

SECRET

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CABINET

THE ANGLO-NORWEGIAN FISHERY DISPUTE

MEMORANDUM BY THE SECRETARY OF STATE FOR FOREIGN AFFAIRS

AFTER consultation with the Secretary of State for Scotland and the Minister for Agriculture and Fisheries, I think my colleagues should be informed of the revival of the dispute over fishing limits claimed by the Norwegian Government for the exclusive use of Norwegian fishermen. It seems essential, in order to avoid a really embittered controversy, that this question should go to the Court of International Justice and this is likely to be arranged. Moreover, this dispute, apart from its possible effect on our fishing activities on the Norwegian Coast, has assumed much greater importance because of the exaggerated claims to control the fisheries in waters off their coasts recently put forward by the Governments of the United States of America, Mexico, Argentine, Chile, Peru and Iceland. Any concession to Norway may prejudice our position in dealing with the claims of these countries. The circumstances are as follows:—

2. On 16th September, His Majesty's Ambassador in Oslo reported that the Norwegian Government had decided to enforce the Royal Decree of 1935 prescribing an extensive "Norwegian Fisheries Zone." This means that large areas of the waters off the Norwegian coast, which, according to the view of His Majesty's Government, are high seas and where in consequence all nations have an equal right to fish, will be closed to British trawlers.

3. The dispute about fishing limits dates from a long time back. All attempts to solve it in the 1920's were fruitless, but in 1933 a *modus vivendi* was agreed with the Norwegian Government on the basis of what has since been known as the Red Line. This line is somewhat outside the strict limits of what we recognise as Norwegian territorial waters and makes a substantial concession to Norway. It is still observed by our trawler owners who have always regarded it as a temporary expedient pending a decision by the Court of International Justice. This *modus vivendi* was upset by the Norwegian decree of 1935, which went far beyond anything that His Majesty's Government could possibly accept.

4. Attempts were made in 1938 to conclude a Fishery Convention with the Norwegians and to settle the dispute. A draft convention was agreed in Oslo between British and Norwegian delegations and was referred to the two Governments. This draft convention made further concessions to Norway, but shortly before Norway was invaded it was rejected by the Norwegian Parliament, and the British trawler owners regarded these concessions as being a breach of their conditional acceptance of the Red Line.

5. The Norwegian Parliament has now decided that the 1935 decree should be enforced. If British shipping is interfered with on banks outside the Red Line limits which His Majesty's Government recognised by the *modus vivendi* of 1933 there are sure to be unpleasant incidents and much bad blood will be created. This would be particularly unfortunate at the present time when we are anxious to draw the Norwegian and other Scandinavian Governments closer to the Western Powers.

6. His Majesty's Ambassador was accordingly instructed to express to the Norwegian Minister for Foreign Affairs the surprise and distress of His Majesty's Government at the Norwegian decision to apply without warning a

measure which is known to be utterly unacceptable to us and to say that unless enforcement of the 1935 decree was deferred to allow time for consultation relations between the two Governments could not fail to be seriously affected. His Majesty's Government were still prepared to try to reach agreement with the Norwegian Government over fishing limits, should the Norwegian Government wish to do so; alternatively, the case might be brought before the International Court of Justice at The Hague, preferably by agreement between the parties, but either country could bring it unilaterally since both countries are bound by the optional clause of the statute of the court. In any case it was most desirable that there should be an interim arrangement to regulate fishing while the matter was under discussion or pending before the court and this could, in the view of His Majesty's Government, only be based on the Red Line observed hitherto. His Majesty's Government would be glad to discuss these issues with a Norwegian delegation in London.

7. The preliminary reaction of the Norwegian Government to Sir L. Collier's communication was that a compromise was no longer possible in view of the decision of the Norwegian Parliament, and that they saw no difficulty in sending a delegation to London to discuss terms of reference to The Hague Court if that should be necessary. A final reply is expected shortly. Meanwhile, the Norwegian Government have said that the *status quo* will be preserved in the fishing areas.

8. To sum up, much the best solution seems to be that an authoritative opinion on the relevant issues of international law in this case should be obtained from the Court of International Justice. Owing to the action of the Norwegian Parliament, the Norwegian Government is not now in a position to give way on the claims embodied in the 1935 decree. The only settlement, therefore, which could now be negotiated would be a settlement under which the United Kingdom accepted the Norwegian decree and that would be a step which would be politically almost impossible for the United Kingdom to take in view of the strong reaction of British fishery interests. If there is no settlement by judicial decision or otherwise, incidents by fishery-protection vessels on both sides in the disputed area are inevitable. On the other hand, the Court of International Justice would lay down principles on the application of which the two Governments might be able to agree and if they did not, they could go back to the court.

9. The Legal Adviser of the Foreign Office has discussed the matter with the Attorney-General, who agrees that in the circumstances a reference of the dispute to The Hague Court appears to be the only practicable course to take.

E. B.

Foreign Office, S.W. 1,
8th November, 1948.

