

CP(72) 63

COPY NO

21 June 1972

CABINET

ICELANDIC FISHERIES DISPUTE

Note by the Secretary of State for Foreign
and Commonwealth Affairs

1. I enclose at Annex a paper prepared by my Department in consultation with the Departments primarily concerned on the position of our negotiations with the Icelanders. It is important to reach an agreement if we possibly can because it is unlikely either that the International Court will grant us a standstill order now or that we shall win the case against Iceland. The Law of the Sea Conference in 1973 will not uphold a 12 mile limit.
2. The point which might secure an interim agreement is this. The Icelanders feel that for political reasons they must have certain areas in which they alone can fish for certain periods of the year. I asked the Foreign Minister whether if some such area were conceded the Icelanders themselves would enforce a limitation on the size of fish caught for conservation purposes. He said that he felt sure that this could be done. If this proves to be so, I think that on balance an agreement would be to our advantage. The alternative of a fish war is horrible and has NATO repercussions.

A D-H

Foreign and Commonwealth Office

21 June 1972

Icelandic Fisheries Dispute

In his memorandum of 12 June (DOP(72) 30) the Secretary of State for Foreign and Commonwealth Affairs recommended that we should attempt to reach agreement with Iceland on the basis of an effort limitation scheme restricting the number of fishing days by British vessels in the waters round Iceland. Negotiations have now been held on this basis, but it has been rejected by the Icelandic Ministers. They argued, quite without regard to the details of our proposal, that it would mean that British trawlers would continue to fish more or less as they have done hitherto. They took no account of our offer of a further reduction in total effort and insisted that, apart from any areas which might be closed on a non-discriminatory basis, there should be certain areas outside the present 12 mile limit which were closed to British trawlers but open to Icelandic trawlers.

AREA LIMITATION

2. The Icelandic Ministers did not at this meeting define the areas they had in mind. They had previously proposed an arrangement under which -

- a. the whole area between 12 and 25 miles from the Icelandic coast should be reserved for Icelandic vessels;
- b. the area between 25 and 50 miles should be divided into 6 sectors which would be open, 2 at a time, for a period of 4 months each to British vessels.

During the present discussion they indicated in vague terms that they were prepared to drop the 25 mile limit. It therefore seems that the proposal we have to consider is that for a sector approach covering the area between 12 and 50 miles from the Icelandic coast, coupled with non-discriminatory reservation of certain other areas.

3. In addition to the question of effort limitation or area limitation the following points have also been discussed -

a. Freezer Trawlers

The Icelandic delegation have insisted on the importance of excluding freezer trawlers and factory vessels. We have said that we have no factory vessels and are prepared to consider exclusion of freezers.

b. Length Limitation

The Icelandic delegation have not repeated their original requirement that fishing should be limited to vessels under 160 foot in length but have certainly not abandoned it. We have indicated that we could not consider a limitation of less than 200 foot. (Apart from some of the freezers we have only one vessel over 200 foot in length.

c. Traditional Fishing Vessels

The Icelandic delegation originally asked that fishing should be limited to those vessels which had fished in Icelandic waters during the past two years. This has not been discussed during the present round.

d. Enforcement

The Icelandic delegation have continued to insist upon Iceland's right to enforce whatever measures are agreed upon. We have told them that we are prepared to agree to joint verification but cannot accept Icelandic enforcement.

e. Duration

The Icelandic delegation have not contested that what is under consideration is purely an interim arrangement pending a substantive settlement as a result of our reference to the International Court or by other means. They have talked in terms of a one year duration. We have told them that this would be inadequate and that we should need 2 to 3 years.

COURT PROCEEDINGS

4. Our substantive case is before the International Court. Iceland does not accept the Court's jurisdiction but we have asked the Court to take the case, if necessary in Iceland's absence. We have also warned the Court that we may wish to seek an order on interim measures to protect our fishing after 1 September. No date has yet been set for a hearing on either point, but if we want to obtain an interim order we shall need to start formal proceedings within the next few weeks.

NEGOTIATING PROSPECTS

5. We now have to recognise that there is no real prospect of securing agreement with Iceland unless we are prepared to accept an arrangement based primarily on the reservation of certain areas to Icelandic vessels on a discriminatory basis. It is possible that we might be able to secure a settlement on this basis without unacceptable prejudice to our fishery interests or to the principles on which our application to the International Court is based. We should, however, seek to ensure that concessions were based upon the principle embodied in the United Nations Resolution of 1958 on coastal fisheries which provides for preferential treatment of the coastal state in certain circumstances. To this end we should need -

- a. to base an arrangement upon an alleged conservation need, flimsy though this pretext would be;
- b. to make it clear that areas were closed by agreement between the 2 parties, not as of right by the Icelanders alone. It might help us to secure a satisfactory agreement on this basis if we were to maintain a nominal catch limitation at the proposed figure of 185,000 tons, but we should withdraw the proposed effort limitation. There would be little doubt that an agreement would be discriminatory in effect, but we should do what we can to make it non-discriminatory in form.

6. So far as the other types of restraint are concerned, our negotiating position might be -

a. We could offer either to exclude freezers or to exclude vessels over 200 foot in length. The effect would be much the same. The choice would depend upon consultation with the industry and with the Germans, who have a particular interest in freezers.

b. We could not concede Iceland any right to bring British vessels to trial for offences outside the 12 mile limit.

c. We should not agree to restrict fishing to vessels which have traditionally operated in Icelandic waters.

TIMING OF NEGOTIATIONS

7. It is by no means certain that even with these concessions we shall be able to reach agreement, but they give us a fair chance and are indeed more than generous towards the Icelanders. If we cannot reach agreement we shall have to go quickly to the International Court to start formal proceedings for an order on interim measures. It therefore seems desirable to continue negotiations at Ministerial level as soon as possible. The Icelanders have proposed that negotiations should be resumed in Reykjavik next week.

NAVAL PROTECTION

8. We shall not be able to decide finally upon the question of naval protection until we know the outcome not only of the next round of negotiations but also of any application to the Court for interim measures. Nevertheless, given that the time for preparation is now very short and that our negotiating stance is affected by the subsequent action we may be prepared to take, Ministers may now wish to consider the possible scale of naval protection and the issues it raises. These are set out in DOP(72) 31.

