

Opportunity to Acquire the Only Privately-Held Property on Svalbard

We are assisting a client in marketing the only privately-owned property on the Norwegian archipelago of Svalbard (alternatively and formerly known as Spitsbergen, the name of the largest island and what Russians continue to call the entire archipelago).

Svalbard is a collection of islands 400 miles north of mainland Norway. All other properties on Svalbard are owned or controlled by Norway or Russia.

This property has significant geopolitical, scientific, and environmental importance.



PROPERTY DESCRIPTION¹

Description: The property is Søre Fagerfjord, at Wedel Jarlsberg in Western Svalbard, recognized in the Svalbard Treaty.

Size: 14,830 acres (23.20 square miles).

¹ Derived from client documents.

Location: The property is located on the southwest corner of the island of Spitsbergen. It can be reached by a 3-hour boat ride from Longyearbyen, a settlement which has regularly scheduled flights from Oslo.

Ownership: The property is held by Aktieselskabet Kulspids, a single-purpose Norwegian limited company incorporated on October 26, 1910. Aktieselskabet Kulspids holds the exclusive ownership to Søre Fagerfjord at Wedel Jarlsberg Land in Western Svalbard, property recognized in the Svalbard Treaty.

Conditions: Ownership of the Company may be transferred to countries that have ratified the Svalbard Treaty or to citizens of such countries or companies lawfully constituted and having their administrations in such countries without any governmental license under Norwegian public law.

SVALBARD

Geographical and Historical Overview

Svalbard, a territory of Norway, lies midway between the northern coast of Norway and the North Pole in the Arctic Ocean. Almost 3,000 people live on Svalbard, the majority of which live in the capital, Longyearbyen. Svalbard is also famous for the Global Seed Vault, which safeguards duplicates of over one million seed varieties from almost every country in the world. Approximately 60% of the archipelago is covered with glaciers, and the islands feature many mountains and fjords, although with significantly higher temperatures than other areas at the same latitude.

Svalbard was first used as a base by whalers in the 17th and 18th centuries. Coal mining started at the beginning of the 20th century, and several permanent communities were established. Research, satellites, fishing, and tourism have now become important supplementary industries away from coal production.

The Svalbard Treaty (or Spitsbergen Treaty) of 1920 recognized the sovereignty of Norway over the Arctic archipelago of Svalbard. The treaty was ratified by 46 states, including the United States, Russia, and China. The treaty grants nationals of signatory nations equal rights to engage in maritime, industrial, mining, and commercial activities on the islands. As a result, Svalbard is both fully Norwegian and yet completely open to the interests of 46 other nations. The treaty also allows for property owners to establish and use for their own purposes wireless telegraphy installations, which are free to communicate with fixed or moving wireless stations. The northern point of Svalbard contains uniquely advantageous conditions for satellite communication.

Article 9 of the treaty demilitarized the islands by banning the installation of naval bases and fortifications or use of Svalbard for “war-like purposes.”

Svalbard is situated squarely within the Arctic. The eight Arctic states are the United States (by virtue of Alaska), Canada, Iceland, Norway, Sweden, Finland, Denmark (by virtue of

Greenland), and Russia. Historically, following the Cold War, the Arctic states have sought to maintain a tradition of cooperation, low tensions, peaceful resolution of disputes, and respect for international law in managing Arctic affairs. The emergence of great power competition between the United States, Russia, and China has introduced elements of competition and tension into the Arctic’s geopolitical environment. Russia’s invasion of Ukraine beginning in late February 2022 has substantially affected US, Canadian, and Nordic relations with Russia in the Arctic.²

The Arctic Council, created in 1996 and consisting of the eight Arctic states, is the leading international forum for addressing issues relating to the Arctic. The Arctic Council is not a treaty-based international organization but rather an international forum that operates on the basis of consensus. Russia is chairing the Arctic Council from 2021 through 2023.



Geopolitical Significance

The region is becoming an arena of increasing tension due to: (1) Geopolitical competition in the region between the United States, Russia, and China; (2) increased military

² Congressional Research Service, *Changes in the Arctic: Background and Issues for Congress* (Mar. 24, 2022).

operations in the region by Russia; and (3) growth in commercial shipping through the Arctic; and heightened oil, gas, and mineral exploration in the Arctic due to diminishing sea ice.³

As Russian official statements, publications, and presidential decrees have acknowledged, Svalbard is of exceptional strategic importance because it is “essentially the gates to the Arctic.”⁴ Svalbard’s location “allows it to control navigation and air traffic in the Arctic Ocean” and is central in controlling access to Russia’s Northern Fleet on the Kola Peninsula.⁵ The Svalbard archipelago sits astride the GIUK Gap (Greenland, Iceland, and UK) at the gate to the Arctic, and at the center of the Bear Island Gap dominating the access route to and from the Northern Fleet’s base.⁶ For Russia’s Northern Fleet, the strategic GIUK Gap would be key to any future sea denial operations in and over maritime areas further south, potentially threatening NATO’s transatlantic sea lines of communication.⁷ Conversely, NATO’s domination of that strategic gap and the so-called Bear Island Gap closer to the Northern Fleet’s base on the Kola peninsula could be seen as a critical threat to the Northern Fleet’s own freedom to maneuver in any future conflict.⁸

Satellite/Surveillance Significance

Because of its high latitude (78°N), Svalbard is also one of the only places on earth that can see a low-altitude polar orbiting satellite (i.e., orbits from pole to pole every 90 minutes) on every revolution as the earth rotates.⁹ In other words, from the high latitude of Svalbard, it is possible to connect with a polar-orbiting satellite on each of the 15 or so passes it typically makes every day.

Svalbard currently hosts the Svalbard Satellite Station (SvalSat), which is a major satellite ground station located near the capital Longyearbyen.¹⁰ It was established in 1996 and is operated by Norwegian company Kongsberg Satellite Services. SvalSat is part of NASA’s Near Earth Network, which includes support for several satellites under the umbrella of different

³ Office of the Director of National Intelligence, National Intelligence Council, *Climate Change and International Responses Increasing Challenges to US National Security Through 2040*, NIC-NIE-2021-10030-A, at 7, 8, 16.

⁴ LawFare, *A Case Study of Russia’s Arctic Posture* (Feb. 14, 2022) (quoting 2020 article on official site of the Russian Ministry of Foreign Affairs by Igor Khalevinsky, chairman of the Russian diplomats’ association).

⁵ *Id.*

⁶ Chatham House, *The Militarization of Russian Polar Politics* (June 6, 2022).

⁷ *Id.*

⁸ *Id.*

⁹ N.Y. Times, *Here’s the Arctic Station That Keeps Satellites Connected* (May 31, 2021).

¹⁰ *Id.*

NASA programs.¹¹ The United States Geological Survey and the National Oceanic and Atmospheric Administration also operate satellites using SvalSat (Landsat and Suomi NPP, respectively).¹²

SvalSat is connected to the Norwegian mainland by a series of fiber-optic cables known as the Svalbard Undersea Cable System. These cables make possible the transmission of massive amounts of data downloaded by SvalSat from the network of polar-orbiting satellites. (One section of the cables was severed in January 2022 from suspected human activity, although the cables have redundancy in place to maintain operations.)¹³

Environmental Significance

Climate changes in the Arctic have included warming ocean, soil, and air temperatures; melting permafrost; shifting vegetation and animal abundances; and altered characteristics of Arctic cyclones. For Svalbard, melting glaciers and permafrost will allow more exploration for oil, gas, and precious minerals (of which Svalbard has many), as well as more tourism in the form of cruise ships.¹⁴

The diminishment of Arctic sea ice has also led to increased human activities in the region. This could lead in coming years to increased commercial shipping on two trans-Arctic sea routes—the Northern Sea Route close to Russia, and the Northwest Passage close to Alaska and through the Canadian archipelago.¹⁵ The National Intelligence Council predicted the following in an October 2021 report¹⁶ on the effect of climate change:

- Arctic and non-Arctic states almost certainly will increase their competitive activities as the region becomes more accessible because of warming temperatures and reduced ice. Competition will be largely economic, but the risk of miscalculation will increase modestly by 2040 as commercial and military activity grows and opportunities are more contested.
- Diminishing sea ice probably will increase access to shipping routes that can reduce trade times between Europe and Asia by about 40 percent for some vessels. In addition,

¹¹ See NASA, Near Earth Network.

¹² N.Y. Times, *Here's the Arctic Station That Keeps Satellites Connected* (May 31, 2021).

¹³ The Barents Observer, “*Human Activity*” *Behind Svalbard Cable Disruption* (Feb. 11, 2022).

¹⁴ *Id.* at 13.

¹⁵ *Id.*

¹⁶ Office of the Director of National Intelligence, National Intelligence Council, *Climate Change and International Responses Increasing Challenges to US National Security Through 2040*, NIC-NIE-2021-10030-A, at 7, 8, 16.

onshore oil and natural gas deposits, as well as an estimated \$1 trillion worth of precious metals and minerals will become more available.

- Warming ocean temperatures probably will push Bering Sea fish stocks northward into the Arctic Ocean, according to a NOAA study, which could increase commercial and illegal fishing activity in the region and exacerbate regional disputes between Arctic and non-Arctic states over-fishing rights.
- Coastal erosion and thawing permafrost will damage critical infrastructure. Massive investment in infrastructure would be needed to maximize the economic potential of the region, ranging from new ports to mining, offering foreign powers an opportunity to gain a foothold by investing in new infrastructure and rebuilding and hardening existing infrastructure.
- Military activity is likely to increase as Arctic and non-Arctic states seek to protect their investments, exploit new maritime routes, and gain strategic advantages over rivals.
- The increased presence of China and other non-Arctic states very likely will amplify concerns among Arctic states as they perceive a challenge to their respective security and economic interests. China, France, India, Japan, South Korea, and the United Kingdom have released Arctic strategies mostly focused on economic opportunities, but some address security issues, which has prompted Russian policymakers to repeatedly state since 2018 that non-Arctic countries do not have a military role in the region.

ALLY/ADVERSARY INTERESTS IN SVALBARD

Norway

Norway, under the terms of the treaty, retains absolute sovereignty over Svalbard. Norway also maintains that it has exclusive rights to the continental shelf. Russia and several other signatory states (including NATO allies) disagree with Norway's claim and question its entitlement to maritime zones around Svalbard without their agreement.¹⁷

In February 2020, a disagreement arose between Norway and Russia regarding Russia's access to Svalbard under the terms of the Svalbard Treaty. Russia has objected to certain Norwegian actions regarding Svalbard and reportedly is taking steps within the terms of the treaty to enhance its presence in Svalbard. Russian Foreign Minister Sergei Lavrov claimed in his message to the Norwegian foreign minister that Russia has free access to Svalbard and can conduct "economic activities on conditions of full equality," despite the treaty's silence on the continental shelf, much less drilling into it. Lavrov told Norway to sit down to negotiate "removing limits on Russian activities"—an overture clearly aimed at allowing Russian continental shelf drilling. He stated that Russia had long-term plans of diversification and

¹⁷ Marshall Center, *Svalbard: NATO's Arctic 'Achilles Heel'* (Sept. 2021).

modernization and had no intention of cutting down its presence, a thinly veiled threat that Russia would drill with or without Norwegian permission.¹⁸

A February 11, 2022 press report quoted the chief of Norway’s intelligence service as stating: “We see that Russia acts more careful[ly], [with] self-restraint here [in the north] compared with what they do in the Baltic Sea and especially in contrast to the Black Sea. . . . It is our understanding that Russia wants low tensions and stability in the north.”¹⁹

Russia

Since 2008, Russia has adopted a series of strategy documents outlining plans that call for, among other things, bolstering the country’s Arctic military capabilities. Russia intends to create a robust staging ground in the Arctic to project power, primarily in the North Atlantic.

The Svalbard Archipelago sits just to the west of the Northern fleet’s home port of Murmansk. The islands act as a bottleneck with the north cape of Norway that Russia describes as a strait. Russia surface vessels and submarines must pass through that narrow area before proceeding past Greenland, Iceland, and the United Kingdom, into the North Atlantic, likely explaining why Russia protests so stringently to the mere potential military use of Svalbard by another nation.²⁰ Accordingly, for Russia’s Northern Fleet, Svalbard and the nearby GIUK Gap is seen as key to any future Russian sea denial operations in and over maritime areas further south. Conversely, NATO’s domination of that strategic gap is considered a critical threat to the fleet’s own freedom of maneuver in any future conflict.

In an article published on the official site of the Russian Ministry of Foreign Affairs in 2020, Igor Khalevinsky, the chairman of the Russian diplomats’ association, acknowledges that Svalbard is of exceptional strategic military importance to Russia because it is “essentially the gates to the Arctic.” He also emphasizes that Svalbard’s position allows it to control navigation and air traffic in the Arctic Ocean, and he points out that, in the 20th century, the Soviet Union repeatedly asked Norway to allow its military forces on the islands. Sergey Gushchin, Russian general consul in Svalbard, alleged in an interview with *Rossiyskaya Gazeta*, a state-run paper, that Svalbard is Russian, as it is “covered by the blood and sweat of our ancestors.”²¹

Russia continues to have a keen interest in drilling in Svalbard’s continental shelf, with its tremendous untapped deposits of copper, zinc, gold, rare metals, oil and gas. Putin’s Arctic 2035 strategy road map shows that, in the short run, Russia is not giving up its attempts to get

¹⁸ Congressional Research Service, *Changes in the Arctic: Background and Issues for Congress* (Mar. 24, 2022), at 27-28; LawFare, *A Case Study of Russia’s Arctic Posture* (Feb. 14, 2022).

¹⁹ Barents Observer, *Russia Showed ‘More Caution and Restraint’ in Arctic Over Past 18 Months, Says Norwegian Intelligence* (Feb. 11, 2022).

²⁰ Zimmerman, *High North and High Stakes: The Svalbard Archipelago Could be the Epicenter of Rising Tension in the Arctic* (Nov. 2018).

²¹ LawFare, *A Case Study of Russia’s Arctic Posture* (Feb. 14, 2022).

access to Svalbard’s continental shelf. In the long run, it appears that Russia might even be entertaining the idea of annexing the islands for military and economic purposes.²²

Barentsburg is the second largest city and last remaining active Soviet-era coal settlement in Svalbard. The coal reserves are mostly depleted, and the settlement is dependent on Russia for food and other provisions. Barentsburg has a Russian consulate and is run by state-owned oil company Arktikugol.²³

China

China’s growing diplomatic, economic, and scientific activities in the Arctic have emerged in recent years as a matter of focus for U.S., Canadian, and Nordic policymakers. In 2013, China was one of six non-Arctic states that were approved for observer status by the Arctic Council. In January 2018, China released a white paper on China’s Arctic policy that refers to China as a “near-Arctic state.” The white paper refers to trans-Arctic shipping routes as the Polar Silk Road and identifies these routes as a third major transportation corridor for the Belt and Road Initiative, China’s major geopolitical initiative first announced by China in 2013.²⁴

China has demonstrated an interest in establishing scientific and other facilities in the region that might help it maintain Arctic access. It has eight Arctic research stations, including the Yellow River Station in Svalbard which can accommodate over 25 people. There have been some relatively low-level disagreements between China and Norway regarding Beijing’s use of this facility.²⁵

Additionally, China has indicated a growing interest in pursuing mining opportunities in the Arctic, especially for rare earths. This has led to enhanced diplomatic and commercial contacts between China and Greenland in particular. That outreach could expand to other Arctic countries, possibly including Norway and perhaps also involving Svalbard where China already has a presence.

In 2014, Chinese propaganda official-turned-billionaire businessman Huang Nubo tried to purchase 200 acres in Svalbard for a resort and airfield, but this failed due to concerns about the quantity of land and the unclear motivations of the investor.²⁶

North Korea

²² *Id.*

²³ Heritage Foundation, *Arctic Security Is Not About Preparing for War, But About Preparing for the Future* (Jan. 22, 2020).

²⁴ Congressional Research Service, *Changes in the Arctic: Background and Issues for Congress* (Mar. 24, 2022), at 35.

²⁵ Brookings Institution, *Northern Expedition: China’s Arctic Activities and Ambitions* (April 2021).

²⁶ *Id.*

North Korea signed the Svalbard treaty in 2016. This accession provides North Korea with rights to “conduct economic activities and scientific research in the Svalbard islands,” the official North Korean news agency release said. There has been no North Korean activity on the Archipelago other than contributing seed to the Seed Vault. However, the terms of the Svalbard Treaty giving rights to countries acceding to it would seem to make it possible for a country even otherwise under sanctions to undertake research activities there if it chose to do so and had the territory from which to operate.

US Arctic Focus

- Arctic Ambassador-at-Large: On Aug. 26, 2022, Secretary Blinken announced that President Biden will soon elevate the Arctic Coordinator position, which is currently occupied by James DeHart, by appointing an Ambassador-at-Large for the Arctic Region, subject to the advice and consent of the Senate. The Ambassador will advance U.S. policy in the Arctic, engage with counterparts in Arctic and non-Arctic nations as well as Indigenous groups, and work closely with domestic stakeholders, including state, local, and Tribal governments, businesses, academic institutions, non-profit organizations, other federal government agencies and Congress.²⁷
- Arctic Executive Steering Committee: On Sept. 24, 2021, the Biden Administration announced that it was reactivating AESC, a mechanism to advance U.S. Arctic interests and coordinate Federal actions in the Arctic. AESC will also facilitate the implementation of the Northern Bering Sea Climate Resilience Area. The Administration also announced that it was hiring Ambassador David Balton as Executive Director and Raychelle Aluaq Daniel as Deputy Director.²⁸
- Congress: In the House, the Arctic Working Group Caucus has been co-chaired by Rep. Rick Larsen and until recently by the late Rep. Don Young. In the Senate, Sens. Lisa Murkowski and Angus King have previously founded the Senate Arctic Caucus.²⁹

²⁷ State Department, *Establishing an Ambassador-at-Large for the Arctic Region* (Aug. 26, 2022).

²⁸ Congressional Research Service, *Changes in the Arctic: Background and Issues for Congress* (Mar. 24, 2022), at 10.

²⁹ *Id.* at 12.