes and require a share of the benefits of such harvest.
- *Aquaculture*: The 2005 Aquaculture Act³⁴ gives the Ministry competence to regulate aquaculture on land and in its maritime zones through a scheme of licensing with the necessary conditions for exercising the rights under the license.
- *Maritime transport and communication*: 1994 Norwegian Maritime Code³⁵ includes provisions *inter alia* on conditions for nationality and registry of ship, management of ships, liability, chartering, carriage of goods and passengers as well as marine accidents. The 2007 Ship Safety and Security Act³⁶ involve *inter alia* obligations of the ship-owner to have a safety management system of the master and crew, competence of the Ministry to adopt regulations on e.g. design, equipment of ship and certificates.
- *Scientific research*: The access and conduct of foreign research to/in the maritime zones is included in a 2001 Regulation³⁷. It proscribes the procedure for application, the conditions for using the permit and obligations in the exercise of the research. A permit is presumed granted unless the applicant receives a notice to the contrary within 4 months.

³² Act of 21 June 1963 No. 12 relating to scientific research and exploration for and exploitation of subsea natural resources other than petroleum resources.

³³ Act of 6 June 2008 no. 37 relating to the management of wild living marine resources, available in English at <http://www.fiskeridir.no/english/regulations/acts/the-marine-resources-act> (17 September 2009).

³⁴ Act of 17 June 2005 No. 79 relating to aquaculture, available in Norwegian at <http://www.lovdata.no/all/hl-20050617-079.html> (14 September 2009).

³⁵ The Norwegian Maritime Code of 24 June, 1994, No. 39, available in English at <http://www.ub.uio.no/ujur/ulovdata/lov-19940624-039-eng.pdf> (14 September 2009).

³⁶ Act of 16 February 2007 No. 09 relating to Ship Safety and Security (The Ship Safety and Security Act), available in English at http://www.sjofartsdir.no/upload/Internasjonalt%20arbeid%20og%20regelverk/Forskrifter%20på%20engelsk/eng_%20Skipssikkerhetsloven.pdf (14 September 2009).

³⁷ Regulations of 30 March 2001 No. 360 Relating to Foreign Marine Scientific Research in Norway's Internal Waters, Territorial Sea and Economic Zone and On The Continental Shelf, available in English at <http://www.fiskeridir.no/english/marine-scientific-research/application-form-and-regulations> (14 September 2009).

The need for security for investments in maritime industry has been met through some of the legislation referred to above. Investors may register their mortgages in respect of ships (and ships under construction), fishing vessels and installations (e.g. platforms), which are registered in the Ship Registry and have protection against other creditors and claimants. Further, licenses granted under the Petroleum Activities Act and Aquaculture Act may be used as security for investments.

The maritime industry as described above is to a large extent financed through private investments and lending institutions. However, there are also state banks such as Innovation Norway which finance mainly the fishing industry and aquaculture. There are also state schemes to guarantee ship building loan agreements involving Norwegian yards.

The 1975 Seamen's Act³⁸ applicable to maritime transport and the fishing industry regulates *inter alia* the employment contract (entering into and discontinuance), wages, employee consultation, rights and duties of seamen and captain and disputes. The 2007 Ship Safety and Security Act regulate the working conditions on board. It is the contract primarily supplemented by the law that regulates the rights and duties of the employer and employee. However, the Act includes a reference to collective arrangements limiting the freedom of contracting. Similar restrictions are applicable to the petroleum industry on the Norwegian continental shelf under the 2005 Working Environment Act.³⁹

The introduction of ecosystem approach to marine policy and legislation has also meant an increased focus on preventive measures and measures to protect the marine environment. It is reflected in the above-mentioned plans of integrated management of ocean, *inter alia* as there was introduced a moratorium on exploration and exploitation of petroleum in vulnerable areas. These areas are not Marine Protected Areas proper. The Parliament may decide to open these areas for exploration during next year. The 2009 Nature Management Act includes establishment of Marine Protected Areas but as mentioned these may not be established in the EEZ or on the continental shelf.

Enforcement of jurisdiction

The legislation adopted in respect of the Norwegian Maritime Zones is enforceable. It usually includes a reference to international law implying that the enforcement jurisdiction has to be exercised within the limits of the Law of the Sea. The enforcement jurisdiction is normally assigned to the regulatory authorities within the different sectors, such as the Norwegian Petroleum Safety Authority on the continental shelf and the Norwegian Fisheries Directorate in respect of fisheries management. The Norwegian Coast Guard has a general competence to uphold sovereignty and sovereign rights within the maritime zones.⁴⁰ It has particular duties regarding the enforcement of the sectoral

³⁸ Seamen's Act of 30 May 1975 no. 18 available in English at <http://www.ub.uio.no/ujur/ulovdata/lov-19750530-018-eng.pdf> (17 September 2009).

³⁹ Act of 17 June 2005 No. 62 relating to working environment, working hours and employment protection, etc., available in English at <http://www.arbeidstilsynet.no/binfil/download.php?tid=42156> (17 September 2009).

⁴⁰ Act of 13 June 1997 No. 42 relating to the Coast Guard, Section 8, available in Norwegian at <http://www.lovdato.no/all/nl-19970613-042.html> (18 September 2009).

legislation both assisting sectoral authorities and in exercising police authorities, within legislation on e.g. harvesting of living marine resources, customs, environmental protection, scientific research, petroleum activities and navigation.

The jurisdiction of the courts is concurrent with the area of application of the legislation (geographical as well as personal). The references to international may also limit the jurisdiction of the courts. Most practical is the limitation in using sentence of imprisonment in respect of foreign nationals for violations of fisheries and environmental protection legislation. Most case law is related to foreign vessels' violation of fisheries regulations in the Norwegian EEZ. There are few cases concerning violation of environmental protection legislation.

Reflection

As both a coastal state and a maritime state Norway has to balance different and often conflicting interests. These conflicts will probably be reflected in the future as well. These conflicting interests are also sought balanced through the above-mentioned plans of integrated ocean management. Norway does not seek to take unilateral measures where the interest of protecting the marine environment may conflict with rights of other states (e.g. navigation). Instead Norway uses the international legal regime as provided through the LOS Convention; applying to the IMO for the establishment of obligatory sea lanes for tankers along parts of its coast. As a small state Norway is particularly concerned that the Law of the Sea and international law is complied with and not challenged by coastal as well as flag states.

In Norway there is increasing conflict on the uses of areas and of resources; e.g. between petroleum industry and fishing industry. As the petroleum resources in the North Sea are fully exploited the industry is looking northwards. The maritime areas off Northern Norway are rich in living marine resources and have unique marine biodiversity. There is concern that accidental pollution from petroleum activities may have detrimental effects on the living marine resources and the marine environment. Decisions on opening these areas to exploration and exploitation will be taken during the next four to five years. The decision not to provide for MPA in environmental legislation to the EEZ and the Continental Shelf signals that there is not a political willingness to give such marine areas legal protection.

Norway has entered or is in the process of entering into agreements with most neighbouring states on the delimitation of overlapping maritime zones. An agreement on the delimitation between the Norwegian and Russian zones in the Barents Sea remains. The states have been negotiating since the 1970s. The pursuit of petroleum resources may accelerate the process.

In coming years the maritime areas of the Arctic may come higher on the international (legal) agenda. One of the effects of climate change as documented through the 2004 Arctic Climate Impact Assessment is the melting of the sea ice of the Arctic Ocean.⁴¹

⁴¹ The Arctic Impact Assessment, New York: Cambridge University, 2005 also available on <http://www.acia.uaf.edu/pages/scientific.html> (18 September 2009).

According to the report prepared for the Arctic Council another consequence of climate change is that there will be increased opportunities for navigation and access to the natural resources during this century due to the retreat of the sea ice during the summer months. The Arctic Council is a forum for cooperation between the 8 Arctic States (USA, Russian Federation, Norway, Denmark, Sweden, Iceland and Canada) to promote interaction among these states involving indigenous peoples in particular on issues of sustainable development and environmental protection in the Arctic.⁴²

There have been arguments for the need of new and revised international legal regulations to meet the possible environmental consequences of the increased uses of the Arctic and its resources.⁴³ The response of the five Arctic Coastal States (USA, Canada, Denmark, Russia and Norway) came through the 2008 Ilulissat Declaration.⁴⁴ They insist on the adequacy of the Law of the Sea regime and that there is no need for any new comprehensive legal regime for the Arctic. As a coastal state Norway will be challenged if and when the ice retreats from its maritime zones as how to exercise its sovereign rights over natural resources and jurisdiction in matters relating to environmental protection in its EEZ. The climate and other conditions will still be very differently from mainland Norway. Norway has not adopted legislation particular to the Arctic waters.

The archipelago of Svalbard is situated between 74° and 81° north latitude in the Arctic Ocean. Under the 1920 Treaty concerning Spitsbergen⁴⁵ the other Contracting Parties accepted the “full and absolute sovereignty” of Norway over the archipelago of Svalbard, previously terra nullius. Other states were to enjoy *inter alia* equal rights of hunting and fishing and commercial enterprises on land as well as in its territorial waters. As the Coastal States were accorded jurisdiction over wider maritime areas through the development of the Law of the Sea (continental shelf, exclusive fisheries zones and the EEZ) questions on the applicability of the provisions of the treaty to these zones have been raised. Norway claims that the treaty has to be interpreted according to its wording and consequently is not applicable beyond the 12 nautical miles territorial sea. Other states have challenged the Norwegian view and argued an extensive interpretation of the provisions of the Svalbard Treaty to include the EEZ and continental shelf off Svalbard.⁴⁶ The issue of the applicability of the treaty to the maritime zones beyond the territorial sea remains unresolved. Norway has practiced a non-discriminatory policy in the

⁴² Declaration on the Establishment of the Arctic Council, available on <http://arctic-council.org/article/about> (18 September 2009).

⁴³ See e.g. the European Parliament resolution of 9 October 2008 on Arctic governance, paragraph 15, available at <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P6-TA-2008-0474> (18 September 2009).

⁴⁴ The Ilulissat Declaration adopted at the Arctic Ocean Conference, Ilulissat, Greenland, 27 – 29 May 2008 is available at <http://www.um.dk/en/service/menu/news/newsarchives2008/conferenceinilulissatgreenlandlandmarkpoliticaldeclarationonthefutureofthearctic> (18 September 2009).

⁴⁵ Treaty concerning the Archipelago of Spitsbergen, signed at Paris, February 9, 1920, in force 14 August 1925, League of Nations *Treaty Series*, vol. 2 (1920), p.7, available on <http://www.austlii.edu.au/au/other/dfat/treaties/1925/10.html> (21 September 2009).

⁴⁶ Torbjørn Pedersen, “The constrained politics of the Svalbard offshore area”, *Marine Policy*, Volume 32 (2008), Issue 6, pages 913-919, at p.916.

conservation and management of the living marine resources of the 200 miles zone established off Svalbard. As the interest in exploring and exploiting petroleum resources on the continental shelf of the Arctic increases a dispute on the equal rights of Contacting Parties to access the petroleum resources on the continental shelf adjacent to the Svalbard territorial sea may arise.