The Greenland-Jan Mayen Case and its Significance for the International Law of Maritime Boundary Delimitation

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Introduction

On 14 June 1993 the International Court of Justice delivered its judgment in the Case Concerning Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. Norway). In this case the court determined the boundary between the continental shelves and 200-mile fishery zones of the Norwegian island of Jan Mayen and the Danish island of Greenland. The case marks a significant step in the evolution of the international law of maritime boundary delimitation, in particular because it is the first time that the full court has had to consider the delimitation of the boundaries of maritime zones other than the continental shelf, and the first time that the court has had to apply Article 6 of the 1958 Convention on the Continental Shelf.

It is not the aim of this article to subject each and every aspect of the court’s judgment to a detailed analysis and commentary. Rather, the article will focus on discussing those aspects of the judgment which are of more general application and on trying to assess their significance for the international law of maritime boundary delimitation. In order for this discussion to be understood in its context, it will be preceded by a relatively brief summary of the court’s judgment. First, however, it is necessary to begin by setting out the relevant background to the case.

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1 At the time of writing the court’s judgment had not been published. This article is based on the mimeographed version of the judgment produced by the court.
2 The Gulf of Maine case (Case Concerning Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada v. USA) ICJ Rep [1984] 246), which concerned the boundary of fishery zones in addition to that of the continental shelf, was heard by a Chamber of the Court.

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The Background to the Case

Jan Mayen is a remote, barren island lying in the western Norwegian Sea, about 540 n.m. west of northern Norway, 290 n.m. north-east of Iceland and 250 nautical miles east of Greenland. It is about 53 km. long and 15-20 km. wide, and has a total area of some 373 sq. km. Jan Mayen was a terra nullius until 1929, when it was claimed by Norway and formally incorporated into the kingdom in the following year. Jan Mayen has no permanent population: about 25 people from mainland Norway live temporarily on the island at any one time in order to staff the meteorological and radio stations there.

If one regards Australia as a continent rather than an island, then Greenland is the largest island in the world. It has been a Danish possession for centuries, although since 1979 it has enjoyed a considerable degree of self-rule. Greenland has a population of about 55,000, of whom about 6 per cent live in eastern Greenland, that part of Greenland involved in the boundary delimitation with Jan Mayen.

To understand how the need for a maritime boundary between Greenland and Jan Mayen arose, it is necessary to go back to the mid- and late 1970s, when claims to 200-mile zones were first being made in the North Atlantic. It is also necessary to consider the position of the third state in the Greenland-Jan Mayen region, namely Iceland. And it is with Iceland that we begin. In 1975 Iceland extended its fishery limits to 200 miles. In relation to neighbouring states the legislation provided that where the distance between Iceland and Greenland was less than 400 miles, the outer limit of Iceland's fishery zone should be the equidistance line: where the distance between Iceland and Jan Mayen was less than 400 miles the legislation was not to be "enforced for the time being or until further notice in the area outside the equidistance line". In 1979 Iceland adopted further legislation concerning maritime zones. This legislation, inter alia, substituted a 200-mile economic zone for the previous 200-mile fishery zone and, significantly, contained no provision corresponding to that in the 1975 legislation concerning non-enforcement beyond the equidistance line in relation to Jan Mayen. The legislation also redefined the outer limit of Iceland's continental shelf as being 200 miles or the outer edge of the continental margin (previously it had been the depth at which the resources of the seabed were exploitable).