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## MARITIME BORDER CONFLICTS

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**Analysis**

## US-Russian Bering Sea Marine Border Dispute: Conflict over Strategic Assets, Fisheries and Energy Resources

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### Abstract

Despite the universal implementation of the Law of the Sea principles in defining national sovereignty over coastal waters and the end of the Cold War, Russia continues to press marine border disputes with several neighboring countries. The most important conflicts are with the United States, Norway, and Japan. Fortunately, these are not military confrontations, but political disputes over the economically and strategically important marine regions claimed by all four countries. At stake are strategic considerations, abundant fish resources and large oil and gas deposits at the bottom of the sea. This article discusses the history of the US-Russian conflict, the viewpoints of both sides, and the impact of this dispute on access to marine living resources of the area.

### Historical Overview

In 1867 the United States purchased the territory of Alaska, acquiring nearly 600,000 square miles of new territory. The land was purchased for \$7.2 million or approximately 2 cents per acre. The purchase agreement defined a marine boundary between Russia and the newly acquired US territory. This boundary was readdressed in a 1990 treaty, commonly known as the Baker-Shevardnadze Agreement, between the United States and the Union of Soviet Socialist Republics (USSR).

With the collapse of the USSR, the Russian government has taken the position that the Baker-Shevardnadze Agreement was invalid since USSR Foreign Minister Eduard Shevardnadze did not effectively represent Russian interests. Consequently, Russia refused to ratify the agreement, thus placing the United States in the position of negotiating in order to seek a modified treaty. One of Russia's key demands in revising the treaty is its desire to secure cross-border fishery quotas for its vessels, particularly gaining access to Alaska's Pollock stocks. However, the US ultimately rejected this Russian request. From the Russian perspective, there is no definitive agreement defining the marine border between the two countries although international law favors the US position. Absent ratification of the 1990 agreement or other arrangements, this conflict in the Bering Sea will continue.

### Russian-American Dispute over the Bering Sea Marine Boundary Line

When the United States purchased Alaska from the Russian government, mutually accepted marine claims were limited to a narrow band of the coastal zone. However, the 1867 Treaty contained language

which defined a boundary between the two nations through the Bering Sea. Over time, and in particular when the Law of the Sea principles started to govern the world's oceans, the 1867 Treaty line became the most contentious marine boundary in the world. Unfortunately, the language of the purchase agreement between Russia and the US is silent on the type of line, map projection and horizontal datum used to depict this boundary. Further, neither country has produced the original or other authenticated maps used during the negotiations to resolve the issue. Differences in defining this line fuel the continuing conflict.

Cartographers normally use two types of lines to delineate marine boundaries. These are rhomb lines and geodetic lines (also known as great circle arcs) that are used on two common map projections, Mercator and conical. Depending on the type of line and map projection used, lines will either appear as straight or curved lines. For example, a rhomb line will be a straight line on a Mercator projection, whereas a geodetic line is curved. Because each country interpreted the line described in the 1867 Treaty as a straight line, the Soviet Union depicted the Bering Sea marine boundary as a rhomb line on a Mercator projection whereas the US used a geodetic line on a conical projection. While both appear as straight lines on their respective map projections, each country's claim maximized the amount of ocean area and seafloor under their respective control. Figure 1 overleaf depicts marine borders between the Russian Federation and the United States showing the differences resulting from the different interpretations of the borderline in this sea area.

When the United States and the Soviet Union implemented 200 nautical mile Exclusive Economic Zones (EEZ) in 1977, they exchanged diplomatic

\* This study was prepared using the research findings and studies of School of Marine Studies' graduate students Mr. Jeff Randall, Mr. Greg Cassad and Mr. Artur Soule under the aegis of the University of Washington courses "Russian Ocean Policy" and "Comparative Marine Business in the North Pacific: Russia, Japan, Canada and the United States" jointly listed by the Russian, East European and Central Asia Studies Center and School of Marine Affairs, University of Washington. Both courses are offered by Prof. Vlad Kaczynski.

notes indicating their intent “to respect the line set forth in the 1867 Convention” as the limit to each country’s fisheries jurisdiction where the two hundred nautical mile boundaries overlapped. Shortly thereafter the differences in each country’s interpretation of the 1867 Treaty became apparent, placing an area of nearly 15,000 square nautical miles in dispute. While

tries in 1990. The 1990 agreement split the difference between the US claim to a geodetic line and the Soviet claim to a rhomb line as shown on a Mercator projection. It also created several “special areas.”<sup>1</sup> Although both countries ceded territory from their previous claims, the US still controlled a far greater amount of area in the Bering Sea than if the new agreement had

been based on the equidistant line principle normally used in international boundary disputes.

**Figure 1 – Depiction of the Differences Between the Bering Sea Marine Boundary Using Rhomb and Geodetic Lines on a Mercator Projection**



the two countries agreed to continue respecting each other’s interpretation of the 1867 Treaty as an interim measure, negotiations began in the early 1980s to resolve the differing interpretations. Soviet negotiators had specific instructions from the Politburo to “insist on a straight line boundary.”

Some authors speculate that Soviet negotiators may have ceded territory in the Bering Sea to the US in order to quell the US objections the Soviet Union’s proposed division of territory north of the Bering Strait. Following nearly a decade of negotiations, a new agreement was reached between the two coun-

Although the U.S. quickly ratified the 1990 Agreement, the Soviet Union, prior to its collapse, did not ratify the Agreement.

### The US and Russian Positions

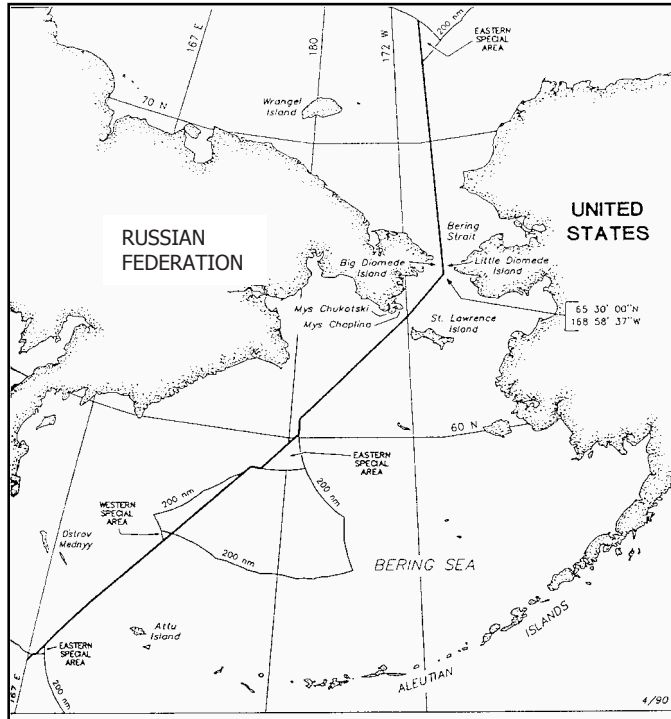
When the agreement was signed, provisional arrangements were made by each country to abide by its terms until ratification, but resistance to the ratification of the 1990 agreement has continued to rise within Russia along with accusations of conceding to American interests. The *Moscow Times* stated that Gorbachev, in his enthusiastic pursuit of good

### Marine Resources

The 1990 Agreement “represents a very favorable outcome in terms of US strategic and resource interests...” and was quickly ratified by the US Congress, which was eager to begin the sale of offshore oil and gas leases. The US Minerals Management Service recently estimated the potential oil and gas reserves in the Bering and Chukchi Seas at 24 billion barrels of oil and 126 trillion cubic feet of natural gas. In addition, fish harvests from this region are vital to the fishing industries of both countries. US fisheries alone harvest over two million metric tons of fish from the Bering Sea each year and it is the dispute over access and harvesting rights to these fisheries resources which have fueled much of the rising dissent within Russia towards the 1990 Agreement.

<sup>1</sup> Special areas were areas on either country’s respective side of the 1867 marine boundary but beyond 200nm from the baseline. There were three such areas on the United States side of the marine boundary called “eastern special areas” and one on the Russian side called the “western special area.” In the language of the 1990 Marine Boundary Agreement, Russia ceded all claims to sovereign rights and jurisdiction in the eastern special areas to the United States and conversely the United States ceded all claims to sovereign rights and jurisdiction in the western special area to Russia.

**Figure 2 – Map Showing the 1990 Marine Boundary Line with the Special Areas**



bilateral relations with the US, rushed into signing the 1990 agreement. Other claims suggest that Foreign Minister Shevardnadze exceeded his authority by signing the 1990 agreement with the US. Many accuse Gorbachev and Shevardnadze of ceding Russia's rightful fishing areas in their haste to negotiate a deal for signature at the 1990 White House Summit. "Russian parliamentarians understood perfectly well that the agreement infringed upon Russia's interests and therefore the document has never been ratified by the Russian parliament," these critics say. Other Russian officials have voiced their opposition to the treaty not only because of lost fishing opportunities, but also due to the loss of potential oil and gas fields and naval passages for submarines. Many seek a new treaty "that would settle claims and protect Russian fishermen."

Russian Far East fisheries industry stakeholders assert that 150,000 metric tons of fishing quotas from US waters should be given to Russian fishermen as compensation for the area lost in the 1990 agreement and to earn their support for ratification of the treaty. A senior Russian Consulate officer stated:

"I don't remember figures, but as far as I remember there was something said about 150,000 tons of Pollock compensation in an annual quota from the American side if the treaty is to be ratified."

Personal communications with Russian sources indicate that this figure may have arisen from estimates of fish abundance or Russian harvests in the disputed area between the two countries in the 1980s. However, given that most Bering Sea fish stocks are considered fully utilized or even depleted, it is unlikely that this quota demand will be granted.

From the Russian viewpoint, the 1990 agreement remains in limbo. Efforts to ratify it have raised dissent and opposition, making the boundary set forth in the 1990 agreement more fragile as time progresses.

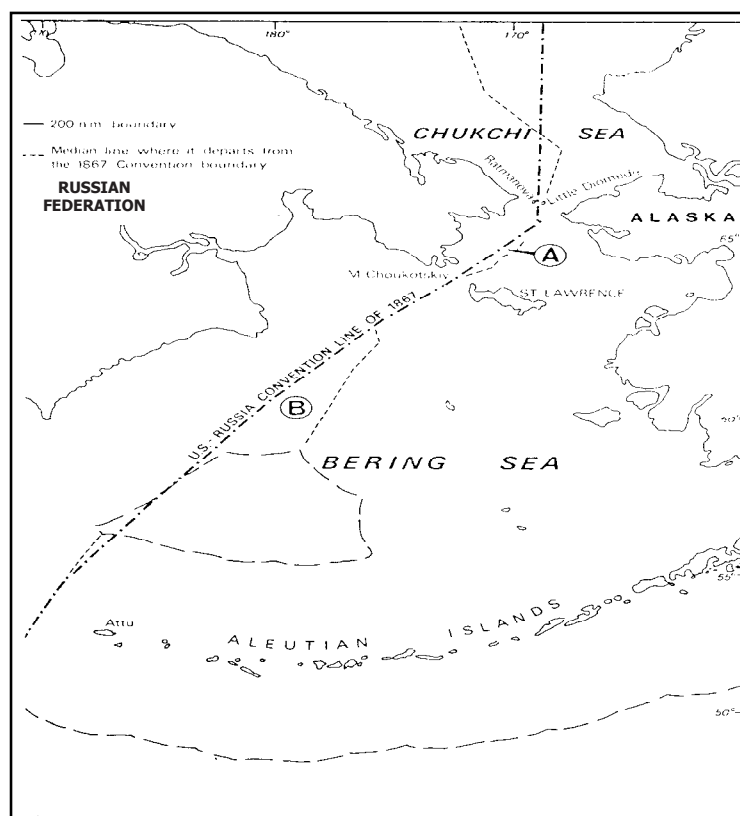
However, the US has steadfastly continued to abide by and enforce the provisions of the 1990 agreement. The US position may provide evidence of a continued "general state practice" and a basis under customary international law that the boundary delineated by the 1990 agreement is the actual marine boundary between the two countries. Determination of a state practice in customary international law requires evidence of "general state practice" and "*opinio juris*" – a sense of obligation to comply with the practice. The United States' continued position and enforcement of the boundary prescribed by the 1990 agreement builds evidence of the general state practice that the 1990 agreement is the marine border between the two countries.

### Challenging Russian Activities

However, the recent actions of Russian fishing vessels are destabilizing the situation. From April through November of each year, dozens of Russian fishing vessels fish along this boundary to intercept Pollock migrating from US waters. The number and harvesting capacity of the fishing vessels operating along this border raises serious concerns among US fisheries managers that the Pollock stock is being over-exploited by Russian fishermen. While near continuous Coast Guard aircraft and vessel patrols attempt to protect the integrity of the U.S. EEZ, the belligerence of the Russian fishing vessels towards US enforcement efforts continues to increase. In one notable case, more than a dozen Russian fishing vessels surrounded a Coast Guard vessel while it was trying to seize the Russian fishing vessel GISSAR for illegal fishing. The Russian fishing vessels threatened to ram the Coast Guard vessel if it tried to seize and escort the GISSAR off the fishing grounds. Many Russian vessels simply refuse to submit to Coast Guard inspections when caught inside the US EEZ. The situation has become so enflamed that the US is contemplating the use of



**Figure 3 – Map Showing Difference Between 1990 Marine Boundary Line and Equidistant Line**



naval gunfire, in the form of warning and disabling shots, against non-compliant vessels. Such a resort to violence may only further destabilize the situation.

### Searching for Solutions

Against this background, talks between the US State Department and Russian officials have begun in an attempt to resolve the issue. However, the United States maintains its staunch position that the 1990 agreement is binding and constitutes the marine border between the two countries. While there was an offer to concede some fish quotas to the Russian Federation as an incentive for ratification in 1997, this offer has recently been withdrawn. From the Russian perspective, there is no definitive agreement regarding the marine border between the two countries although international law favors the US position. However, absent ratification of the 1990 agreement or other arrangements, this conflict in the Bering Sea will likely continue.

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### Further Reading

- Vlad M. Kaczynski, "Ocean Policy Toward Russia and the Pacific Fisheries: The U.S. and Western Countries' Perspective"; in Harry N. Scheiber with Kathryn J. Mengerink, eds., *Multilateralism & International Ocean Resources Law*, The Law of the Sea Institute, Earl Warren Legal Institute, University of California, Berkeley, 2004. (<http://www.lawofthesea.org>)
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## Analysis

# The Kuril Islands Dispute Between Russia and Japan: Perspectives of Three Ocean Powers

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## Abstract

Japan and Russia have never come to an agreement over the ownership of the four southern Kuril Islands and therefore have never signed a peace treaty at the end of World War II. Russia currently occupies the islands, but Japan claims them as Japanese territory. The Soviet Union exerted firm control over the islands. Under Yeltsin, Russia's position seemed to weaken, but no progress was achieved in signing a peace treaty. Since Putin's rise to power, neither side has been willing to make concessions and the situation remains stalemated.

## Introduction

The fighting in World War II ended on August 14, 1945 when Japan capitulated to the American Pacific forces. Subsequently, the September 8, 1951 San Francisco Peace Conference officially ended hostilities between the United States and Japan. However, in the 62 years since the end of the war, Japan and Russia have failed to sign a peace treaty ending the conflict between them.

The main reason for this failure is a border dispute over four small islands in the Kuril chain off the northern coast of Japan's Hokkaido Island. The Japanese refer to these islands as the Northern Territories.

The Kuril Archipelago extends for 750 miles (1,200 km) from the southern tip of Russia's Kamchatka Peninsula to the northeastern coast of Japan's Hokkaido Island. The 56 islands cover 6,000 square miles (15,600 sq km) and, together with Sakhalin Island, form an administrative region of Russia. The Kurils were originally settled by the Russians in the 17th – 18th centuries. Japan initially seized the southern islands and in 1875 obtained the entire chain. After World War II, they were ceded to the Soviet Union, the Japanese population repatriated and replaced by Soviet citizens. Japan still claims ownership of the four southern islands and has tried repeatedly to regain them.

An associated controversy concerns the status of Sakhalin Island, a large island northwest of Hokkaido (approximately 589 miles or 948 km long). It had been settled by Russians and Japanese for centuries but in 1875 Japan and Russia agreed that Japan would give Sakhalin Island to Russia in exchange for 18 Kuril Islands. Then, following the Russo-Japanese war in 1905, Japan regained control of Sakhalin Island south of 50° latitude. Japan then took control of the entire island following the Russian Revolution of 1917, but abandoned the island in 1924. Finally, at the end of World War II, the Soviet Union took control of the entire island, along with the Kurils, and forced the Japanese population out.

Both the Kuril Islands and Sakhalin Island are tectonically and volcanically active. A large earthquake in 1995 killed approximately 2,000 people on Sakhalin, whose total island population is about 680,000. The Kurils are home to about 35 active volcanoes.

The Kuril Islands are administered by Russian authorities on Sakhalin Island. Never large, the population declined to about 16,000 following a major earthquake in 1994. Currently, some 3,500 border troops, far fewer than in Soviet times, remain to guard the territory. During the Soviet period, the islands were considered a vital garrison outpost. The military valued the island chain's role in protecting the Sea of Okhotsk, where Soviet strategic submarines were located. The major industries are fish processing, fishing, and crabbing, much of which is illegal. Once pampered and highly paid by the Soviet government, the Kuril islanders were neglected by Moscow after the collapse of the Soviet Union. Of necessity, the inhabitants are developing closer ties with northern Japan.

## The Japanese Claim

The dispute between the two countries centers on controlling the four southernmost Kuril Islands, which were taken over by the Soviet Union in 1945. Japan claims that these islands are part of Japan, as they have always been visible with the naked eye from the Japanese island of Hokkaido and appear on centuries-old maps of Japan as being part of Japan.

At the San Francisco Peace Conference, Japan agreed to give up any claim to Sakhalin and the Kuril Islands north of the four closest to Japan – Shikotan, Etorofu, Kunashiri and the tiny Habomai island group. At the time, Japan also agreed to give up control of Korea, Taiwan, the South China Sea islands, Penghu, and its Antarctic territory.

The Soviet Union refused to agree to these terms and did not sign the peace treaty. Since that time, the Russian Federation replaced the Soviet Union and has agreed to re-examine the issue of the Kurils.

Fig 1. Map of Kuril Claims



### The US Perspective

There are two prevalent misconceptions about the U.S. government's policies on the Kuril – Northern Territories – Islands dispute. The first is that President Roosevelt agreed at the Yalta Conference to cede “all” of the Kurils to the Soviet Union. In fact, the Yalta agreement never used the word “all” and it was only during August 1945, in a series of exchanges between Stalin and Truman, that Truman agreed in General Order No. 1 to grant the USSR occupation rights to “all” of the Kurils, including the southernmost islands traditionally considered to be part of Hokkaido. The Department of State's interpretation of the Yalta agreement and General Order No. 1 was that the Soviet occupation of the southernmost Kuril islands was intended to be a temporary military occupation only, until a Soviet-Japanese peace treaty transferred sovereignty of the Kurils to the USSR.

The second misconception concerns the so-called “Dulles Threat Incident” of 1956, when Secretary of State John Foster Dulles told Foreign Minister Mamoru Shigemitsu that if Japan gave up its claim against the USSR for the southern Kurils, then the United States might feel obliged to retain Okinawa in perpetuity. A large number of scholars, and especially Soviet scholars, have claimed that Dulles's “threat” was intended to torpedo the renewal of friendly Japanese-Soviet relations. Newly declassified documents show, however, that Dulles was actually trying to help the Japanese negotiators by offering them American-backed leverage against the Soviet Union. Contrary to many scholarly criticisms, the United States government's policy on the Kuril Island dispute has been consistent in stat-

ing that in the absence of an official peace treaty, the disputed islands remain Japanese territory.

### The Russian View

Japan and Russia made some progress in negotiating the Kuril problem during the Yeltsin era. During the 1990s, the Kremlin seemed ready to recognize Japan's territorial claims to the islands of Iturup, Kunashiri, Shikotan, and Habomai and cede them to Japan, as documented by several intergovernmental documents. These texts include the Tokyo and Moscow declarations of 1993 and 1998 and the “Agreement on cooperation in fishing for living marine resources” signed also in 1998. These documents expressed both countries' willingness to conclude a peace treaty in 2000 and to “...enter the 21st century as trustworthy and efficient partners.” However, under Putin, the Kremlin was firm in asserting Russian sovereignty over the islands and the problem remains unresolved.

The Soviet Union's position rejecting Japan's territorial claims to the southern Kuril Islands was firm and based on “corresponding international agreements”. These islands constitute more than 50 percent of the land surface of the whole archipelago and include the two largest islands, Iturup and Kunashiri. The Soviet view was last officially expressed in 1989.

The major points of the Soviet position were that:

- The USSR holds the exclusive right to develop the southern Kurils;
- When these islands were part of Japan, they were used as a springboard for aggression toward neighboring countries, in particular to attack Pearl Harbor in 1941 and Soviet civilian ships during World War II, when a neutrality pact between Russia and Japan was in force;
- Japan was an aggressor state in World War II. It was deprived of a part of its territory, including all Kuril Islands, as punishment by the winning countries, for its aggression against many nations.
- Revising these international arrangements is tantamount to questioning the results of World War II.
- The Soviet Union demonstrated its intention to promote cooperation on the basis of equality and mutual benefits as well as to “secure post-war borderlines between Russia and Japan.”

The problem seemed to be closed as Japan, by signing a variety of agreements, de facto recognized the Russian occupation of the four islands. However the general weakening of the state in the late Soviet period and internal frictions between Gorbachev and Yeltsin in their race for power made Soviet foreign policy and the “Kurils issue,” in particular, a weapon of this struggle.

During the final days of the Soviet Union, Yeltsin's allies began to speak in support of a proposal to cede, or to sell, the islands to Japan at the cost of US \$20–50 billion. During his visit to Japan in 1990, Yeltsin proposed a “five-staged program for settling territorial claims”. The plan consisted of:

- 1) officially recognizing the “Kuril problem”,
- 2) demilitarizing the islands,
- 3) declaring the territory a zone of free enterprise,
- 4) signing a peace treaty and establishing “unified management” over the islands, and
- 5) a complete overview of the Kuril issue by a future generation of politicians.

During his presidency, Yeltsin never removed his five-point plan from the governmental agenda, but, at the same time, he never made it public at the official level. Nevertheless, this plan might have been, and still may be, a “secret” foundation for the Kremlin's policy toward the Kurils. Besides, these islands were never mentioned as a part of Russian territory, which was seen by many Russian specialists as absolutely inadmissible in such documents.

The Yeltsin-era Tokyo and Moscow Declarations both recognize the claim of Japan to the four islands. The Joint Soviet-Japanese Declaration of 1956, to which Tokyo regularly refers as the basis for its bilateral relationship, talks about a probable transfer of Habomai and Shikotan, the two smaller islands, and does not mention the larger islands of Kunashiri and Iturup. This transfer would take place only after the signing of a peace treaty.

Unlike similar documents of the past, neither the Tokyo nor Moscow Declarations have been ratified as intergovernmental agreements by the Russian parliament. Some have speculated that Yeltsin's administration did not submit these documents for ratification because it was aware of their disadvantageous content for Russia, leading to their ultimate rejection by the legislators.

Even though Yeltsin's five-stage plan was never officially approved, key components of it have been implemented. Thus, the first stage, recognition of the problem, was accomplished quickly and without any serious problems in 1994–1996.

The second stage, demilitarization of the islands, was implemented with no less success. As a result, there

are only frontier posts and small naval units based on the Kurils at present. However, Russians claim that the Japanese armed forces in Hokkaido have increased in number and strengthened their combat capabilities due to additional state-of-the-art armament.

Japan interpreted the Russian military drawdown in the 1990s as a sign of Russia's weakness and exerted unprecedented pressure on this part of Russia's territory by authorizing Japanese fishing boats to operate in Russia's 200 mile Exclusive Economic Zone around the southern Kurils. As a result, the number of fishing violations grew to ten thousand. Under these circumstances, the then-commander of the Federal Frontier Troops General A. Nikolayev received permission to use force to protect Russian waters, including firing at Japanese ships.

The subsequent confrontation threatened Yeltsin's entire plan. Prompt diplomatic arrangements were made and negotiations to allow Japanese boats to fish in Russia's territorial waters were held between the two countries.

The third stage, encouraging free enterprise, was implemented by allowing Japanese citizens to visit the Kurils without a visa, negotiation of the fishery agreement in 1998, Japan's humanitarian aid to inhabitants of the islands, and an appeal by Russian authorities to Japanese business circles to invest in the region.

The fourth stage of the plan, signing a peace treaty, has yet to be achieved. In 1999, Yeltsin's team rejected the idea of signing a peace treaty for the first time, even though this idea had been proclaimed in the 1993 and 1998 Declarations. This treaty was to define comprehensive approaches for future Russian-Japanese cooperation in all areas including “the issue of a boundary solution”.

Unfortunately, Putin has made no progress in signing a treaty. His attitude toward Japan's territorial claims is clearly expressed in his repeated statements about the integrity of Russia's territory and especially in his statement in Yuzhno-Sakhalinsk on September 3, 1999: “Does anyone say that the government plans to cede the Kurils? We negotiate, we acknowledge the problem, but transfer of the Kurils is out of the question”. With neither side willing to make territorial concessions, the situation is stalemated.

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*Further Reading*

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## Analysis

# Norway and Russia in the Barents Sea – Cooperation and Conflict in Fisheries Management

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## Abstract

The Barents Sea fisheries are managed bilaterally by Norway and Russia. The Joint Norwegian–Russian Fisheries Commission sets quotas for the most important fish stocks in the area which are allocated according to a standard formula. The collaboration between the two countries generally functions well, but has since the late 1990s been plagued by disparity between scientific recommendations and established quotas, and Norwegian claims of Russian overfishing.

## Establishing an Institutional Framework

The Barents Sea comprises those parts of the Arctic Ocean that lie between the Norwegian mainland, the Svalbard archipelago and the Russian archipelagos Novaya Zemlya and Franz Josef Land. Traditionally, the fish and marine mammals of the Barents Sea have provided the basis for settlement along its shores, particularly in Northern Norway and in the Arkhangelsk region of Russia. Since the Russian Revolution in 1917, the city of Murmansk on the Kola Peninsula has functioned as the nerve center of the Russian “northern fishery basin,” second only in importance in the country to its “far eastern fishery basin.” The commercially most important fish stock in the Barents Sea is the Northeast Arctic cod, by far the largest of the approximately 30 cod stocks in the North Atlantic.

The United Nations Conference on the Law of the Sea (1975–82) led to a transition from multilateral negotiations for the Barents Sea fisheries under the auspices of the Northeast Atlantic Fisheries Commission (NEAFC) to bilateral negotiations between coastal states with sovereign rights to fish stocks. Norway and the Soviet Union entered into several bilateral fishery co-operation agreements in the mid-1970s. The Norwegian–Russian management regime for the Barents Sea fish stocks defines objectives and practices for co-operative management between the two states within the fields of research, regulation and compliance control.

The co-operation between Russian/Soviet and Norwegian scientists in the mapping of the Barents Sea fish resources dates back to the 1950s. It is now institutionalized under the framework of the International Council for the Exploration of the Sea (ICES). Quota settlement and technical regulation of fisheries are taken care of by the Joint Norwegian– (Soviet/)Russian Fisheries Commission, which has met annually since 1976. The Commission includes members of the two

countries’ fishery authorities, ministries of foreign affairs, marine scientists and representatives of fishers’ organizations. Most importantly, it sets total allowable catches (TACs) for the three fish stocks that are defined as joint stocks of the two countries: cod, haddock and capelin. Cod and haddock are shared on a 50–50 basis, while the capelin quota is shared 60–40 in Norway’s favor. Finally, cooperation in compliance control was initiated in 1993, after the Norwegian Coast Guard had revealed considerable Russian overfishing following Russian vessels’ new practice of delivering most of their catch to Norwegian ports instead of Murmansk. This collaboration includes the exchange of catch data and inspectors, as well as the harmonization of various enforcement routines.

## Evolving Cooperation

Three main periods can be distinguished in the thirty years since the bilateral management regime came into force: before and after the collapse of the Soviet Union, and after the turn of the millennium. The two first periods are treated briefly in the following analysis, with more attention given to the most urgent issues of recent years: overfishing and the disparity between scientific recommendations and TACs.

Until the early 1990s, discussions in the Joint Norwegian–Soviet Fisheries Commission mainly centered on the size of the TACs and whether the smallest permitted mesh size and the minimum length of fish should be increased. As the Soviet northern fishing fleet was mostly engaged in distant-water fisheries (mainly outside Western Africa and South America) and hence not so dependent on the nearby fishing grounds of the Barents Sea, the Soviet party to the Commission generally opted for the lower TAC recommendations given by ICES, while the Norwegian party in most years pressed quotas upwards. Norway, on the other hand, wanted to increase the lowest per-

mitted size of fish and net mesh, but failed to persuade the Soviets to introduce this regulatory measure. The fish are generally smaller in the Soviet/Russian part of the Barents Sea, which explains the Soviet/Russian unwillingness to increase the mesh size.

The 1990s were characterized by the extensive coordination of technical management measures (e.g. the joint introduction of satellite tracking and of selection grids in trawls) and general agreement about the annual TAC levels. The Russians had now become more interested in the valuable cod stock – in Soviet times, they had been more concerned with quantities than global-market prices – and were more dependent on the Barents Sea fisheries as distant-waters fishing was discontinued in the post-Soviet period. But the Northeast Arctic cod stock was very healthy throughout the 1990s, so TACs could be set at comfortable levels without setting ICES's scientific recommendations aside. New problems emerged – both from a biological and an institutional point of view – when the cod stock began to reach crisis levels around the turn of the millennium.

### Conflict Over Shrinking Cod Stocks

Cod stock decline in the late 1990s coincided with the recognition internationally of the precautionary principle that a lack of scientific certainty should not be used to postpone management measures that could prevent fisheries degradation. Both the ICES and the Joint Norwegian–Russian Fisheries Commission adopted this principle. The marine scientists recommended drastic reductions in the Barents Sea cod quota, but the Commission annually established quotas far above these recommendations. The Russian party to the Commission strongly opposed the need for implementing quota reductions. The Norwegian party generally supported the scientific recommendations, although opinions varied within the Norwegian fishing industry.

While the Norwegians debated whether the established TACs were sustainable or not, the Russians seemed to view the issue as a battle between the two states, or between Russia and the West. Both the Russian media and the Russian members of the Joint Norwegian–Russian Fisheries Commission accused Norway of having ulterior motives for supporting lower TACs, such as maintaining high world-market prices for cod at a time when the country was starting artificial breeding of this species. Norway largely gave in to Russian demands to keep quotas high since the alternative – no TAC agreement at all, and the effective dismantlement of the bilateral management regime – was far less attractive.

In 2001, the parties for the first time agreed on a three-year quota. This longer time horizon gave them some breathing space and a buffer against sudden developments. Two years later, the Commission devised a fresh set of decision and action rules for management of its side of the Northeast Arctic cod stock, aimed at ensuring biological viability and greater economic predictability for fishery-dependent communities in Norway and Russia. These action rules included:

- average fish mortality should be kept below the precautionary limit over three-year periods;
- TAC should not change more than 10 percent from one year to the next; but
- exceptions can be made in situations where the spawning stock has fallen below defined critical levels.

### Russian Overfishing

Russian overfishing after the break-up of the Soviet enforcement system was presumably brought to a halt by the measures introduced under the enforcement cooperation scheme between Norway and Russia in 1993. However, while the exchange of catch and landing data between the two countries might be a necessary factor in eliminating catch underreporting, it is hardly sufficient to prevent abuses. Sanctioning mechanisms in Russia, and the sincerity of Russian officials' wish to eliminate overfishing are uncertain elements in this respect. Further, catches were delivered to transport vessels at sea from the late 1990s, as they were in Soviet days. While fresh fish in the intervening period was brought to Norwegian ports, fishing vessels now handed the fish over to transport vessels as frozen products, for delivery to Denmark, the Netherlands, UK, Portugal, Spain, and other European countries. As a result, the catch data exchange system of Norwegian and Russian enforcement authorities was no longer of much use.

Two specific questions emerged: how much fish was being transferred from vessel to vessel in the Barents Sea, and how much of this product was being delivered to third countries. Seen from the point of view of Norwegian fisheries management authorities, the Russians have not been particularly eager to help in addressing either issue.

Around 2002–3, the Norwegian Directorate of Fisheries increased its efforts to estimate actual Russian catches in the Barents Sea. Based on the results, ICES estimated unreported catches of Northeast Arctic cod as follows: 90,000 tons in 2002, 115,000 tons in 2003, 117,000 tons in 2004 and 166,000 tons in 2005. These figures imply an annual overfishing in the range of 25–40 percent of the TAC during the

period. In other words, the Russians have, according to ICES, overfished their national quotas of Northeast Arctic cod (which are approximately 50 percent of the TAC) by some 50–80 percent annually.

The Russian fisheries management authorities did not accept Norwegian assertions that the problem was

so severe. In autumn 2006, they admitted not knowing how much fish is actually transferred at sea and delivered to third countries, but estimated Russian overfishing to be around 20,000–30,000 tons annually in recent years.

*About the author:*

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*Further reading:*

- Hønneland, Geir (2004), “Fish Discourse: Norway, Russia and the Northeast Arctic Cod,” *Human Organization* 63(1): 68–77.
- Hønneland, Geir (2005), “Fisheries Management in Post-Soviet Russia: Legislation, Principles and Structure”, *Ocean Development & International Law* 36(2): 179–194.

**Table: Scientific Recommendations, Established TACs and Reported Catches of Northeast Arctic Cod during the Period 1990–2006**

Year	Primary recommendation (ICES)	Established TAC	Reported catches*
1990	172,000	160,000	212,000
1991	215,000	215,000	319,000
1992	257,000	356,000	513,000
1993	385,000	500,000	582,000
1994	649,000	700,000	771,000
1995	682,000	700,000	740,000
1996	746,000	700,000	732,000
1997	787,000	850,000	762,000
1998	514,000	654,000	593,000
1999	360,000	480,000	485,000
2000	110,000	390,000	415,000
2001	263,000	395,000	426,000
2002	182,000	395,000	535,000
2003	305,000	395,000	552,000
2004	398,000	486,000	606,000
2005	485,000	485,000	641,000
2006	471,000	471,000	-

\*) Including estimated unreported catches of 25,000 tons in 1990, 50,000 tons in 1991, 130,000 tons in 1992, 50,000 tons in 1993, 25,000 tons in 1994, 90,000 tons in 2002, 115,000 tons in 2003, 117,000 tons in 2004 and 166,000 tons in 2005.

Sources: Recommendations: ACFM/ICES reports for the year in question; TACs: protocols from sessions in the Joint Norwegian–Russian Fisheries Commission for the year in question; catches: ICES AFWG Report 2006, Copenhagen: International Council for the Exploration of the Sea, 2006.

## Reading Tip

### Polish-Russian Relations

With contributions by Cornelius Ochmann and Alexey Ignatiev / Petr Shopin

KICES Working Papers No. 8 – March 2007

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Founded in 1982 and led by Prof. Dr. Wolfgang Eichwede, the Research Centre for East European Studies (Forschungsstelle Osteuropa) at the University of Bremen is dedicated to socialist and post-socialist cultural and societal developments in the countries of Central and Eastern Europe.

The Research Centre possesses a unique collection of alternative culture and independent writings from the former socialist countries in its archive. In addition to extensive individual research on dissidence and society in socialist societies, since January 2007 a group of international research institutes is participating in a collaborative project on the theme "The other Eastern Europe – the 1960s to the 1980s, dissidence in politics and society, alternatives in culture. Contributions to comparative contemporary history", which is funded by the Volkswagen Foundation.

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