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## Resolving the Beaufort Sea Dispute: The Timing is Right

P. Whitney Lackenbauer  
NAADSN Lead

Suzanne Lalonde  
NAADSN Coordinator

This morning, [Global Affairs Canada](#) and the [US State Department](#) announced that they have created a joint task to negotiate the Beaufort Sea boundary, a significant unsettled bilateral maritime dispute. At issue is a 21,197 km<sup>2</sup> wedge of ocean and seabed that both sides claim, as well as an overlapping continental shelf beyond the 200 NM Exclusive Economic Zone (EEZ). We agree with Ottawa and Washington that the time is right to resolve this boundary dispute, which will signal how “common interests in the region have served as the foundation of our bilateral Arctic relations for many decades and will continue to guide our Arctic cooperation in the future.”

Canada’s position is that the Beaufort Sea boundary extends from the Alaska/Yukon land boundary, at the 141<sup>st</sup> meridian, along that same line north towards the North Pole. Canada contends that an unbroken succession of Canadian governments have treated the 141<sup>st</sup> meridian as the agreed boundary in the Beaufort Sea based on the 1825 Treaty between Great Britain and Russia (and later in the 1867 Alaska Purchase Treaty between Russia and the United States), which states that the border follows the meridian “dans son prolongement jusqu’à la Mer Glaciale” – a phrase that can be interpreted to mean to the main body of the Arctic Ocean, as distinct from the Beaufort Sea. In support of this claim, Canada also relies on the historical usage of the area by Indigenous Canadians and the acquiescence of the US to the Canadian claim.

The United States has consistently rejected the notion that the 1825 or 1867 Treaties established an ocean boundary in the Beaufort Sea, given that international law and treaties at that time did not contemplate ownership or exclusive maritime rights in zones beyond a narrow band of territorial sea. The American position is that the law of the sea, both customary and treaty-based, as well as international case law mandate that an equidistance line be used to determine the maritime boundary in the Beaufort Sea. The US insists that no special circumstances exist in the disputed area of the Beaufort Sea and, to quote a 1976 Department of State memorandum, “equidistance is an appropriate principle for determining a maritime boundary when there are no special circumstances in the area and when equidistance results in a boundary in accordance with equitable principles.”

Coastal geography is, however, a significant factor in the case. Canada maintains that a strict equidistance line would result in an inequitable boundary, owing to the geographical reality of Alaska’s convex coastline and

Canada's concave coastline in the Beaufort region. Within 200 nautical miles (NM) from shore, the shape of the Alaska and Yukon coastlines results in an equidistance line that "leans into" Canada (thus favouring the US). Further offshore, beyond the EEZ, Canada's Banks Island makes the equidistance line bend towards Alaska, tracking further west than the 141<sup>st</sup> meridian (Canada's official position). This is significant because Canadian and American rights to the continental shelf in the Beaufort stretch well beyond 200 NM from shore and overlap significantly. The curious situation is that the legal positions of both countries within 200 NM might, if extended beyond the EEZ, actually favour the other party.

The most significant attempt by the Canadian and American governments to settle their maritime boundary in the Beaufort Sea was made in 1977-1978, prompted by the discovery of large oil reserves in Alaska. While the energy potential of the Beaufort Sea was of significant national interest, the American and Canadian negotiators eventually decided that the Gulf of Maine, and the very real risk of an imminent fisheries 'war' had to be the priority. A closely connected concern was national sensitivity and the political difficulty of justifying to domestic audiences any agreement that represented a significant concession of national interests.

The "curious" circumstance whereby the coastal geography of the Beaufort Sea favours one State closer to shore and the other State farther offshore means that it is not a "zero-sum" game. Accordingly, to maximize their national interests, both States should be willing to compromise. Canada did in 2022, when it resolved long-standing Arctic boundary disputes with its eastern Arctic neighbour when it signed an Agreement with the Kingdom of Denmark and Greenland to create an international boundary on Hans Island (Tartupaluk in Greenlandic) and to complete the process of delimiting the longest continuous maritime boundary in the world.

There is no particular national defence or security nexus to this dispute. Minister of National Defence Bill Blair insists in his foreword to [Canada's recent defence policy update](#) (*Our North, Strong and Free*) that "as the Arctic becomes more accessible to foreign actors, we need to ensure our military has the tools to assert our sovereignty and protect Canada's interests." This emphasis does not apply to resolving an Arctic boundary dispute with our "[premier partner](#)" and key ally. Minister of Foreign Affairs Mélanie Joly emphasizes in her foreword to *Our North, Strong and Free* that "vigorous assertion of our sovereignty, particularly in the Canadian Arctic, is a fundamental priority." In the Beaufort case, Canada will display "pragmatic diplomacy" at the negotiating table, armed with legal, historical, and geographical justifications.

Collaboration and cooperation have been the hallmarks of the Canada-US relationship in the Beaufort Sea and elsewhere. But with climate change sharpening resource issues in the Beaufort Sea, particularly fisheries, it is time to remove the risk to a serious quarrel between good neighbours. A settled boundary, respectful of Indigenous rights and interests, would provide much needed jurisdictional clarity upon which sustainable co-management schemes, including co-management initiatives, can be built. Another powerful force – rising geopolitical instability – and the opportunity to signal strong commitment to the rule of law provides additional impetus for Canada and the US to resolve the Beaufort Sea controversy.

For more details on the background to this dispute, see P. Whitney Lackenbauer, Suzanne Lalonde, and Elizabeth Riddell-Dixon, [Canada and the Maritime Arctic: Boundaries, Shelves, and Waters](#) (Peterborough: North American and Arctic Defence and Security Network, 2020).