

MARITIME BOUNDARIES IN THE BALTIC SEA: POST-1991 DEVELOPMENTS

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In light of the fishery question, these municipal enactments indicate that the boundary line agreed upon between the former Soviet Union and Sweden in 1988 indirectly found its way into the state practice of Estonia and Sweden, despite the theoretical point of departure.

B. Salient Features

1. Estonia-Latvia Agreement⁵¹

The issue of fisheries prompted Estonia and Latvia to negotiate the first maritime boundary agreement following the disintegration of the former Soviet Union. In the past, the Soviet Ministry of Fisheries conducted the administration of fisheries in the context of a larger Soviet whole. *Zapryba*,⁵² headquartered in Riga, managed operations of distant-water fisheries in the west.

Fishermen of both countries either (1) formed part of the mighty Soviet distant-water fishing fleet that roamed the high seas or exclusive economic or fishing zones of other countries; (2) were fishing in the Baltic in an area extending from the Gulf of Finland in the North to the Kaliningrad area in the South; or (3) were involved in inland fisheries and aquaculture within the broader Soviet state planning system. The market was totally oriented towards the U.S.S.R.

This situation drastically changed after independence, giving rise to an acute fishing problem between Estonia and Latvia. Inside the Gulf of Riga tensions rose dramatically. This tension finally erupted into an outright fish-war,⁵³ with Estonian coastguard vessels inspecting and seizing Latvian fishing boats and Latvia threatening to send in naval vessels to protect its fishing boats. The issue was further complicated by the Soviet claim that the

Sea and in the Baltic Sea, Nov. 25, 1994, art. 4 (entered into force Jan. 1, 1995), *reprinted in* 27 LAW OF THE SEA BULLETIN 57-59 (1995) and the Danish Act No. 411 on Exclusive Economic Zone, May 22, 1996, art. 5(2) (entered into force July 1, 1996), *reprinted in* 33 LAW OF THE SEA BULLETIN 32 (1997). The Danish implementing legislation, Executive Order No. 584 Concerning Denmark's Exclusive Economic Zone, June 24, 1996 (entered into force July 1, 1996), *reprinted in* 33 LAW OF THE SEA BULLETIN 32-35 (1997), did not explicitly mention any agreement by name.

⁵¹ See generally Erik Franckx, *Two New Maritime Boundary Delimitation Agreements in the Eastern Baltic Sea*, *supra* note 29, at 367-69.

⁵² *Zapryba* is a Russian acronym for "Western Fisheries."

⁵³ See *Old Borders Lead to Fishing Conflicts in Baltics*, MOSCOW NEWS WEEKLY, May 12, 1995, available in 1995 WL 15895263.

waters of the Gulf of Riga were historical in nature.⁵⁴ Latvia favored this argument,⁵⁵ but Estonia rejected it.⁵⁶

The Island of Ruhnu posed another difficult problem. With an area of 11.36 square kilometers, this Estonian island is located much closer to the shores of Latvia (20 nautical miles) than the Estonian mainland (37 nautical miles) or the Estonian Island of Saaremaa (29 nautical miles). Even though located approximately in the middle of the Gulf of Riga, Estonia had incorporated it into its system of straight baselines when the latter was established in 1993.⁵⁷ To complicate matters further, there are rich fishing grounds in its immediate vicinity.

The solution has been to enclave the Island of Ruhnu by a 12 nautical miles territorial sea. Yet, the essence of the dispute that arose between the parties, the fishery problem, has not been addressed by the agreement and is still outstanding between the parties.

2. *Estonia-Finland Agreement*⁵⁸

Contrary to the heated situation between Estonia and Latvia, Estonia and Finland have managed to prevent incidents by concluding an interim agreement. This agreement was reached almost immediately after Estonia regained independence. By means of this legal instrument, both parties agreed to apply, *ad interim*, the boundary line that had been in force between Finland and the former Soviet Union.⁵⁹ At the time when this agreement lapsed,⁶⁰ no

⁵⁴ See Anne E. Reynolds, *Is Riga an Historic Bay?*, 2 INT'L J. ESTUARINE & COASTAL L. 20, 22 n.11 (1987). This claim had its origins in Imperial Russia, see PIÈRE SOLODOVNIKOFF, LA NAVIGATION MARITIME DANS LA DOCTRINE ET LA PRATIQUE SOVIÉTIQUES 299 (1980), and had been continuously sustained by Soviet jurists until the dissolution of the Soviet Union. See INTERNATIONAL LAW 223 (F. M. Volkov ed. & Kim Pilorski trans., 1990).

⁵⁵ See *Baltic News Service*, July 3, 1995, <<http://www.bnsews.bns.ee>>.

⁵⁶ See *Baltic News Service*, May 22, 1995, <<http://www.bnsews.bns.ee>>.

⁵⁷ See Law on the Boundaries of the Maritime Tract, *supra* note 45, app. 1 (The Baseline of the Territorial Sea of the Republic of Estonia), points 28-34.

⁵⁸ See generally Franckx, *supra* note 29, at 369-71.

⁵⁹ See Agreement on the Provisional Application of Some Treaties between Finland and the Soviet Union in the Relations between Finland and Estonia, Mar. 20, 1992. Swedish translation kindly provided by Mr. M. Koskenniemi, at that time forming part of the Ministry of Foreign Affairs of Finland. All four existing maritime delimitation agreements concluded by the former Soviet Union and Finland were included in the list enumerating the documents to which this agreement would apply. See Agreement between the Government of the Republic of Finland and the Government of the Union of Soviet Socialist Republics Concerning the Boundaries of Sea Areas and of the Continental Shelf in the Gulf of Finland, May 20, 1965, U.S.S.R.-Fin., 566 U.N.T.S. 31, 37; Agreement between the Republic of Finland and the Government of the Union