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The scope for Norwegian commitments related to international research operations on Jan Mayen Island

INTRODUCTION

According to our programme, the topic which I have been invited to address is called "The scope for Norwegian commitments related to international research operations on Jan Mayen Island". I must admit that, initially, I found the theme rather wide-ranging, and even a trifle puzzling. However, the way I interpret it, the emphasis is on the word scope, to a considerably lesser extent on the word commitments (or, more specifically, Norwegian commitments), whereas I understand I am not expected to elaborate too extensively on research operations, whether they be national or international in nature.

This is just as well, not only because my own expertise as far as research activities are concerned, is rather limited, but also - or perhaps I should say mainly - because these grounds have been covered so thoroughly by previous speakers that there is precious little left for me to explore.

In the course of this conference, we have been provided with extensive and detailed information about relevant past, present and future scientific

research activities in the Jan Mayen area. So, whatever additional revelations I would present about such activities, would be pure speculation and a waste of time.

GENERAL REMARKS

As a point of departure in describing the scope for Norwegian commitments related to international research operations on Jan Mayen, it could be tempting to use the old catchphrase "The sky is the limit!" In fact, there are very few, if any, pre-ordained restrictions limiting the scope of operations that can be contemplated, - subject to such variables as your imagination, your financial resources and your priorities.

However, there will always be a number of considerations that will narrow down your options and provide the more or less rigid modalities for the kind of activities that would seem worthwhile or possible to embark on. This, of course, goes for research operations as well.

That leaves us with the challenging task of trying to identify and outline the main parameters that must - as far as Norway is concerned - be taken into consideration when discussing any project dealing with international research operations on Jan Mayen. And when I say "as far as Norway is concerned", this is not meant to apply only to any prospective endeavours on the part of the Norwegian government. I am talking of such parameters which would also apply to any other activity by any other party, insofar as they would also have to take account of relevant rules or guidelines established by Norwegian authorities.

Reverting for a second to the use of the term "*Norwegian commitments*" in this particular context, I shall proceed on the understanding that we are not talking about any actual commitments or obligations (financial or otherwise) that has been undertaken or might be undertaken by the Norwegian government.

To put it bluntly, I am not in the position to make any commitments one way or the other on behalf of the Norwegian government. What we are looking at here, are the modalities or parameters for any such operations, whether they be government-sponsored or not.

Thus, the main parameters that together form the scope for Norwegian commitments (actual or possible) in our context, may be roughly identified or grouped in the following categories:

- 1. Physical characteristics incl. limitations (location, geography, climate)**
- 2. Legal status, in terms of viz.**
 - international law
 - national (domestic) legislation
- 3. Infrastructure and logistics (existing and prospective)**
- 4. National policies concerning research or related activities**

THE VARIOUS PARAMETERS

1. Physical characteristics

We are talking about a small island - 373 square kilometers (or slightly less than 146 square miles) - located in a rather remote part of the North Atlantic Ocean, between 70 and 72 degrees Northern Latitude, and between 8 and 9 degrees Western Longitude. To illustrate the remoteness: The island is situated 600 km NE of Iceland, 500 km E of Greenland, 1000 km W of mainland Norway, 1000 km SW of the Spitsbergen island of the Svalbard archipelago.

Geologically and geo-tectonically, the island is a volcanic outcrop of the Mid-Atlantic Ridge. The island is rocky and mountainous, with the highest peak at 2277 meters (Mt. Beerenberg), which is a snow-covered and still active volcano. The climate is windy and rather cold, as the island lies in the border zone between the high arctic and the sub-arctic. The coast-line is rough, with no natural harbours. As a result of the climate, the size of the island and its distance from other land areas, the local ecosystems (whether we talk about flora or fauna) do not display a particularly rich biodiversity, at least not when we are talking of terrestrial species (the surrounding marine areas are a different matter).

We are, in other words, talking of a desolate mini-universe, a far-off place with a rather inhospitable natural environment.

This, obviously, has also had an impact on the character and the extent of human activities.

The island has no indigenous human population and no long-term settlers. Since the early 17th century, the island was visited on and off by a diverse lot, including whalers, adventurers, explorers and even

scientists (i.e. the Austro-Hungarian expedition during the 1st International Polar Year 1882-83), but no permanent (or should we say, continuous) settlement existed until the establishment of the first meteorological station in 1921. The population (which has always consisted of temporary residents) reached an all-time high in the late 1960's with approximately 40 souls, mostly personnel from The Norwegian Defence Communication and Data Services Administration, an outfit which is now known as the Defence Logistics Organization. Since then, the number of inhabitants has shrunk to 18 persons, and a further downscaling is envisaged as a result of the proposed phasing-out of the Loran-C station.

The implications of the physical parameters with regard to logistics and infrastructure, have already been dealt with by previous speakers.

Without going into any further discussions of these matters, it may be worthwhile noting the apparent paradox that those very physical characteristics that make Jan Mayen such a difficult place for research operations (the remote location, the forbidding climate etc.) seem to be the very same factors that make the island such an interesting and attractive place for carrying out scientific observations.

2. Legal status

Legal status in terms of international law:

Norwegian sovereignty

Any international activities with regard to Jan Mayen island must take into account the status of the territory in terms of international law, or more specifically, take note of the trivial but nevertheless crucial fact that this is Norwegian territory.

Up until 1922 the legal status of Jan Mayen was *terra nullius* i.e. "no-man's land". In that year the island was annexed by the Norwegian Meteorological Institute on behalf of the Kingdom of Norway, and by Royal resolution (Order-in-Council) of 8 May 1929 the Norwegian government reconfirmed the legal status of the island by a formal decree of Norwegian sovereignty.

The further legal basis for the exercise of Norwegian jurisdiction was established by the Jan Mayen Act of 27 February 1930, which, *inter alia*, decided that Jan Mayen is an integral part of the Kingdom of Norway. Thus, the legal status of Jan Mayen is basically - in this regard - the same as the Svalbard archipelago, and unlike the Norwegian possessions in the Antarctic, which are *dependencies*, and not integral parts of the Kingdom. Until 1995, the island was administered by the Governor of Svalbard. The Svalbard Treaty, however, does not apply to Jan Mayen, which means that Norwegian jurisdiction can be exercised without any considerations concerning restrictions contained in the Treaty. Or, to put it in another way: The position of the Norwegian government with regard to international research operations or any other kind of operations on Jan Mayen, is not affected by any specific obligations or restrictions in terms of international agreements or any other instrument of international law.

The island's status as a part of the Kingdom does, however, mean that any international conventions or agreements which Norway is a party to and is bound by, will also apply to the territory of Jan Mayen, unless Norway has taken a reservation in this respect in connection with the ratification.

It should be noted that the Norwegian sovereignty over Jan Mayen is unquestioned and unquestionable. The sovereignty is not dependent on any official presence or any particular kind of activity, and it has not been disputed by any other country.

The continental shelf and the Jan Mayen Fishery Zone

The 1982 U.N. Convention on Law of the Sea (UNCLOS) lays down the rules on what kind of international legal authority over sea, seabeds and underground that can be claimed on the basis of sovereignty over islands. The main rule is that islands provide the same legal basis as other coastal areas. The rights under the Convention apply to islands independently of such factors as area, population size and socio-economic considerations.

The decisive factor with regard to jurisdiction is whether the area satisfies the Convention's definition of "island". There is no doubt that this is the case for Jan Mayen.

Thus, the Norwegian sovereignty over Jan Mayen gives Norway the right to the continental shelf around the island, and the right to establish maritime zones. Thus, and also pursuant to the Act of 17 December 1976 concerning Norway's Economic Zone, the Jan Mayen Fishery Zone was established by government regulation of 23 May 1980.

Delimitations

The delimitations between viz. fishery zone/EEZ and continental shelf between Jan Mayen and Iceland were established by agreements of viz. 28 May 1980 and 22 October 1981 between Norway and Iceland. After the conclusion of the 1980 agreement Norway established a fisheries limit of 200 n. miles around Jan Mayen. The delimitation did not, however, follow the generally accepted method of using the median line. Instead, the boundary was drawn in a way that reduced the area in the border zone with Iceland, whereas Iceland kept a full EEZ of 200 n. miles. One argument in favour of this solution was that the land area of Iceland is larger than that of Jan Mayen. Another argument was that Iceland's population had a greater need for access to the fish stocks than Norwegians, or the Norwegians on Jan Mayen in particular. The validity of such arguments in terms of international law is doubtful (to put it mildly), but Norway nevertheless opted for accommodating the Icelandic views.

The method for the delimitation in the sea between Jan Mayen and Greenland was settled by the International Court of Justice in the Hague in a verdict of 14 June 1993. The Court interpreted the 1958 Geneva Convention on the Continental Shelf in the light of common international law. The verdict confirmed that *population size* and *other socio-economic considerations* were not relevant to the delimitation issue. On the other hand it was taken into account that Greenland had a relatively longer coastline adjacent to the sea area in question, and that Greenland should be given a reasonable access to the fish resources in the disputed area. The verdict was subsequently used as the basis for the

delimitation agreement of 18 December 1995 between Norway and Denmark concerning the area between Jan Mayen and Greenland.

Territorial waters

The island of Jan Mayen has its own sea territory.

By governmental decree of 25 February 1812, the territorial waters of Norway were ruled to comprise the waters within a distance of 4 n. miles from the coast. As a result of the annexation of Jan Mayen, this rule was also introduced here. The definition of the present territorial limits was established by Royal resolution (Order-in-council) of 30 June 1955.

As some of you will have registered, Norway has recently decided to extend its territorial limits from 4 to 12 n. miles from 1 January 2004.

This enlargement will also take effect with regard to Jan Mayen.

Legal status in terms of national (domestic) legislation

General and basic legislation

National (domestic) legislation defines how public matters are organized, and - to put it in simple terms - defines what you can and what you cannot do.

In terms of the Jan Mayen Act of 27 February 1930, § 2, Norwegian civil law, criminal law and administration of justice apply on the island. Other Norwegian laws apply only to the extent that this has been explicitly so decided by the government.

There is no privately owned land and no privately owned buildings, and the law forbids private acquisition of government property.

The Jan Mayen Act applies to the island's land territory and its territorial waters. Outside of the territorial limits, laws and regulations must have their legal basis in the aforementioned Act of 17 December 1976 concerning Norway's Economic Zone, or, they must be based on the presumption that Norwegian legislation apply in accordance with interlegal rules (cfr. § 12 of the Norwegian Criminal Code).

With regard to the continental shelf, the legal basis for regulations is to be found in two acts from the 60's: Viz. the Act of 21 June 1963 and the Act of 29 November 1966. The latter concerns petroleum operations, the former concerns scientific exploration for and exploitation of other kinds of resources under the sea-bed. These acts have a general field of application, and do not relate to the seabed around Jan Mayen in particular.

As I mentioned briefly a few minutes ago, the administration of Jan Mayen was previously the responsibility of the Governor of Svalbard. As this was felt to be an awkward and not very logical arrangement, the government decided on 25 August 1994 to transfer the administrative responsibilities to the County Governor of Nordland fylke. The administration of justice is the responsibility of the Salten District Court, and police matters are the responsibility of the Police Commissioner of Bodø.

The Head of the Loran-C station is the ranking local representative of civilian and military authorities, and is entrusted with the task of enforcing laws and regulations, and taking care of Norwegian interests.

If there were to be any mining operations, those would fall under the jurisdiction of the mine superintendant of Svalbard and Jan Mayen, whose office is presently located in Trondheim..

Specific relevant legislation

There is a wide range of laws and regulations which may be seen to have some relevance to the scope for Norwegian commitments related to international research operations on Jan Mayen. In this short lecture, I'd like in particular to remind participants of two such areas of legislation, viz. (1) the regulations concerning the access of foreign nationals to the island; and (2) legislation concerning environment protection.

Regulations concerning the access of foreign nationals to Jan Mayen

The present regulations (FOR 1962-06-01 nr 01) came into force in 1962 and contain 7 main articles with 15 paragraphs and numerous sub-paragraphs, spelling out detailed rules and restrictions concerning passport and visa requirements, entrance and exit control, residence permits, work permits, access denial and deportation rules. Of particular interest with regard to prospective international research operations are the paragraphs dealing with residence and work permits, which run like this:

§ 8. A foreign national arriving at Jan Mayen may be issued with a police permit to stay on the island for the maximum of one week provided that he will be able to leave the island by sea or air at the time of expiry of the permit. If a foreign national intends to stay for more than one week, he must obtain advance permission from the Ministry of Justice.

§ 9. The police shall keep a register of foreign nationals who have been issued with a permit to stay on the island.

§ 10. A foreign national who intends to seek any kind of work on Jan Mayen must obtain in advance a specific permit from the Ministry of Justice.

Legislation concerning environment protection

There is no unified body or single piece of comprehensive legislation covering the various aspects of environment protection on Jan Mayen. Most of the relevant rules are laid down in a number of separate governmental regulations which have their legal basis in legislation of a broader or more sweeping character, such as the Jan Mayen Act of 27 February 1930.

Such rules include:

- Temporary regulation of 28 May 1971 concerning the natural environment on (Svalbard and) Jan Mayen.
- Regulation of 23 April 1976 concerning mining operations on Jan Mayen.
- Regulation of 11 August 1978 concerning the management of wildlife and freshwater fish on (Svalbard and) Jan Mayen.
- Regulation of 21 June 1974 concerning protection of objects of cultural heritage.

The question of revising these rules and amalgamating them into a single, consolidated regulation, was addressed and dealt with by the select committee which in 1998-98 prepared and drafted the proposed the new Environment Protection Act concerning Svalbard, which was eventually adopted in 2002.

The outcome of this work as far as Jan Mayen is concerned, can be summarized as follows:

- (1) Jan Mayen is not included in or covered by the Svalbard Environment Act;
- (2) Neither were any further measures taken to consolidate the various existing regulations concerning Jan Mayen; but
- (3) The Jan Mayen Act of 27 February 1930 was amended to include the sentence "The King may issue regulations concerning environment protection on Jan Mayen".

Thus, the existing regulations were given a more up-dated legal basis. This does not make much of a difference in practical terms as far as the consequences for research operations are concerned. It should, however, be noted that when addressing these issues, the select committee re-iterated and reconfirmed the guiding principle which is considered paramount in Norwegian policies on the environment and nature management :

That environment considerations shall be given preference whenever there may be a conflict with other interests or considerations.

The main point to be noted here is that any kind of activity on Jan Mayen - including research operations in general and prospective international research operations in particular - must take into considerations the stringent requirements that these regulations entail.

For further information on this subject I would like to refer participants to the "Environmental Action Plan for Jan Mayen" for the years 2000 to 2005, which has been produced in cooperation between the County

Governor of Nordland fylke, the Norwegian Directorate for Nature Management, the Norwegian Polar Institute and the Directorate for Culture Heritage.

3. Infrastructure and logistics

The third of these parameters - the infrastructure - has been thoroughly dealt with by the previous speaker. Mr. Leif Tviberg has already said what needs to be said about both the present status and the plans - actual plans as well as tentative ones - for the future. The only thing that's left for me is to state the obvious - namely that the continued existence of, and the continued maintenance of a basic infrastructure, is a necessary prerequisite for any type of sustained operations - including research operations - on Jan Mayen Island.

4. National policies concerning research or related activities

When discussing the scope for Norwegian commitments related to international research operations on Jan Mayen Island, a key question that needs to be addressed is: How do such prospective research operations fit together with the broader national policies, strategies or plans?

To spell it out more specifically: Is there a modicum of compatibility? Is there a potential for useful synergies? Or perhaps even a potential for institutional co-operation, such as joint ventures with regard to projects? Or conversely, are there any contradictory objectives, any insurmountable obstacles?

Such questions cannot be answered on a general level, they have to be considered on the basis of the character of the respective individual research operations that may be proposed.

Meanwhile, it would be useful to familiarize oneself with the main plans and strategies that may be labeled "national policies" in this area.

And I might add, to the extent that one would envisage any "commitments" on the part of the Norwegian government, related to international research operations on Jan Mayen, it would not only be useful, but essentially necessary for any would-be operator to familiarize oneself with such plans and strategies. It probably goes without saying that any involvement by the Norwegian government in research operations would only take place in terms of, or on the basis of, declared government policy, as laid down in a relevant policy document.

Policy documents which deal with Jan Mayen in particular are scarce, but the Jan Mayen situation should be considered in the broader context of Norwegian research policies in general, and more specifically, in the context of Norwegian policies concerning research in the Arctic.

Thus, in December 1998 a working group headed by the Research Council of Norway presented a report in which it identified a number of subject areas where there were special opportunities for cooperation and synergy, and described future development projects. The subject areas concerned accord with the priorities established in the Research Council's strategic plan for Norwegian research in the Arctic (1995). A brief description of the subject areas and projects were given in the Parliamentary (Storting) White Paper no. 9 (1999-2000) concerning Svalbard, chapter 8.5.4.

A similar presentation was given in the Parliamentary White Paper no. 39 (1998-99) on national research policies, esp. chapter 5.2.2.

Although the descriptions mentioned here deal exclusively with Svalbard, it stands to reason that similar considerations (with regard to past experience as well as current and future tasks) would be applicable to the Jan Mayen situation.

A more recent policy document which addresses these issues has recently been prepared by the Norwegian National Committee for Polar Research. This document, which is called "Strategic Plan for research in the Arctic 2003-2007", has apparently not yet been endorsed by the Norwegian Research Council, which means that the status of this Strategic Plan is still "unofficial". With this reservation, I would assume that this draft Strategic Plan may give some useful indications concerning the key elements and main directions of Norwegian national policies on research matters in relation to Jan Mayen.

I'm afraid I am not in the position to be more specific than this. However, the obvious advice to any party entertaining plans for research operations related to Jan Mayen, would be to familiarize themselves with existing policies, plans and strategies. The equally obvious next step would be to establish contacts with the relevant responsible research institutions and agencies with a view to finding some common ground that would facilitate fruitful cooperation.

CLOSING REMARKS

You will have noticed that during this brief presentation, I have systematically avoided discussing any concrete or actual instances of involvement on the part of Norwegian authorities in international research operations on Jan Mayen.

Presumably, such instances do exist.

The Loran-C station, which is going to be phased out, but which for many years has constituted the main activity on the island (and which is also the main reason for maintaining the present infrastructure), may not exactly be called a "research operation" in the narrow sense, but it certainly is a research-related activity. And as such, it is an activity that takes place in terms of an international cooperation agreement between Norway, Denmark, Germany, France, the Netherlands and Ireland (NELS - Northwest European Loran-C System).

Likewise, the seismological stations on the island provide data for a wider international audience, presumably also for the international supervision system for the Comprehensive Test Ban Treaty (CTBT).

And if we move from onshore to offshore, we acknowledge that the living marine resources is a field of endeavour which naturally lends itself to international cooperation in research activities.

However, as a representative of the Ministry of Foreign Affairs, I do not find it appropriate to elaborate or speculate on specific possibilities for such activities. That is an exercise which should rather be left to the research community, in conjunction with the respective competent authorities. As for the latter, I believe most of them - with the possible exception of the Ministry of Education and Research and a few others - are represented here at this conference.

This will no doubt ensure that after the break, we shall have an interesting discussion concerning the practical options for international scientific collaboration on Jan Mayen.

Thank you for your attention.