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CABINET

## ANGLO-NORWEGIAN FISHERY DISPUTE

MEMORANDUM BY THE SECRETARY OF STATE FOR FOREIGN AFFAIRS

*The Problem*

His Majesty's Government have made repeated efforts to obtain settlement by agreement of the dispute about Norwegian fishery limits. Norway, on the other hand, has shown reluctance to come to any agreement or to accept a *modus vivendi* pending such agreement. Norwegian fishery cruisers have arrested British vessels fishing in areas regarded as being part of the high seas. There is some danger that British skippers may take retaliatory action if a speedy settlement cannot be achieved.

*Recommendation*

2. I therefore recommend that, unless a decision to accept the *modus vivendi* is forthcoming from the Norwegian Government by the end of July, the case should be referred for decision to the International Court of Justice at The Hague, preferably by agreement with the Norwegian Government, but if necessary unilaterally. In C.P. (49) 9 of 13th January last I informed my colleagues of the advice given by the Law Officers on this matter.

*Considerations*

3. In C.P. (48) 257, dated 8th November, 1948, I dealt with the dispute between the Norwegian Government and His Majesty's Government about Norwegian exclusive fishing limits. Following a discussion in Cabinet on 15th November, 1948 (C.M. (48) 73rd Conclusions, Minute 4), I was invited to—

- (1) obtain from the Law Officers a formal Opinion on the strength of the British case in the dispute;
- (2) explore the prospects of securing a satisfactory settlement of the dispute by negotiation, while meanwhile maintaining the *status quo*;
- (3) take all necessary preliminary steps for a reference of the matter to the International Court, so that there would be no avoidable delay in presenting the case if negotiations broke down and if the Cabinet decided, in the light of the Law Officers' Opinion, that the case should be submitted to the Court.

4. In accordance with the decision at (2) above, discussions between British and Norwegian officials took place in January, 1949, at which proposals were drawn up for submission to both Governments. These defined a new line, known as the "Yellow Line," as the limit of exclusive Norwegian fishing rights. It was suggested that this line might form the basis of a lasting agreement between the two Governments. It was further suggested that, until the matter was finally settled either by agreement or by a decision of the International Court, the "Yellow Line" should be adopted by both parties, without prejudice to their legal rights, as a temporary *modus vivendi*, to remain in force until a final settlement was reached. By this means it was hoped to avoid further incidents on the fishing grounds during the interim period while a settlement was being reached.

5. I reported the position in C.P. (49) 9 dated 13th January, 1949, and at their meeting on 17th January (C.M. (49) 4th Conclusions, Minute 3) the Cabinet agreed that, subject to the views of the United Kingdom fishing industry, the "Yellow Line" should be accepted as a *modus vivendi* pending further consultation with the Norwegian Government.

Representatives of the fishing industry, at a meeting on 17th January, expressed their willingness to accept the "Yellow Line" both as a *modus vivendi* and as a permanent settlement.

6. Agreement on a *modus vivendi* was of particular urgency in view of the danger of clashes occurring in the disputed areas, and His Majesty's Government informed the Norwegian Government before the end of January of their willingness to accept the "Yellow Line" for this purpose. In spite of constant reminders, however, the Norwegian Government have failed to reach a decision and the question still awaits consideration by the Norwegian Storting. I have myself raised the matter with the Norwegian Minister for Foreign Affairs at the time of his visit here in February and again in May. On the latter occasion he intimated that he had encountered more opposition in Norway than he had expected, but that he still intended to press for a decision from the Storting before it rose in July. Since then, however, His Majesty's Ambassador in Oslo has reported that M. Lange has already made a further attempt to secure action in the Storting without any success. It appears, in fact, that opposition to the conclusion of any kind of settlement has increased in the Storting. His Majesty's Ambassador now considers that there is practically no chance of the Storting accepting even the proposed *modus vivendi*.

7. Meanwhile Norwegian fishery protection vessels continue to intercept our trawlers in waters which we regard as high seas and in which they have been accustomed to fish regularly in the past. The patience of our trawler skippers is thus being severely tried, the more so as His Majesty's fishery protection vessels are under instructions not to intervene to protect them from arrest. To do so would involve a resort to force, which might adversely affect our case if the matter comes before the International Court, quite apart from its effect on our relations with Norway. We are therefore confining ourselves to lodging a protest with the Norwegian Government in every case that occurs and reserving our full rights to claim compensation. At the same time, His Majesty's Government clearly cannot abstain indefinitely from exercising their legitimate rights in these waters. Another fishing season is approaching and at present the interests of our trawlers are being prejudiced, since in practice they are being excluded by intimidation from valuable fishing grounds. There are signs that the Norwegians are consciously trading on our forbearance in this matter and feeling in the United Kingdom industry is beginning to run high. Moreover, the latest incident, the arrest of the *Lord Nuffield* on 5th May, has evoked considerable publicity in this country and it is being asked whether His Majesty's Government are taking adequate steps to protect our trawling interests.

8. It is clear, therefore, that the present unsatisfactory situation cannot be allowed to continue much longer. The Norwegians, however, show no sign of being ready to accept, either as a *modus vivendi* or a permanent settlement, the proposals which were submitted to them at the beginning of this year (see paragraph 4 above) and which represent the utmost limits of concession to which His Majesty's Government could go. In these circumstances I consider, after consultation with the Minister for Agriculture and Fisheries and the Secretary of State for Scotland, that the time has come for His Majesty's Government to seek a definite solution of the question by informing the Norwegian Government that, unless they come to a decision on the proposed *modus vivendi* by the end of July, His Majesty's Government will be obliged to refer the whole case to the International Court for settlement. They should further be informed that His Majesty's Government would prefer to do this by means of a special agreement (*compromis*) agreed with the Norwegian Government, but that failing agreement for this purpose they would do so by unilateral application. If His Majesty's Ambassador were able to make a communication in this sense to the Norwegian Government at an early date, it might even now enable the Norwegian Minister for Foreign Affairs to overcome the reluctance of the Norwegian Parliament to agree to any concession.

E. B.



