

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 island¹ 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 DESCRIPTION²

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 Russia continues to call the entire archipelago “Spitsbergen”.

² 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 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.³ 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

Geopolitical competition in the region between the United States, Russia, and China; increased military operations in the region by Russia; growth in commercial shipping through the Arctic; and heightened oil, gas, and mineral exploration in the Arctic due to diminishing sea ice are all causing the region to become an arena of increasing tension.⁴

³ Congressional Research Service, *Changes in the Arctic: Background and Issues for Congress* (Mar. 24, 2022).

⁴ 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.

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.”⁵ Svalbard’s location “allows it to control navigation and air traffic in the Arctic Ocean” and is central in controlling access to the Russia’s Northern Fleet on the Kola Peninsula.⁶ 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.^{7 8 9}

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.¹⁰ 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.¹¹ 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 NASA programs.¹² The United States Geological Survey and the National Oceanic and Atmospheric Administration also operate satellites using SvalSat (Landsat and Suomi NPP, respectively).¹³

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.¹⁴

⁵ 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).

⁶ *Id.*

⁷ Chatham House, *The Militarization of Russian Polar Politics* (June 6, 2022).

⁸ *Id.*

⁹ *Id.*

¹⁰ N.Y. Times, *Here’s the Arctic Station That Keeps Satellites Connected* (May 31, 2021).

¹¹ *Id.*

¹² See NASA, Near Earth Network.

¹³ N.Y. Times, *Here’s the Arctic Station That Keeps Satellites Connected* (May 31, 2021).

¹⁴ One section of the cables was severed in January 2022 from suspected human activity, although the cables have redundancy in place to maintain operations. See The Barents Observer, “Human Activity” Behind Svalbard Cable Disruption (Feb. 11, 2022).

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.¹⁵

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.¹⁶ The National Intelligence Council predicted the following in an October 2021 report¹⁷ on the effect of climate change:

- Arctic and non-Arctic states almost certainly will increase their competitive, largely economic, activities as the region becomes more accessible because of warming temperatures and reduced ice.
- 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, 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.

¹⁵ *Id.* at 13.

¹⁶ *Id.*

¹⁷ 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.

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.¹⁸

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 modernization and had no intention of cutting down its presence, a thinly veiled threat that Russia would drill with or without Norwegian permission.¹⁹

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."²⁰

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

¹⁸ Marshall Center, *Svalbard: NATO's Arctic 'Achilles Heel'* (Sept. 2021).

¹⁹ 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).

²⁰ Barents Observer, *Russia Showed 'More Caution and Restraint' in Arctic Over Past 18 Months, Says Norwegian Intelligence* (Feb. 11, 2022).

another nation.²¹ 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.²²

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 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.²³

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.²⁴

China

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 2013.²⁵

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.²⁶

²¹ Zimmerman, *High North and High Stakes: The Svalbard Archipelago Could be the Epicenter of Rising Tension in the Arctic* (Nov. 2018).

²² LawFare, *A Case Study of Russia's Arctic Posture* (Feb. 14, 2022).

²³ *Id.*

²⁴ Heritage Foundation, *Arctic Security Is Not About Preparing for War, But About Preparing for the Future* (Jan. 22, 2020).

²⁵ Congressional Research Service, *Changes in the Arctic: Background and Issues for Congress* (Mar. 24, 2022), at 35.

²⁶ Brookings Institution, *Northern Expedition: China's Arctic Activities and Ambitions* (April 2021).

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.

United Kingdom

One of the original signatories to the Svalbard Treaty, the United Kingdom maintains substantial interests within and around Svalbard. The U.K. Arctic Research Station was established in 1991 at Ny-Ålesund.²⁷ British satellite company SSTL operates a ground station in Svalbard to maximize contact with its fleet of polar-orbiting satellites.²⁸

The Telegraph reported in 2021 that the U.K. foreign minister in 2017, Tobias Ellwood, attempted to persuade the government to purchase land on Svalbard for \$250 million in order to boost its fishing waters and establish a surveillance post.²⁹

Turkey

Turkish President Recep Tayyip Erdoğan signed legislation in July 2022 that would enable the nation to accede to the Svalbard Treaty.³⁰ Turkey intends to establish a research station on Svalbard,³¹ which follows several years of significant investments in scientific research missions in the Arctic region.³² Turkey reportedly also unsuccessfully sought to use the Svalsat satellite station on Svalbard for its high-resolution Earth observation satellite IMECE.³³

²⁷ British Antarctic Society, *UK Arctic Research Station*, <https://www.bas.ac.uk/polar-operations/sites-and-facilities/facility/ny-alesund/>.

²⁸ Surrey, *SSTL installs new ground station in Svalbard* (Jne 24, 2015), <https://www.sstl.co.uk/media-hub/latest-news/2015/sstl-installs-new-ground-station-in-svalbard>.

²⁹ Christopher Hope, *UK looked at buying area of Svalbard to boost fishing waters and set up spy post*, The Telegraph (Apr. 3, 2021), <https://www.telegraph.co.uk/news/2021/04/03/uk-looked-buying-area-svalbard-boost-fishing-waters-set-spy/>.

³⁰ Nuray Babacan- Ankara, *Türkiye to become a party to Svalbard Treaty*, Hürriyet Daily News (July 3, 2022), <https://www.hurriyetaidailynews.com/turkiye-to-become-a-party-to-svalbard-treaty-175058>.

³¹ *Id.*

³² Sebnem Coskun & Ozge Elif Kizil, *Turkish scientists complete 2nd Arctic Ocean expedition*, Anadolu Ajansı (July 26, 2022), <https://www.aa.com.tr/en/science-journey-to-antarctica/turkish-scientists-complete-2nd-arctic-ocean-expedition/2646242#>.

³³ Joseph P. Chacko, *Amid hidden militarization charges, Norway rejects Svalbard satellite station's military use by U.S. and Turkey*, Frontier India (Aug. 25, 2022), <https://frontierindia.com/amid-hidden-militarization-charges-norway-rejects-svalbard-satellite-stations-military-use-by-u-s-and-turkey/>.

European Union

Several European countries as well as the European Union collectively also have strong interests in the region, with 22 E.U. member states as signatories to the Svalbard Treaty. For example, France declared itself in 2021 as a “polar nation” given its “strong tradition of exploration and expeditions in high latitude regions” and “permanent scientific presence in the Arctic.”³⁴

The E.U. and Norway have for many years been at odds over the scope of fishing rights under the Svalbard Treaty. Last year, the E.U. and Norway reached an agreement with respect to cod fishing limits around Svalbard.³⁵ On the other hand, the Norwegian Supreme Court recently ruled against a Latvian shipping company in a long-running dispute over its right to fish for snow crab on the continental shelf outside of Svalbard.³⁶ This dispute may find its way to an international court, bringing more attention to the strategic importance of the Archipelago.

Because of the equal treatment requirements of the Svalbard Treaty, the E.U. and Norway also granted Svalbard an exemption from the E.U.’s recent sanctions packages against Russia following the Ukraine invasion. In particular, Norway’s implementation of the sanctions regime allows Russian fishing, research, and search and rescue vessels to continue docking at Norwegian ports.³⁷

India

India was also an original signatory to the Svalbard Treaty in 1920. In 2007, India began its Arctic Research Program, focusing on climate change, and established a research station called Himadri on Ny-Ålesund.³⁸ Indian companies have invested in Arctic energy and mineral resources, especially liquified natural gas.³⁹ India was re-elected to the Arctic Council in May 2019.⁴⁰

³⁴ Ministry for Europe and Foreign Affairs, *France’s Policy in the Arctic* (Aug. 2021), <https://www.diplomatie.gouv.fr/en/country-files/arctic>.

³⁵ European Commission, *Fisheries: EU and Norway strengthen cooperation for sustainable fishing in the Northeast Arctic* (Apr. 28, 2022), https://ec.europa.eu/commission/presscorner/detail/en/IP_22_2722.

³⁶ *SIA North Star Ltd. v. The State represented by the Ministry of Trade, Industry and Fisheries*, Norwegian Supreme Court judgment 20 March 2023, HR-2023-491-P, (case no. 22-134375SIV-HRET), <https://www.domstol.no/en/supremecourt/rulings/rulings-20232/supreme-court---civil-cases/HR-2023-491-P/>.

³⁷ Astri Edvardsen, *Svalbard Gets Exemptions from New Sanctions against Russia*, High North News (May 5, 2022), <https://www.highnorthnews.com/en/svalbard-gets-exemptions-new-sanctions-against-russia>.

³⁸ Arctic Institute, *India* (last updated Aug. 1, 2022), <https://www.thearcticinstitute.org/country-backgrounders/india/>.

³⁹ *Id.*

⁴⁰ *Id.*