



(c) crown copyright

CONFIDENTIALC.(52) 444COPY NO. 6717TH DECEMBER, 1952

CABINET

ICELANDIC FISHERIES DISPUTEMemorandum by the Secretary of State for Foreign Affairs

My colleagues will remember that in my memorandum C. (52) 357 of the 23rd October, I described the origin of the Icelandic fisheries dispute and the difficulties which would follow from its continuance. They agreed that the most profitable step would be to promote direct discussions between the fishing interests of the two countries; and I was invited to urge this course upon the Icelandic Government.

2. I have since made several attempts to persuade the Icelandic Government to agree that such discussions should be held or, alternatively, that, when the disputed fishing grounds are sufficiently restocked, the Permanent Commission to be set up under the 1946 Overfishing Convention should be authorised to consider to what extent they should be re-opened to trawling. However, the attitude of the Icelandic Government is, first, that their new territorial limits have been drawn in accordance with the principles laid down in December, 1951, by the International Court of Justice, in connexion with the Anglo-Norwegian dispute and that in no circumstances will they depart from what they consider to be their legal rights unless successfully challenged before the Court; and, secondly, that they are morally entitled to take this line because of the complete dependence of Iceland's economy on the fishing industry and the urgent necessity for conserving the stocks of fish in the waters round Iceland. In spite of this last argument, the Icelandic Minister of Fisheries has now admitted that the Icelandic Government propose to exclude trawlers permanently from the disputed areas (even when the grounds have been restocked) and to confine fishing there to inshore Icelandic vessels, whose interests it is their purpose to promote. Large quantities of fish can be caught in the disputed area by these vessels and the British fishermen believe that fish caught in this way will be loaded on to Icelandic trawlers and sold in Grimsby in competition with the British trawlers whose crews will thus lose a part of their livelihood.

3. The ban on landings of Icelandic fish in this country at present depends on a decision by the wholesale fish merchants not to buy fish landed from Icelandic vessels while the dispute remains unsolved. This decision was taken in the face of a threat to strike by the Trawler Officers' Guilds, who are the dominant factor in the dispute on the British side and are above all concerned at the threat to their livelihood referred to above.

4. The Icelandic Government, for their part, have carried out their intention, of which they gave Her Majesty's Government advance notice, of raising the matter at the meeting of the Council for European Economic Co-operation in Paris on the 13th December, 1952. In a moderately phrased but

uncompromising statement the Icelandic Minister of Fisheries gave the Icelandic case as set out in paragraph 2 above and accused Her Majesty's Government of violating the spirit of the Convention and of the Code of Liberalisation by permitting private interests to frustrate the declared intentions of those documents. As I was acting as Chairman, I asked the Economic Secretary of the Treasury to reply on behalf of Her Majesty's Government. Mr. Maudling pointed out that there was still an open general licence for the import of Icelandic fish into the United Kingdom and that the difficulties had been caused by the attitude of the Icelanders themselves, who had repeatedly been warned of the probable consequences. Her Majesty's Government regarded the dispute as of a technical nature which could more suitably be discussed in the Permanent Overfishing Commission and they would continue their efforts to reach a settlement with Iceland by this or any other appropriate method.

5. The present position is thus one of complete deadlock. The Icelandic Government will not take the initiative in offering concessions which would lead to a lifting of the ban because:-

- (a) they are convinced that the legal rights of the case are on their side;
- (b) they have taken up such an uncompromising public position that it would be hardly possible for them to do so without loss of face;
- (c) Her Majesty's Minister at Reykjavik reports that all parties in Iceland are strongly opposed to making any concession.

This being so, the Icelandic Government are more likely to continue to put pressure on Her Majesty's Government to secure the removal of the ban, perhaps by means of appeals to the United Nations Organisation (U.N.O.) or to the North Atlantic Treaty Organisation (N.A.T.O.) or by publicly challenging Her Majesty's Government to refer the dispute to the Hague Court. They have already hinted broadly at this before the Organisation for European Economic Co-operation (O.E.E.C.). It would, however, be extremely difficult for Her Majesty's Government either to persuade or to coerce the British fishing interests concerned to lift the ban; and the Minister of Agriculture and Fisheries is in any case reluctant to take such a course, since he considers that those interests have had some justification for their attitude.

6. A prolongation of the dispute must nevertheless do harm to the real interests of both countries. The effects on the Icelandic economy will be more severe than on the British. But imports of Icelandic-caught fish normally account for some 10 per cent of the total fish supplies of this country during the period November - February; and the Ministry of Food is concerned at the risk that as the result of bad weather or other unfavourable circumstances, supplies of fish will not be maintained in January and February, 1953. Moreover, we must expect retaliation against British exports to Iceland. This has already begun and may become a substantial loss in relation to our total trade with that country. Apart from the commercial aspect, it is clearly undesirable that the United Kingdom should find itself engaged in what amounts to a trade war with Iceland, another N.A.T.O. power of considerable strategic importance.

7. I am unable to suggest a practical solution of the dispute which would at present be acceptable to both parties. In these circumstances, Her Majesty's Government cannot any longer avoid taking up a public position in regard to the merits of the dispute. One possible course would be to refer it by agreement with Iceland to the International Court. I should however warn my colleagues that Her Majesty's Government's chances of securing a favourable judgment are considered slight, since, as the decision in the Anglo-Norwegian case shows, the Court is hostile to the whole conception of the law of territorial waters as previously understood by Her Majesty's Government. It is conceivable that the Court would support the British view that the base-line drawn across Faxe Bay is too extensive; but it is very likely that it would uphold Iceland's claim to a four-mile limit as well. This might not have far-reaching consequences if the four-mile claim were upheld on historic grounds only, but there is a serious risk that the Court would go further and uphold the claim on the general ground that each state has the legal right to fix its own territorial water limits largely at its own discretion. This could not fail to encourage increases in territorial water limits elsewhere. It would, in particular, be a severe blow to the British deep-sea fishing industry if an unfavourable judgment in the dispute with Iceland resulted in similar restrictions being imposed off Greenland and the Faroe Islands, or if the Soviet Union were moved to denounce the 1930 Anglo-Soviet Fishing Agreement, under which British vessels can fish up to within three miles of the Soviet coast. Most of our fish, and above all the cheaper qualities, comes from these Northern waters and if such restrictions become general there, the loss would be very serious.

8. Further considerations are that it is unlikely that the Icelandic Government would agree to any temporary modification of their fishing restrictions, pending a decision of the Court and, in these circumstances, it would be extremely difficult to persuade the British fishing industry to lift their ban immediately. At the same time it might be dangerous to refer the dispute to the International Court without some interim arrangement for the removal of the ban. In the first place it might prejudice the Court against us if the ban were not removed pending the submission of the case and the decision of the Court. Secondly, it might enable the Icelandic Government to bring forward damaging counter-claims on the basis of the Anglo-Icelandic Trade Agreement of 1933 and the alleged illegality of the ban. They might also be able to obtain an order of the Court for the removal of the ban as an interim injunction.

9. A second course open to Her Majesty's Government is to refrain from submitting the dispute to the International Court and to make a public declaration in support of the three-mile limit without prejudice to the question now under consideration by the Cabinet (C.C.(52) 74th Conclusions, Minute 5) - whether our own three-mile limit should be measured from low water mark or from base-lines drawn from headland to headland. This declaration could be accompanied by support of the fishing industry in their stand, but it is open to the objections set out in paragraph 6 as well as to the fact that Her Majesty's Government would be in a weak moral position in supporting actions which they had good reason to fear might be held to be illegal by the International Court.

10. A third course is for Her Majesty's Government to bring pressure to bear on the fishing industry to lift the ban on grounds of public policy. This would need most careful handling. The use of the Government's emergency powers to compel the trawler officers to put to sea would scarcely be feasible and would be likely to create serious difficulties in the ports. The pressure would have to be applied in the form of a firm and reasoned appeal on behalf

of Her Majesty's Government to the fishing interests, based both on the national interest and on the evident inability of the industry to achieve its purposes through economic pressure.

11. It will be seen, therefore, that there are three alternative courses of action open to Her Majesty's Government:-

- (a) to refer the dispute to the International Court, and to try to secure the removal of the ban on landings of Icelandic fish pending a decision of the Court. This is open to the objections set out in paras. 7 and 8;
- (b) to allow the dispute to continue but to make a public declaration in support of the three-mile limit and of the stand taken by our fishing industry. This is open to the objections set out in paras. 6 and 9 and is likely to involve difficulties in the House of Commons;
- (c) to make a public declaration as under (b) but to accompany it with the exercise of pressure on the fishing industry to lift the ban on Icelandic landings immediately. This would not be easy to achieve.

A.E.

Foreign Office, S.W.1.

17TH DECEMBER, 1952.