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CONFIDENTIALC.(53) 16COPY NO. 6913th JANUARY, 1953.CABINETICELAND FISHERIES DISPUTE.Memorandum by the Secretary of State for Foreign Affairs.

The Cabinet have decided in principle to invite the Iceland Government to refer the fisheries dispute to the International Court.

2. We object to the Iceland fishery regulations on two grounds, viz:
- (a) they prescribe a four-mile instead of a three-mile limit: and
 - (b) one of the base-lines from which this limit is drawn, that across Faxa Bay, is considered excessive.

3. We are against referring (a) to the Court because, in the opinion of the Foreign Office Legal Advisers, it is virtually certain that we should lose. Furthermore, to do so would involve the serious risk that the Court would pronounce that each State has the legal right, within reason, to fix its own territorial water limits largely at its own discretion in the light of its special geographic and economic circumstances. This could not fail to prejudice British economic and strategic interests by encouraging claims to increase territorial waters elsewhere and would make it very difficult for Her Majesty's Government to negotiate with other Governments over such claims.

4. It will therefore be necessary to limit the reference to the Court to the Faxa Bay issue on which the Foreign Office Legal Advisers think that we have some chance of being successful. It is likely that the Iceland Government will agree to this, as they may regard it as the only way in which the removal of the British fishing industry's ban could be brought about. For different reasons this is for the Iceland Government as urgent an aim of policy as it is for Her Majesty's Government. It should be possible to explain the limited reference to the Court in Parliament, although perhaps not altogether convincingly.

5. From the point of view of the presentation of our case to the Court, it would have been preferable if it had been possible to persuade the British fishing industry to remove their ban while the case was sub judice. It is, however, clear from the Minister of Agriculture's report to the Cabinet (C.(53) 4) that, in their present mood, there is no possibility of their agreeing to do so. Indeed, the action of the Soviet Government in denouncing the Anglo-Soviet Fisheries Convention of 1930, is likely to have caused their attitude, if anything, to have hardened. The loss of the White Sea fishing grounds, following on that of the Norwegian grounds, has made the Iceland grounds of even greater importance than they were before.

6. We do not expect that the Court will issue an Order for the removal of the ban as an interim measure while the case is sub judice because it would be inequitable to do so while the Icelanders were permitted to retain their new territorial limits.

7. Although there are very serious legal and practical objections to referring the dispute to the International Court, the objections to not doing so are even more serious. As stated in paragraph 5 above, the British fishing industry are not prepared to raise the ban of their own volition unless the Icelanders give way. They are persuaded that the latter will be forced to do so by economic necessity, but everyone qualified to express an opinion on the subject is agreed that the Icelanders will refuse to yield. This will mean that we shall be faced with a protracted international dispute which will embitter relations in the North Atlantic Treaty Organisation, the European Defence Community and the Organisation for European Economic Co-operation and other international bodies of which Iceland and the United Kingdom are both members. There are also indications that, if nothing is done, the Iceland Government will raise the issue before the United Nations General Assembly when it reconvenes in February. A continuance of the dispute might lead to economic collapse in Iceland and a resurgence of communism in an important strategic outpost. Alternatively, the Icelanders may in fact be successful in finding an alternative market with the result that we should lose both the supplies of Iceland fish and a small but useful market for British exports.

Recommendation

8. For the reasons given in paragraph 7 above I consider that it would be unwise to leave the matter to simmer, say, till next autumn in the hope that the Iceland Government might give way. I therefore recommend to my colleagues action on the lines proposed in paragraph 4 above, i. e. an approach to the Iceland Government to induce them to agree to a reference to the International Court of the Faxa Bay issue only.

A.E.

Foreign Office, S.W.1.

13th January, 1953.