

INTERNATIONAL COURT OF JUSTICE

PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

FISHERIES JURISDICTION CASES

VOLUME I

(UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN
IRELAND v. ICELAND)

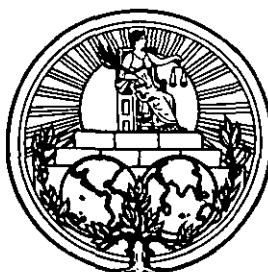
COUR INTERNATIONALE DE JUSTICE

MÉMOIRES, PLAIDOIRIES ET DOCUMENTS

AFFAIRES DE LA COMPÉTENCE EN MATIÈRE DE PÊCHERIES

VOLUME I

(ROYAUME-UNI DE GRANDE-BRETAGNE ET
DIRLANDE DU NORD c. ISLANDE)



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The present volume (I) contains the record filed in the *Fisheries Jurisdiction (United Kingdom v. Iceland)* case.

This case, entered on the Court's General List on 14 April 1972 under number 55, was the subject of two Orders on Interim Measures of Protection (*Fisheries Jurisdiction (United Kingdom v. Iceland), Interim Protection, Order of 17 August 1972, I.C.J. Reports 1972*, p. 12 and *id., Order of 12 July 1973, I.C.J. Reports 1973*, p. 302) and two Judgments. The first Judgment was delivered on 2 February 1973 (*Fisheries Jurisdiction (United Kingdom v. Iceland), Jurisdiction of the Court, Judgment, I.C.J. Reports 1973*, p. 3), and the second Judgment on 25 July 1974 (*id., Merits, Judgment, I.C.J. Reports 1974*, p. 3).

The United Kingdom Application, Request for Interim Measures of Protection, Memorials and Oral Arguments appear in this volume in chronological order.

The record filed in the *Fisheries Jurisdiction (Federal Republic of Germany v. Iceland)* case and the correspondence relating to the two cases appear in Volume II.

The page references originally appearing in the pleadings have been altered to correspond with the pagination of the present edition. Where the reference is to Volume II of the present edition, it is indicated in bold type.

The Hague, 1975.

Le présent volume (I) reproduit le dossier de l'affaire de la *Compétence en matière de pêcheries (Royaume-Uni c. Islande)*.

Cette affaire, inscrite au rôle général de la Cour sous le n° 55 le 14 avril 1972, a fait l'objet de deux ordonnances portant indication de mesures conservatoires (*Compétence en matière de pêcheries (Royaume-Uni c. Islande), mesures conservatoires, ordonnance du 17 août 1972, C.I.J. Recueil 1972*, p. 12; et *id., ordonnance du 12 juillet 1973, C.I.J. Recueil 1973*, p. 302) et de deux arrêts. Le premier arrêt a été rendu le 2 février 1973 (*Compétence en matière de pêcheries (Royaume-Uni c. Islande), compétence de la Cour, arrêt, C.I.J. Recueil 1973*, p. 3) et le second le 25 juillet 1974 (*id., fond, arrêt, C.I.J. Recueil 1974*, p. 3).

La requête, la demande en indication de mesures conservatoires, les mémoires et les plaidoiries du Royaume-Uni sont reproduits dans le présent volume suivant leur ordre chronologique.

Un autre volume (II) contient le dossier de l'affaire de la *Compétence en matière de pêcheries (République fédérale d'Allemagne c. Islande)*, ainsi que la correspondance relative aux deux affaires de la *Compétence en matière de pêcheries*.

Les renvois d'une pièce à l'autre ont été modifiés pour tenir compte de la pagination de la présente édition. Lorsqu'il s'agit d'un renvoi au volume II, ce chiffre est indiqué en caractères gras.

La Haye, 1975.

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**APPLICATION INSTITUTING
PROCEEDINGS SUBMITTED BY THE
GOVERNMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN
IRELAND**

I have the honour to refer to Article 40 (1) of the Statute of the International Court of Justice and Article 32 (2) of the Rules of Court and, by direction of Her Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs and in reliance on the jurisdiction vested in the Court by Article 36 (1) of the Statute and by an Exchange of Notes between the Government of the United Kingdom and the Government of Iceland dated 11 March 1961 (which provides for reference to the Court of any dispute in relation to the extension of fisheries jurisdiction round Iceland), to submit an Application instituting proceedings in the name of the United Kingdom of Great Britain and Northern Ireland against Iceland in the following case.

2. In 1901, and for some years thereafter, the conduct of the international relations of Iceland was the responsibility of the Kingdom of Denmark. By virtue of a Convention which was concluded on 24 June 1901 between Denmark and the United Kingdom, the fisheries limits and territorial sea around Iceland were then recognized as extending generally to three miles from low-water mark. On 5 April 1948 the Althing, that is to say, the Parliament of Iceland, enacted a law entitled "A Law concerning the Scientific Conservation of the Continental Shelf Fisheries". Under this law, the Ministry of Fisheries of the Government of Iceland was authorized to "issue regulations establishing explicitly bounded conservation zones within the limits of the continental shelf of Iceland; wherein all fisheries shall be subject to Icelandic rules and control". (In an accompanying commentary [see p. 26 of the second enclosure to Annex H to this Application¹] the Government of Iceland said: "The continental shelf of Iceland is very clearly distinguishable, and it is therefore natural to take it as a basis" and subsequently: "At present, the limit of the continental shelf may be considered as being established precisely at a depth of 100 fathoms. It will, however, be necessary to carry out the most careful investigations in order to establish whether this limit should be determined at a different depth.") On 3 October 1949 the Government of Iceland gave notice to the Government of the United Kingdom of the denunciation of the Anglo-Danish Convention of 1901 in accordance with the terms of that Convention and this denunciation took effect on 3 October 1951.

3. On 19 March 1952 the Government of Iceland issued regulations extending Icelandic fisheries limits to four miles measured from straight baselines. This extension of fisheries limits, which came into effect on 15 May 1952, evoked a formal protest from the Government of the United Kingdom and for several years thereafter was the subject of dispute between the two Governments and also between the fishing industries of the two countries. In consequence of action taken by the fishing industry of the United Kingdom, landings in the United Kingdom of fish caught by Icelandic vessels were suspended for some years. However, in 1956, as a result of talks which were conducted under the auspices of the Organization for European Economic Co-operation and in which representatives of both Governments and of both industries took part, an agreement was reached which provided, *inter alia*, that, on the one hand, landings in the United Kingdom of fish caught by Icelandic vessels were to be resumed and, on the other hand, there were to be no further extensions of fisheries limits by Iceland pending the outcome of the discussion by the General

¹ See p. 46, *infra*.

Assembly of the United Nations of the report of the International Law Commission concerning the codification and progressive development of the international law of the sea. This discussion eventually resulted in the convening of the first United Nations Conference on the Law of the Sea at Geneva in 1958. That Conference did not, however, reach any agreement on the maximum breadth of the territorial sea or on fisheries limits and, after the conclusion of the Conference, the Government of Iceland declared that they regarded themselves as having complete freedom of action both as regards the extent of their fisheries limits and as regards the drawing of the relevant baselines.

4. In conformity with a further announcement of intention which they made on 1 June 1958 the Government of Iceland issued on 30 Juhe 1958 a decree (Decree No. 70) which came into effect on 1 September 1958, and which extended Iceland's fisheries limits to a distance of 12 miles from the baselines round the coast of Iceland that were specified in the Decree. The validity of this action was not accepted by the United Kingdom and fishing vessels from the United Kingdom continued to fish inside the 12-mile limit. There then ensued a number of incidents involving, on the one hand, Icelandic coastguard vessels and, on the other hand, British fishing vessels and fisheries protection vessels of the Royal Navy.

5. Shortly after the announcement of intention made by the Government of Iceland on 1 June 1958 (see the preceding paragraph) the Government of the United Kingdom had made further attempts to settle the dispute by negotiation. These attempts had broken down by the end of August 1958, but they were resumed in September 1958 against the background of the incidents that were taking place between vessels of the two countries. On 25 September 1958 the Government of the United Kingdom offered to place the legal aspects of the dispute before the International Court of Justice but this offer was declined by the Government of Iceland (who had not at that stage bound themselves to accept the Court's jurisdiction in that respect). However, attempts at negotiation continued and, though these were unsuccessful in themselves, they did result, by the early summer of 1959, in a situation in which both sides were exercising considerable restraint on the fishing grounds. Each side, however, maintained its position and, on 5 May 1959, the Althing passed a resolution protesting against what it regarded as continuing violations of Icelandic fisheries limits by British vessels. The resolution included the following passage:

"... the Althing declares that it considers that Iceland has an undisputable right to a 12-mile fishery limit, that a recognition of its rights to the whole continental shelf should be sought, as provided in the Law concerning the Scientific Conservation of the Continental Shelf Fisheries of 1948, and that a smaller fishing limit than 12 miles from baselines around the country is out of the question".

6. In 1960 the second United Nations Conference on the Law of the Sea was held in Geneva. Its object was to make a further attempt to reach agreement on the maximum breadth of the territorial sea and fisheries limits. Once again, this attempt was not successful and the Conference terminated without any agreement being reached. Nevertheless, as a result of the discussions and negotiations at this Conference and at the preceding Conference, a considerable body of opinion emerged in support of the proposition that a coastal State should, subject to certain conditions, be able to claim an exclusive fisheries zone of not more than 12 miles. This subsequently became the basis of a number of

bilateral and multilateral agreements, including the agreement between the United Kingdom and Iceland that is referred to in paragraphs 7, 8 and 9 of this Application.

7. During the course of the United Nations Conference on the Law of the Sea in 1960 the United Kingdom delegation had made certain proposals to the Icelandic delegation for a bilateral agreement to resolve the fisheries dispute between the two countries. These proposals were not acceptable to the Government of Iceland but, shortly after the end of the Conference, the Government of the United Kingdom reiterated their willingness to enter into negotiations to that end. This offer to negotiate was eventually accepted by the Government of Iceland on 10 August 1960 and preparatory talks were held in Reykjavik between 1 October 1960 and 9 October 1960. There was then, by agreement, a short adjournment until 27 October 1960 after which the talks resumed and were held, at both Ministerial and official levels, in Reykjavik, London and Paris at various times up to December 1960. Thereafter they continued through diplomatic channels.

8. As a result of these negotiations, it was announced in London and Reykjavik on 27 February 1961 that the Government of the United Kingdom and the Government of Iceland had reached agreement on proposals for a settlement of the dispute on fisheries limits. The agreement was to be embodied in an Exchange of Notes between the two Governments. This Exchange would consist of a Note from the Government of Iceland making certain proposals and a Note from the Government of the United Kingdom accepting those proposals. On 28 February 1961 the Government of Iceland submitted to the Althing for its approval the draft of their Note containing the proposals in question. This draft was appended to a draft resolution by the Althing which was in the following terms: "The Althing resolves to permit the Government to settle the fishery dispute with Britain in harmony with the Note which is printed with this Resolution." A substantial debate then took place in the Althing and the Resolution was eventually adopted by the Althing on 9 March 1961. On 11 March 1961 the Exchange of Notes was effected.

9. The full text of the Exchange of Notes of 1961 is annexed to this Application as Annex A. It will be seen that, in view of the recognition by the Government of the United Kingdom of the exceptional dependence of the Icelandic nation upon coastal fisheries for their livelihood and economic development, and without prejudice to the rights of the United Kingdom under international law towards a third party, the Government of the United Kingdom accepted the following proposals put forward by the Government of Iceland as the terms on which the dispute should be settled:

- (a) that the Government of the United Kingdom would no longer object to a 12-mile fishery zone around Iceland measured from certain specified baselines which related solely to the delimitation of that zone;
- (b) that the baselines in question would be those set out in Decree No. 70 of 30 June 1958 (see para. 4 above), modified in four specified respects;
- (c) that for a transitional period of three years from the conclusion of the agreement, British fishing vessels would continue to be entitled to fish in certain specified areas within the outer six miles of the 12-mile zone during certain seasons of the year respectively specified for those areas; and
- (d) that the Government of Iceland would continue to work for the implementation of the Althing resolution of 5 May 1959 regarding the extension of fisheries jurisdiction around Iceland (see para. 5 above) but would be obliged to give the Government of the United Kingdom six months' notice

of any such extension: if there were a dispute in relation to any such extension, the matter would, at the request of either party, have to be referred to the International Court of Justice.

The agreement expressly provided that it should be registered with the Secretary-General of the United Nations in accordance with Article 102 of the United Nations Charter. It was so registered by the Government of Iceland on 8 June 1961.

10. With the conclusion of the Exchange of Notes of 1961, and on the basis of the rights and obligations which the parties to it thereby acquired and accepted in relation to each other, the fisheries dispute between the two countries, as it then existed, was settled on terms which have since been acted upon by both countries. On 14 July 1971, however, following a general election in Iceland and the formation of a new Government, a policy statement was issued by the Government of Iceland which included the following passage:

"Territorial waters

The Fisheries Agreements with the United Kingdom and the Federal German Republic shall be terminated and a resolution be made about an extension of the fishery limit up to 50 nautical miles from the baselines, effective not later than 1 September 1972. At the same time a zone of jurisdiction of 100 nautical miles shall be enacted for protection against pollution. The Government will in this matter consult the Opposition and give it an opportunity to follow its entire development."

(The rest of the policy statement is not relevant to the question of fisheries jurisdiction. The above passage is taken from an unofficial English translation supplied by the Ministry of Foreign Affairs of the Government of Iceland.)

11. The Government of the United Kingdom were naturally disturbed by what was said in the policy statement not only about the proposed extension of fisheries limits but also about the "termination" of the agreement constituted by the Exchange of Notes in 1961. Accordingly, on 17 July 1971, the British Embassy in Reykjavik delivered to the Secretary-General of the Ministry of Foreign Affairs of the Government of Iceland an aide-mémoire which expressed their concern, reminded the Government of Iceland of the provisions of the Exchange of Notes of 1961 relating to the reference of disputes to the International Court of Justice, pointed out that that Exchange of Notes was not open to unilateral denunciation or termination, and fully reserved the rights thereunder of the Government of the United Kingdom. A copy of the text of this aide-mémoire is annexed to this Application as Annex B.

12. Following the delivery of the aide-mémoire of 17 July 1971, talks were held in London on 18 August 1971 between Ministers of the two Governments. No reconciliation of their views was achieved and, on 31 August 1971, an aide-mémoire was handed to the British Ambassador in Reykjavik by the Secretary-General of the Ministry of Foreign Affairs of the Government of Iceland. After referring to some of the relevant provisions of the Exchange of Notes of 1961 and in particular to the provision therein for the reference of disputes to the International Court of Justice, and after asserting that "the object and purpose of [that provision] have been fully achieved", the aide-mémoire went on to say that, in view of certain alleged considerations which it described, "the Government of Iceland now finds it essential to extend further the zone of exclusive fisheries jurisdiction around its coasts to include the area of sea covering the continental shelf. It is contemplated that the new limits, the precise boundaries of which will be furnished at a later date, will

enter into force not later than 1 September 1972." The aide-mémoire concluded by indicating that the Government of Iceland were prepared to hold further meetings between representatives of the two Governments "for the purpose of achieving a practical solution of the problems involved". A copy of the full text of the aide-mémoire of 31 August 1971 is annexed to this Application as Annex C.

13. On 27 September 1971 the British Embassy in Reykjavik delivered to the Secretary-General of the Ministry of Foreign Affairs of the Government of Iceland an aide-mémoire in reply to the latter's aide-mémoire of 31 August 1971. This reply placed on record the view of the Government of the United Kingdom that such an extension of the fisheries zone around Iceland as was described in the aide-mémoire of 31 August would have no basis in international law. It also recorded the rejection by the Government of the United Kingdom of the view expressed by the Government of Iceland that the object and purpose of the provision, in the Exchange of Notes of 1961, for recourse to judicial settlement of disputes relating to an extension of fisheries jurisdiction around Iceland had been fully achieved. It reserved all the rights of the Government of the United Kingdom under the 1961 Agreement including the right to refer disputes to the International Court of Justice. It then went on to note the proposal of the Government of Iceland that there should be further discussions and it indicated that, without prejudice to the legal position of the Government of the United Kingdom as just outlined, they were prepared to enter into further exploratory discussions. The full text of the aide-mémoire of 27 September 1971 is annexed to this Application as Annex D.

14. In pursuance of these references by both Governments to the possibility of holding further discussions, such discussions were in due course arranged and took place at official level in London on 3 and 4 November 1971, and in Reykjavik on 13 and 14 January 1972. In these discussions the Icelandic delegation reiterated that Iceland was entitled to, and intended to, extend its exclusive fisheries limits with effect from a date not later than 1 September 1972 as indicated in the aide-mémoire of the Government of Iceland of 31 August 1971. They recognized, however, that this would create difficulties for the British fishing industry and offered to consider practical arrangements under which, without Iceland's abating its insistence on exclusive jurisdiction over the whole area in question, British fishing vessels might be permitted, subject to certain conditions, to continue to fish in that area for a limited phase-out period. The British delegation, for their part, made clear that they could not accept that Iceland was entitled in international law to extend its exclusive fisheries limits in the way indicated. On the other hand, they recognized the concern which the Government of Iceland might feel about the possibility of injury to fish stocks in the area in question if fishing there remained unregulated and they expressed their readiness to consider practical means to satisfy that concern. Having regard to the resolution on Special Situations relating to Coastal Fisheries adopted on 26 April 1958 by the first United Nations Conference on the Law of the Sea at Geneva, they indicated that in their view an appropriate method of doing this would be (instead of the unilateral arrogation of exclusive jurisdiction over areas of the high seas) the adoption of mutually agreed conservation measures. They offered, as an interim measure, pending the elaboration of a multilateral arrangement within the North-East Atlantic Fisheries Commission, to limit the total catch of demersal species in Icelandic waters by United Kingdom vessels to the average taken by such vessels during the 10 years 1960 to 1969. (A copy of the Resolution on Special Situations relating to Coastal Fisheries is annexed to this Application as Annex E, and

a copy of the North-East Atlantic Fisheries Convention of 24 January 1959, which establishes the North-East Atlantic Fisheries Commission, is annexed as Annex F. In May 1970 the Commission, acting in accordance with Article 7 (2) of the Convention, unanimously adopted a proposal to add to the list of measures listed in Article 7 (1) measures for regulating the amount of total catch and the amount of fishing effort in any period. This proposal has since been accepted by all except four of the Contracting States and it is understood by the Government of the United Kingdom that those four States expect to accept it, in accordance with their respective constitutional procedures, in the near future.)

15. In view of the different approaches of the two delegations, as described in the preceding paragraph, to the appropriate basis for a "practical solution of the problems involved", these discussions did not lead to an agreement. Meanwhile, the Althing had had before it a draft of a further Resolution on this matter and, on 15 February 1972, it adopted an amended form of that draft. This Resolution, as so adopted, reiterated that "the continental shelf of Iceland and the superjacent waters are within the jurisdiction of Iceland" and resolved that "the fishery limits will be extended to 50 miles from baselines round the country, to become effective not later than 1 September 1972", that "the Governments of the United Kingdom and the Federal Republic of Germany be again informed that because of the vital interests of the nation and owing to changed circumstances the Notes concerning fishery limits exchanged in 1961 are no longer applicable and that their provisions do not constitute an obligation for Iceland" and that "efforts to reach a solution of the problems connected with the extension be continued through discussions with the Governments of the United Kingdom and the Federal Republic of Germany". The full text of an English translation of the Resolution is annexed to this application as Annex G.

16. The passage of this Resolution was followed, on 24 February 1972, by the delivery of an aide-mémoire to the British Ambassador in Reykjavik by the Minister for Foreign Affairs of the Government of Iceland. (A copy of the full text of this aide-mémoire, together with the second enclosure thereto, is annexed to this Application as Annex H; the first enclosure, which was the text of a statement made by the Minister for Foreign Affairs in the General Assembly of the United Nations on 29 September 1971, is not so annexed since it is in fact reproduced, so far as it is relevant to the question of fisheries jurisdiction, on pp. 31 to 33 of the second enclosure¹.) At the same time as he delivered this aide-mémoire, the Minister for Foreign Affairs read a formal statement, the text of which is annexed to this Application as Annex I. The aide-mémoire stated that, for the reasons indicated in their earlier communications on the matter, the Government of Iceland "considers the provisions of the Notes exchanged [in 1961] no longer to be applicable and consequently terminated" and announced that "the Government of Iceland has accordingly decided to issue new regulations providing for fishery limits of 50 nautical miles from the present baselines, to become effective on 1 September 1972, as set forth in the Resolution of the Althing unanimously adopted on 15 February 1972". It will be seen from the penultimate paragraph on page 8 of the second enclosure² to Annex H and from the antepenultimate paragraph on page 18³ that the figure of 50 nautical miles which was referred to in the aide-mémoire and in

¹ See pp. 51-53, *infra*.

² See p. 28, *infra*.

³ See p. 38, *infra*.

the Resolution adopted by the Althing on 15 February 1972, and which was also, of course, the figure referred to in the policy statement of 14 July 1971 (see para. 10 above), was represented as corresponding generally to the outer limit of the Icelandic continental shelf. This outer limit, however, was taken as itself coinciding with the 400 metres isobath, as contrasted with the 100 fathoms isobath referred to in the commentary accompanying the Law of 1948 (see para. 2 above). No explanation is given of this choice of the 400 metres isobath for defining the extent of the continental shelf. It will also be seen from the map¹ on page 28 of the same document that even if the 400 metres isobath is taken as the appropriate index, that isobath lies at distances from the coast of Iceland which range between about 70 nautical miles and less than 12 nautical miles: in general the distance is somewhat less than 50 nautical miles.

17. In the light of the Government of Iceland's aide-mémoire of 24 February and the statement which accompanied it (which together reiterated the definitive decision of the Government of Iceland to extend their exclusive fisheries zone to 50 nautical miles with effect from 1 September 1972, and their definitive rejection of the representations relating to the illegality of such action that had been addressed to them by the Government of the United Kingdom), the Government of the United Kingdom concluded that they had no course open to them but to have the dispute referred to the International Court of Justice as provided for by the Exchange of Notes of 1961. The Government of Iceland, who had previously been informed that this would be the probable outcome of their insistence on a unilateral extension of their exclusive fisheries zone, were notified of this decision by the British Ambassador in Reykjavik on 3 March 1972. On 14 March 1972 an aide-mémoire from the Government of the United Kingdom, formally re-stating their position in reply to the Government of Iceland's aide-mémoire of 24 February 1972, and giving formal notice of their intention to invoke the agreed procedure for obtaining the adjudication of the International Court of Justice thereon, was delivered to the Minister for Foreign Affairs of the Government of Iceland by the British Ambassador in Reykjavik. Having in mind the imminence of the threatened action by the Government of Iceland, the aide-mémoire indicated that the United Kingdom's application to the International Court of Justice would be made "shortly" but it went on to point out that "the British Government are very willing to continue discussions with the Government of Iceland in order to agree satisfactory practical arrangements for the period while the case is before the International Court of Justice". A copy of the full text of the aide-mémoire is annexed to this application as Annex J.

18. In the circumstances which are described in the preceding paragraphs of this Application and which the Government of the United Kingdom will set out more fully in their Memorial and in subsequent written and oral pleadings, a dispute exists between the Government of Iceland and the Government of the United Kingdom. In reliance on the jurisdiction vested in the Court by Article 36 of the Statute of the Court and by the Exchange of Notes of 1961, the Government of the United Kingdom have deemed it appropriate to submit that dispute to the Court.

19. The subject of the dispute is the legality or otherwise of the decision which the Government of Iceland have announced that they intend to put into effect on 1 September 1972, that is to say, unilaterally to extend the exclusive fisheries jurisdiction of Iceland to embrace an area bounded by 50 nautical

¹ See p. 48, *infra*.

miles from baselines drawn round its coast corresponding to those referred to in the Exchange of Notes of 1961 (see para. 9 (b) above). The United Kingdom contends that Iceland has no authority for such action in international law, whether conventional or customary. The United Kingdom therefore contends that such an extension is unjustifiable and invalid and that, accordingly, Iceland is not entitled in international law unilaterally to exclude the fishing vessels of other countries, and specifically those of the United Kingdom, from the aforesaid area with effect from 1 September 1972, or from any other date.

20. It is the further contention of the United Kingdom that, to the extent that Iceland may, as a coastal State specially dependent on coastal fisheries for its livelihood or economic development, assert a need to procure the establishment of a special fisheries conservation régime (including such a régime under which it enjoys preferential rights) in the waters adjacent to its coast but beyond the exclusive fisheries zone provided for by the Exchange of Notes of 1961, it can legitimately pursue that objective by collaboration and agreement with the other countries concerned (as contemplated by the Resolution on Special Situations relating to Coastal Fisheries of 26 April 1958) but not by the unilateral arrogation of exclusive rights within those waters; such collaboration and agreement might be on either a bilateral or a multilateral basis and might include collaboration and agreement achieved through the machinery of such bodies as the North-East Atlantic Fisheries Commission. The United Kingdom has at all times stood ready, and continues to stand ready, to collaborate with Iceland to that end and to negotiate such an agreement with Iceland (either bilaterally or multilaterally as aforesaid) in good faith and with due regard to the rights and interests of all concerned.

21. ACCORDINGLY, THE UNITED KINGDOM ASKS THE COURT TO ADJUDGE AND DECLARE:

- (a) That there is no foundation in international law for the claim by Iceland to be entitled to extend its fisheries jurisdiction by establishing a zone of exclusive fisheries jurisdiction extending to 50 nautical miles from the baselines hereinbefore referred to; and that its claim is therefore invalid; and
- (b) that questions concerning the conservation of fish stocks in the waters around Iceland are not susceptible in international law to regulation by the unilateral extension by Iceland of its exclusive fisheries jurisdiction to 50 nautical miles from the aforesaid baselines but are matters that may be regulated, as between Iceland and the United Kingdom, by arrangements agreed between those two countries, whether or not together with other interested countries and whether in the form of arrangements reached in accordance with the North-East Atlantic Fisheries Convention of 24 January 1959, or in the form of arrangements for collaboration in accordance with the Resolution on Special Situations relating to Coastal Fisheries of 26 April 1958, or otherwise in the form of arrangements agreed between them that give effect to the continuing rights and interests of both of them in the fisheries of the waters in question.

(Signed) H. STEEL,
Agent for the Government of the
United Kingdom.

ANNEXES TO THE APPLICATION

Annex A

EXCHANGE OF NOTES OF 1961

No. 1

*The Foreign Minister of Iceland to
Her Majesty's Ambassador at Reykjavik*

Reykjavik, 11 March 1961.

I have the honour to refer to the discussions which have taken place in Reykjavik and London between our Governments concerning the fisheries dispute between our two countries. In view of these discussions my Government is willing to settle the dispute on the following basis:

1. The United Kingdom Government will no longer object to a twelve-mile fishery zone around Iceland measured from the base lines specified in paragraph 2 below which relate solely to the delimitation of that zone.
2. The base lines, which will be used for the purpose referred to in paragraph 1 above, will be those set out in the Icelandic Regulation No. 70 of June 30, 1958, as modified by the use of the base lines drawn between the following points:
 - A. Point 1 (Horn) to Point 5 (Ásbúdarri).
 - B. Point 12 (Langanes) to Point 16 (Glettinganes).
 - C. Point 51 (Geirfugladrangur) to Point 42 (Skálasnagi).
 - D. Point 35 (Geirfuglasker) to Point 39 (Eldeyjardrangur).

These modifications will enter into force immediately.

3. For a period of three years from the date of Your Excellency's reply to this Note, the Icelandic Government will not object to vessels registered in the United Kingdom fishing within the outer six miles of the fishery zone referred to in paragraphs 1 and 2 above within the following areas during the periods specified:

- (i) Horn (Point 1)—Langanes (Point 12) (June to September).
- (ii) Langanes (Point 12)—Glettinganes (Point 16) (May to December).
- (iii) Glettinganes (Point 16)—Setusker (Point 20) (January to April and July to August).
- (iv) Setusker (Point 20)—Medallandssandur I (Point 30) (March to July).
- (v) Medallandssandur I (Point 30)—20° west longitude (April to August).
- (vi) 20° west longitude—Geirfugladrangur (Point 51) (March to May).
- (vii) Geirfugladrangur (Point 51)—Bjartangar (Point 43) (March to May.)

4. There will, however, be no fishing by vessels registered in the United Kingdom in the outer six miles of the fishery zone referred to in paragraphs 1 and 2 during the aforesaid period of three years in the following areas:

- (i) Between 63° 37' north latitude and 64° 13' north latitude (Faxaflói).
- (ii) Between 64° 40' north latitude and 64° 52' north latitude (Snæfellsnes).
- (iii) Between 65° north latitude and 65° 20' north latitude (Breidasjördur).

- (iv) Between Bjartangar (Point 43) and Horn (Point 1).
- (v) Off the mainland in the area delimited by lines drawn from the southernmost point of Grimsey to base points 6 and 8.
- (vi) Between 14° 58' west longitude and 15° 32' west longitude (Mýrabugt).
- (vii) Between 16° 12' west longitude and 16° 46' west longitude (Ingólfshöfði).

The Icelandic Government will continue to work for the implementation of the Althing Resolution of May 5, 1959, regarding the extension of fisheries jurisdiction around Iceland, but shall give to the United Kingdom Government six months' notice of such extension and, in case of a dispute in relation to such extension, the matter shall, at the request of either party, be referred to the International Court of Justice.

I have the honour to suggest that this Note and Your Excellency's reply thereto, confirming that its contents are acceptable to the United Kingdom Government, shall be registered with the Secretary-General of the United Nations in accordance with Article 102 of the United Nations Charter, and further to suggest that a settlement on this basis shall become effective forthwith.

(Signed) Gudmundur I. GUDMUNDSSON.

No. 2

*Her Majesty's Ambassador at Reykjavik to
the Foreign Minister of Iceland*

Reykjavik, March 11, 1961.

I have the honour to acknowledge receipt of Your Excellency's Note of today's date reading as follows:

[As in No. 1]

I have the honour to confirm that in view of the exceptional dependence of the Icelandic nation upon coastal fisheries for their livelihood and economic development, and without prejudice to the rights of the United Kingdom under international law towards a third party, the contents of Your Excellency's Note are acceptable to the United Kingdom and the settlement of the dispute has been accomplished on the terms stated therein. I also confirm that the United Kingdom Government agrees that the settlement becomes effective forthwith and that the Notes exchanged today shall be registered with the Secretary-General of the United Nations in accordance with Article 102 of the United Nations Charter.

(Signed) Charles STEWART.

Annex B**GOVERNMENT OF THE UNITED KINGDOM'S AIDE-MÉMOIRE
OF 17 JULY 1971**

The British Government have noted with concern that the policy statement issued by the Icelandic Government on 14 July 1971 states that the fisheries agreement with the United Kingdom "shall be terminated and a resolution be made about an extension of the fishery limits up to fifty nautical miles from the baselines, effective not later than 1 September 1972".

2. The British Government regret that a statement involving an agreement with the United Kingdom has been made by the Icelandic Government without prior consultation with or advance warning to the British Government. The Exchange of Notes on 11 March 1961 settling the fisheries dispute between the Icelandic and British Governments provides that the British Government will be given six months' notice of any extension of fisheries jurisdiction around Iceland and, in case of a dispute in relation to such extension, the matter shall, at the request of either party, be referred to the International Court of Justice. In the view of the British Government, that Exchange of Notes is not open to unilateral denunciation or termination. In the circumstances, the British Government fully reserve their rights under the Exchange of Notes.

3. The British Government also note that the policy statement envisages the establishment of "a zone of jurisdiction of one hundred nautical miles . . . for protection against pollution". The British Government cannot accept the right of any State unilaterally to assume jurisdiction over areas of the high seas and they therefore wish to reserve their position in this respect also.

Annex C**GOVERNMENT OF ICELAND'S AIDE-MÉMOIRE
OF 31 AUGUST 1971**

The Government of Iceland has studied the contents of the Embassy's aide-mémoire of 17 July 1971, and with reference to discussions in London on 18 August 1971, between Mr. Einar Ágústsson, Minister for Foreign Affairs, and Mr. Joseph Godber, Minister of State for Foreign Affairs and Commonwealth Affairs, wishes to communicate the following:

On 11 March 1961 the Governments of Iceland and the United Kingdom exchanged Notes for the settlement of the fisheries dispute between the two countries, which had its origin in the extension of Iceland's fishery limits effected in 1958. In that Exchange of Notes it was stated:

"The Icelandic Government will continue to work for the implementation of the Althing Resolution of 5 May 1959 regarding the extension of fisheries jurisdiction around Iceland, but shall give to the United Kingdom Government six months' notice of such extension and, in case of a dispute in relation to such extension, the matter shall, at the request of either party, be referred to the International Court of Justice."

In the opinion of the Icelandic Government, which is continuing to work for the implementation of the Althing Resolution in the light of increased knowledge and other developments that have occurred since that Exchange of Notes, the object and purpose of the provision for recourse to judicial settlement of certain matters envisaged in the passage quoted above have been fully achieved. In the period of ten years which has elapsed, the United Kingdom Government enjoyed the benefit of the Icelandic Government's policy to the effect that further extension of the limits of exclusive fisheries jurisdiction would be placed in abeyance for a reasonable and equitable period. Continuation of that policy by the Icelandic Government, in the light of intervening scientific and economic evolution (including the ever greater threat of increased diversion of highly developed fishing effort to the Icelandic area) has become excessively onerous and unacceptable, and is harmful to the maintenance of the resources of the sea on which the livelihood of the Icelandic people depends.

In order to strengthen the measures of protection essential to safeguard the vital interests of the Icelandic people in the seas surrounding its coasts, the Government of Iceland now finds it essential to extend further the zone of exclusive fisheries jurisdiction around its coasts to include the areas of sea covering the continental shelf. It is contemplated that the new limits, the precise boundaries of which will be furnished at a later date, will enter into force not later than 1 September 1972.

Having regard to the foregoing the Government of Iceland is prepared, on the basis of the discussions which have already taken place in London, that representatives of the Governments of the United Kingdom and Iceland should meet for the purpose of achieving a practical solution of the problems involved.

Ministry for Foreign Affairs,
Reykjavik, 31 August 1971.

Annex D**GOVERNMENT OF THE UNITED KINGDOM'S AIDE-MÉMOIRE
OF 27 SEPTEMBER 1971**

The British Government have studied the contents of the Government of Iceland's aide-mémoire of 31 August 1971 concerning a proposal by the Government of Iceland "to extend further the zone of exclusive fisheries jurisdiction around its coasts to include the area of sea covering the continental shelf". The British Government wish to place on record their view that such an extension of the fishery zone around Iceland would have no basis in international law.

The British Government further cannot accept the view expressed in the aide-mémoire that the object and purpose of the provision, contained in the Anglo-Icelandic Exchange of Notes of March 1961, for recourse to judicial settlement of disputes relating to an extension of fisheries jurisdiction around Iceland have been fully achieved. The British Government wish formally to reserve all their rights under that agreement including the right to refer disputes to the International Court of Justice.

The British Government note the Government of Iceland's proposal of further discussions. Without prejudice to their legal position outlined above the British Government are prepared to enter into further exploratory discussions with the Government of Iceland.

Annex E**RESOLUTION ON SPECIAL SITUATIONS RELATING TO COASTAL FISHERIES ADOPTED AT GENEVA ON 26 APRIL 1958**

The United Nations Conference on the Law of the Sea,

Having considered the situation of countries or territories whose people are overwhelmingly dependent upon coastal fisheries for their livelihood or economic development,

Having considered also the situation of countries whose coastal population depends primarily on coastal fisheries for the animal protein of its diet and whose fishing methods are mainly limited to local fishing from small boats,

Recognizing that such situations call for exceptional measures befitting particular needs,

Considering that, because of the limited scope and exceptional nature of those situations, any measures adopted to meet them would be complementary to provisions incorporated in a universal system of international law,

Believing that States should collaborate to secure just treatment of such situations by regional agreements or by other means of international co-operation,

Recommends:

1. That where, for the purpose of conservation, it becomes necessary to limit the total catch of a stock or stocks of fish in an area of the high seas adjacent to the territorial sea of a coastal State, any other States fishing in that area should collaborate with the coastal State to secure just treatment of such situation, by establishing agreed measures which shall recognize any preferential requirements of the coastal State resulting from its dependence upon the fishery concerned while having regard to the interests of the other States;
 2. That appropriate conciliation and arbitral procedures shall be established for the settlement of any disagreement.
-

Annex F**NORTH-EAST ATLANTIC FISHERIES CONVENTION OF 24 JANUARY 1959**

The States Parties to this Convention

Desiring to ensure the conservation of the fish stocks and the rational exploitation of the fisheries of the North-East Atlantic Ocean and adjacent waters, which are of common concern to them;

Have agreed as follows:

Article I

(1) The area to which this Convention applies (hereinafter referred to as "the Convention area") shall be all waters which are situated

(a) within those parts of the Atlantic and Arctic Oceans and their dependent seas which lie north of 36° north latitude and between 42° west longitude and 51° east longitude, but excluding

(i) the Baltic Sea and Belts lying to the south and east of lines drawn from Hasenore Head to Gníben Point, from Korshage to Spøsbierg and from Gilbierg Head to the Kullen, and

(ii) the Mediterranean Sea and its dependent seas as far as the point of intersection of the parallel of 36° latitude and the meridian of 5° 36' west longitude.

(b) within that part of the Atlantic Ocean north of 59° north latitude and between 44° west longitude and 42° west longitude.

(2) The Convention area shall be divided into regions, the boundaries of which shall be those defined in the Annex to this Convention. The regions shall be subject to such alterations as may be made in accordance with the provisions of paragraph (4) of Article 5 of this Convention.

(3) For the purposes of this Convention

(a) the expression "vessel" means any vessel or boat employed in fishing for sea fish or in the treatment of sea fish which is registered or owned in the territories of, or which flies the flag of, any Contracting State; and

(b) the expression "territories" in relation to any Contracting State, extends to

(i) any territory within or adjacent to the Convention area for whose international relations the Contracting State is responsible;

(ii) any other territory, not situated within the Convention area or adjacent to it, for whose international relations the Contracting State is responsible and for which such State shall have made known, by written declaration to the Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as the Government of the United Kingdom), either at the time of signature, of ratification, or of adherence, or subsequently, that this Convention shall apply to it;

(iii) the waters within the Convention area where the Contracting State has exclusive jurisdiction over fisheries.

Article 2

Nothing in this Convention shall be deemed to affect the rights, claims, or views of any Contracting State in regard to the extent of jurisdiction over fisheries.

Article 3

(1) A North-East Atlantic Fisheries Commission (hereinafter referred to as the Commission) is hereby established and shall be maintained for the purposes of this Convention.

(2) Each Contracting State may appoint as its Delegation to the Commission not more than two Commissioners and such experts and advisers to assist them as that State may determine.

(3) The Commission shall elect its own President and not more than two Vice-Presidents who need not be chosen from the Commissioners or their experts or advisers. If a member of a Delegation has been elected President he shall forthwith cease to act as a member of that Delegation, and if a Commissioner has been elected the State concerned shall have the right to appoint another person to serve in his place.

(4) The Office of the Commission shall be in London.

(5) Except where the Commission determines otherwise, it shall meet once a year in London at such time as it shall decide: provided, however, that upon the request of a Commissioner of a Contracting State and subject to the concurrence of a Commissioner of each of three other Contracting States, the President shall, as soon as practicable, summon a meeting at such time and place as he may determine.

(6) The Commission shall appoint its own Secretary and may from time to time appoint such other staff as it may require.

(7) The Commission may set up such Committees as it considers desirable to perform such functions as it may determine.

(8) Each Delegation shall have one vote in the Commission which may be cast only by a Commissioner of the State concerned. Decisions shall be taken by a simple majority except where otherwise specifically provided. If there is an even division of votes on any matter which is subject to a simple majority decision, the proposal shall be regarded as rejected.

(9) Subject to the provisions of this Article, the Commission shall draw up its own Rules of Procedure, including provisions for the election of the President and Vice-Presidents and their terms of office.

(10) The Government of the United Kingdom shall call the first meeting of the Commission as soon as practicable after the coming into force of this Convention, and shall communicate the provisional agenda to each of the other Contracting States not less than two months before the date of the meeting.

(11) Reports of the proceedings of the Commission shall be transmitted and proposals and recommendations shall be notified as soon as possible to all Contracting States in English and in French.

Article 4

(1) Each Contracting State shall pay the expenses of the Commissioners, experts and advisers appointed by it.

(2) The Commission shall prepare an annual budget of the proposed expenditures of the Commission.

(3) In any year in which the annual budget amounts to £200 or less for each Contracting State, the total sum shall be shared equally between Contracting States.

(4) In any year in which the annual budget exceeds £200 for each Contracting State, the Commission shall calculate the payments due from each Contracting State according to the following formula:

- (a) from the budget there shall be deducted a sum of £200 for each Contracting State;
- (b) the remainder shall be divided into such number of equal shares as correspond to the total number of Regional Committee memberships;
- (c) the payment due from any Contracting State shall be the equivalent of £200 plus the number of shares equal to the number of Regional Committees in which that State participates.

(5) The Commission shall notify to each Contracting State the sum due from that State as calculated under paragraph (3) or (4) of this Article and as soon as possible thereafter each Contracting State shall pay to the Commission the sum so notified.

(6) Contributions shall be payable in the currency of the country in which the Office of the Commission is located, except that the Commission may accept payment in the currencies in which it may be expected that expenditures of the Commission will be made from time to time, up to an amount established each year by the Commission when preparing the annual budget.

(7) At its first meeting the Commission shall approve a budget for the balance of the first financial year in which the Commission functions and shall transmit to the Contracting States copies of that budget together with notices of their respective contributions as assessed under paragraph (3) or (4) of this Article.

(8) In subsequent financial years, the Commission shall submit to each Contracting State drafts of annual budgets, together with a schedule of allocations, not less than six weeks before the annual meeting of the Commission at which the budgets are to be considered.

Article 5

(1) The Commission shall establish a Regional Committee, with the powers and duties described in Article 6 of this Convention, for each of the regions into which the Convention area is divided.

(2) The representation on any Regional Committee so established shall be determined by the Commission, provided, however, that any Contracting State with a coastline adjacent to that region, or exploiting the fisheries of the region, has automatically the right of representation on the Regional Committee. Contracting States exploiting elsewhere a stock which is also fished in that region shall have the opportunity of being represented on the Regional Committee.

(3) Subject to the provisions of Article 6 of this Convention, the Commission shall determine the terms of reference of, and the procedure to be followed by, each Regional Committee.

(4) The Commission may at any time alter the boundaries and vary the number of the regions defined in the Annex to this Convention, provided this is by the unanimous decision of the Delegations present and voting and no objection is made within three months thereafter by any Contracting State not represented, or not voting, at the meeting.

Article 6

- (1) It shall be the duty of the Commission:
- (a) to keep under review the fisheries in the Convention area;
 - (b) to consider, in the light of the technical information available, what measures may be required for the conservation of the fish stocks and for the rational exploitation of the fisheries in the area;
 - (c) to consider, at the request of any Contracting State, representations made to it by a State which is not a party to this Convention for the opening of negotiations on the conservation of fish stocks in the Convention area or any part thereof; and
 - (d) to make to Contracting States recommendations, based as far as practicable on the results of scientific research and investigation, with regard to any of the measures set out in Article 7 of this Convention.

(2) It shall be the duty of a Regional Committee to perform, in relation to its Region, functions of review and consideration similar to those described in paragraph (1) of this Article in relation to the Commission and the Convention area. A Regional Committee may initiate proposals for measures in relation to its region and shall consider any such proposals as may be remitted to it by the Commission.

(3) A Regional Committee may prepare draft recommendations for consideration by the Commission, which may adopt any such draft recommendations, with any modifications it may consider desirable, as recommendations for the purpose of Article 7 of this Convention.

(4) A Regional Committee may at any time appoint sub-committees to study specific problems affecting parts of the Region and to report thereon to the Regional Committee.

Article 7

- (1) The measures relating to the objectives and purposes of this Convention which the Commission and Regional Committees may consider, and on which the Commission may make recommendations to the Contracting States, are:
- (a) any measures for the regulation of the size of mesh of fishing nets;
 - (b) any measures for the regulation of the size limits of fish that may be retained on board vessels, or landed, or exposed or offered for sale;
 - (c) any measures for the establishment of closed seasons;
 - (d) any measures for the establishment of closed areas;
 - (e) any measures for the regulation of fishing gear and appliances, other than regulation of the size of mesh of fishing nets;
 - (f) any measures for the improvement and the increase of marine resources, which may include artificial propagation, the transplantation of organisms and the transplantation of young.

(2) Measures for regulating the amount of total catch, or the amount of fishing effort in any period, or any other kinds of measures for the purpose of the conservation of the fish stocks in the Convention area, may be added to the measures listed in paragraph (1) of this Article on a proposal adopted by not less than a two-thirds majority of the Delegations present and voting and subsequently accepted by all Contracting States in accordance with their respective constitutional procedures.

(3) The measures provided for in paragraphs (1) and (2) of this Article may relate to any or all species of sea fish and shell fish, but not to sea mammals; to any or all methods of fishing; and to any or all parts of the Convention area.

Article 8

(1) Subject to the provisions of this Article, the Contracting States undertake to give effect to any recommendation made by the Commission under Article 7 of this Convention and adopted by not less than a two-thirds majority of the Delegations present and voting.

(2) Any Contracting State may, within ninety days of the date of notice of a recommendation to which paragraph (1) of this Article applies, object to it and in that event shall not be under obligation to give effect to the recommendation.

(3) In the event of an objection being made within the ninety-day period, any other Contracting State may similarly object at any time within a further period of sixty days, or within thirty days after receiving notice of an objection by another Contracting State made within the further period of sixty days.

(4) If objections to a recommendation are made by three or more of the Contracting States, all the other Contracting States shall be relieved forthwith of any obligation to give effect to that recommendation but any or all of them may nevertheless agree among themselves to give effect to it.

(5) Any Contracting State which has objected to a recommendation may at any time withdraw that objection and shall then, subject to the provisions of paragraph (4) of this Article, give effect to the recommendation within ninety days, or as from the date determined by the Commission under Article 9 of this Convention, whichever is the later.

(6) The Commission shall notify each Contracting State immediately upon receipt of each objection and withdrawal.

Article 9

Any recommendation to which paragraph (1) of Article 8 of this Convention applies shall, subject to the provisions of that Article, become binding on the Contracting States from the date determined by the Commission, which shall not be before the period for objection provided in Article 8 has elapsed.

Article 10

(1) At any time after two years from the date on which it has been required to give effect to any recommendation to which paragraph (1) of Article 8 of this Convention applies, any Contracting State may give the Commission notice of the termination of its acceptance of the recommendation and, if that notice is not withdrawn, the recommendation shall cease to be binding on that Contracting State at the end of twelve months from the date of the notice.

(2) At any time after a recommendation has ceased to be binding on a Contracting State under paragraph (1) of this Article, the recommendation shall cease to be binding on any other Contracting State which so desires upon the date of notice, to the Commission of withdrawal of acceptance of that recommendation by such other State.

(3) The Commission shall notify all Contracting States of every notice under this Article immediately upon the receipt thereof.

Article 11

(1) In order that the recommendations made by the Commission for the conservation of the stocks of fish within the Convention area shall be based so far as practicable upon the results of scientific research and investigation, the Commission shall when possible seek the advice of the International Council for

the Exploration of the Sea and the co-operation of the Council in carrying out any necessary investigations and, for this purpose, may make such joint arrangements as may be agreed with the International Council for the Exploration of the Sea or may make such other arrangements as it may think fit.

(2) The Commission may seek to establish and maintain working arrangements with any other international organization which has related objectives.

Article 12

(1) The Contracting States undertake to furnish on the request of the Commission any available statistical and biological information the Commission may need for the purposes of this Convention.

(2) The Commission may publish or otherwise disseminate reports of its activities and such other information relating to the fisheries in the Convention area or any part of that area as it may deem appropriate.

Article 13

(1) Without prejudice to the sovereign rights of States in regard to their territorial and internal waters, each Contracting State shall take in its territories and in regard to its own nationals and its own vessels appropriate measures to ensure the application of the provisions of this Convention and of the recommendations of the Commission which have become binding on that Contracting State and the punishment of infractions of the said provisions and recommendations.

(2) Each Contracting State shall transmit annually to the Commission a statement of the action taken by it for these purposes.

(3) The Commission may by a two-thirds majority make recommendations for, on the one hand, measures of national control in the territories of the Contracting States and, on the other hand, national and international measures of control on the high seas, for the purpose of ensuring the application of the Convention and the measures in force thereunder. Such recommendations shall be subject to the provisions of Articles 8, 9 and 10.

Article 14

The provisions of this Convention shall not apply to fishing operations conducted solely for the purpose of scientific investigation by vessels authorized by a Contracting State for that purpose, or to fish taken in the course of such operations, but in any of the territories of any Contracting State bound by a recommendation to which paragraph (1) of Article 8 applies, fish so taken shall not be sold or exposed or offered for sale in contravention of any such recommendation.

Article 15

(1) This Convention shall be open for signature until 31st March, 1959. It shall be ratified as soon as possible and the instrument of ratification shall be deposited with the Government of the United Kingdom.

(2) This Convention shall enter into force upon the deposit of instruments of ratification by all signatory States. If, however, after the lapse of one year from 31st March, 1959, all the signatory States have not ratified this Convention, but not less than seven of them have deposited instruments of ratification, these latter States may agree among themselves by special protocol on the date on which this Convention shall enter into force; and in that case this Convention

shall enter into force with respect to any State that ratifies thereafter on the date of deposit of its instrument of ratification.

(3) Any State which has not signed this Convention may accede thereto at any time after it has come into force in accordance with paragraph (2) of this Article. Accession shall be effected by means of a notice in writing addressed to the Government of the United Kingdom and shall take effect on the date of its receipt. Any State which accedes to this Convention shall simultaneously undertake to give effect to those recommendations which are, at the time of its accession, binding on all the other Contracting States as well as to any other recommendations which are, at that time, binding on one or more of the Contracting States and are not specifically excluded by the acceding State in its notice of accession.

(4) The Government of the United Kingdom shall inform all signatory and acceding States of all ratifications deposited and accessions received and shall notify signatory States of the date and the States in respect of which this Convention enters into force.

Article 16

(1) In respect of each State Party to this Convention, the provisions of Articles 5, 6, 7, 8 and 9 and Annexes I, II and III of the Convention for the Regulation of the Meshes of Fishing Nets and the Size Limits of Fish, signed at London, on 5th April, 1946, as amended by decisions made under paragraph (10) of Article 12 of that Convention shall remain in force but shall be deemed for the purposes of the present Convention to be a recommendation made and given effect without objection under this Convention as from the date of its entry into force in respect of that State within the area covered by the 1946 Convention; provided that in the period of two years after the coming into force of this Convention, any Contracting State may, on giving twelve months' written notice to the Government of the United Kingdom, withdraw from the whole or any part of the said recommendation. If a Contracting State has, in accordance with the provisions of this Article, given notice of its withdrawal from a part of the said recommendation, any other Contracting State may, with effect from the same date, give notice of its withdrawal from the same or any other part of the said recommendation, or from the recommendation as a whole.

(2) The provisions of the Convention for the Regulation of the Meshes of Fishing Nets and the Size Limits of Fish signed at London on 5th April, 1946, shall, save as provided in paragraph (1) of this Article, cease to apply to each Contracting State to this Convention as from the date of the entry into force of this Convention in respect of that State.

Article 17

At any time after two years from the date on which this Convention has come into force with respect to a Contracting State, that State may denounce the Convention by means of a notice in writing addressed to the Government of the United Kingdom. Any such denunciation shall take effect twelve months after the date of its receipt, and shall be notified to the Contracting States by the Government of the United Kingdom.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Convention.

DONE in London this twenty-fourth day of January nineteen hundred and fifty nine in two copies, one in the English language, the other in the French language. Both texts shall be deposited in the archives of the Government of the United Kingdom and shall be regarded as equally authentic.

The Government of the United Kingdom shall transmit certified copies of both texts of this Convention in the two languages to all the signatory and acceding States.

For Belgium: R. L. van MEERBEKE.

For Denmark: B. DINESEN.

For France: J. CHAUVEL.

For the Federal Republic of Germany: HERWARTH.

For Iceland: H. G. ANDERSEN.

For the Republic of Ireland: M. J. GALLAGHER.

For the Netherlands: A. BENTINCK.

For Norway: Klaus SUNNANÅ.

For Poland: Ludwik MILANOWSKI.

For Portugal: Daniel SILVA com. Mário RUIVO.

For Spain: Manuel ORBEA.

For Sweden: Gunnar HÄGGLÖF.

For the Union of Soviet Socialist Republics: M. SUKHOCHENKO.

For the United Kingdom of Great Britain and Northern Ireland: R. G. R. WALL, A. J. AGLEN, H. J. JOHNS.

ANNEX

The regions provided for by Article 1 of this Convention shall be as follows:

Region 1—The part of the Convention area bounded on the south by a line running from a point 59° north latitude 44° west longitude due east to the meridian of 42° west longitude; thence due south to the parallel of 48° north latitude; thence due east to the meridian of 18° west longitude; thence due north to the parallel of 60° north latitude; thence due east to the meridian of 5° west longitude; thence due north to the parallel of 60° 30' north latitude; thence due east to the meridian of 4° west longitude; thence due north to the parallel of 62° north latitude; thence due east to the coast of Norway; thence north and east along the coast of Norway and along the coast of the Union of Soviet Socialist Republics as far as the meridian of 51° east longitude.

Region 2—The part of the Convention area not covered by Region 1 and north of 48° north latitude.

Region 3—The part of the Convention area between 36° and 48° north latitude.

Annex G**RESOLUTION ADOPTED BY THE ALTHING ON 15 FEBRUARY 1972***(English translation)*

The Althing reiterates the fundamental policy of the Icelandic People that the continental shelf of Iceland and the superjacent waters are within the jurisdiction of Iceland and adopts the following Resolution:

1. That the fishery limits will be extended to 50 miles from base-lines around the country, to become effective not later than 1 September 1972.
 2. That the Governments of the United Kingdom and the Federal Republic of Germany be again informed that because of the vital interests of the nation and owing to changed circumstances the Notes concerning fishery limits exchanged in 1961 are no longer applicable and that their provisions do not constitute an obligation for Iceland.
 3. That efforts to reach a solution of the problems connected with the extension be continued through discussions with the Governments of the United Kingdom and the Federal Republic of Germany.
 4. That effective supervision of the fish stocks in the Iceland area be continued in consultation with marine biologists and that the necessary measures be taken for the protection of the fish stocks and specified areas in order to prevent over-fishing.
 5. That co-operation with other nations be continued concerning the necessary measures to prevent marine pollution and authorizes the Government to declare unilaterally a special jurisdiction with regard to pollution in the seas surrounding Iceland.
-

Annex H**GOVERNMENT OF ICELAND'S AIDE-MÉMOIRE
OF 24 FEBRUARY 1972**

Negotiations have been proceeding between the Governments of Iceland and the United Kingdom for the purpose of achieving a practical solution of the problems of the British trawler industry, while safeguarding the vital interests of the Icelandic People. The position of the Icelandic Government has been expressed on a number of occasions, notably in an aide-mémoire of 31 August 1971, and in the statement made by the Minister for Foreign Affairs during the Twenty-sixth Session of the United Nations General Assembly on 29 September 1971, of which a copy is enclosed¹. The considerations which lead the Government of Iceland to issue new regulations relating to exclusive fisheries jurisdiction in the continental shelf area are set forth in the enclosed Memorandum¹, entitled "Fisheries Jurisdiction in Iceland" and dated February 1972.

Reiterating all those considerations, the Government of Iceland now wishes to state the following:

In the aide-mémoire of 31 August 1971 it was intimated that "in order to strengthen the measures of protection essential to safeguard the vital interests of the Icelandic People in the seas surrounding its coasts, the Government of Iceland now finds it essential to extend further the zone of exclusive fisheries jurisdiction around its coasts to include the areas of sea covering the continental shelf". It was further stated that in the opinion of the Icelandic Government, the object and purpose of the provisions in the 1961 Exchange of Notes for recourse to judicial settlement in certain eventualities have been fully achieved. The Government of Iceland, therefore, considers the provisions of the Notes exchanged no longer to be applicable and consequently terminated.

The Government of Iceland has accordingly decided to issue new regulations providing for fishery limits of 50 miles from the present base-lines, to become effective on 1 September 1972, as set forth in the Resolution of the Althing unanimously adopted on 15 February 1972.

The Government of Iceland hopes that the discussions now in progress will as soon as possible lead to a practical solution of the problems involved.

A copy of this aide-mémoire will be transmitted to the Secretary-General of the United Nations and the Registrar of the International Court of Justice.

Ministry for Foreign Affairs,
Reykjavik, 24 February 1972.

ENCLOSURE 1

Statement by Icelandic Minister for Foreign Affairs made in the General Assembly of the United Nations on 29 September 1971

[Not annexed: see paragraph 16 of the Application and pp. 51-53 of Enclosure 2]

ENCLOSURE 2

*Memorandum Entitled "Fisheries Jurisdiction in Iceland"
Issued by the Icelandic Ministry of Foreign Affairs in
February 1972*

I.

INTRODUCTION

The coastal fisheries in Iceland have always been the foundation of the country's economy. The country itself is barren and most of the necessities of life have to be imported and financed through the export of fisheries products which have constituted approximately 90% of the total exports (Fig. 1). The coastal fisheries are the *conditio sine qua non* for the Icelandic economy; without them the country would not have been habitable. It is indeed as if Nature had intended to compensate for the barrenness of the country itself by surrounding it with rich fishing grounds.

Iceland rests on a platform or continental shelf whose outlines follow those of the country itself. In these shallow underwater terraces, ideal conditions are found for spawning areas and nursery grounds upon whose preservation and utilization the livelihood of the nation depends. It is increasingly being recognized that coastal fisheries are based on the special conditions prevailing in the coastal areas which provide the necessary environment for the fish-stocks. These conditions provide the essential combination of nutrient rich water from currents, upwelling and the phytoplankton which forms the basis of the food chain. This environment is an integral part of the natural resources of the coastal State.

Although the interests of the Icelandic People were carefully protected in earlier times their protection was disastrously reduced at the very time when it was most needed. Thus, in the seventeenth, eighteenth and part of the nineteenth centuries the fishery limits were four leagues — the league being at first the equivalent of 8 miles, later of 6 miles and finally 4. In other words, they were at the beginning of the period 32 miles, later became 24 miles

and in the nineteenth century had been reduced to 16 miles. During the latter part of the nineteenth century a 4 miles limit seems to have been practiced although all the bays were closed to foreign fishing during the entire period. Finally, in 1901, an Agreement was made between Denmark (then in charge of the foreign relations of Iceland) and the United Kingdom providing for a 10 mile rule in bays and 3 mile fishery limits around Iceland. This Agreement was terminated by the Icelandic Government in 1951. At that time the approaching ruin because of overfishing was quite clear.

In view of the gravity of the situation the Icelandic Parliament, in 1948, authorized the Government to establish explicitly bounded zones within the limits of the continental shelf of Iceland where all fishing should be subject to Icelandic jurisdiction and control and to issue the necessary regulations. It was considered natural to use as a criterion the continental shelf, whose outlines, as already stated, roughly follow those of the coast. A topographic chart makes it clear that the shelf is really the platform of the country and must be considered to be a part of the country itself. The following year, in 1949, the Icelandic Delegation to the United Nations General Assembly successfully proposed that the International Law Commission should be entrusted with the study of the Law of the Sea in its entirety. Important progress was made at the Geneva Conferences in 1958 and 1960, but agreement was not reached on the extent of the territorial sea and fishery limits.

The 1948 Law on the Scientific Conservation of the Continental Shelf Fisheries was implemented through Regulations in 1950 and 1952,

providing for straight base-lines and 4 miles fishery limits around Iceland. In 1958 the fishery limits were drawn at 12 miles.

These measures have undoubtedly been of inestimable value and it can safely be asserted that without them the fishstocks in Icelandic waters might have been destroyed.

Further implementation of the 1948 Law is becoming ever more urgent. Fishing techniques and catch capacity are rapidly being developed and about half of the catch of demersal fish in the Icelandic area has been taken by foreign trawlers (Fig. 2). The danger of intensified foreign fishing in Icelandic waters is now imminent. The catch capacity of the distant water fleet of nations fishing in Icelandic waters has reached ominous proportions (Fig. 3) and it is well known that their activities are increasingly being directed towards the waters around Iceland. The vital interests of the Icelandic people are therefore at stake. They must be protected. Such remedial action would also enhance the role of Iceland in a system of an equitable division of labour whereby Iceland would be a prime supplier of fish from her own waters.

The Government of Iceland has repeatedly drawn attention to the fact that two problems are principally involved, i. e. the conservation problem and the utilization problem. Theoretically, adequate conservation measures can be adopted through agreement between nations fishing in a given area. Experience has shown, however, that the implementation of such agreements has given very meager results indeed. And it is difficult to devise a workable system. The coastal state, being vitally concerned, is there in the best position to take the measures required.

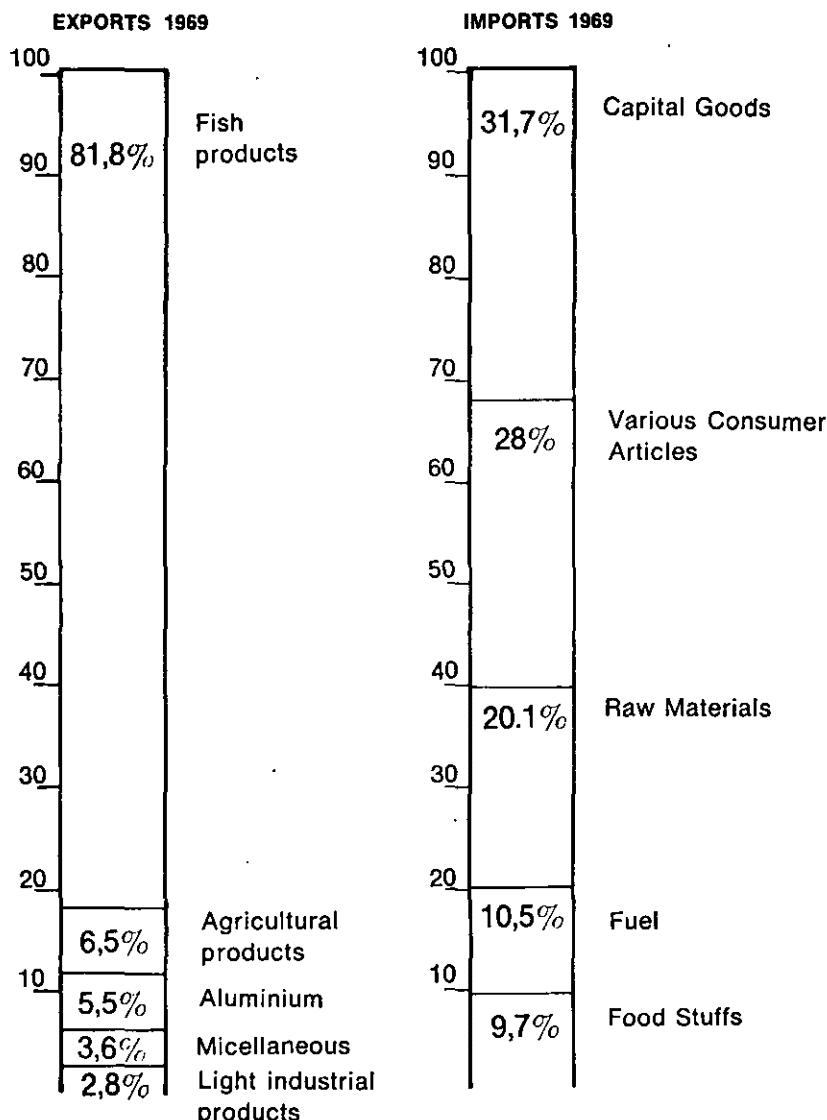
But even if proper conservation measures are applied the question of utilization remains. The priority position of the coastal state has then always been recognized through the system of fishery limits. In the past these limits have to a great extent not been established with any regard to the interests of the coastal state. They owe their origin rather to the preponde-

rant influence of distant water fishery nations who wished to fish as close as possible to the shores of other nations, frequently destroying one area and then proceeding to another. Under this system, narrow fishery limits together with nondiscriminatory conservation measures were supposed to solve the problems involved. That simply is not true because even if proper conservation measures are adopted, e. g. through reduced fishing efforts, the maximum sustainable yield frequently is not sufficient to satisfy the demands and requirements involved. In such cases — and Iceland provides there an obvious example — the utilization aspect becomes the crux of the matter. In a system of progressive development of International Law the question of fishery limits has to be reconsidered in terms of the protection and utilization of coastal resources regardless of other considerations which apply to the extent of the territorial sea. The international community has increasingly recognized that the coastal fishery resources are to be considered as a part of the natural resources of the coastal state. The special situation of countries who are overwhelmingly dependent on coastal fisheries was generally recognized at both Geneva Conferences in 1958 and 1960. Since then this view has found frequent expression both in the legislation of various countries and in important political statements. The course of events is decidedly progressing in this direction.

Exclusive fisheries jurisdiction would have to take into account the interests of the coastal state. The coastal state should itself determine the extent of its coastal jurisdiction over fisheries on the basis of all relevant local considerations. In Iceland these considerations would coincide with the continental shelf area, which, e.g. at the depth of 400 meters would be approximately 50—70 miles from the coast.

The Government of Iceland has announced that it will issue new regulations in conformity with the above considerations before September 1, 1972.

Fig. 1



The accompanying figure explains graphically points 1—6 in chapter II.

The paramount importance of fish products for the earning of the vital foreign exchange comes clearly into view.

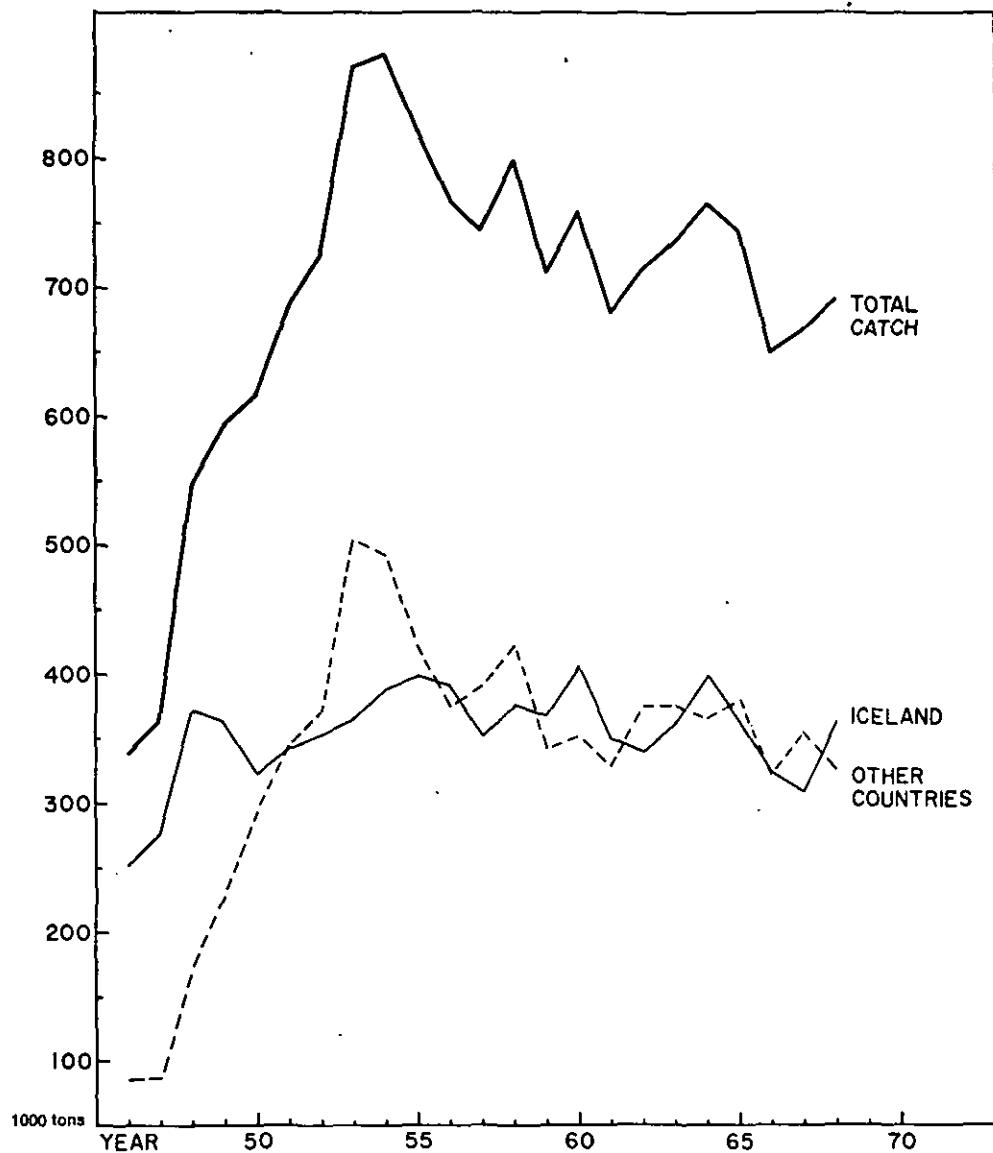
Aluminium is gradually becoming more important according to the export statistics. The benefit is however more apparent than real, as the net contribution of this commodity to the income of foreign exchange is much

smaller than that of the fisheries — or only about a quarter of the gross export value of aluminium.

The import column in conjunction with points 1—6 above indicates strongly the dependence of the Icelandic economy on international trade both with regard to consumer goods and some basic foodstuffs and also as regards the needs of "all industries" for raw material, fuel and capital goods.

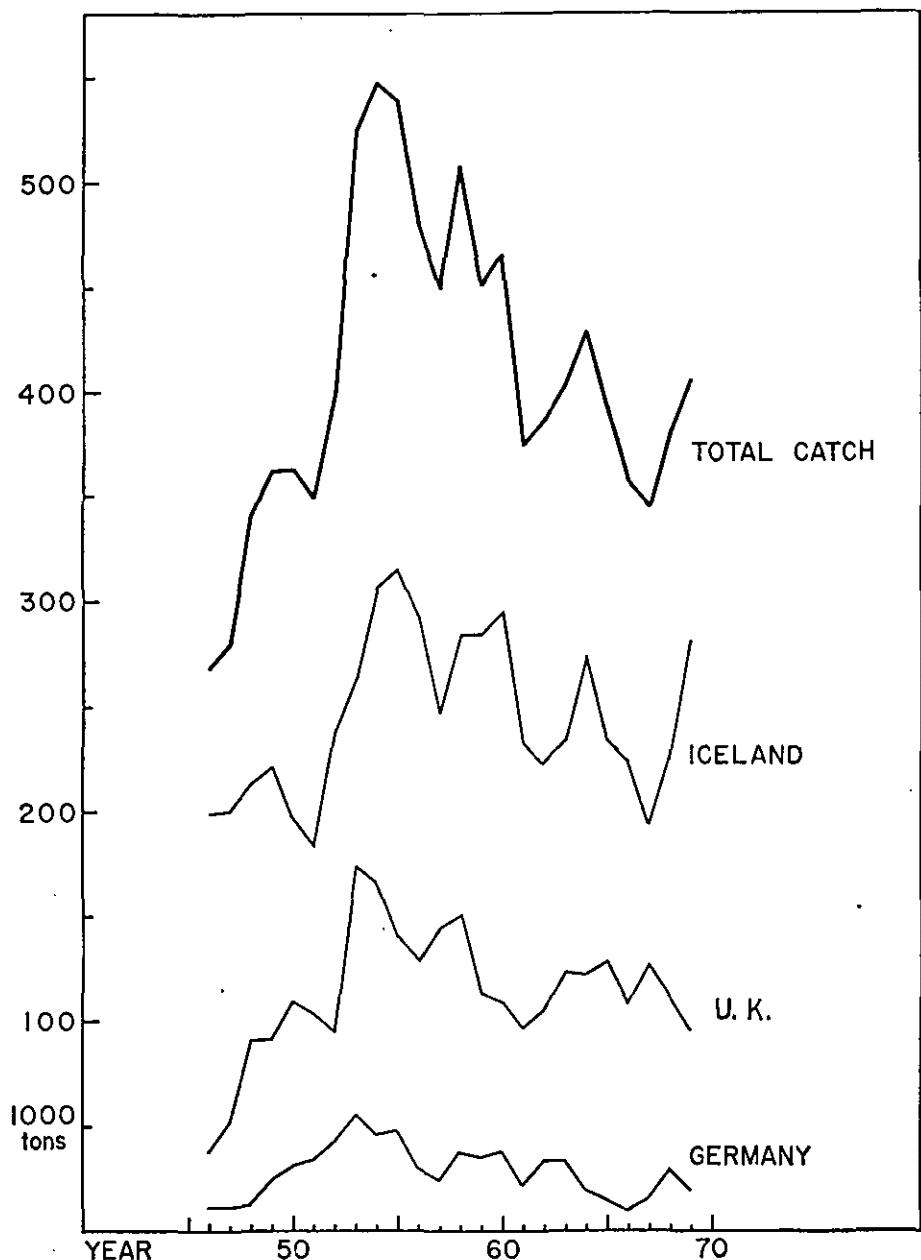
DEMERSAL CATCH

Fig. 2



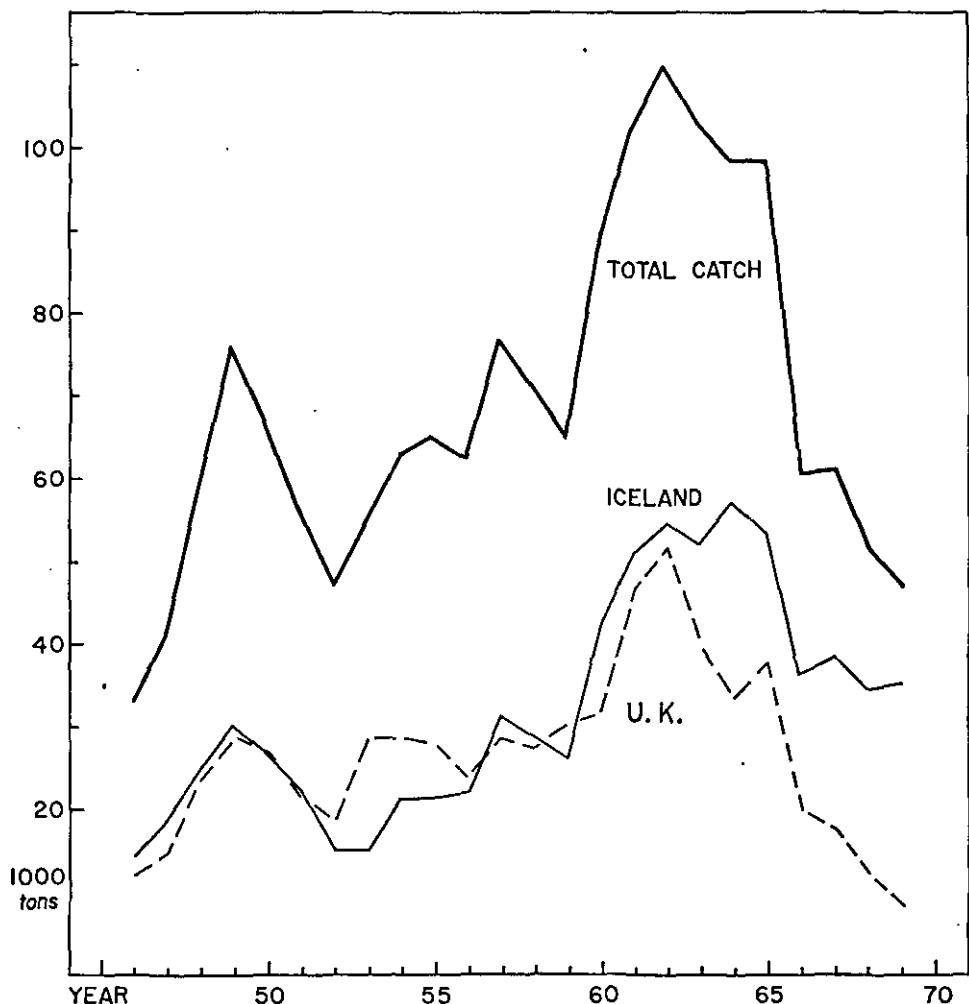
COD CATCH

Fig. 3



HADDOCK CATCH

Fig. 4



II.

**THE IMPORTANCE OF THE FISHERIES
IN THE ICELANDIC ECONOMY**

Iceland is in a unique position in the community of nations relying to a great extent on natural resources - the fisheries - over which she only has a limited jurisdiction. Iceland and her economy are more dependent on the fisheries than any other independent country in the world. This is clearly indicated by various publications of international agencies where attempts are made to account for the contribution of different industries to the national economy of the various countries. The overall importance of the fishing industry to the national economy of Iceland is clearly illustrated by the following points:

- 1) Almost a fifth of the GNP is derived from the fishing industry.
- 2) Marine Products constitute between 80 and 90% of the exports of the country.
- 3) Foreign trade amounts to between 45 and 50% of the GNP.
- 4) The country having no mineral or fuel resources, is almost totally dependent on imports of these commodities.
- 5) The geographical position of the country and the climate result in great dependence on imports of vital foodstuffs apart from fish, mutton and certain dairy products.
- 6) Other manufacturing industries than the fishing industry are dependent on imported raw materials. All Icelandic industries are dependent on imports of machinery and other capital goods.

Fishing in Icelandic waters is both difficult and hazardous due to long winters (when fish is usually most abundant) and the general harshness of nature. This has made it necessary to use only the best available fishing vessels and equipment.

The investment behind each fisherman is therefore greater in Iceland than in most countries. Although the national economic importance of the fishing industry is extremely great as related above — its importance for numerous communities around the coast of Iceland is even greater. Their inhabitants are so entirely dependent on fishing and fish processing that a failure of catch for several consecutive seasons would render them destitute as there are no alternative short term employment possibilities available. The experience of the last decade demonstrates clearly the economic interests involved. The total Icelandic catch fluctuated sharply from 1200 th. metric tons in 1965 to 600 th. tons in 1968, mainly due to a failure of the herring catch, which stocks are now very small. In 1967 and 1968 the national income fell by some 17%.

Since 1968 some gains have been made especially in the fishery for demersal species and in 1970 the total catch had reached some 720 thousand metric tons. The herring fishery has continued at a low level and no prospects for improvement are in sight at least for the next 4—5 years. The stocks of demersal species in Icelandic waters are now fully utilized. Every increase in effort will lead to overfishing. A similar failure in the catch of demersal species as occurred in the herring fishery would have catastrophic effects on the Icelandic economy. Most of the Icelandic catch is taken by relatively immobile inshore vessels. No wonder that the Icelanders fear the consequences of increased activities of foreign factory trawlers and other highly mobile efficient fishing vessels in Icelandic waters. Not only are they hampering the operations of the small

Icelandic vessels fishing with long line, gill nets and other gear, but they are also endangering the life blood of Iceland, the fish stocks.

The average annual catch of demersal species in Icelandic waters is around 730 thousand

tons. Of this total the share of the Icelanders themselves has been about one-half. Table I shows the relative importance of the fisheries on Icelandic grounds to the various nations fishing there:

Table I
Average Yields of Demersal Species from Icelandic Waters 1962—1969

	Average catch pr. year (Metric tons)	Number of inhabitants (millions)	Yield pr. Capita
Belgium	16.460	9.4	1.75 kg
Britain	187.194	54.0	3.57 —
Germany	121.043	58.0	2.09 —
USSR	7.540	241.0	0.03 —
Netherlands	1.057	12.0	0.09 —
Iceland	363.433	0.201	1808.12 —
Faroe Islands	7.413	0.038	195.07 —
France	5.180	48.7	0.11 —
E. Germany '64—67	3.525		
Other countries*	4.488		

* Norway, Poland

Table II
Iceland. Total Nominal Catch. Thousand Metric Tons

Year	Total	Demersal Species	Herring	Other
1961	709.9	381.1	326.0	2.8
1962	832.1	350.8	475.7	5.6
1963	782.0	379.9	395.2	6.9
1964	971.4	416.3	544.4	11.7
1965	1.199.1	381.8	763.0	54.3
1966	1.243.0	339.4	770.3	132.9
1967	897.7	333.5	461.5	102.7
1968	601.4	373.0	142.8	85.6
1969	688.6	450.2	56.6	181.8
1970	733.0	474.2	50.7	208.1
1971 (estim.)	679.4	419.6	61.0	198.8

Table II illustrates clearly the great fluctuations, that occurred in the Icelandic catch during the last decade. Bearing in mind the great importance of the fisheries for the Icelandic economy, the consequences of the failure of the herring catch become obvious.

Figures relating to the fishing power of various countries

Table III

	Size GRT	1963	1968	1969
1. Britain	501— 900	185	122	116
	901—1800	3	27	29
	1801—3000	3	2	2
		191	151	147
2. Germany	501— 900	110	82	62
	901—1800	30	45	45
	1801—3000		12	13
		140	139	120
3. Belgium	501— 900	5	5	5
	901—1800	1	1	
	over 1800			
		6	6	5
4. Poland	501— 900	67	65	65
	901—1800	3	12	11
	over 1800	7	32	40
		77	109	116
5. Portugal	501— 900	31	27	27
	901—1800	45	50	51
	over 1800		7	6
		76	84	84
6. Spain	501— 900	19	40	56
	901—1800	56	71	76
	over 1800	1	6	9
		76	117	141
7. France	501— 900		28	31
	901—1800		27	30
	over 1800		6	
		61	61	
8. Norway	501— 900	19	48	49
	901—1800	3	6	7
	over 1800			
		22	54	56
Countries 1—5	501— 900	398	301	275
	901—1800	82	135	136
	over 1800	10	53	61
		490	489	472
Countries 6—8	501— 900		116	136
	901—1800		104	113
	over 1800		12	9
		232	258	

Table III does not include figures from two important fishing nations — the Soviet Union and Eastern Germany. Accurate figures relating to the fishing power of these countries are not easily obtainable. It is assumed that the Soviet fishing fleet above 500 Gr. Reg. Tons consists of some 1000 vessels. Besides this there are some 2000 vessels in the size category 100—500 Gr. Reg. Tons as well as many big factory ships upto 40 thousand Gr. Reg. Tons with which the smaller vessels operate. Thus the Soviet distant water fleet is of formidable size, whose fishing power is not easily assessed. The fishing fleet of Eastern Germany consists of some 80 vessels above 500 Gr. Reg. Tons. Besides there are many smaller vessels, that can be operated on distant grounds in combination with mother-ships.

III.**CONSERVATION AND UTILIZATION OF FISHERY RESOURCES****A. Conservation of fishery resources.**

The ideal state of affairs in the exploitation of a stock of fish is to maintain the maximum sustainable yield, i. e. to employ the optimum degree of fishing effort to ensure the maximum constant weight of fish. If the intensity of fishing, either by increased effort or improved methods, goes beyond this optimum the total catch will decrease and the stock will be overfished.

Before the First World War there were already several examples of overfishing. During the war, the stocks enjoyed a very considerable degree of protection owing to the absence of foreign trawlers and in 1919 to 1920 the yield was much higher than it had been in 1912/1913. This applied to several Icelandic species, e. g. haddock, plaice and halibut. During the period between the World Wars the stocks of haddock and plaice in Icelandic waters were reduced by 80%. With the exception of herring and redfish, probably the majority of the important species in Icelandic waters were overfished. In spite of doubled effort smaller total catches were obtained.

During the Second World War the fishing effort in Icelandic waters was again greatly diminished owing to the almost complete absence of foreign trawlers on the grounds. The result was a tremendous recovery of the fishstocks in Icelandic waters in the latter half of the war and the first postwar years.

The cod is by far the most important species in the Icelandic fisheries today and in Fig. 3 are shown the total annual landings since 1946 together with the landings of Icelandic-, German-, and British vessels from Icelandic waters.

After the Second World War there was a rapid increase in landings of cod from Icel-

landic waters combined with an increase in fishing effort and this development culminated in 1954 when the total landings reached about 550 thousand tons.

The decrease in landings in recent years is to a certain extent caused by a momentary decrease in fishing effort by foreign trawlers, but on the other hand there has been a considerable increase in Icelandic fishing effort for cod in the last years. Because of the failure of the herring fisheries since 1967 a great part of the modern and very efficient herring fleet has been engaged in the fishery for cod.

The effects of intensive fishing effort on the stock of cod have been amply demonstrated: The total mortality in the spawning population is now over 70% annually and the fisheries are responsible for four-fifths of this amount. The average age of the spawning stock has been sharply reduced; fish over ten years of age are now very rare whereas 15—20 years ago fish up to 15 years old were not unusual.

The increased fishing effort seems to have drastically reduced the spawning potential of the stock. The cod is now in a way similar to the salmon or capelin; the greatest part of the stock has now only the possibility to spawn once in its life. The biological implications of this are bound to be very negative for the survival of the stock.

Another matter of grave concern is the fact that in recent years the spawning fishery has to a considerable extent been based upon fish of Greenland origin, which come to Iceland to spawn and mix there with the local stock. In the years 1960—69 about 21% of the fish on the Icelandic spawning grounds were considered to be of Greenland origin. The spawning stock of cod of Icelandic origin therefore appears to be at least 20% bigger than it is in reality. The

migration of cod from Greenland to Iceland is not constant from one year to another and cannot be predicted with any certainty.

All the factors mentioned above add up to uncertainty regarding this part of the population and as there has been a considerable Icelandic increase in the fishing effort the stock is not thought to be able to withstand any real increase in fishing effort.

As far as the haddock is concerned this species was before the last World War the classical example of an overfished stock. During the war the stock got a valuable protection, but increased fishing after the war soon brought the stock to a low unprofitable level. After the extension of the Icelandic fishery limits in 1952 the stock soon improved and this resulted in a great increase in the annual landings up to 1962. But since then there has been a great decrease in the annual landings, partly in spite of increased Icelandic fishing effort, so the density of the stock is low for the moment.

It is quite clear that it is in the interest of all concerned that necessary conservation measures be adopted. In the areas adjacent to its coast the coastal State is in the best position to evaluate and enforce the necessary measures, since its vital interests are at stake. Agreements between various nations to solve the problems involved have proved to be slow and ineffectual because even if scientists may agree on what measures are desirable and necessary, other considerations can prevent the enforcement of the recommended action. On the vast regions of the High Seas beyond the coastal areas that, however, is the only possible remedy. Therefore a twofold system is here required. On the one hand, strict measures taken by the coastal state and beyond the coastal area a system based on agreements between nations.

B. Utilization of fishery resources.

The necessary conservation measures — national and international — if effectively administered will ensure the maximum sustainable yield of the fishstocks. But even if the conserva-

tion problems are solved, e. g. through reduced fishing effort, the maximum sustainable yield frequently is not sufficient to satisfy the demands and requirements involved. In such cases — and Iceland then provides the obvious example — the requirements of the coastal State have a priority position. The international community has now realized this just claim and the solution must be found on a pragmatic basis. That is why the Icelandic Government has steadfastly maintained that formalistic and obsolete rules based on the concept of a territorial sea which does not take the real problems into account would not solve them. From the beginning the Icelandic Government has therefore maintained that the territorial sea could be limited to a relatively narrow area, provided a fishery jurisdiction were established which would adequately safeguard the interests of the coastal State as regards both the conservation aspect and the utilization problem. And indeed the two are often interrelated because reduced fishing effort through closure of vital areas or limitations of catch relate to both aspects.

It is not necessary or even reasonable that the same rules should apply in all regions. The views of the Icelandic Government in this field were summarized in a communication to the International Law Commission already on May 5, 1952. It is there said *inter alia*:

"2. The views of the Icelandic Government with regard to fisheries jurisdiction can be described on the basis of its own experience, as follows:

- Investigations in Iceland have quite clearly shown that the country rests on a platform or continental shelf whose outlines follow those of the coast itself whereupon the depths of the real high seas follow. On this platform invaluable fishing banks and spawning grounds are found upon whose preservation the survival of the Icelandic people depends. The country itself is barren and almost all necessities have to be imported and financed through the export of fisheries products. It can truly be said that the coastal fishing grounds are the *conditio sine qua non* of the Icelandic people for they make

the country habitable. The Icelandic Government considers itself entitled and indeed bound to take all necessary steps on a unilateral basis to preserve these resources and is doing so as shown by the attached documents. It considers that it is unrealistic that foreigners can be prevented from pumping oil from the continental shelf but that they cannot in the same manner be prevented from destroying other resources which are based on the same seabed.

3. The Government of Iceland does not maintain that the same rule should necessarily apply in all countries. It feels rather that each case should be studied separately and that the coastal State could, within a reasonable distance from its coast, determine the necessary measures for the protection of its coastal fisheries in view of economic, geographic, biological and other relevant considerations".

These views have on many occasions been repeated and remain unchanged. In other words, each case must be decided on its merits by the coastal State itself taking those con-

siderations into account. Such an evaluation leads to different results in different cases. Thus many States consider that fishery limits of 12 miles are quite sufficient for their purposes. Others consider that the vital interests involved are not sufficiently protected in that manner. The relevant local considerations in Iceland would generally speaking coincide with the outer limits of the continental shelf or platform which, e.g. at the depth of 400 meters would go out to 60 to 70 miles from shore. Other countries require still more and the coastal state must determine the limits on the basis of a realistic appraisal of local conditions. The Icelandic Law of 1948 concerning the continental shelf fisheries is based on this policy.

At the present time about one half of the total catch of demersal fish in Icelandic waters is taken by foreign nationals. That is why it is urgently required both for purposes of conservation and utilization to extend the fishery limits on the basis of the above considerations.

On February 15, 1972 the Icelandic Althing unanimously passed the following Resolution:

RESOLUTION OF THE ALTHING ON FISHERIES JURISDICTION

The Althing reiterates the fundamental policy of the Icelandic People that the continental shelf of Iceland and the superjacent waters are within the jurisdiction of Iceland and adopts the following Resolution:

1. That the fishery limits will be extended to 50 miles from base-lines around the country, to become effective not later than September 1, 1972.
2. That the Governments of the United Kingdom and the Federal Republic of Germany be again informed that because of the vital interests of the nation and owing to changed circumstances the Notes concerning fishery limits exchanged in 1961 are no longer applicable and that their provisions do not constitute an obligation for Iceland.
3. That efforts to reach a solution of the problems connected with the extension be continued through discussions with the Governments of the United Kingdom and the Federal Republic of Germany.
4. That effective supervision of the fishstocks in the Iceland area be continued in consultation with marine biologists and that the necessary measures be taken for the protection of the fishstocks and specified areas in order to prevent overfishing.
5. That cooperation with other nations be continued concerning the necessary measures to prevent marine pollution and authorizes the Government to declare unilaterally a special jurisdiction with regard to pollution in the seas surrounding Iceland.

IV.**THE PRINCIPAL TYPES OF FISHING GEAR
USED WITHIN THE FISHERY LIMITS OF ICELAND
AND RULES CONCERNING THEIR USE**

In principle Icelandic citizens have the exclusive right to fish within the Icelandic fishery limits with any kind of fishing gear unless otherwise decided by law. On the other hand various restrictions and prohibitions concerning the use of fishing gear are strictly enforced. This is a long and complicated story, too long to relate in full. The principal reason for the rules prevailing from time to time has been to protect the fish stocks from overfishing and to ensure the continued economic exploitation of the stocks. Special local reasons may also determine rules for preventing collisions on the fishing grounds.

We shall now try very briefly to give an exposé on the use of the principal types of fishing gear used within the Icelandic fishery limits, beginning with gear used for demersal fish (1—6) and continue with gear used for lobster (7), shrimp (8) and herring and capelin (9).

1. Hand lines.

Up to the end of the 15th century hand lines were exclusively used. In many areas hand lines were almost exclusively used until the end of the last century and in some areas even longer. This gear is still used to-day and accounts for 5—10% of the catch of cod. There are no restrictions on the use of hand lines.

2. Long line.

The long line seems to have been used since the last part of the 15th century but its employment has been spasmodic, it has been protested against and it has been forbidden from

time to time. During this century the long line has been an important type of gear and one that has been extensively used by smaller craft. About 15—20% of the catch of cod is now being caught by the long line. Special fishing grounds solely reserved for line fishing in January—April have been set out off the SW Coast, Faxa Bay and Breidifjordur. (See the annexed charts).

3. Gill nets.

Nets have been used for cod since mid-18th century. But their use did not really spread until the last years of the 19th century. There were many kinds of restrictions to curtail their general use, such as a maximum number of nets per craft and a limited fishing time of the year.

During the present century cod-nets (gill-nets) have been of great importance for the Icelandic fishing vessels. But they are mostly used in certain areas (off the SW Coast in March and April). Cod nets account for 35—55% of the catch of the motor vessels.

Special fishing areas for nets in March and April are set out off the SW Coast as shown on the attached chart.

The rule prevails that fishing boats with a crew of 10 may use up to 90 nets and with a crew of 11 up to 105 nets. Cod nets shall be laid in one direction only within each area as far as practicable.

4. Trawl.

Trawling began in Iceland early in this century. The big trawlers when fishing for cod and related species, and for ocean perch, use only

1972:



Exclusively for use
of long line and cod
nets. 1. Mar.—1. May.



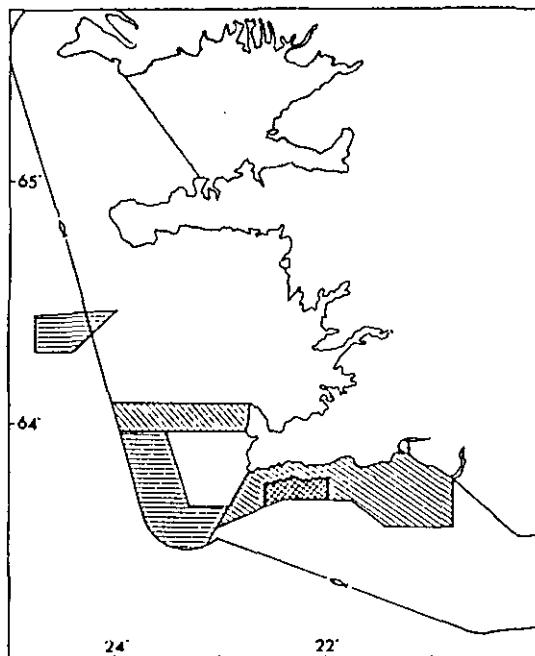
Exclusively for use
of line and long line
12. Jan.—1. April.



Use of cod nets
prohibited all year.



105 GRT and less
1. Mar.—1. May.



the otter trawl. It has also been used by the smaller motor vessels. These fisheries have increased somewhat in recent years.

In 1889 the first Law was enacted forbidding trawling within the fisheries jurisdiction. Up to 1958 when the fishery limits were extended to 12 miles, Icelandic nationals were forbidden to trawl within the limits. In 1958 Icelandic nationals were permitted to use trawl in specified zones and periods in the area between 4 and 12 miles off the base lines. From 1961 they have also been permitted to trawl within the limits in the zones and periods which were provisionally opened to British trawlers under the Icelandic-British Agreement of 11th March 1961.

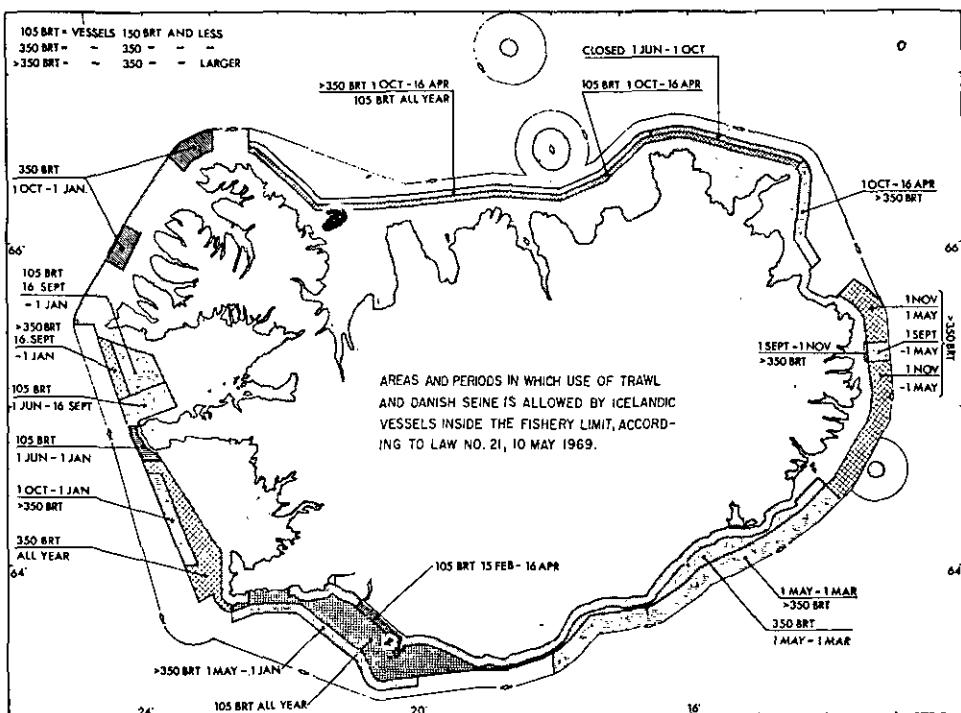
By an Act of 1969 most of the exemptions now in force were granted to Icelandic vessels to use otter and floating trawl within the fishery limits. These exemptions were, however, curtailed by an Act of 1971; they are shown on the annexed charts. In general all trawlers are

granted permission to fish in a large area in the outermost zone within the fishery limits. Vessels up to 350 GRT are permitted to trawl nearer and vessels up to 105 GRT in the zones nearest to land. The exemptions are limited to certain periods of the year and are not granted for zones nearer than 3 miles offshore on the South Coast. Off the North Coast the minimum distance is 4 and 6 miles and off the East Coast 4 miles from the base-lines. Off the N and E Coasts bays and firths are thus closed as well as large adjacent zones. Off the West Firths very small zones are open. Breidifjordur (Broad firth) is mostly protected and Faxaflói (Faxa Bay) absolutely protected against trawling. Trawling here applies to the use of bottom and floating trawl.

5. Danish seine.

During the last decade of the last century Danish fishermen began to use the Danish seine net with good results for flatfish in Ice-

FISHERIES JURISDICTION

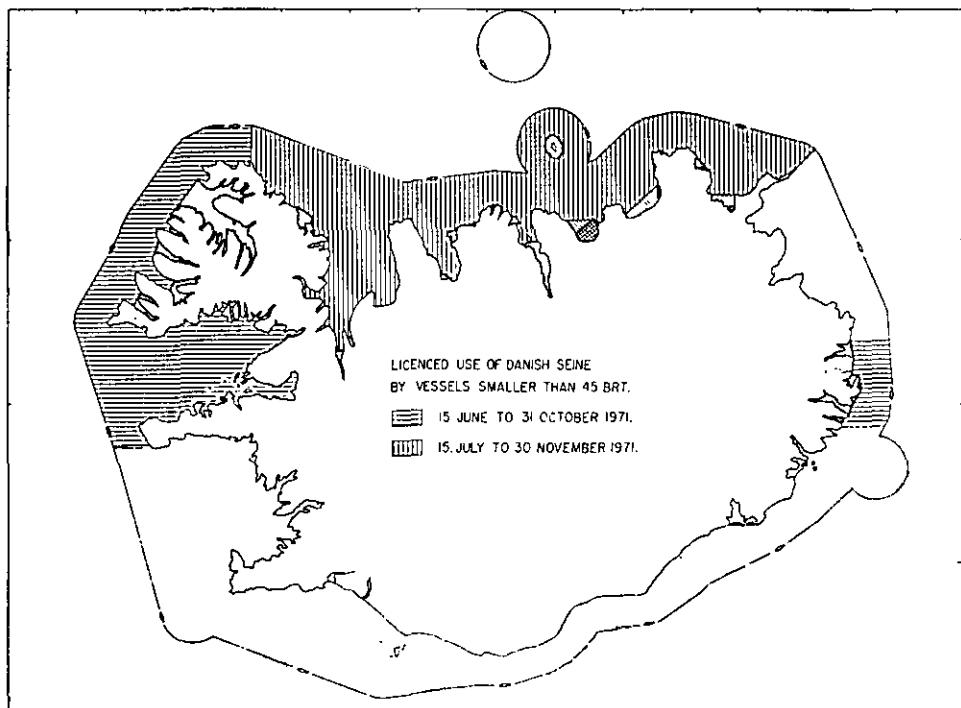


Icelandic waters. Icelandic fishermen did not to any extent begin the use of this gear until the second decade of this century. The Danish seine was extensively used for a time and was an important gear for smaller craft and for fishing stations outside the winter cod fishing area, where such fisheries were usually operated in late summer and autumn. In the period from 1928 to 1952 various restrictions on the use of this gear were enacted both as regards areas and periods and in 1952 Danish seine fisheries were absolutely forbidden, within the fishery limits, which were extended to 4 naut. miles outside straight base-lines drawn between the outermost points on the coastline, thus closing all bays and fjords. In 1958 the limits were extended to 12 miles outside the base-lines and Danish seine fishing permitted in certain zones between the 4 and 12 mile limits during certain periods of the year.

Danish seine fisheries within the fishery limits are now governed by Act No. 40 of 9th June 1960 "concerning a limited permission for Danish seine fishing within the fishery limits of Iceland under scientific supervision". Hereunder such fisheries are subject to a licence from the Minister of Fisheries.

The Minister may after receiving proposals from the Marine Research Institute and the Fisheries Directorate decide to allow such fisheries in a certain area or areas for one year at a time in the period from 15th June to 31st October or less as prescribed in this Act. On the north coast, however, such fisheries are only permitted between 15th July and 30th November and such fisheries are absolutely prohibited in the Faxa Bay.

Before making proposals about the opening of certain areas, the Fisheries Directorate shall seek the opinion of local administrations and



other bodies interested in the said areas. If such opinions are expressed the Minister may not open the areas concerned or part thereof unless generally supported by such opinions.

Should local administrations, associations of shipowners, seamen or labourers argue that it would be better to use other methods of fishing in certain parts of the area concerned and express the wish that such parts be specially protected against Danish seine fishing, the Minister shall after consultation with the Directorate comply with such a wish.

Licences for Danish seine netting may be granted to Icelandic fishing craft up to 45 GRT and be valid for one year at a time.

The Minister shall impose the necessary conditions for granting the licence, violations of which shall lead to the revocation of the licence.

Under this Law the said areas have been determined and advertised each year. It would

be a long story to relate how the areas have been set out each year, but a chart of these for 1971 is annexed. As seen from the chart these areas are off the N Coast in the period 15th July to 30th November and off the E Coast and the West Firths from 15th June to 30th October. Zones open for trawling as already stated are also open for Danish seine fishing. The Danish seine fisheries have been somewhat reduced in later years and are now conducted by only 40—70 boats.

6. Purse seine.

A new development of the purse seine is the use of this gear in the cod fisheries during the winter season. Most of this fishing is done by vessels under 300 GRT. Cod fisheries with this gear have, however, been reduced in later years. Severe rules about the fishing of cod and related species have been imposed. The

rules govern the type of the seine, size of meshes, fishing periods and the composition of the catch.

7. Lobster trawl.

Icelandic nationals began fishing - lobster soon after 1950. Not until 1958 did lobstering become important but has been regular since then. Lobster is caught off the south and west coasts from mid-May until October by over 100 boats with an annual catch of 2500—3500 tons. Lobster is caught in the so-called lobster trawl, a bottom trawl with small meshes specially made for such operations. Special licences are granted for lobstering according to law, severe rules being imposed about fishing gear, areas, reports etc. Lobstering is banned in waters shallower than 60 fathoms, and thus operations do not take place on the spawning grounds and nursery areas of important fish species. Lobstering is subject to strict supervision, in particular in order to prevent the lobster seine being used for catches of white fish, violations being punished by the revocation of the licence and other penalties.

8. Shrimp trawl.

Shrimp have been caught in Iceland since 1936, principally in two fjords, Isafjardardjúp and Arnarfjördur. During the past decade the fishing area has spread to Húnafjóri, Breidifjördur, off the SW Coast and the eastern fjords. A further extension of operating areas may be expected because much work is done to seek new grounds. To begin with, fisheries were limited to autumn and winter but are now conducted more or less the year round. About 100 boats do shrimping at various periods each year. Shrimping is done with the so-called shrimp trawl, a special kind of a tightmeshed bottom trawl. Shrimping is subject to licence under the law. There are particular conditions about the type of the trawl and great efforts have been made to improve the trawl in order to find an ideal type that would let small fry and fish escape. Severe rules, although different as to areas, have been enacted concerning

the number of licences, areas, time and quantity caught, in order to avoid overfishing and the catch of other animals of the sea. Shrimping is subject to strict supervision, loss of licence and other penalties.

9. Seine fishing of herring and capelin.

The fishing of herring with drift nets was begun at the turn of the century and some time later the first vessel was fitted with a purse seine.

In the herring fisheries the purse seine is now almost the only gear used. Recent developments in fish detection technique and mechanized handling of the net have greatly increased the efficiency of this gear.

The Icelandic herring stocks have been in danger of overfishing. These stocks live mostly in the waters of the Icelandic continental shelf. Hence, Iceland has lately taken unilateral steps for their protection. Herring fisheries are prohibited until September 1, 1973, except with drift nets and there is a ban on the catch of small sizes. The measures only affect Icelandic fishermen and are a certain burden to them. There has not been much interest in making similar provisions for distant herring grounds where a total destruction of the stocks is feared.

Hereunder the capelin fisheries should be mentioned. Capelin was until recently caught off Iceland in only small quantities for bait and fodder. Large scale capelin fisheries began in 1964 and have been important since 1966. About 40—60 vessels are engaged in these fisheries (with purse seines) in January to April each year in the area from the southern part of the east coast to the west of Reykjanes.

For the protection of the capelin stock Iceland has taken unilateral steps. From 1st March to 30th April 1972 capelin fishing is forbidden to the east of longitude 12° 30' W, between latitudes 64° 30' and 66° 00' N. From 1st May to 31st July 1972 all such fisheries are prohibited.

These measures affect Icelandic nationals only.

Appendix I**LAW CONCERNING THE SCIENTIFIC CONSERVATION
OF THE CONTINENTAL SHELF FISHERIES,
DATED APRIL 5, 1948**

The President of Iceland Proclaims: The Althing has passed the present law which is hereby approved and confirmed:

Article 1

The Ministry of Fisheries shall issue regulations establishing explicitly bounded conservation zones within the limits of the continental shelf of Iceland; wherein all fisheries shall be subject to Icelandic rules and control; Provided that the conservation measures now in effect shall in no way be reduced. The Ministry shall further issue the necessary regulations for the protection of the fishing grounds within the said zones. The Fiskifélag Íslands (Fisheries Society) and the Atvinnudeild Háskóla Íslands (University of Iceland Industrial Research Laboratories) shall be consulted prior to the promulgation of the said regulations.

The regulations shall be revised in the light of scientific research.

Article 2

The regulations promulgated under Article 1 of the present law shall be enforced only to the extent compatible with agreements with other countries to which Iceland is or may become a party.

Article 3

Violations of the regulations issued under Article 1 shall be punishable by fines from kr. 1,000 to kr. 100,000 as specified in the regulations.

Article 4

The Ministry of Fisheries shall, to the extent practicable, participate in International scientific research in the interest of fisheries conservation.

Article 5

This law shall take effect immediately.

Done in Reykjavík, 5 April 1948.

(Signed) Sveinn Björnsson.

President of Iceland.

Jóhann P. Jósefsson.

Minister of Fisheries.

Reasons for the law of 5 April 1948 (submitted to the Icelandic Parliament):

It is well known that the economy of Iceland depends almost entirely on fishing in the vicinity of its coasts. For this reason, the population of Iceland has followed the progressive impoverishment of fishing grounds with anxiety. Formerly, when fishing equipment was far less efficient than it is today, the question appeared in a different light, and the right of providing for exclusive rights of fishing by Iceland itself in the vicinity of her coasts extended much further than is admitted by the practice generally adopted since 1900. It seems obvious, however, that measures to protect fisheries ought to be extended in proportion to the growing efficiency of fishing equipment.

Most coastal States which engage in fishing have long recognized the need to take positive steps to prevent over-exploitation resulting in a complete exhaustion of fishing grounds. Nevertheless, there is no agreement on the manner in which such steps should be taken. The States concerned may be divided into two categories. On the one hand, there are the countries whose interest in fishing in the vicinity of foreign coasts is greater than their interest in fishing in the vicinity of their own coasts. While recognizing that it is impossible not to take steps to mitigate the total exhaustion of fishing

grounds, these States are nevertheless generally of opinion that unilateral regulations by littoral States must be limited as far as possible. They have also insisted vigorously that such measures can only be taken by virtue of international agreements.

On the other hand, there are the countries which engage in fishing mainly in the vicinity of their own coasts. The latter have recognized to a growing extent that the responsibility of ensuring the protection of fishing grounds in accordance with the findings of scientific research is, above all, that of the littoral State. For this reason, several countries belonging to the latter category have, each for its own purposes, made legislative provision to this end the more so as international negotiations undertaken with a view to settling these matters have not been crowned with success, except in the rather rare cases where neighbouring nations were concerned with the defence of common interests. There is no doubt that measures of protection and prohibition can be taken better and more naturally by means of international agreements in relation to the open sea, i. e., in relation to the great oceans. But different considerations apply to waters in the vicinity of coasts.

In so far as the jurisdiction of States over fishing grounds is concerned, two methods have been adopted. Certain States have proceeded to a determination of their territorial waters, especially for fishing purposes. Others, on the other hand, have left the question of the territorial waters in abeyance and have contented themselves with asserting their exclusive right over fisheries, independently of territorial waters. Of these two methods, the second seems to be the more natural, having regard to the fact that certain considerations arising from the concept of "territorial waters" have no bearing upon the question of an exclusive right to fishing, and that there are therefore serious drawbacks in considering the two questions together.

When States established their jurisdiction over fishing zones in the vicinity of their coasts they adopted greatly varying limits; in the majority

of cases, they adopted a specified number of nautical miles: three miles, four miles, six miles or twelve kilometres, etc. It would appear, however, to be more natural to follow the example of those States which have determined the limit of their fisheries jurisdiction in accordance with the contour of the continental shelf along their coasts. The continental shelf of Iceland is very clearly distinguishable, and it is therefore natural to take it as a basis. This is the reason why this solution has been adopted in the present draft law.

Commentary on Article 1. Two kinds of provisions are involved: on the one hand, the delimitation of the waters within which the measures of protection and prohibition of fishing should be applied, i. e., the waters which are deemed not to extend beyond the continental shelf; and, on the other hand, the measures of protection and prohibition of fishing which should be applied within these waters. In so far as the enactment of measures to assure the protection of stocks of fish is concerned, the views of marine biologists will have to be taken into consideration, not only as regards fishing grounds and methods of fishing, but also as regards the Seasons during which fishing shall be open, and the quantities of fish which may be caught.

At present, the limit of the continental shelf may be considered as being established precisely at a depth of 100 fathoms. It will, however, be necessary to carry out the most careful investigations in order to establish whether this limit should be determined at a different depth.

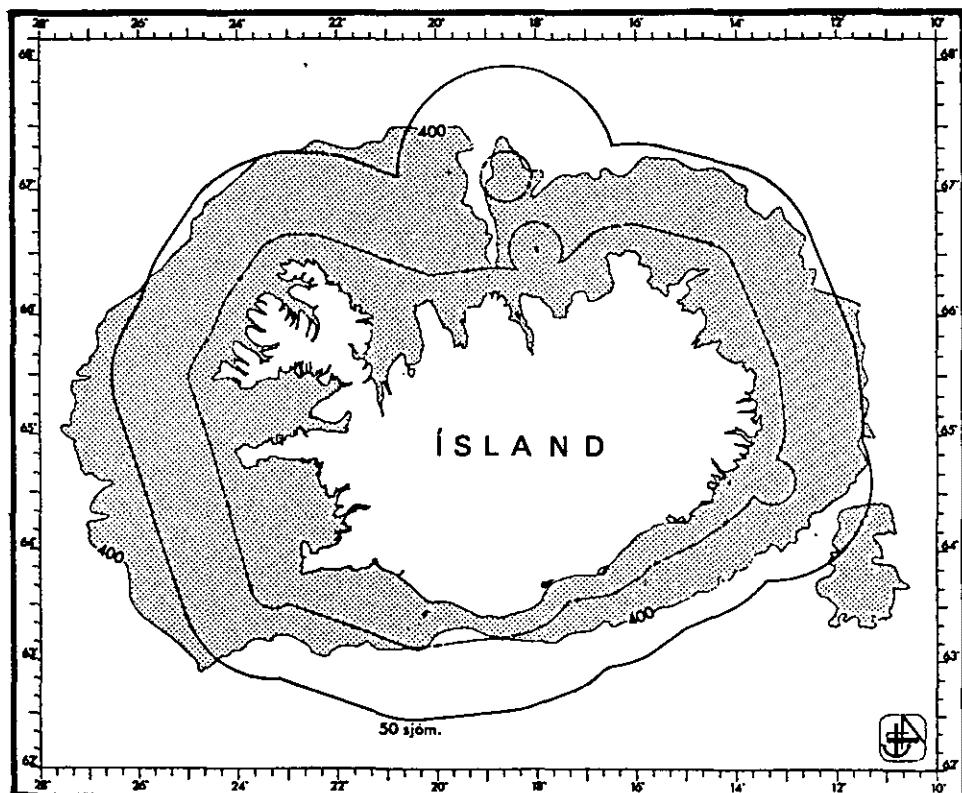
Commentary on Article 2. The provisions of this article have a bearing upon the following agreements: the Agreement between Denmark and the United Kingdom, of 24 June 1901, and the International Convention for the Regulation of the Meshes of Fishing Nets and the Size Limits of Fish, of 23 March 1937. Should the provisions contained in this draft law appear to be incompatible with these agreements, they would not, of course, be applied against the States signatories to the said agreements, as long as these agreements remain in force.

Commentary on Article 3. The amount of the fines will be assessed with due regard to the relative importance of the measures of prohibition which may have been infringed.

Commentary on Article 4. On 17 August 1946, the International Council for the Exploration of the Sea recommended that measures be taken to prohibit fishing in the Faxaflói. It goes without saying that Iceland will take part, to

the fullest possible extent, in any initiative of this kind in relation to her own coast as well as others. She has already given proof of her interest in these problems, in particular by taking part in international oceanographic research.

Article 5. This article does not call for comment.

Appendix II**MAP OF ICELAND SHOWING THE 400 METRES ISOBATH,
THE EXISTING 12 MILE FISHERY LIMITS
AND A 50 MILE LIMIT**

Appendix III

Statement by Mr. Ólafur Jóhannesson Prime Minister of Iceland at the Meeting of the Nordic Council on February 19, 1972

"... I now want to turn to the matter which at the present time is of overriding importance in Iceland — a matter which affects the economic survival and independence of the Icelandic nation. I am here, of course, referring to the extension of the Icelandic fishery limits. It is a well known fact that the economic survival of the Icelandic nation is dependent upon the fisheries. Eighty to ninety per cent of the foreign exchange income of the country are derived from the export of fishery products. If the fishing grounds in Iceland are destroyed the basis for the economic survival of the nation is demolished. Therefore the extension of the limits is a matter of vital interests. This is a matter in which the entire nation is united. The foundation was established already in 1948, almost a quarter of a century ago, when the Icelandic Althing (Parliament) enacted the Law concerning the Scientific Conservation of the Continental Shelf Fisheries. Already at that time the fundamental proposition was that the coastal fisheries formed a part of the natural resources of the country within a reasonable distance from the coast in view of the relevant local considerations. Such considerations are evident in the case of Iceland. It is the continental shelf, the platform upon which the country rests, which provides the environment and the biological conditions required for the spawning areas, nursery grounds and food reservoirs for the fishstocks. All the elements are there united in providing the environment which forms the basis for the very existence and maintenance of the fishstocks. When it is kept in mind that Iceland does not possess any other natural resources it can be faithfully asserted that the policy which, as I said, was

formulated already in 1948, is based on the nature of things and common sense.

It cannot be denied that the implementation of this policy has been thwarted by great obstacles but slow and steady progress has been achieved towards the established goal. The obstacles involved evidently have their roots in the interests of other nations who for a long period have utilized the Icelandic continental shelf area for their own enrichment. It is a well known fact that the interests of these nations in utilizing distant fishing grounds have shaped the obsolete rules concerning a narrow territorial sea which in no manner took into account the fact that the natural resources of the coastal State are involved. On the contrary, they were solely based on the policy of enabling them to fish as close as possible to the shores of other nations for their own benefit. Until recently it was maintained in various quarters that the three mile limit was the only proper principle in this field without regard to local considerations. It was then said that this principle should apply everywhere. At the present time, however, it has fortunately been destroyed. To-day nobody would think of advancing such assertions. But now the twelve mile doctrine is advocated in their place — obviously for the purpose of serving exactly the same interests. Fortunately, as far as Iceland is concerned, this fundamental approach is no longer acceptable to the community of nations and now it is confidently expected that at the Law of the Sea Conference, which is scheduled for next year, steps will be taken to provide the only realistic basis, which is the evaluation of the relevant local considerations. The 25 years' old policy of Iceland enjoys ever increasing

support and we are hopeful that the goal will there be attained so that it will no longer be necessary to engage in conflicts with regard to this matter of vital interests. It remains to be seen whether it will be possible to convene the Conference next year and some delay may be involved in securing the necessary ratifications of the agreements eventually arrived at.

In Iceland we have waited for a long time and we have participated in one conference after another but now we cannot afford to wait any longer. The ever increasing development of fishing techniques and the imminent danger of ever increased effort of the fishing vessels of many nations in the Iceland area might lead to irreparable damage of the vital interests at stake. Consequently the Government of Iceland has now decided to extend the Icelandic fishery limits to 50 miles not later than September 1, 1972. At the same time we are engaged in discussions with the two nations who have the greatest interests in the Icelandic fisheries. Although we cannot agree that their over-exploitation of the Icelandic fishing grounds over a long period of time gives them a right to continue their activities in the area we want to make an effort to seek a solution of the problems which face their trawling industries because of the extension of the limits — not least

in view of the fact that various other fishing grounds have already been destroyed. These discussions have been in progress since August and still continue. It is our sincere wish that it will prove possible to achieve a practical solution of the problems involved. In the opinion of the Icelandic Government such a solution is the only right one and now we have experienced the historic occasion that this policy has been approved unanimously by all the Members of the Althing.

I am not going to pursue this matter any further at present but I want to use this opportunity at this meeting of the Nordic Council to appeal to our friends here to show their understanding of the fight of the Icelandic people for their existence and we continue to hope that other nations will not try to apply economic sanctions for the purpose of diverting us from the course which we must follow. On the contrary, we hope that their reaction will be to recognize the proper place of Iceland — to assume her role in the international division of labour which has been allotted to Iceland by Nature, i.e. to produce the goods which are derived from the only available natural resources for the benefit of the Icelandic nation and her friends."

Appendix IV**Statement by Mr. Einar Ágústsson, Minister for Foreign Affairs of Iceland,
during the General Debate in the General Assembly of the United Nations
on September 29, 1971**

"... I should like to dwell briefly on one such matter today — a matter which for centuries has had in it the seeds of struggle, conflict and even war, but which is now, with patience and hard work, being dealt with in the spirit of international co-operation for the benefit of mankind. I am referring here to the valuable efforts to prepare the Third United Nations Conference on the Law of the Sea, which is scheduled for 1973. At present the representatives of 86 States are engaged in this preparatory work; but since the problems involved are of great and even vital interest to all the Members of the United Nations, they are an appropriate subject in this general debate. They will of course also attract the attention of the First Committee when the report of the Preparatory Committee for this year is dealt with there in due course.

The preparatory work for the Third Law of the Sea Conference has in effect been going on for more than twenty years. The General Assembly in 1949 instructed the International Law Commission to deal with the Law of the Sea in its entirety, and the Geneva Conferences on the Law of the Sea of 1958 and 1960 used the work of the International Law Commission as a basis for their efforts. A large number of the problems were successfully dealt with in that way, but the fundamental questions of the extent of the territorial sea and fishery limits were not solved. Those two questions, together with other fundamental issues — such as the international sea-bed area, pollution, archipelagoes, fishing on the high seas and problems of the land-locked States — still remain unsolved and are now being studied by the Preparatory Committee for the Third Law of the

Sea Conference. It is of course clear that the solution of these remaining problems would greatly contribute to peace and stability instead of the present dangerous conflicts and uncertainty.

The Government of Iceland welcomes this opportunity to thank the Preparatory Committee for its valuable efforts during the meetings of the Committee in March and again in July and August of this year. Progress has seemed rather slow in the initial stages, but it is hoped that next year further accomplishments will be facilitated by the extremely valuable groundwork already done, although many complicated problems are involved. I am not going to discuss the work of the Preparatory Committee further here; but since, as I said, the issues involved are also important to a large number of States which are represented in this Assembly but not on the Committee, I should like to make a few additional remarks concerning the views of my Government in this field.

We fully support the endeavours to establish an appropriate régime for the international seabed area and will do our utmost to contribute to the accomplishment of the task outlined by the adoption of the Declaration of Principles by the General Assembly last year. The wealth of material already available in this field is being studied by the appropriate authorities in my country with the utmost attention. The same applies to the questions of pollution and scientific research.

Since jurisdiction and control over coastal fisheries is a matter of fundamental importance to Iceland and forms an inseparable part of the problem of coastal jurisdiction in its entirety, I

should like to take this opportunity to summarize in just a few words the position of the Government of Iceland in this field.

A great development is taking place as regards the problem of coastal fisheries. It is generally admitted that the system of narrow fishery limits on the one hand and the so-called freedom of fishing — subject to minimal agreed conservation measures equally applicable to all beyond that area — on the other hand, was heavily weighted in favour of the countries that want to fish as close as possible to the coasts of other nations. This obsolete system is now being replaced by a new pragmatic approach. This new progressive international law is based on two fundamental propositions. The first is that the interest of the international community in the freedom of the seas for purposes of navigation and commerce should be protected. The other fundamental proposition is that the coastal fisheries are a part of the natural resources of the coastal State up to a reasonable distance from the coast and that this problem is entirely different from the concept of the territorial sea. The distance required for this specialized jurisdiction over fisheries would vary in different countries and regions, but it would be determined on the basis of the relevant local considerations — geographical, biological, economic and others. The task is now to ascertain the claims of the various States in this field as regards exclusive fishery limits, preferential rights and conservation zones. Such a pragmatic approach will provide the necessary foundation for a realistic and reasonable system.

My Government is convinced that this new system already has the support of the international community and is preparing the extension of the Icelandic fishery limits in conformity with these views so as to cover the waters of the continental shelf of Iceland. That criterion is clearly indicated in Iceland, i. e. an area which, for example at the depth of 400 meters, would extend to approximately 50—70 miles from the coast. The outlines of this platform on which the country rests follow those of the coast itself, and in these shallow under-

water terraces ideal conditions are found for spawning areas and nursery grounds for the fish stocks upon whose preservation and utilization the livelihood of the Icelandic nation depends. That environment is an integral part of the natural resources of the country. Indeed the coastal fisheries in Iceland have always been the foundation of the country's economy. The country itself is barren — there are no minerals or forests — and most of the necessities of life have to be imported and financed through the export of fisheries products which have constituted approximately 90 per cent of total exports. The coastal fisheries are the *conditio sine qua non* for the Icelandic economy. Without them the country would not have been habitable. It is indeed as if Nature had intended to compensate for the barrenness of the country itself by surrounding it with rich fishing grounds. The continental shelf area in our case constitutes the natural fishery limits and the Icelandic Government has announced that it will issue new regulations in conformity with these considerations before 1 Sept. 1972.

The Icelandic Government considers that as far as Iceland is concerned we have to protect our interests now. It is quite clear that at any time the highly developed fishing fleets of distant-water fishing countries will be increasingly directed to the Iceland area. These fleets have now for some time had huge catches from the Barents Sea. Fishing there is no longer as profitable as it was, and they are directing their attention to the Iceland area. As the existence of highly developed fishing techniques and fishing capacity with huge factory trawlers, electronic equipment and so on, could very well cause irreparable harm to the Iceland area. I might mention in this connexion that the three nations mostly concerned in the Barents Sea area have for some time tried to establish some kind of quota system for that area, but as far as we know those efforts have not met with success. In any case we cannot afford to take the risk of just doing nothing and we sincerely hope that our actions will be understood in that light by other delegations in this Assembly.

We are hopeful that the forthcoming conference will eventually provide a system that would consider the measures which we are going to take, and must take, to be entirely lawful, just and equitable. Our action is in conformity with that spirit. It is in conformity with the strong conviction that progressive international law will replace the system which for far too long has been tolerated. Indeed, more than 20 nations have already proclaimed rules and regulations for their increased protection in this field.

A matter which is clearly related to the problems of the conservation and utilization of fishery resources is the protection of the marine environment. That matter is also receiving the attention of the Preparatory Committee for the Conference on the Law of the Sea. The Committee had before it a valuable report from the Secretary-General on the prevention and control of marine pollution.

We are now faced with the ominous fact that ocean pollution presents a very serious danger to marine life, and even to man's activities in this environment. Scientific studies have indeed made it clear that in time all oceans will be threatened with pollution. It is therefore high time that the United Nations should undertake effective and speedy action to reverse these developments and preserve the oceans for rational exploitation of their valuable resources.

The delegation of Iceland joined hands with other delegations at both the twenty-third and the twenty-fourth sessions of the General Assembly in urging that those problem be given priority attention by the relevant United Nations bodies.

We are gratified to observe the progress that has since been made in this field in the preparations for the Stockholm Conference next year, as well as by the Inter-Governmental Maritime Consultative Organization (IMCO) and other agencies, and also on a regional basis.

The question is how we can best obtain early and effective results in our endeavours in this important field. We believe that all Member States should as soon as possible take the necessary steps to stop the growing pollution of the oceans caused by their citizens. This should include effective prohibition against dumping poisonous or radioactive waste in the oceans.

Global and regional agreements must be negotiated to these ends, establishing the obligation of all States to desist from destroying marine resources and the marine environment by pollution and defining pollution standards, liability and damages.

Only by such early and concerted action can we hope to avert the present threat to ocean resources and thereby protect alike the interests of the coastal State and the international community as a whole."

Appendix V

Statement from Mr. Lúovík Jósepsson, Minister of Fisheries of Iceland, at the Ministerial Meeting of the North East Atlantic Fisheries Commission in Moscow on December 15, 1971

"Mr. Chairman, — Delegates,

Every one who has watched the Northeast Atlantic fisheries for some years past has feared the consequences of the ever-increasing fishing effort on the grounds in this area.

An ever-growing fishing fleet has been seeking these grounds. In the course of a few years the vessels have undergone a complete change in size and outfit.

The old side trawlers have been replaced by a large number of stern trawlers. Instead of the former three to five hundred ton trawlers, these fishing grounds are now frequented by modern vessels of one thousand to twelve hundred tons, and in addition there are two to four thousand ton factory trawlers, capable of remaining on the grounds for months on end. The gear used by the vessels now frequenting these grounds has also undergone enormous changes.

All these vessels are now equipped with the latest electronic instruments, and they have fishing gear many times more productive than before. And now this fishing fleet has the benefit of all the latest and best information about fish migrations, weather conditions, and everything else pertaining to fishing. It is obvious that the knowledge of the new and changed conditions has still increased the fear of all concerned, the fear of impending overfishing of the various fish stocks in the area. It is understandable that we Icelanders should fill the ranks of those who most fear overfishing in this area.

We Icelanders are more dependent on fishing than any other independent nation. Up to ninety per cent of the value of our exports have been obtained from fish products. Our land lies close

to the Arctic circle. It is devoid of metals; no grain is grown; there are no forests for timber production.

Therefore we must import relatively much more of all kinds of goods than is common in other countries.

For our proportionately large imports we must pay with the valuables we get from our exported fish products. The foundation of our economic system, therefore, is the fishing industry, — fisheries and fish production. Our fisheries policy has been clear and consistent. In 1948 that policy was manifest in an Act of the Althing, whereby it was determined that the whole of the sea surrounding the country above the continental shelf shall come under Icelandic jurisdiction for all fishing as further decided in regulations by the Ministry of Fisheries.

It was decided in 1952 according to this Act that the fishery jurisdiction should extend to four nautical miles from base-lines and at the same time base-lines were drawn across bays and fjords.

In 1958 according to the same Act the fishery jurisdiction was again extended to twelve nautical miles from base-lines.

And now the Government of Iceland has decided to extend the fishery jurisdiction of the country to 50 nautical miles from base-lines on September first next year. This fishery jurisdiction covers in all essential points the sea above the continental shelf.

Our fishery policy is based upon our belief that coastal States must have full sovereign rights over all fishing in the sea above the continental shelf extending from the coast line of the country to a reasonable and normal limit according to the circumstances prevailing in

the locality. We consider that the submarine platform on which Iceland rests is a natural continuation of the country itself, and the right of exploiting the continental seabed by the coastal State has achieved recognition.

It is our opinion that the seabed of the continental shelf and the waters above it, together with the country itself form one physical and organic unit. We consider it paradoxical that vessels of other nations should have the right without licence to use their gear, as bottom trawl, on our continental seabed, and we consider it unnatural that they should be able without our permission to prosecute fishing in the sea above our continental shelf. In the matter of fishing rights, we believe the only conceivable way to prevent overfishing and securing a rational exploitation of the fish stocks is for coastal States to have a wide fishery jurisdiction and to be capable beyond dispute of making rules necessary for the inshore fisheries. Side by side with an extensive fishery jurisdiction, we consider it necessary that the nations concerned should work in collaboration and consultation on rules regarding fisheries outside the fishery jurisdictions of the respective countries, that is to say on the high seas.

We have in the past participated in such collaboration, and we wish to do so in the future.

It is our opinion that international collaboration on rules regarding fisheries cannot replace a large fishery jurisdiction of a coastal State. Experience has shown, for example that preparations for such rules take too long, and it is very difficult to reach an agreement on them. The decision of Iceland to enlarge its fishery jurisdiction to 50 nautical miles from base-lines on September 1st, next year is first and foremost based upon two premises:

Firstly, we consider it necessary to take immediate measures to prevent overfishing of the fishstocks in Icelandic waters. We know that the fishing effort on the Icelandic grounds is now increasing enormously, and that various fishstocks are in evident danger.

Secondly, there is our economic necessity. The population of our country is increasing.

Therefore we must increase our national income if we are to keep in step with other nations in the matter of standard of living and economic security.

Only five years ago, fifty per cent of the total of fish products exported by Iceland consisted of herring products. Now the Atlantic-Scandinian herring stock, on which nearly all the herring fisheries were based, has totally disappeared.

The consequences of overfishing this herring stock have weighed very heavily upon our economy.

As herring fishing in our waters is now practically non-existent, we have in an increasing measure turned our herring fishing vessels to other fisheries. And we are now in the process of enlarging our trawler fleet greatly.

This is an inevitable economic necessity. For us there exist no other possibilities.

For this reason the fishing effort directed by the Icelanders to the cod stock and other demersal fish stocks is being intensified, while at the same time the number of foreign fishing vessels on our grounds continues to increase.

Foreign vessels have been taking about fifty per cent of the total catch of demersal species obtained annually on the Icelandic fishing grounds, or a share equal to our own.

In the opinion of our marine biologists an increase of the fishing effort from what it is now will inevitably lead to overfishing.

These are the reasons underlying the decision to enlarge our fishery jurisdiction to 50 miles, for we must secure for ourselves a larger part of the catches and safeguard at the same time the fish stocks around the country, on which our economic system rests, against extermination by overfishing.

Mr. Chairman. — I have now given you a brief description of the basic principles of our fishery policy and the reasons for our decision to enlarge our fishery jurisdiction. The fisheries and the fish industry are for us the absolute foundation for economic progress. Our lives and existence in the country are based upon a rational exploitation of the fishing grounds surrounding the country. We realize that our

decision to increase the size of our fishery jurisdiction will be met by opposition of many nations. And we may expect hostile counter-measures from various quarters, as has always been the case when we have extended our fishery jurisdiction.

No such inconveniences and no such protests can alter our position.

The decision that has been taken has the backing of the entire Icelandic nation. It is a total misunderstanding to say that we Icelanders are not willing to conform to international law and rules in these matters.

But we know perfectly well that no international law on the limits of fishery jurisdiction exists, and it is a fact that the fishery jurisdictions of the different countries vary a great deal in size.

It is known to us that the number of nations which recognize the right of coastal States to a large fishery jurisdiction is growing.

We have no doubt that before long we shall achieve full recognition of our fifty-mile fishery jurisdiction, and we know that foreign vessels will never be able to prosecute profitable fishing off Iceland in conflict with Icelandic laws and in opposition to the Icelandic people.

Because of the nature of the case I have in my statement dwelt chiefly upon the problems facing the Icelandic people.

It is clear to me, however, that similar problems or parallel ones are faced elsewhere on the Northeast Atlantic fishing grounds.

It is the joint problem of us all to prevent dangerous overfishing in this area.

We Icelanders are ready to collaborate. But we emphasize that our collaboration in making rules regarding fisheries in this area does not alter our fundamental opinion that each individual coastal State should have sovereign rights over all fisheries up to a reasonable and natural limit in the area of its continental shelf."

Appendix VI

COMMITTEE ON THE PEACEFUL USES OF THE SEA-BED AND THE OCEAN FLOOR BEYOND THE LIMITS OF NATIONAL JURISDICTION

Statement by Ambassador H. G. Andersen (Iceland) 16 March 1971

Palais des Nations, Geneva.

Mr. Chairman,

At the outset of our deliberations for the preparation of the forthcoming Conference on the Law of the Sea it would, in the opinion of the Icelandic delegation, be very useful if the different delegations would outline their views with regard to the most important issues confronting us in order to ascertain the degree of possible accomplishments. Of course there will be ample opportunity to discuss all the problems involved in detail during the next two years but a general panorama would facilitate the task. In that spirit I would now like to present the preliminary views of the Icelandic Government.

What is most important is, of course, to bring to fruition the codification and progressive development of the law of the sea which was started more than twenty years ago by the General Assembly of the United Nations in 1949. Much was accomplished through the work of the International Law Commission, the Sixth Committee of the Assembly, the Rome Conference of 1955 on the Conservation of the Living Resources of the Sea and, of course, the Geneva Conferences on the Law of the Sea in 1958 and 1960. In our opinion many problems were thus solved in a satisfactory manner but agreement has not been reached on the extent of the territorial sea, fishing limits and now also the international sea-bed régime. These problems are still our main problems and in seeking their solution we must be prepared to make the necessary adjustments in related fields such as fishing and the conservation of the living resources of the sea, pollution and scientific research.

I would now like to make a few remarks with regard to these main categories.

Turning first to the international sea-bed régime we feel that the work already accomplished in the Sea-bed Committee and the working papers submitted there together with the Declaration of Principles adopted by the General Assembly last December provide a basis for further deliberations.

Turning to the question of the extent of the territorial sea it seems to us that a solution should be found on the basis advocated by us and many others at the Geneva Conferences of 1958 and 1960, namely that a relatively narrow territorial sea is acceptable provided that the question of fishery limits is adequately dealt with. On that basis my delegation would agree to a comparatively narrow territorial sea.

Then there is the question of the fishery limits which in our view is the crux of the whole matter and must be dealt with in realistic terms. That question will not be solved by the assertion that the concept of the freedom of the seas calls for narrow fishery limits and by branding the claims for extended fishery limits as national parochialism or narrow-minded selfishness. Such views now belong to the past when the interests of nations fishing off the shores of other countries were protected at the expense of the nations in whose waters fishing was conducted. Account must be taken of the fact that many new states have emerged who rightly consider that coastal fishing resources are a part of the natural resources of the coastal nation and this is, indeed, the predominant view of the international community to-day.

The views of the Icelandic Government in this field were summarized in a communication to the International Law Commission already on May 5, 1952. It is there said, *inter alia*:

"2. The views of the Icelandic Government with regard to fisheries jurisdiction can be described on the basis of its own experience, as follows:

Investigations in Iceland have quite clearly shown that the country rests on a platform or continental shelf whose outlines follow those of the coast itself whereupon the depths of the real high seas follow. On this platform invaluable fishing banks and spawning grounds are found upon whose preservation the survival of the Icelandic people depends. The country itself is barren and almost all necessities have to be imported and financed through the export of fisheries products. It can truly be said that the coastal fishing grounds are the *conditio sine qua non* of the Icelandic people for they make the country habitable. The Icelandic Government considers itself entitled and indeed bound to take all necessary steps on a unilateral basis to preserve these resources and is doing so as shown by the attached documents. It considers that it is unrealistic that foreigners can be prevented from pumping oil from the continental shelf but that they cannot in the same manner be prevented from destroying other resources which are based on the same sea-bed.

3. The Government of Iceland does not maintain that the same rule should necessarily apply in all countries. It feels rather that each case should be studied separately and that the coastal State could, within a reasonable distance from its coast, determine the necessary measures for the protection of its coastal fisheries in view of economic, geographic, biological and other relevant considerations."

These views have on many occasions been repeated and remain unchanged. In other words, we feel very strongly that each case must be decided on its merits by the coastal State itself taking these considerations into account. Such an evaluation leads to different results in different cases. Thus many States consider that fishery limits of 12 miles are quite sufficient for their purposes. Others consider that the vital interests involved are not sufficiently protected in that manner. The re-

levant local considerations in Iceland would generally speaking coincide with the outer limits of the continental shelf or platform at the depth of 400 meters which in some areas would go out to 60—70 miles from shore. Other countries require still more and the coastal State must determine the limits on the basis of a realistic appraisal of local conditions. The Icelandic Law of 1948 concerning the continental shelf fisheries is based on this policy.

All these matters will, of course, be debated in our forthcoming discussions. It has sometimes been said that the general maximum should be set at 12 miles and more extensive claims should be dealt with on a regional basis through agreements between the nations concerned. I would be lacking in candour if I did not say right away at the outset that this is not a realistic approach in our opinion. The real problem indeed does arise when the other nations of a given region do not want to give up their claims — when they perhaps all want to fish off the coasts of one nation in the region. A reference to them for a solution after a general limit has been fixed would not be a just or equitable remedy. Therefore, the general rule itself must include the solution of the special cases.

The determination of the fishery limits is also closely related to the general problems of conservation of the resources also beyond the fishery limits and the prevention of pollution and other damage to the marine environment as well as the protection of scientific research. The problems of conservation of fishstocks and protection of the environment are becoming ever more important. Fishing techniques are becoming more effective and soon we may be faced with huge factory ships equipped with electrical devices for fishing which will be capable of directing vast quantities of fish right into a factory on board. The overfishing problem has for a long time been an imminent danger in Icelandic waters. Our resources were indeed threatened with depletion after the Second World War but through the extension of our fishery limits the danger was temporarily averted. And the pollution problem already has

reached proportions which no longer can be endured or tolerated. No longer can it be tolerated that dangerous waste and poisons are deliberately dumped into the oceans with mortal consequences to the living resources of the sea. This kind of action constitutes a marked abuse of the freedom of the seas.

These, Mr. Chairman, are the fundamental views of the Icelandic delegation. And we feel very strongly that they are reasonable and just.

Before I leave the floor I would also like to make a comment about the rôle of the specialized agencies in the coming work of the Preparatory Committee. My delegation would welcome the technical competence they can offer as observers to the Preparatory Committee. I would suggest that because of the complex technical discussions we will have in fisheries, pollution etc. and the resulting demands on the secretariat that consideration be given to asking those specialized agencies such as the FAO Department of Fisheries, the IOC and

IMCO to provide experts to the secretariat to assist in this important work. I would visualize that they should be fully integrated into the present secretariat. The result should be a strengthened secretariat of maximum service to the Preparatory Committee. It would also be desirable to bring up to date the FAO list of limits of national jurisdiction which appeared in 1969.

Mr. Chairman, I will not take up more time in this initial statement since we are equally interested in learning the views of other delegations with whom, through a common effort, we hope to bring twenty years of work by the United Nations for the progressive development of the international law of the sea to fruition. And when we are engaged in this task we should never lose sight of the frequently declared view of the General Assembly that all the different parts of the law of the sea hold together and must be solved together.

**Committee on the Peaceful Uses of the Sea-bed
and the Ocean Floor Beyond the Limits of National Jurisdiction**

Statement by Ambassador Hans G. Andersen (Iceland) 6 August 1971

Palais des Nations, Geneva.

Mr. Chairman,

For various reasons work in our Committee has been proceeding rather slowly. One of the reasons has been the problem of the list of topics but fortunately it now seems to be increasingly felt by delegations that it would be reasonable to keep a flexible attitude in that matter. In other words, that the list might be open-ended so that any delegation should be free to suggest any matter which it wants to be discussed. If in the end the general feeling is that some suggested items have been sufficiently dealt with, e.g. at the 1958 Conference, such items will be removed from the list again. At this stage my delegation will proceed on that assumption.

examination of the whole problem of fisheries — the conservation of fishstocks and the utilization of fishstocks. Since the details will have to be worked out in the appropriate working groups, I will at this stage confine my remarks to general principles.

In a statement on March 16, during the general debate in our Main Committee, my delegation outlined our basic preliminary views in this field. Without repeating now what was said then I would like to discuss the problems involved somewhat further.

First of all my delegation wants to emphasize that the task of the forthcoming Conference on the Law of the Sea is the progressive development of international law — not the codification of obsolete theories or petrified postulates from the more or less distant past. What is now called for is a fresh look at all the problems involved on a realistic, pragmatic basis and taking into account the emergence of a great number of new states with legitimate interests and policies which were not taken into account in the past.

Proceeding on this basis my delegation strongly feels that it is not necessary to insist on a wide territorial sea if fisheries jurisdiction is adequately dealt with. In that manner the legitimate interests of navigation and commerce can be maintained. If fisheries jurisdiction is adequately safeguarded my delegation would not consider that a territorial sea of 12 miles would be an insurmountable obstacle. But at the same time it is also clear that that particular distance has then been determined on the basis of considerations other than those

Regardless of the eventual length of the list of topics it is, of course, clear that the fundamental questions of the breadth of the territorial sea and the extent of fishery limits will have to be on the list and my delegation wishes to confine its remarks to these fundamental issues for the time being. Some other delegations who have already taken part in the debate have proceeded in a similar manner. These two fundamental questions were specifically referred to the Second Geneva Conference in 1960. They were not solved there and, as my delegation sees it, it is the urgent task of this Committee to devote its tireless attention to solving the problems involved. I am not minimizing the importance of other problems such as the problems of the landlocked states which certainly must be solved, but indeed these two questions are the most important. In their proper perspective they also necessitate the

relevant to fisheries. If we proceed in that manner we can avoid the mistake on which past practices have been based. And I would now discuss that particular problem a little further.

In the past it has been maintained in some quarters that each coastal state has a territorial sea which for various reasons such as navigation, commerce, strategic reasons etc., should be kept as narrow as possible, and that in the area outside these limits fishing was free for all although it was admitted that conservation measures equally applicable to all should be taken in the common interest. Regional organizations were then supposed to deal with such conservation measures but in these organizations unanimity was required.

In our opinion this system is totally unacceptable to coastal fishery nations and of course it is clear that the system was designed to protect the interests of nations who wanted to fish as close as possible to the shores of other nations. Its basic elements consist of limits which are not determined with regard to the fishery interests of the coastal states. The regional organizations have not been in any position to deal adequately with the conservation measures required. And the important element of the coastal state's legitimate interest in the utilization of the resources is not taken into consideration.

Instead of this kind of system progressive international law has to use an entirely different approach that would consist of the following two elements:

1. Conservation of resources

Conservation measures are required to maintain the maximum sustainable yield of the fishstocks. For that purpose national conservation measures are of the greatest importance since spawning areas and nursery grounds are for the most part found in shallow coastal areas. But internationally agreed measures are also necessary to prevent the overfishing of the stocks as a whole throughout the vast areas beyond national jurisdiction. Therefore the

function of regional organizations in the interests of conservation has to be greatly strengthened in order that the necessary conservation measures can be adopted nationally and internationally for the protection of the fishstocks as a whole.

In order to sustain the maximum yield of the fishstocks the total allowable catch must be determined and international or regional standards of protection have to be established which should apply to all waters — on the high seas and in the territorial sea. My Government has cooperated fully in such endeavours but — and this I must emphasize — it has for a long time adopted much more severe standards within the fishery limits than the regional standards adopted for the area outside. This, in our view, is quite natural because it is the coastal state which has the greatest interest in conserving the coastal resources. Other nations may not be as concerned. Their highly developed fishing fleets frequently find it to their advantage to take all the fish they can get in one area and then proceed to another even if they destroy the resources in the process. In any case it is quite clear to my delegation that the conservation measures have to be composed of international or regional standards established by the appropriate organizations and complemented by any further conservation measures within the fishery limits which are considered necessary by the coastal state. That aspect must be kept in mind when the extent of the fishery limits themselves is determined.

2. Utilization of resources

Even if the necessary conservation measures are adopted — nationally and internationally — the problem of sharing the resources is not solved. In that connection the preferential position of the coastal state has to be recognized. As far as we can see there are two ways of dealing with the problem. On the one hand it has been suggested that a regional organization should allot quotas to the various nations interested in the fisheries. That method may be useful in some areas but it does not solve the

problem in an area where possibly one coastal fisheries nation is concerned and perhaps 10 or 12 others want to continue their own fishing in that area. They would possibly be extremely reluctant to allocate a greater quota to the coastal state. That is the situation in the Iceland area and as my delegation stated on March 16, in our Main Committee a reference to the other nations of the area for a solution after a general limit has been fixed would not be a just or equitable remedy.

The other method is to recognize that the coastal fishery resources form a part of the natural resources of the coastal state up to a reasonable distance from the coast based on the relevant local considerations. In Iceland these relevant considerations would clearly indicate the waters of the continental shelf, i.e. an area of approximately 50—70 miles from the coast. The outlines of this platform on which the country rests follow those of the coast itself. In these shallow underwater terraces ideal conditions are found for spawning areas and nursery grounds upon whose preservation and utilization the livelihood of the nation depends. These conditions provide the essential combination of nutrient rich water from currents, upwelling and phytoplankton which in turn forms the basis of the food chain. This environment is an integral part of the natural resources of the country. Indeed the coastal fisheries in Iceland have always been the foundation of the country's economy. The country itself is barren — there are no minerals or forests — and most of the necessities of life have to be imported and financed through the export of fisheries products which have constituted approximately 90% of the total export. The coastal fisheries are the *conditio sine qua non* for the Icelandic economy. Without them the country would not have been habitable. It is indeed as if Nature had intended to compensate for the barrenness of the country itself by surrounding it with rich fishing grounds. The continental shelf area in our case constitutes the natural fishery limits and the Icelandic Government has announced that it will issue new Regulations in conformity with

these considerations before September 1, 1972.

I am not going to elaborate further on the Icelandic case at the present stage. My delegation will shortly circulate a Memorandum dealing with these problems in more detail and we hope that our friends and colleagues here will take time to examine that Memorandum.

Mr. Chairman,

Although in the case of Iceland the continental shelf is the natural criterion for fishery limits, in other countries other local considerations may apply. It is for them to appraise these local considerations and their right to determine their fishery limits on that basis should be recognized. When all such claims have been stated in this committee it should be possible to work out the solutions which should apply and there is no reason why the same limits should be applied everywhere. Indeed some nations are quite content with narrow fishery limits.

It has sometimes been said that if wide fishery limits are recognized some of the resources would perhaps not be utilized, i. e. that in some cases the coastal nation would not be able or willing to harvest the resources and they would become lost to mankind. To avoid such an eventuality the coastal state concerned might accept the obligation to admit foreign nationals to the extent required for the full utilization of the fishstocks in question. The regional organizations could be given the task of supervising such situations. At the same time it must not be forgotten that even over-protection in areas adjacent to the coast would result in greater catches outside the fishery limits so that the full utilization of the stocks might be ensured anyway.

The basic principle should be that the coastal fisheries form a part of the natural resources of the coastal state. In that manner a state would not be in a position to say as so often is said now: We are entitled to the resources of the sea-bed and the subsoil of the continental shelf because we have oil and gas resources there which we want to utilize for

ourselves. We also have jurisdiction over the crabs and other sedentary species because that is also in our interest. On the other hand we want to get as close as possible to the shores of other nations where fish is more abundant than in our coastal region. Therefore we cannot be prevented from utilizing the coastal fishery resources of other nations.

It would on the contrary be recognized that the principles announced by the International Court of Justice in the Anglo-Norwegian Fisheries Case should apply. It will be recalled that the Court then said that it is the land which confers upon the coastal state a right to the waters off its coast. And in the recent Continental Shelf Cases the Court stressed the fact that continental shelves are a natural prolongation of the territory.

It should be recognized that the coastal fishery resources are a part of the natural resources of the coastal state. Some coastal states — like Iceland — in reality have practically no other resources. And it is no argument to say that because of the concentration of phytoplankton the fishery resources are located off the coasts of a few countries. If we look at the phytoplankton maps we see that very many coastal states are so endowed. It is a part of their environment. It is a part of their natural resources in an area which often would be described as a natural prolongation of their territories. Of course, natural resources are unevenly distributed in the world. But my delegation feels very strongly that the claims of foreign nations to harvesting the coastal fishery resources of other nations would be parallel to a claim by foreign nations to access to the mines and forests of other countries because they do not have the same riches themselves. As far as the coastal state is able and willing to harvest its coastal fishery resources it is its function in a world of division of labour to do so and furnish other nations with the products just as they in turn utilize their own natural resources in the same way.

As I mentioned earlier this Committee is the appropriate forum to examine the various

claims of the coastal states to their coastal fishery resources. When they have been presented in this Committee it is very likely that it will become relatively easy to find a formula which within a system of progressive international law would recognize the coastal fisheries as the natural resources of the coastal state. It will then emerge that it is not a question of choosing between narrow fishery limits for all or very wide fishery limits for all. There is absolutely no reason why the same limits should apply e. g. on the one hand in the North Sea, the Mediterranean and the Caribbean Sea and on the other in Australia, Canada, New Zealand, Chile, Peru and Iceland. The situations are different and it should be possible to devise a harmonious system. In that manner the proper solutions might vary. In some areas the coastal state may be content with narrow fishery limits. In others there might be varying degrees of interest ranging from conservation and management zones or preferential zones to reasonably extensive exclusive limits. Sufficient safeguards to prevent abuse should be defined so that valuable resources are not simply closed and then remain unutilized or not fully utilized. Various methods to that effect should be studied in the appropriate working groups. And perhaps this Sub-Committee could devote special meetings to the discussion of fishery problems. The essential thing is to recognize the basic principle that to the extent that the coastal state is willing and able to utilize its coastal fishery resources it should be allowed to do so. As far as Iceland is concerned, although one half of the sustainable yield has been taken by foreign nationals the Icelandic people are quite capable of fully utilizing the maximum yield themselves. That is why the Icelandic Government has announced that before September 1, 1972, the Icelandic fishery limits will be extended so as to cover the waters of the continental shelf area. These measures are urgently required because of scientific, technical and economic development. One of the most important reasons is the ever greater danger of increased diversion of highly deve-

loped fishing fleets from other countries to the Icelandic area. We hope that other coastal states here represented will proceed with stating their claims so that the Committee will as soon as possible be in a position to evaluate the different situations and work out a just and equitable formula where the right of coastal states to utilize and develop their coastal fishery resources for the well-being of their peoples will be fully recognized.

In conclusion I would like to refer to the statement made by the delegation of the United States in this Sub-Committee on August 3rd. In the Draft Articles on the Breadth of the Territorial Sea, Straits, and Fisheries submitted by the delegation of the United States, Article III, Paragraph C reads as follows:

"The portion of the allowable catch of a stock in any area of the high seas adjacent to a coastal state that can be harvested by that state shall be allocated annually to it".

As my delegation understands this paragraph and the explanations contained in the statement of the delegation of the United States this principle would recognize the fundamental proposition that the coastal fishery resources form a part of the natural resources of the coastal state and we certainly welcome that proposal wholeheartedly. However, the limitation contained in paragraph E of the same Article states that the percentage

of the allowable catch of a stock traditionally taken by the fishermen of other states shall not be allocated to the coastal state. And it is added that in the view of the United States Government an appropriate text with respect to traditional fishing should be negotiated between coastal and distant water fishing states. My delegation has given this matter a great deal of thought but as far as we can see the final solution then would depend on to what extent the distant water fishing nations in the region were willing to allocate to the coastal state. In other words, the coastal state would be at the mercy of the distant water fishing states as they indeed have been in the past. Perhaps some formula can be found, which would clearly establish in what manner the general principle should be implemented, i. e. of allocating to the coastal state that portion of the allowable catch that can be harvested by that state. We sincerely hope so. But in the meantime we do not see that the problem can be solved in any other way than through fishery limits beyond the territorial sea in the manner which my delegation has submitted to-day. We would, therefore, propose as a topic for inclusion in the list of topics the topic of fisheries jurisdiction covering exclusive fishery limits, preferential rights and conservation and management zones.

**Committee on the Peaceful Uses of the Sea-bed
and the Ocean Floor Beyond the Limits of National Jurisdiction**

Statement by Ambassador Hans G. Andersen (Iceland) 19 August 1971

Palais des Nations, Geneva.

Mr. Chairman,

' When my delegation submitted its views regarding fisheries jurisdiction in this Committee on August 6th discussions on that subject had just started. Since then many other delegations have discussed this problem and as the distinguished representative of the Soviet Union said last Friday in this Committee our task here is to exchange views in order to arrive at appropriate solutions. In the light of what has been said since we submitted our statement I would like to make some additional comments.

Reference has been made to the declared policy of the Icelandic Government to extend the Icelandic fisheries limits before September 1st, 1972. It has been said that such a step would not be in conformity with international law and that it would not contribute to international co-operation in this field. My delegation considers that the statements of various delegations here and the extremely valuable list of FAO concerning limits of national jurisdiction clearly show that a great number of states would not consider our policy in this respect to be contrary to international law. It is based on the necessity to protect vital interests. And the record clearly shows that the Icelandic Government for a long time has done its utmost to further international co-operation in this field. The Government of Iceland declared its policy through the enactment of the Law concerning the Scientific Conservation of the Continental Shelf Fisheries already in April 1948 which so far has only been implemented to the extent of 12 miles from the coast. Already in 1949 the Icelandic Delegation to the United Nations General Assembly successfully proposed that

the International Law Commission should be entrusted with the task of dealing with the Law of the Sea in its entirety on the basis of the progressive development of international law. Since then we have been waiting, i. e. for almost 25 years. In this connection it may be recalled that when we extended our fishery limits to 12 miles in 1958 — after the 1958 conference — it was maintained that we should wait until 1960 conference. We maintained, however, that we had already waited a long time and that there was no assurance that the 1960 conference would solve the problems involved. As we all know it did not. We are now faced with a similar situation. We do not know whether it will be possible to convene a conference in 1973 or whether any agreement will be reached there. And if it is maintained that we are now making it more difficult to arrive at an agreement to the effect that the maximum limit of 12 miles could be fixed for fisheries jurisdiction we want to emphasize that we would consider such an agreement completely unjust and we would not want to contribute to a final result of that nature.

The Icelandic Government considers that as far as Iceland is concerned we have to protect our interests now. It is quite clear that at any time the highly developed fishing fleets of distant water fishing countries will be increasingly directed to the Iceland area. These fleets have now for some time had huge catches from the Barents sea. Fishing there is now no longer as profitable as it was and they are now directing their attention to the Iceland area. The United Kingdom fishing interests themselves have declared that their efforts in the Iceland area will be doubled in the near future. And the existence of highly

developed fishing technique and fishing capacity with huge factory trawlers, electronic equipment etc., could very well cause irreparable harm to the Iceland area. I might in this connection mention that the three nations mostly concerned in the Barents Sea area have for some time tried to establish some kind of quota system for that area but as far as we know those efforts have not met with success. In any case we cannot afford to take the risk of just doing nothing.

We are convinced that the forthcoming conference will eventually provide a system that would consider the measures which we are going to take and must take to be entirely lawful, just and equitable. Our action is in conformity with that spirit. It is in conformity with the strong conviction that progressive international law will replace the system which for far too long has been tolerated.

Let me in this connection draw attention to the conclusions reached by the meeting for consultation on the conservation of fishery resources and the control of fishing in Africa, which was held in Casablanca, Morocco, from May 20th to 26th, 1971, under the auspices of FAO. In paragraph 72 in this very interesting report, the following is said:

"In view of the deterioration of the state of resources in some areas the consultation felt that African countries should consider what measures would best enable them to participate actively in the con-

servation of fisheries and the control of fishing off Africa. All delegations present indicated that in their view this should be done by establishing zones in which coastal states would exercise exclusive rights with respect to fisheries and in which foreign vessels could operate only with the permission of the coastal state, obtained through negotiation. They added that preference should be granted in this respect to other African countries. As to the outer limit of the exclusive fishing zones, several delegates felt that, for technical and scientific reasons, it should coincide with the edge of the continental shelf, while others expressed a preference for a limit determined by a fixed depth".

My delegation agrees with these views. They are in conformity with the basic principle that the limits should be determined in view of the relevant local considerations. We are convinced that this principle has the support of the majority of the international community. Until that support has been formally endorsed we will have to protect our vital interests by implementing our 1948 law in the way which we have already announced. In our statement of August 6th, we drew attention to the factors which made the coastal fisheries in Iceland the basis of the Icelandic economy and really make the country habitable. I am not going to repeat all those arguments here now.

Annex I**STATEMENT READ BY MINISTER FOR FOREIGN AFFAIRS
OF ICELAND ON 24 FEBRUARY 1972**

This aide-mémoire recapitulates the position of the Government of Iceland with regard to this matter. It states our views concerning the extension of the fishery limits and the question of the applicability of the 1961 Exchange of Notes. As far as the Government of Iceland is concerned it will be interpreted, should the occasion arise, as implying all arguments relative to the rules of international law in this field, including all aspects of the termination of agreements in the light of the aide-mémoire of 31 August 1971, as well as the present aide-mémoire. It should be noted in that connection that the effective date of the new regulations, to be issued on the basis of the 1948 Law concerning the Scientific Conservation of the Continental Shelf Fisheries, will be 1 September 1972, and that the hope has on various occasions been expressed that a practical solution of the problems involved will be achieved as soon as possible. The Government of Iceland has indicated a basis for a possible *modus vivendi* which is still under consideration by both Governments.

Annex J**GOVERNMENT OF THE UNITED KINGDOM'S AIDE-MÉMOIRE
OF 14 MARCH 1972**

The British Government have taken note of the Government of Iceland's aide-mémoire of 24 February 1972 concerning the decision by the Government of Iceland to issue new regulations for fishery limits of fifty miles to become effective on 1 September 1972, and also of the Icelandic Foreign Minister's statement of the same date. The British Government wish to reiterate their view that such an extension of the fishery zone around Iceland would have no basis in international law.

The British Government reject the view of the Government of Iceland expressed in its aide-mémoire of 24 February on the subject of the 1961 Exchange of Notes between the two Governments, to the effect that "the Government of Iceland considers the provisions of the Notes exchanged no longer to be applicable and consequently terminated". The British Government repeat their view that the Exchange of Notes remains in force and hereby give to the Government of Iceland formal notice that an application to the International Court of Justice in accordance with the Exchange of Notes will shortly be made.

The British Government are very willing to continue discussions with the Government of Iceland in order to agree satisfactory practical arrangements for the period while the case is before the International Court of Justice.

A copy of this aide-mémoire is being transmitted, as was the Government of Iceland's aide-mémoire of 24 February 1972, to the Secretary-General of the United Nations and the Registrar of the International Court of Justice.

**REQUEST FOR THE INDICATION OF
INTERIM MEASURES SUBMITTED BY THE
GOVERNMENT OF GREAT BRITAIN AND
NORTHERN IRELAND**

Foreign and Commonwealth Office,
LONDON, SW1,

19 July 1972.

Case to Which this Request Relates

1. I have the honour to refer to the Application submitted to the Court on 14 April 1972 instituting proceedings in the name of the United Kingdom of Great Britain and Northern Ireland against Iceland, and to submit, in accordance with Article 41 of the Statute and Article 61 of the Rules of Court, a request that the Court should indicate the interim measures which ought to be taken to preserve the rights of the parties pending the final decision of these proceedings.

Rights to Be Protected

2. The rights of the United Kingdom to be protected are the rights to ensure that vessels registered in the United Kingdom should be permitted as heretofore to take fish on the high seas in the neighbourhood of Iceland outside the 12-mile limit of fisheries jurisdiction agreed upon in the Exchange of Notes between the Government of the United Kingdom and the Government of Iceland dated 11 March 1961 (as set out in Annex A to the Application instituting proceedings) except in so far as may be provided for by arrangements agreed between the Government of the United Kingdom and the Government of Iceland such as are referred to in paragraph 21 (b) of the said Application.

Interim Measures Proposed

3. The interim measures of which the indication is proposed are those set out in paragraph 20 below.

Grounds of Application

4. The grounds on which the indication of the said interim measures is requested are that the Government of Iceland have issued regulations purporting to carry into effect their declared intention of unilaterally extending the limits of their fisheries jurisdiction to a distance of 50 miles from baselines round Iceland on 1 September 1972 and thereafter wholly excluding the fishing vessels of other nations, including those of the United Kingdom, from that part of the high seas which is included within the said extended limits. These regulations were issued notwithstanding the pendency of these proceedings and notwithstanding the discussions referred to in paragraph 21 below, held between the parties in an attempt to reach satisfactory arrangements pending a decision of the Court. The regulations, the full text of which is set out in Annex A hereto, were published by the Government of Iceland on 14 July 1972 and are expressed to come into effect on 1 September 1972.

5. If such unilateral exclusion, which, in the submission of the United Kingdom Government, is wholly unwarranted by international law, were carried into effect for any substantial period, it would, for the reasons set out below, result in immediate and irremediable damage to the United Kingdom fishing and associated industries. Such damage could not be made good by the payment of monetary compensation by the Government of Iceland should the Court decide that the exclusion was unlawful. Accordingly, the United Kingdom would be deprived of much of the benefit of any order made by the Court in pursuance of such a decision by it. Furthermore, such unilateral exclusion during the pendency of the suit could only aggravate the dispute which has been submitted for the decision of the Court. These are considerations which, in the submission of the Government of the United Kingdom, make it eminently just and expedient that the Court should indicate appropriate interim measures to preserve the rights of the United Kingdom while this suit is pending.

United Kingdom Catch in the Iceland Area

6. The exclusion of United Kingdom fishing vessels that is threatened by the said regulations would leave open only an insignificant part of the fishing grounds in the Iceland area¹ (see map at Annex B1). The waters in the Iceland area constitute by far the most important of the United Kingdom distant-water fishing grounds and one of the longest established. United Kingdom vessels fish in the Iceland area only for demersal or "bottom" fish. Of these by far the most important are cod (75.9 per cent. of the catch in 1971). Others include saithe (11.7 per cent.), haddock (4 per cent.) and redfish (2 per cent.). Pelagic (or surface) fish such as herrings, capelin, etc., which are found in the Iceland area, and some species of which are found there in abundance, are not fished for by United Kingdom vessels there. Over the period 1960-1969 the United Kingdom's average annual demersal catch² from the Iceland area was about 185,000 metric tons. (See Annex G.) It was valued at £12 million and made up 45 per cent. by weight and 49 per cent. by value of all United Kingdom distant-water landings of these species. Looked at in terms of the total landings of fresh and frozen fish (i.e., all the commercially important demersal and pelagic fish excluding shellfish) by United Kingdom fishing vessels, the landings from the Iceland area have accounted for 19.2 per cent. by weight and 21.7 per cent. by value over the years 1960-1969. (See Annex C.) Over the same period the landings by United Kingdom fishing vessels from the Iceland area accounted for 16.1 per cent. by weight and 16.6 per cent. by value of the total United Kingdom supplies of fish from all sources. (See Annex D.)

¹ References to sea areas are references to the areas shown on the map attached hereto at Annex B2.

² Weights of fish are given where possible, in accordance with the practice adopted by the International Council for the Exploration of the Sea ("ICES") and other international fisheries organizations, as "catch" weights, that is to say, the weight of fish actually caught. In other cases they are given as "landings", that is to say, the weight of fish landed. The latter is a smaller figure since the fish are lightened by being gutted at sea. In practice the fish are weighed on landing rather than on being caught and the catch weight is obtained from the landed weight by applying a known factor for each species of fish depending on its anatomical characteristics. Very approximately, for most demersal species catch weights are 18 per cent.-20 per cent. higher than landed weights.

United Kingdom Vessels Affected

7. In 1971 there were 194 United Kingdom vessels which fished in the Iceland area. These came from the ports of Hull, Grimsby, Fleetwood, North Shields and Aberdeen. Some of these were relatively small vessels that usually fish closer to the United Kingdom and only visit the grounds around Iceland from time to time. Others were freezer trawlers—there are 37 of these in the fleet of which 25 visited the Iceland area in 1971—which are also mainly intermittent visitors to the Iceland area, having the capacity to stay at sea for long periods and to fish any of the grounds in the North Atlantic. Over 94 per cent. by weight of the catch in 1971 was taken by "fresher" trawlers, that is to say, vessels which have no facilities for freezing fish at sea and are accordingly confined to voyages of not more than 3 weeks. The year 1971 was in these respects a normal year, showing perhaps a slightly higher effort deployed in the Iceland area than in some recent years. It will thus be seen that, leaving aside those vessels that do not regularly fish in the Iceland area, there remain between 160 and 170 vessels that rely on the Iceland area year by year for all or a significant part of their catch.

Other Available Fishing Grounds

8. The demersal fishing grounds within reach of the United Kingdom fishing fleet are indicated on the map at Annex B2: they are as follows:

Distant-Water Grounds

Barents Sea	N.-E. Arctic	N.-E. Atlantic
Bear Island		
Spitzbergen		
Norwegian Coast		
Iceland		
East Greenland		
West Greenland	N.-W. Atlantic	
Labrador		
Grand Banks (Newfoundland)		
Gulf of St. Lawrence		
Gulf of Main and Georges Bank		

Middle-Water and Other Grounds

North Sea
Faroës
West of Scotland
Rockall
Irish Sea
West of Ireland and Porcupine Bank
English Channel
Bristol Channel
South of Ireland and Sole Banks

The respective proportions of the United Kingdom catch contributed by each of these areas in 1971 is set out in Annex E.

Opportunity of Diversion

9. It is not possible for the fishing effort from the Iceland area to be diverted at economic levels to other fishing grounds. The remaining grounds in the North-East Arctic (Barents Sea, Norwegian Sea, Bear Island, Spitzbergen) are approaching twice the distance away from the United Kingdom, with harsh (and during long periods of the year extremely harsh) weather and sea conditions. It is unsafe for trawlers not capable of withstanding such conditions to operate on these grounds. Catch rates in this area have already fallen from the high levels recorded in the late sixties and the Liaison Committee's Report to the 10th Meeting of the North-East Atlantic Fisheries Commission predicted a continuing fall in catch levels for 1972 and 1973. In any case, any substantial diversion to this North-East Arctic area by trawlers (both United Kingdom and others) displaced from the Iceland area would still further depress catch rates below economic levels. The unfamiliarity of many trawler skippers with these grounds would add to the difficulties of securing an adequate catch to make the voyage pay.

10. There is no prospect of the displaced "fresher" trawlers making up their loss in catch by fishing the grounds of the North-West Atlantic since the longer voyage time (roughly $2\frac{1}{2}$ times the distance from Iceland) would leave them with an unprofitably short period of fishing. In effect, only freezer trawlers can operate on these distant-water grounds from which the United Kingdom took a catch of 7,652 tons in 1971. However, these vessels account for only 6 per cent. of the total United Kingdom catch in the Iceland area (see para. 7 above) and their opportunities to increase their catches in the North-West Atlantic will be severely limited by schemes of quota limitation, recently approved by the International Commission for the Northwest Atlantic Fisheries (ICNAF), which will become operative from January 1973 in four of the five sub-areas into which the Commission's area is divided. In these sub-areas the United Kingdom's catch will be limited to just over 24,000 tons, and although there is no limitation in catches in the remaining sub-area (where the United Kingdom catch was 2,731 tons in 1971) it is evident that increased catches in the North-West Atlantic as a whole can at the best replace only a small fraction of the catch in the Iceland area and offer no solution to the difficulties of the "fresher" trawlers which constitute the great majority of the vessels which would suffer by exclusion from Icelandic grounds.

11. Distant-water trawlers displaced from Iceland could not profitably fish on near-water or middle-water grounds. The catch rates per hour in the North Sea, for example, are only one-sixth of those in the Iceland area (one-third when expressed as catch per day absent from port). Furthermore, these fisheries are mixed, unlike the essentially single species grounds in distant-water regions, and this factor would also seriously impair fishing operations and their financial returns. These grounds nearer home are in any case already fully exploited: any additional effort by United Kingdom and other vessels diverted from the Iceland area would reduce catch rates, further deplete fish stocks and depress the profits of the traditional near-water and middle-water sectors of the United Kingdom fleet and, in turn, the current returns of the United Kingdom inshore fleet.

12. In general, therefore, modern distant-water trawlers, such as are used by the United Kingdom fishing fleet in the Iceland area, equipped with expensive and sophisticated technical gear and having inflexibly high operating costs, could not, if excluded from the Iceland area, hope to gain, let alone sustain, fish yields which would keep them in business.

Economic Consequences

13. Given this lack of alternative fishing opportunity, the threatened exclusion of United Kingdom fishing vessels from the Iceland area would have very serious adverse consequences, with immediate results for the affected vessels and with damage extending over a wide range of supporting and related industries. There would very quickly have to be a withdrawal of some vessels from service. It is unlikely that many owners would have the necessary financial resources to continue operating at a loss for more than a few months in the hope that they would regain access to the Iceland area. Most of those vessels now operating at or near the margin of profitability would have to be withdrawn at once, since they could not operate profitably on any of the grounds open to them. But others would have to follow and the number of vessels withdrawn would increase rapidly and include the more modern vessels as reducing catch rates depressed returns below operating costs in the areas to which they had been diverted or might otherwise be diverted. Owing to the high cost of maintaining trawlers which are not in use, a large proportion would have to be scrapped if there was no certain prospect of their re-employment within a very few months. There is no ready market for second-hand distant-water trawlers. The scrapping of these vessels would constitute the loss of a considerable national asset.

14. Withdrawal of vessels would cause widespread unemployment amongst all sectors of the United Kingdom fishing industry. At present there are about 18,000 fishermen in the United Kingdom: of these approximately 3,500 are employed on the 160 to 170 vessels referred to in paragraph 7 above as fishing regularly in the Iceland area. In addition it is estimated that a further 40-50,000 workers draw their living from the ancillary industries (e.g., ship-building and repairing, packing, transport and marketing). Three ports—Hull, Grimsby and Fleetwood—are especially reliant on the Iceland area, which accounted for 49.6 per cent., 49.6 per cent. and 69.2 per cent. respectively of landings at these ports in 1971. (See Annex F.) At Hull alone it is estimated that 7,000 workers (other than fishermen) derive their livelihood directly from the fishing industry. The problem would be made worse because the resultant unemployment would occur in those areas (Humberside and West Lancashire) where there is a severe shortage of work and little scope for alternative employment: neither are the specialized skills of fishermen appropriate to work on shore.

15. Furthermore, to the extent that vessels displaced from the Iceland area are redeployed in near-water and middle-water areas the consequent reduction in the catch rate referred to above will have its effect upon the profitability of the vessels already fishing there and in turn force the more economically vulnerable out of service with consequent unemployment at those ports (e.g., Lowestoft) which are concerned with the near-water and middle-water fishing fleet. Although the numbers involved would be smaller, it is expected that the impact would be proportionately greater because these smaller towns are even less able to absorb a sudden economic change of this magnitude. The employment structure at all fishing ports both large and small would be severely disrupted and many who have no direct connection with the fishing industry would be involved.

16. If United Kingdom trawlers were excluded from the Iceland area as threatened, the effects noted above would follow relatively quickly: in a period of 12 months the fleet and shore-based facilities would have been disrupted and reduced to an extent and in a way that would make an early

return to the *status quo ante* impossible. The replacement of scrapped vessels would be a very much more costly and slower process than the continued operation and gradual replacement of ageing vessels, and the re-establishment of shore-based enterprises would also take time. Because of the local scarcity of employment that is referred to in paragraphs 14 and 15 above, many of the employees who had been discharged and who could do so would move to other areas in search of jobs. Once the labour force, particularly of fishermen, had been thus dispersed, they would be induced only with difficulty and to a limited extent to return to their former occupations. Confidence in the future of the industry as a whole would be destroyed and it would become relatively more difficult than at present to attract investment. No industry could easily recover, if it recovered at all, from such a blow as would be inflicted on the United Kingdom fishing industry by the exclusion of the distant-water fleet from the principal fishing grounds on which it has traditionally relied and which provides half its catch.

17. The United Kingdom market for fish is characterized by a high demand for demersal species (particularly cod, haddock and plaice). There would be a sudden severe shortage if supplies from United Kingdom vessels taken from the Iceland area were cut off in the manner threatened. At best, there could thereafter be a partial replacement as prices were forced up on the United Kingdom market and attracted alternative supplies. Prices could nevertheless be expected to remain high, reflecting relative scarcity and a firm world demand. The scarcity and generally higher level of prices on the United Kingdom market would, as well as causing hardship to many consumers, lead to a stabilized reduction in the consumption of fish and the establishment of different consumption patterns and tastes: it is doubtful whether such a national tendency could be easily or wholly reversed if and when supplies from the Iceland area were resumed. To that extent the unlikelihood of the United Kingdom fishing industry being able to make an early return to its present position if the Court decided this case in favour of the United Kingdom would be increased.

Conclusion

18. Vessels from the British Isles have fished in the Iceland area for many years and British trawlers have operated there since 1891. Set out in Annex G hereto are details of United Kingdom and Icelandic catches of demersal species in the Iceland area over the years 1950-1971 and of the proportions which these constituted of the total catches in that area in each of those years. Given the inevitability of some natural seasonal fluctuation, there is a notable long-term stability in the catches of both countries and in the proportion of their catches to the total. The proposed exclusion of the United Kingdom vessels would disrupt this long-established and stable situation and, in the submission of the United Kingdom Government, should not be permitted until the rights of the parties have been finally settled by the Court.

Proposed Interim Measures

19. The Government of Iceland have stated that they fear that the United Kingdom fishing interests intend to increase their fishing efforts in the Iceland area in the near future to an extent which will be harmful to the fish stocks in that area—see, for example, the Statement dated 19 August 1971 by Am-

bassador Hans G. Anderson to the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor Beyond the Limits of National Jurisdiction set out in Enclosure 2 to Annex H to the Application instituting proceedings in this suit. While the Government of the United Kingdom do not concede that any such intention exists and contend that any fears which the Government of Iceland may have as to future damage to fish stocks should be dealt with by such arrangements between governments as are referred to in paragraph 21 (b) of the said Application, they nevertheless accept that the Court may consider it appropriate that these fears, whether well founded or not, should be allayed pending final judgment of the Court in this suit. If the Court does so consider, the Government of the United Kingdom suggest that the Court should indicate as part of the provisional measures that the Government of the United Kingdom should ensure that, until such final judgment, United Kingdom vessels do not take more fish in the Iceland area than their average catch in those waters in the years 1960-1969, namely, 185,000 metric tons per annum (see Annex G). In making this suggestion the Government of the United Kingdom wish to make it clear that they do not admit that any such limitation is justified and fully reserve all their rights in the matter against the Government of Iceland.

20. In view of the considerations set out above I have the honour to request on behalf of the Government of the United Kingdom that the Court should indicate that, pending the final judgment of the Court in the suit submitted by the Application instituting proceedings of 14 April 1972:

(a) the Government of Iceland should not seek to enforce the regulations referred to in paragraph 4 above against, or otherwise interfere or threaten to interfere with, vessels registered in the United Kingdom fishing outside the 12-mile limit agreed on by the parties in the Exchange of Notes between the Government of the United Kingdom and the Government of Iceland dated 11 March 1961 (as set out in Annex A to the said Application);

(b) the Government of Iceland should not take or threaten to take in their territory (including their ports and territorial waters) or inside the said 12-mile limit or elsewhere measures of any kind against any vessels registered in the United Kingdom, or against persons connected with such vessels, being measures which have as their purpose or effect the impairment of the freedom of such vessels to fish outside the said 12-mile limit;

(c) in conformity with subparagraph (a) above, vessels registered in the United Kingdom should be free, save in so far as may be provided for by arrangements between the Government of the United Kingdom and the Government of Iceland such as are referred to in paragraph 21 (b) of the said Application, to fish as heretofore in all parts of the high seas outside the said 12-mile limit, but the Government of the United Kingdom should ensure that such vessels do not take more than 185,000 metric tons of fish in any one year from the sea area of Iceland, that is to say, the area defined by the International Council for the Exploration of the Sea as area Va and so marked on the map attached hereto at Annex B2;

(d) the Government of the United Kingdom and the Government of Iceland should seek to avoid circumstances arising which are inconsistent with the foregoing measures and which are capable of aggravating or extending the dispute submitted to the Court; and

(e) in conformity with the foregoing measures, the Government of the United Kingdom and the Government of Iceland should each ensure that no action is taken which might prejudice the rights of the other party in respect of the carrying out of whatever decision on the merits the Court may subsequently render.

21. In their aide-mémoire to the Government of Iceland dated 14 March 1972 (which is referred to in para. 19 of the Application instituting proceedings in this suit and is set out in full in Annex J thereto) the Government of the United Kingdom expressed their willingness to continue discussions with the Government of Iceland in order to agree satisfactory practical arrangements for the period while these proceedings are before the Court. Since the institution of proceedings such discussions have been held at both official and Ministerial levels in Reykjavik and in London on various dates in April, May and July 1972. On 12 July 1972 it became clear that it would not be possible to agree satisfactory arrangements and that the Government of Iceland then intended, notwithstanding the pendency of these proceedings, to issue the regulations referred to in paragraph 4 above. As is there stated, the regulations were made on 14 July 1972 in the form set out in Annex A hereto. The text of the regulations was transmitted on that date to the British Embassy in Reykjavik under cover of a Note from the Ministry for Foreign Affairs of the Government of Iceland, the text of which is set out in Annex H hereto. Though it will be seen that the Government of Iceland suggest in that Note that further discussions should be held in order to reach "a practical solution of the problems involved" and though the Government of the United Kingdom stand ready at all times to consider any reasonable proposals which might lead to an agreement providing such a solution, the Government of the United Kingdom do not consider that they can any longer delay in requesting the Court to indicate interim measures for the protection of the Parties. United Kingdom vessels will not be able to continue fishing in the Iceland area on and after 1 September 1972 unless certain preparations are made by the fishing industry in the very near future. If these preparations are not made in time or if, once they are put in hand, they have to be reversed or substantially altered, the industry may suffer considerable loss and hardship. Accordingly, the indication by the Court of interim measures for the protection of the interests of the parties has, in the submission of the Government of the United Kingdom, now become a matter of urgency. In this connection the attention of the Court is respectfully drawn to the provisions of Article 61 (2) of the Rules of Court which provides that such an application shall be given priority over all other business of the Court.

(Signed) H. STEEL,
Agent for the Government of
the United Kingdom.

ANNEXES TO THE REQUEST FOR THE INDICATION OF INTERIM MEASURES OF PROTECTION

Annex A

TEXT OF THE REGULATIONS ISSUED BY THE GOVERNMENT OF ICELAND ON 14 JULY 1972

REGULATIONS CONCERNING THE FISHERY LIMITS OFF ICELAND

Article 1

The fishery limits off Iceland shall be drawn 50 nautical miles outside baselines drawn between the following points:

[The regulations here specify 31 points by name and by reference to geographical co-ordinates. These are not reproduced in this Annex but the Court's attention is invited to the Note at the end of this Annex.]

Limits shall also be drawn round the following points 50 nautical miles seaward:

[The regulations here specify 2 points by name and by reference to geographical co-ordinates. These are not reproduced in this Annex but the Court's attention is invited to the Note at the end of this Annex.]

Article 2

Within the fishery limits all fishing activities by foreign vessels shall be prohibited in accordance with the provisions of Law No. 33 of 19 June 1922, concerning Fishing inside the Fishery Limits.

Article 3

Icelandic vessels using bottom trawl, mid-water trawl or Danish seine-netting are prohibited from fishing inside the fishery limits in the following areas and periods:

1. Off the north-east coast during the period 1 April to 1 June in an area which in the west is demarcated by a line drawn true north from Rifstangi (Base Point 4) and in the east by a line which is drawn true north-east from Langanes (Base Point 6).
2. Off the south coast during the period 20 March to 20 April in an area demarcated by lines drawn between the following points:

- (A) 63 degrees 32' 0 N 21 degrees 25' 0 W
- (B) 63 degrees 00' 0 — 21 degrees 25' 0 —
- (C) 63 degrees 00' 0 — 22 degrees 00' 0 —
- (D) 63 degrees 32' 0 — 22 degrees 00' 0 —

Prohibition of Fishing with Trawl and Mid-water Trawl. Cf. Law No. 21 of 10 May 1969, or special provisions made before these regulations become effective.

Article 4

Trawlers shall have all their fishing gear properly stowed aboard while staying in areas where fishing is prohibited.

Article 5

Fisheries statistics shall be forwarded to the Fiskifelag Islands (Fisheries Association of Iceland) in the manner prescribed by Law No. 55 of 27 June 1941, concerning Catch and Fisheries Reports. If the Ministry of Fisheries envisages the possibility of over-fishing, the Ministry may limit the number of fishing vessels and the maximum catch of each vessel.

Article 6

Violation of the provisions of these regulations shall be subject to the penalties provided for by Law No. 62 of 18 May 1967, concerning Prohibition of Fishing with Trawl and Mid-water Trawl, as amended, Law No. 40 of 9 June 1960, concerning Limited Permissions for Trawling within the Fishery Limits off Iceland under Scientific Supervision, Law No. 33 of 19 June 1922, concerning Fishing inside the Fishery Limits, as amended, or if the provisions of said laws do not apply, to fines from Kr.1,000.00 to Kr.100,000.00.

Article 7

These regulations are promulgated in accordance with Law No. 44 of 5 April 1948, concerning the Scientific Conservation of the Continental Shelf Fisheries, cf. Law No. 81 of 8 December 1952. When these regulations become effective, Regulations 3 of 11 March 1961, concerning the Fishery Limits off Iceland shall cease to be effective.

Article 8

These regulations become effective on 1 September 1972.

Ministry of Fisheries, 14 July 1972.
Ludvik JOSEPPSON.

Jon L. ARNALDS.

[Note:

The baselines indicated in the above regulations appear to differ in certain respects from those provided for by the Exchange of Notes of 1961. To the extent that they involve, as they appear to do, a claim by the Government of Iceland to draw fishery limits from baselines more favourable to themselves than those established in 1961, the Government of the United Kingdom fully reserve all their rights in respect thereof and specifically reserve their right to address submissions relating thereto to the Court at a later stage of this suit.]

Annex B1**MAP OF FISHING GROUNDS IN THE ICELAND AREA**

[See Annex 20 to the *Memorial on the Merits of the Dispute*,
p. 402, *infra*]

Annex B2**MAP OF UNITED KINGDOM DISTANT-WATER AND MIDDLE-WATER
FISHING GROUNDS IN RELATION TO ICES AND ICNAF STATISTICAL
REGIONS**

[See Annex 28 to the *Memorial on the Merits of the Dispute*,
p. 412, *infra*]

Annex C

LANDINGS IN THE UNITED KINGDOM BY UNITED KINGDOM VESSELS

Year	Landings of Fish other than Shellfish												Landings of Shellfish	
	Total Demersal Landings		Total Pelagic Landings		Total Landings		Landings from Iceland Area		Landings from Iceland Area as % of Total Landings		Landings from Iceland Area as % of Total Demersal Landings			
	Weight '000 metric tons	Value £m	Weight '000 metric tons	Value £m	Weight '000 metric tons	Value £m	Weight '000 metric tons	Value £m	%	%	%	%	'000 metric tons	£m
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)
1960	693.4	48.2	121.9	2.8	815.3	51.0	153.4	10.3	18.8	20.2	22.1	21.4	28.0	2.1
61	654.1	46.6	101.0	2.6	755.1	49.2	163.3	11.6	21.6	23.6	25.0	24.9	*	2.4
62	687.7	45.7	109.1	3.1	796.8	48.8	178.4	11.8	22.4	24.2	25.9	25.8	30.0	2.5
63	674.2	47.9	147.2	3.1	821.4	51.0	187.1	13.4	22.8	26.3	27.8	28.0	28.2	2.5
64	687.7	51.1	142.4	3.2	830.1	54.3	184.7	14.5	22.3	26.7	26.9	28.4	28.4	2.9
65	733.8	54.4	164.6	3.6	898.4	58.0	195.7	15.4	21.8	26.6	26.7	28.3	27.8	3.0
66	715.7	54.4	200.2	3.7	915.9	58.1	147.4	11.6	16.1	20.0	20.6	21.3	34.1	3.6
67	710.8	53.7	151.3	3.3	862.1	57.0	161.6	11.7	18.7	20.5	22.7	21.8	42.2	4.0
68	729.5	54.1	140.9	3.2	870.4	57.3	136.1	9.2	15.6	16.1	18.7	17.0	41.8	4.8
69	727.9	55.9	175.5	4.0	903.4	59.9	117.0	8.5	13.0	14.2	16.1	15.2	50.6	6.0
1960-69 Average	701.5	51.2	145.4	3.3	846.9	54.5	162.5	11.8	19.2	21.7	23.2	23.0	34.6	3.4
1970	731.0	64.0	187.6	5.5	918.6	69.5	142.6	13.2	15.5	19.0	19.5	20.6	56.4	6.7
71	715.1	78.9	206.0	6.2	921.1	85.1	180.9	22.4	19.6	26.3	25.3	28.4	54.5	7.5

- Notes:*
- Quantities shown in terms of landed equivalent weight, i.e., head on, gutted, plus livers.
 - Source: Columns (2) to (9) and (14) and (15) from Sea Fisheries Statistical Tables 1960-71.
Columns (10) to (13) by calculation.
 - In columns (8) and (9) a small adjustment has been made to take account of the fact that in the Statistical Tables the figures for landings from different areas of origin do not include livers, whereas the figures for total landings do. The livers represent approximately 2.7% of landings by weight, and 0.5% by value.
 - All weights have been converted from cwts. to metric tons.
- * Figures not available.

Annex D

SUPPLIES OF FISH TO THE UNITED KINGDOM

Year	Supplies of Fish (excluding Shellfish) to the United Kingdom (i.e. Landings by United Kingdom and Foreign Vessels, and Imports of Fresh, Frozen, and Semi-preserved Fish)						Landings from Iceland Area by United Kingdom Vessels				Supplies of Shellfish	
	Total Demersal Supplies		Total Pelagic Supplies		Total Supplies		Landings from Iceland Area by UK Vessels		Landings from Iceland Area by UK Vessels as a % of Total Supplies			
	Weight '000 metric tons	Value £m	Weight '000 metric tons	Value £m	Weight '000 metric tons	Value £m	Weight '000 metric tons	Value £m	%	%	Weight '000 metric tons	Value £m
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
1960	820.4	60.5	137.7	3.4	958.1	63.9	153.4	10.3	16.0	16.1	33.1	3.1
61	808.6	60.9	117.7	3.1	926.3	64.0	163.3	11.6	17.6	18.1	*	4.5
62	830.7	59.1	120.0	3.5	950.7	62.6	178.4	11.8	18.8	18.8	36.5	5.3
63	806.5	61.1	164.9	3.5	971.4	64.6	187.1	13.4	19.3	20.7	34.3	5.2
64	852.1	68.6	150.7	3.5	1002.8	72.1	184.7	14.5	18.4	20.1	36.5	6.6
65	905.4	74.4	170.5	3.9	1075.9	78.3	195.7	15.4	18.2	19.7	35.8	6.6
66	866.4	72.6	207.9	4.1	1074.3	76.7	147.4	11.6	13.7	15.1	40.8	8.0
67	862.6	70.6	163.4	3.7	1026.0	74.3	161.6	11.7	15.8	15.7	48.9	8.2
68	902.6	73.0	162.4	3.7	1065.0	76.7	136.1	9.2	12.8	12.0	49.0	10.1
69	878.0	74.3	190.4	4.4	1068.4	78.7	117.0	8.5	11.0	10.8	57.5	11.8
1960-69 Average	853.3	67.5	158.6	3.7	1011.9	71.2	162.5	11.8	16.1	16.6	41.4	6.9
1970	888.6	86.5	197.1	5.9	1085.7	92.4	142.6	13.2	13.1	14.3	63.9	13.6
71	846.1	102.3	213.0	6.5	1059.1	108.8	180.9	22.4	17.1	20.6	63.2	15.2

Notes:

- Quantities shown in terms of landed equivalent weight, i.e., head on, gutted, plus livers.
- Source: Columns (2) to (9) and (12) and (13) from Sea Fisheries Statistical Tables 1960-71.
Columns (10) and (11) by calculation.
- In columns (8) and (9) a small adjustment has been made to take account of the fact that in the Statistical Tables the figures for landings from different areas of origin do not include livers, whereas the figures for total landings do. The livers represent approximately 2.7% of landings by weight and 0.5% by value.
- All weights have been converted from cwts. to metric tons.

* Figures not available.

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Annex E

LANDINGS OF DEMERSAL FISH IN THE UNITED KINGDOM
DURING 1971 BY AREA OF CAPTURE

	<i>Quantity '000 metric tons</i>	<i>% of total demersal landings</i>
Barents Sea	56.6	7.9
Norwegian Coast	42.9	6.0
Iceland	180.9	25.3
Bear Island/Spitzbergen	3.1	0.4
West Greenland	2.3	0.3
Newfoundland	4.3	0.6
East Coast of Greenland
	290.1	40.5
Faroes	30.8	4.3
North Sea	303.7	42.5
Rockall	2.1	0.3
West Scotland	67.2	9.4
Irish Sea	13.0	1.8
English Channel	5.2	0.7
Bristol Channel	2.9	0.4
West of Ireland and Porcupine Bank
South of Ireland	0.1	...
	425.0	59.4
<i>Total all regions</i>	<i>715.1</i>	<i>99.9</i>

Source: Sea Fisheries Statistical Tables 1971. Quantities shown are in terms of landed equivalent weight, i.e., head on, gutted, plus livers.

An adjustment has been made to the figures obtained from the *statistical tables*, which do not include livers, so as to present the table on the same basis as those in Annexes C and D.

All weights have been converted from cwts. to metric tons.

Annex F

RELATIVE IMPORTANCE OF UNITED KINGDOM DISTANT-WATER PORTS
IN 1971

Port	% of total demersal fish landed at each port caught in the Iceland area by UK vessels	% of total demersal fish landed from distant water grounds caught in the Iceland area by UK vessels	% of total landings of demersal fish by UK vessels caught in the Iceland area	% of total distant water landings by UK vessels	Demersal catch on distant water grounds as a % of total UK demersal landings	Demersal catch on distant water grounds as a % of total demersal landings at all UK ports	Demersal landings from all grounds as a % of total UK demersal landings
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Grimsby	38.0	77.6	49.6	31.0	63.9	12.7	19.8
Hull	42.6	50.7	49.6	53.3	97.8	21.8	22.2
Fleetwood	15.2	99.1	69.2	9.8	69.9	4.0	5.7
North Shields	0.7	13.2	4.9	3.3	37.0	1.3	3.6
Aberdeen	3.5	83.0	6.5	2.6	7.8	1.1	13.8
All D.W. Ports	100.0	63.4	39.7	100.0	62.7	40.9	65.1

Source: British Trawlers Federation, Statistical Section.

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Annex G

UNITED KINGDOM, ICELANDIC, AND TOTAL CATCH OF DEMERSAL SPECIES
IN THE ICELANDIC AREA

(1)	<i>United Kingdom Catch ('000 metric tons)</i>	<i>% of Total Catch</i>	<i>Iceland Catch ('000 metric tons)</i>	<i>% of Total Catch</i>	<i>Total Catch by all States in Icelandic Waters ('000 metric tons)</i>
	(2)	(3)	(4)	(5)	(6)
1950	155.8	25.3	323.0	52.4	616.0
1951	169.6	24.8	342.2	50.0	684.4
1952	149.1	20.6	352.9	48.7	724.1
1953	242.0	27.8	365.1	42.0	870.0
1954	234.4	26.6	388.6	44.1	881.1
1955	199.0	24.3	397.3	48.5	820.0
1956	181.7	23.7	391.9	51.1	767.0
1957	208.1	27.9	352.0	47.4	743.3
1958	217.5	27.3	374.3	46.9	797.4
1959	176.6	24.8	367.4	51.7	710.9
1960	173.5	22.8	405.1	53.4	758.9
1961	184.2	27.1	350.4	51.5	679.9
1962	203.5	28.5	340.0	47.6	714.7
1963	213.4	29.0	359.7	48.9	735.9
1964	210.2	27.5	398.1	52.1	763.6
1965	223.9	30.1	364.6	49.0	744.3
1966	169.5	26.1	325.0	50.1	648.2
1967	185.5	27.9	310.0	46.6	665.9
1968	156.8	22.8	361.6	52.6	687.4
1969	134.7	18.2	443.9	59.9	741.3
1970	164.7	20.9	471.3	59.8	788.1
1971	207.7	26.5	410.6	52.4	[783.0]*

Note: Total UK catch 1960-1969 = 1,855,200 metric tons equivalent to an average annual catch of 185.5 thousand metric tons.

Source: Columns (2), (4) and (6) from *Bulletin statistique des pêches maritimes*. Figures for 1970 and 1971 provided by ICES from, as yet, unpublished material. Columns (3) and (5) by calculation.

* Estimated figure.

Annex H**NOTE BY ICELANDIC MINISTRY OF FOREIGN AFFAIRS TO BRITISH EMBASSY,
DATED 14 JULY 1972**

The Ministry for Foreign Affairs presents its compliments to the British Embassy and has the honour to enclose 5 copies of regulations concerning the Fishery Limits off Iceland, dated 14 July 1972. Under the provisions of Article 1 of the regulations the fishery limits off Iceland shall be drawn 50 nautical miles outside baselines and under Article 2 all fishing activities within the fishery limits by foreign vessels shall be prohibited in accordance with the provisions of Law No. 33 of 19 June 1922, concerning Fishing inside the Fishery Limits. In accordance with Article 8 these regulations become effective on 1 September 1972.

As specified in Article 7 of the regulations they are promulgated in accordance with Law No. 44 of 5 April 1948, concerning the Scientific Conservation of the Continental Shelf Fisheries. Article 2 of the 1948 Law provides that the regulations promulgated under that Law shall be enforced only to the extent compatible with agreements with other countries to whom Iceland is or may become a party.

Although efforts to reach a solution of the problems connected with the extension through discussions with the Government of the United Kingdom have not as yet been successful it is still the hope of the Government of Iceland that continued discussions will as soon as possible lead to a practical solution of the problems involved.

ORAL ARGUMENTS ON REQUEST FOR THE INDICATION OF INTERIM MEASURES OF PROTECTION

MINUTES OF THE PUBLIC SITTINGS

*held at the Peace Palace, The Hague,
on 1 and 17 August 1972, President Sir
Muhammad Zafrulla Khan presiding*

FIRST PUBLIC SITTING (1 VIII 72, 10 a.m.)

Present: President Sir Muhammad ZAFRULLA KHAN; Vice-President AMMOUN; Judges Sir Gerald FITZMAURICE, PADILLA NERVO, FORSTER, GROS, BENGZON, PETRÉN, LACHS, ONYEAMA, DILLARD, IGNACIO-PINTO, DE CASTRO, MOROZOV, JIMÉNEZ DE ARÉCHAGA; Registrar AQUARONE.

Also present:

For the Government of the United Kingdom:

Mr. H. Steel, Legal Counsellor, Foreign and Commonwealth Office, *as Agent*;

Rt. Hon. Sir Peter Rawlinson, Q.C., M.P., Attorney-General,

Mr. J. L. Simpson, Second Legal Adviser, Foreign and Commonwealth Office,

Professor D. H. N. Johnson, Professor of International and Air Law, University of London,

Mr. G. Slynn, Member of the English Bar,

Mr. P. Langdon-Davies, Member of the English-Bar, *as Counsel*;

Mr. P. Pooley, Assistant Secretary, Ministry of Agriculture, Fisheries and Food,

Mr. G. W. P. Hart, Foreign and Commonwealth Office, *as Advisers*.

OPENING OF THE ORAL PROCEEDINGS

The PRESIDENT: The Court meets today to consider a request for the indication of interim measures of protection, under Article 41 of the Statute and Article 61 of the Rules of Court, filed by the United Kingdom of Great Britain and Northern Ireland on 19 July 1972, in the *Fisheries Jurisdiction* case, between the United Kingdom and the Republic of Iceland.

The proceedings in this case were begun by an Application¹ by the United Kingdom, filed in the Registry of the Court on 14 April 1972. The Application sounds the jurisdiction of the Court on Article 36, paragraph 1, of the Statute, and an Exchange of Notes between the Government of the United Kingdom and the Government of Iceland dated 11 March 1961. The Applicant asks the Court to declare that there is no foundation in international law for the claim by Iceland to be entitled to extend its fisheries jurisdiction by establishing a zone of exclusive fisheries jurisdiction extending to 50 nautical miles from the relevant baselines, and that that claim is therefore invalid, and that questions concerning the conservation of fish stocks in the waters around Iceland are not susceptible in international law to regulation by unilateral extension of exclusive fisheries jurisdiction but are matters that may be regulated by arrangements between the countries concerned.

The Government of Iceland was informed forthwith by telegram² of the filing of the Application, and a copy thereof was sent to it by airmail the same day. On 31 May, a letter³ was received in the Registry from the Minister for Foreign Affairs of Iceland, dated 29 May, in which it was stated (*inter alia*) that there was on 14 April 1972, the date on which the United Kingdom Application was filed, no basis under the Court's Statute for the Court to exercise jurisdiction in the case, and that an Agent would not be appointed to represent the Government of Iceland.

On 19 July 1972, the United Kingdom filed a request⁴ under Article 41 of the Statute and Article 61 of the Rules of Court for the indication of interim measures of protection. I shall ask the Registrar to read from that request the details of the measures which the United Kingdom asks the Court to indicate.

[The Registrar reads the details of the measures⁵.]

On 19 July, the day on which the request was filed, details of the measures requested were communicated to the Government of Iceland by telegram⁶, and a complete copy of the request was sent to it the same day by express air mail. In the telegram and the letter enclosing the copy of the request, the Government of Iceland was informed that in accordance with Article 61, paragraph 8, of the Rules of Court, the Court was ready to receive the observations of Iceland on the request in writing, and that the Court would

¹ See pp. 1-10, *supra*.

² II, p. 371.

³ II, p. 374.

⁴ See pp. 71-78, *supra*.

⁵ See pp. 77-78, *supra*.

⁶ II, p. 385.

hold hearings, opening on Tuesday, 1 August at 10 a.m., in order to give the Parties the opportunity of presenting their observations on the request.

On 29 July 1972, a telegram¹ dated 28 July was received from the Minister for Foreign Affairs of Iceland, in which, after reiterating that there was no basis under the Statute for the Court to exercise jurisdiction, he stated that there was no basis for the request of the United Kingdom and that, without prejudice to any of its previous arguments, the Government of Iceland objected specifically to the indication by the Court of provisional measures under Article 41 of the Statute and Article 61 of the Rules of Court where no basis for jurisdiction is established.

I note the presence in Court of the Agent and Counsel of the United Kingdom, and declare the oral proceedings on the request for the indication of interim measures of protection, open.

¹ II, p. 388.

ARGUMENT OF SIR PETER RAWLINSON**COUNSEL FOR THE GOVERNMENT OF THE UNITED KINGDOM**

Mr. STEEL: May it please the Court; with the Court's permission, the Attorney-General, Sir Peter Rawlinson, will put the submissions of the United Kingdom Government.

Sir Peter RAWLINSON: May it please the Court:

In this request, Her Majesty's Government are seeking from this Court an indication of interim measures of protection. It does so at a time when the Court has not considered the merits of the case and when the respondent Party is not before the Court and appears to be challenging the right of the Court to exercise jurisdiction. Her Majesty's Government are fully conscious of the gravity of this request, as they are appreciative of the steps which the Court has taken, under Article 61 (2) of its Rules, to give the request priority and to treat it as a matter of urgency.

In the absence of any representative of the Iceland Government, it is my duty to the Court not only to explain the facts and circumstances which make it necessary to make this application but also to set out the legal principles which, in my submission, make it a proper case for the exercise of the Court's power.

The reason why Her Majesty's Government has been forced to institute these proceedings is that Iceland has threatened to extend the limits of her fisheries jurisdiction unilaterally to a distance of 50 miles from baselines drawn round her coasts and thereafter to exclude from that part of the high seas included within those extended limits all fishing vessels of other nations, including those of the United Kingdom. This, in the submission of Her Majesty's Government, is without any justification in international law.

Moreover, notwithstanding the pendency of these proceedings before the Court, Iceland, has persisted in her determination to put the restrictions into effect on 1 September next.

The fishing vessels of the United Kingdom and other nations have for very many years shared with those of Iceland the valuable fishing grounds in the high seas in the area of Iceland.

On 11 March 1961 Her Majesty's Government entered into a formal agreement with the Government of Iceland that, in view of the exceptional dependence of the Icelandic nation upon coastal fisheries for their livelihood and economic development, Her Majesty's Government would no longer object to a 12-mile fishing zone around Iceland, measured from certain specified baselines. This agreement was contained in an Exchange of Notes, which are set out in full in Annex A to the Application initiating proceedings in this case.

The Icelandic Note, the contents of which were accepted by Her Majesty's Government, contained the following passage:

"The Icelandic Government will continue to work for the implementation of the Althing Resolution of May 5, 1959, regarding the extension of fisheries jurisdiction around Iceland, but shall give to the United Kingdom Government six months' notice of such extension and, in case

of a dispute in relation to such extension, the matter shall, at the request of either party, be referred to the International Court of Justice."

The resolution of the Althing (which is the Parliament of Iceland) to which that Note referred had declared that a recognition of the rights of Iceland to fisheries limits extending to the whole continental shelf "should be sought".

In the submission of Her Majesty's Government, the meaning of that agreement is beyond doubt. If Iceland should seek to extend her fisheries limits beyond the agreed 12 miles, and should any dispute arise, the matter should, at the request of either party, be referred to this Court.

Now Iceland has sought to extend her jurisdiction. She has given due notice of her intention. A dispute has arisen.

On 14 July 1971, the very day on which they took office, the Icelandic Government issued a policy statement announcing their intention to extend fishery limits to 50 miles with effect from 1 September 1972. This announcement was made without any prior consultation with the United Kingdom Government.

Since Her Majesty's Government have at all times denied the right in international law of Iceland to extend the limits of her fisheries jurisdiction unilaterally, a dispute, in my submission, thereupon arose. It is a dispute within the definition of the Court in the *Mavrommatis* case (*P.C.I.J., Series A, No. 2, p. 11*), namely "a disagreement on a point of law or fact, a conflict of legal views or of interests between two persons". The Icelandic Government have recognized that their proposed action would cause great difficulties for the United Kingdom fishing industry and professed to be willing to discuss what they have called "a practical solution of the problems involved".

Accordingly, Her Majesty's Government did not immediately refer the matter to this Court. On the contrary, they first sought to settle the matter, if possible, by agreement.

The first round of talks between officials of the two Governments was held in London on 3 and 4 November 1971. In view of Iceland's professed concern about the danger to fish stocks of an expansion in fishing by foreign vessels, the United Kingdom delegates at that very early stage thereupon proposed that the solution of the problem which had arisen between the two Governments might be a catch-limitation scheme imposed on the United Kingdom fishing fleet. This would, in the first instance, be a bilateral Anglo-Icelandic agreement; but it would stand a very good chance of subsequent approval by the member States of the North-East Atlantic Fisheries Commission if it were an alternative, and not complementary, to the extension of Icelandic limits.

This proposal was elaborated at a meeting in Reykjavik on 13 and 14 January 1972 when the British delegation proposed specifically that the British catch in the Icelandic area might be limited to 185,000 tons a year, a reduction of 22,000 tons from the 1971 level.

At this stage, the endeavour of the United Kingdom negotiators was to persuade the Iceland Government that, even if Iceland regarded her fishery interests as of over-riding importance, there was no need to renege upon the 1961 Agreement, and to deny that this Court had jurisdiction and to proceed to an extension of limits which would have no basis in international law. Iceland's fishery interests could be safeguarded by an agreement with Her Majesty's Government which there was every reason to think could and would be followed by agreements with other governments; but hopes that Iceland

might choose the path of agreement rather than that of conflict were doomed to disappointment.

On 15 February 1972, the Althing passed a resolution which reiterated the intention to extend Iceland's fisheries limits to 50 miles. On 24 February 1972, the Government of Iceland delivered an aide-mémoire to Her Majesty's Government which in effect served six months' notice on Her Majesty's Government that the extension of fisheries limits to 50 miles would be put into effect not later than 1 September 1972. After receipt of this aide-mémoire, negotiations had, in the words of the Court in the *Right of Passage* case (*I.C.J. Reports 1957*, p. 145), "reached a deadlock". Accordingly, the United Kingdom Government filed the Application instituting these proceedings on 14 April 1972.

However, discussions¹ between the two Governments did continue; but on the British side they now had a different objective. Although Her Majesty's Government had concluded that they must contest before this Court the legality in international law of the purported unilateral extension by Iceland of fishery limits to 50 miles, they sought to reach an interim arrangement which would apply until the judgment of this Court in the present proceedings. Such agreement would have made it unnecessary for Her Majesty's Government to request the indication of provisional measures.

The Government of Iceland was informed that the catch-limitation plan, which the British delegation had put forward in January, was to be regarded as a formal British proposal to form the basis of an interim arrangement, and that Her Majesty's Government awaited the considered response of the Government of Iceland. The considered response, when it came, was rejection. Among the Icelandic objections was that a catch-limitation scheme would not be capable of supervision and verification by the Icelandic authorities. Only by the operation of controls of ports of landing in the United Kingdom would it be possible to establish when the catch limit had been reached.

In order then to meet this objection, the United Kingdom delegation next offered a scheme of "effort limitation", that is to say, a scheme which would restrict the time spent on the fishing grounds by United Kingdom fishing vessels of differing efficiency. The restrictions would be devised so as to limit the amount of fish caught to the level of 185,000 tons proposed under the catch-limitation scheme, and the Icelandic authorities would be in a position to check independently, from their own observations, that the agreed restrictions were being observed. This proposal too was rejected; apparently because, although the Icelandic authorities would be able to check for themselves, they would not be able to show the public that British ships were being visibly restricted in their activities.

In an endeavour to meet this latest objection, Her Majesty's Government discussed with the Icelandic Government yet a third proposal, by which certain areas would, at certain seasons of the year, be closed to United Kingdom vessels. Her Majesty's Government were willing to contemplate such an arrangement so long as it could be justified on conservation grounds, or on grounds of the preference which Iceland, as a coastal State dependent on fisheries, might claim.

The negotiations failed, because again and again the United Kingdom negotiators were met with some Icelandic requirement which was inconsistent with the preservation of the rights of both Parties pending the judgment of

¹ II, pp. 391-392.

this Court on the merits, and which were therefore inappropriate to the interim arrangement pending judgment which Her Majesty's Government was seeking.

At one stage Iceland proposed that British vessels should be wholly excluded from a 25-mile limit. At another, Iceland put forward proposals which would have had the effect of reducing the British catch in the Iceland area to as little as 20 per cent. of the usual level. Running through the negotiations was Iceland's insistence that jurisdiction, in the sense of arresting, trying and punishing any vessels that might infringe whatever arrangements might be agreed between the two Governments, should be a matter for Iceland and Iceland alone, notwithstanding the fact that Iceland has yet to establish before this Court her right to exercise jurisdiction in the waters she claims.

On 14 July 1972, Iceland promulgated the regulations purporting to establish fishery limits off Iceland, drawn 50 miles outside baselines, and prohibiting all fishing activities by foreign vessels within these limits. The regulations are to come into effect on 1 September next. They were sent to the British Embassy in Reykjavik under cover of a Note, a copy of which forms Annex H of the Request for the Indication of Provisional Measures. In the final paragraph of that Note, the Government of Iceland express the hope that continued discussions will, as soon as possible, lead to a practical solution of the problems involved.

At the conclusion of the last round of negotiations on 12 July 1972, the British delegation had indicated one basis for an interim arrangement, and had offered to consider any specific proposal which the Government of Iceland might wish to put forward on that basis. None was forthcoming.

The United Kingdom filed its request for interim measures on 19 July. Nevertheless, the British Ambassador in Reykjavik was instructed on 25 July to inform the Government of Iceland that Her Majesty's Government had asked this Court for a postponement of the hearing of our request in order to give time for consideration of any specific proposals which the Icelandic authorities might wish to put forward. Her Majesty's Government remained ready to meet the Icelandic authorities at short notice, at whatever level was appropriate, if such proposals were forthcoming; none were. Since no such proposals have been made, there is no basis for further discussions. The United Kingdom is thus left with no alternative but to bring this request before the Court as a matter of urgency. To repeat the words of the Court in the *Right of Passage* case (*I.C.J. Reports 1957*, p. 145), the situation had "reached a deadlock".

I shall deal later and in detail with the effect which these regulations, if implemented, would have on the United Kingdom fishing industry and on the public; but let me now say generally that the effect would be drastic and immediate.

The Iceland area has, for many years, provided the United Kingdom fishing fleet with about one-fifth of its total catch, and very nearly one-half of the catch of the large distant-water fleet. Virtually all the fishing grounds available to United Kingdom vessels in the Icelandic area are within the proposed 50-mile limit. If United Kingdom fishing vessels were excluded from that area, while these proceedings are pending, not only would a very large quantity of fish be permanently lost to the United Kingdom public, but the fishing industry would be forced to scrap vessels and to turn off many men.

These consequences could not be corrected if the Court were, in its decision

on the merits, to uphold the contention of the United Kingdom that such unilateral exclusion by the Iceland Government is unlawful.

Accordingly, circumstances have arisen which, in my submission, require the indication of provisional measures by the Court, under Article 41 of the Statute, to preserve the rights of the Parties. The right of the Court to indicate such measures in the appropriate circumstances is firmly grounded: first, in the Statute of the Court; secondly, in the Rules which the Court has made in furtherance of its Statute; and, thirdly, in the practice of the Court. To substantiate that submission, I invite the Court to consider the principles and law which should guide its decision upon this Application.

Article 41 of the Statute recites that the Court "shall have the power to indicate, if it considers that circumstances so require, any provisional measures which ought to be taken to preserve the respective rights of either party". As with similar remedies in municipal law, the Court enjoys a discretion, but it is a discretion which must be exercised judicially.

Thus the Court will not make an Order: first, if it considers that in the circumstances there is no need for interim measures; and, secondly, if, in the opinion of the Court, there is no real urgency. Moreover, the Court itself may, at any time, indicate interim measures *proprio motu*.

With regard to the principle that an applicant must satisfy the Court upon the urgency for an interim order, I cite the *Interhandel* case (*I.C.J. Reports 1957*, p. 105): that case concerned the possible sale of some shares in the General Aniline and Film Corporation by the United States Government. Those shares, which had become vested in the United States Government as the result of trading-with-the-enemy legislation, were being claimed by the Swiss Government as the property of its nationals. The latter Government, fearing that the United States Government was about to sell the shares, requested the Court to prevent it from so selling, "so long as the proceedings in this dispute are pending" (p. 106).

In principle, that case was certainly a suitable case for the grant of interim relief; but the Court declined to grant such relief on evidence being produced that the shares could not be sold until after the termination of judicial proceedings in the United States, in respect of which there was no likelihood of a speedy conclusion; and furthermore, upon the United States Government giving an undertaking that it was not taking action at that time even to fix a time schedule for the sale of the shares.

On those facts, there clearly was no urgency in that case, and the Court understandably denied interim relief.

Contrast those facts with the facts in this dispute. Here the Government of Iceland is preparing to take within a month action which, if the Court should find in favour of the United Kingdom's claim on the merits, would render largely nugatory and ineffective any judgment of the Court.

Moreover, although Iceland's proposed measures only take effect on 1 September, in view of the need for fishing companies to plan in advance the grounds to which they direct their vessels, and that a voyage to Iceland takes perhaps three weeks to prepare and undertake, such measures already impede the operations of the United Kingdom fishing industry. Therefore, on the issue of urgency, I submit, there could hardly exist a clearer case.

The next condition for the granting of interim relief is that the measures requested must be for the purpose of preserving the respective rights of the parties. It was because the Permanent Court decided, on the facts, that this condition was not present that it denied Germany interim relief in the *Polish Agrarian Reform* case in 1933 (*P.C.I.J., Series A/B*, No. 58). In that case

Germany asked the Court to declare that Poland had, through its agrarian reforms, committed violations of the Polish Minorities Treaty of 28 June 1919. Germany also requested the Court to indicate interim measures "in order to preserve the status quo until the Court has delivered final judgment in the suit submitted by the Application". Thus Germany was asking the Court to order Poland to suspend its agrarian reform programme as it applied to Polish nationals of German race.

The Court declined to make an Order on the ground that the essential condition, which must necessarily be fulfilled in order to justify a request for the indication of interim measures, is that such measures "should have the effect of protecting the rights forming the subject of the dispute submitted to the Court" (p. 177).

Taking what Professor Verzijl has described in *The Jurisprudence of the World Court* (Vol. I, p. 341) as a "formalistic" view of the matter, the Court held that interim measures were not appropriate in a case where the subject of the dispute submitted to the Court concerned only past violations of a treaty.

Baron Rolin-Jaequemyns however declared that interim measures should have been ordered, since their indication "would considerably facilitate the reparation—so far as may be necessary—of these rights in the form of their preservation, rather than by compensation for their loss" (p. 180).

Judges Schücking and Van Eysinga also disagreed with the majority. They said:

"Having regard to the continuous character of the acts impeached, the undersigned consider that any attempt to read into the words formulating the object of the dispute, in the Application instituting proceedings, a definite distinction between acts which have already been accomplished and those which belong to the future, would be an utter distortion of the clear meaning of the Application." (P. 186.)

In a powerful opinion, Judge Anzilotti said that the German Application was open to different interpretations, and on a point on which perfect clarity was essential. He could, he said, "readily understand that the Court should, on that ground, refuse to grant the request for interim measures of protection". But, and this is important, Judge Anzilotti held that "this should not prejudice the German Government's right to submit a fresh application indicating the subject of the suit with the necessary clearness and precision, and to follow it up by a fresh Request for the indication of interim measures appropriate to the rights claimed" (p. 182).

The Judge considered that "if there was ever a case in which the application of Article 41 of the Statute would be in every way appropriate, it would certainly be so in the case before us".

This was because the ground of the complaint was acts of expropriation involving discriminatory treatment of Polish citizens of German race, contrary to the Minorities Treaty.

"Founding itself on this reason [the learned Judge continued] it [the German Government] asks that the expropriations now in progress should be suspended, as an interim measure of protection, until the Court has finally decided whether the said expropriations are legal or illegal.

If the *summaria cognitio* which is characteristic of a procedure of this kind, enabled us to take into account the *possibility* of the right claimed by the German Government, and the *possibility* of the danger to which

that right was exposed, I should find it difficult to imagine any request for the indication of interim measures more just, more opportune or more appropriate than the one which we are considering." (P. 181.)

That then was a case where the Application instituting proceedings was deposited on 3 July 1933 and was accompanied by a request for the indication of interim measures deposited on the same date. Certain observations were made by the Parties before the Court less than three weeks later, and in the course of these observations, the representative of the Respondent challenged both the admissibility of the Applicant's claim and the jurisdiction of the Court (*P.C.I.J., Series C, No. 71, pp. 41, 54*). Judge Anzilotti on a preliminary view in that case, and taking into account merely a possible danger to a possible right of the Applicant, was prepared to order the Respondent to suspend a major programme of agrarian reform taking place in its own territory.

These separate opinions, I submit, are important because all the learned judges who expressed them obviously took a broad view of the Court's function on the principle of interim relief.

A narrower view of the Court's function may be found in the preamble of the Order made by President Huber in the *Sino-Belgian Treaty* case in 1927 where he suggested that an infraction of Belgium's rights under the Treaty of 2 November 1865 might occur; that "such infraction could not be made good simply by the payment of an indemnity or by compensation or restitution in some other material form"; and that "the object of the measures of interim protection to be indicated in the present case must be to prevent any rights of this nature from being prejudiced" (p. 7).

The cautious approach of President Huber, who at first declined to make an Order but later changed his opinion on receiving more documentary evidence, is understandable when it is recalled that this was the first request for the indication of interim measures to come before the Permanent Court, and that under the Court's Rules, as they then were, the Court, and even the President alone, had power to order interim measures without even hearing the Parties.

Even so, the President did in fact make an Order in that case, granting protection, *inter alia*, "against any sequestration or seizure not in accordance with generally accepted principles of international law and against any destruction other than accidental". Moreover, that particular measure concerned protection against sequestration or seizure of property and shipping, injuries which could have been made good "simply by the payment of an indemnity or by compensation or restitution in some other material form".

Furthermore, the President was prepared to make an Order despite the fact that he had not heard argument on China's contention that the Treaty of 1865 had ceased to be effective. It is to be noted that the President's Order led to a resumption of negotiations between the Parties which proved successful.

In the present case, accepting the narrowest possible view of the function of interim measures, namely protection against irremediable damage only, the United Kingdom, for reasons which have been set out in the written request, and which I shall explain further, is entitled to relief. But the Court has acted upon a much broader view of its function and role under Article 41 of its Statute.

This broader view was clearly stated by the Permanent Court in the case of the *Electricity Company of Sofia and Bulgaria* (*P.C.I.J., Series A/B, No. 79*) in 1939 when it said that Article 41 of the Statute applied "the principle universally accepted by international tribunals", viz.:

"The parties to a case must refrain from any measure capable of exercising a prejudicial effect in regard to the execution of the decision to be given and, in general, not allow any step of any kind to be taken which might aggravate or extend the dispute."

This broad language would appear to extend the Court's role beyond the strict terms of Article 41 which refers simply to preserving "the respective rights of either party".

Nevertheless it is a logical consequence that, if rights are to be preserved, action should not be taken *pendente lite* which is capable of exercising a prejudicial effect in regard to the execution of any decision of the Court on the merits which has for its object the protection of those rights. As to allowing steps to be taken which might aggravate or extend the dispute, it is reasonable to assume that any such aggravation or extension might have prejudicial effect in regard to the execution of the Court's decision on the merits.

In this context it is significant that Article 41 provides that notice of the measures suggested by the Court is to be given forthwith to the Security Council as well as to the parties themselves, and in Article 38 of its Statute the Court is given the function of deciding "in accordance with international law such disputes as are submitted to it".

The Court, which was specifically created by the Charter as one of a team of agencies of the United Nations having as their purpose the settlement of international disputes, cannot be expected to discharge this wide responsibility to the international community if it has not the right to expect of the parties, and the power to ensure, that during the proceedings they shall abstain from actions capable of prejudicing the execution of the Court's eventual decisions and of aggravating or extending the dispute submitted to the Court.

In the case concerning *South-Eastern Greenland* (*P.C.I.J., Series A/B, No. 48*) in 1932, the Permanent Court clearly took the view that the prevention of "regrettable events" was mainly the responsibility of the Parties themselves, especially since they had both bound themselves to avoid incidents in declarations "officially proclaimed before the Court" which the Court found to be "eminently reassuring" (pp. 286-287).

Another reason given by the Court for declining to grant relief was that "even adopting the broader interpretation of Article 41 of the Statute, there would seem to be no reason to fear that the incidents contemplated by the Norwegian request will actually occur" (p. 285).

Indeed, in a straightforward territorial dispute, as in that case, the Court would not normally be expected to make an Order for interim measures, because it would clearly be the duty of the party against whom the Court's decision on sovereignty went to vacate the territory, and the other party's title could not be affected by any action his opponent might take in the meantime.

If, however, one of the parties were to commence operations on the territory in dispute capable of rendering the territory of less value to the other party, should that other party eventually be awarded the territory by the Court, then it is to be expected that the Court would order interim relief.

As the Permanent Court put it in the *South-Eastern Greenland* case:

"... the incidents which the Norwegian Government aims at preventing cannot in any event, or to any degree, affect the existence or value of the sovereign rights claimed by Norway over the territory in question, were

these rights to be duly recognized by the Court in its future judgment on the merits of the dispute" (p. 285).

The present case before the Court, although it concerns an extension of fisheries jurisdiction around Iceland, is not in the normal sense a territorial dispute. Iceland is not claiming an extension of her territory. She claims only an extension of her fisheries jurisdiction over what is admitted to be a portion of the high seas. Neither is the United Kingdom claiming any territory.

The point at issue is simply whether the United Kingdom's continued enjoyment of freedom of fishing in this area of the high seas, which it expects to be confirmed by a decision of the Court on the merits of its claim, will be prejudiced by action taken during the proceedings against its fishing fleet by Iceland. If, as I shall show later, such prejudice is likely to occur—and indeed is in fact already beginning to occur—then I submit that the Court must in law grant interim relief.

The United Kingdom fully realizes that in any Order the Court may make, the Court has the responsibility of protecting the rights of Iceland just as much as the rights of the United Kingdom. This is so even if Iceland does not appear before the Court to give the Court the benefit of her views as to how these rights might best be protected in the meantime. Thus it may well be that Iceland, as a nation especially interested in the yield of the fisheries of the area in question, is entitled to some interim protection in case the Court should find in favour of her claim to extended fisheries jurisdiction.

For this reason the United Kingdom has submitted a suggestion, which I shall explain later, as to how Iceland's rights might be protected. I emphasize that this is *not* a territorial dispute where, for the reasons I have given, interim measures may sometimes not be appropriate. It is a dispute about the validity of a purported extension of fisheries jurisdiction where interim measures to protect the rights, certainly of one of the Parties, and perhaps of both of them, are not only appropriate but essential.

The final test, which a request for the indication of interim measures must satisfy before the Court can order interim protection, is that the Court should have jurisdiction to make such an Order, and here it is necessary to make a careful distinction.

In any contentious case the Court, before giving a decision on the merits, must satisfy itself that it has jurisdiction under Article 36 of its Statute, or, as the case may be, under Article 37 in addition. The Court's jurisdiction to indicate interim measures under Article 41 is related to, but not wholly dependent upon, its jurisdiction under Article 36. The position has been clearly stated by Sir Hersch Lauterpacht when he said, in the *Interhandel* case:

"In deciding whether it is competent to assume jurisdiction with regard to a request made under Article 41 of the Statute the Court need not satisfy itself—either *proprio motu* or in response to a Preliminary Objection—that it is competent with regard to the merits of the dispute. The Court has stated on a number of occasions that an Order indicating, or refusing to indicate, interim measures of protection is independent of the affirmation of its jurisdiction on the merits and that it does not prejudge the question of merits . . . Any contrary rule would not be in accordance with the nature of the request for measures of interim protection and the factor of urgency inherent in the procedure under Article 41 of the Statute." (*I.C.J. Reports 1957*, p. 118.)

The capacity of the Court to order interim measures, if necessary in advance

of confirmation of its jurisdiction to deal with the merits, was closely examined by my predecessor as Attorney-General, Sir Frank Soskice, in the speech he made before this Court over 20 years ago on 30 June 1951 and which is reported in the *Anglo-Iranian Oil Company* case. I refer the Court to that speech, especially pages 407-418, although I do not propose to take up the time of the Court by reading the whole of the passages now. I would, however, refer to three particular passages, which I think may be of assistance to read at this stage. In the first the then Attorney-General is reported as saying as follows:

"It will be convenient, Mr. President and Members of the Court, if, in the first instance, I recall the jurisprudence and pronouncements of the Court on the subject. On 8th January 1927, the President of the Court issued an Order for interim measures of protection in the case between Belgium and China arising out of the denunciation of the Treaty of 1865 between those two countries. At the time when the order was made, China had not expressly accepted the jurisdiction of the Court. In making the order, the President indicated: '*provisionally, pending the final decision of the Court in the case submitted by the Application of November 25th, 1926—by which decision the Court will either declare itself to have no jurisdiction or give judgment on the merits . . .*', the various measures of protection. In the second Order in the same case, the Court once more put on record the fact that the Order for Interim Measures of Protection was made independently of the question whether the Court had jurisdiction to deal with the case on the merits. It recalled 'that the present suit has been brought by unilateral application and that, as the time allowed for the filing of the Counter-Case has not expired, the respondent has not had an opportunity of indicating whether he accepts the Court's jurisdiction in this case'."

It goes on:

"Another case in which an order relating to interim measures of protection was made before the Court accepted jurisdiction on the merits was that made on 11th May 1933 in the case concerning the *Administration of the Prince von Pless* (*P.C.I.J., Series A/B, No. 54*, at p. 153). The last recital preceding the operative part of the Order was as follows:

"Whereas, furthermore, the present Order must in no way prejudge either the question of the Court's jurisdiction to adjudicate upon the German Government's Application Instituting Proceedings of May 18th, 1932, or that of the admissibility of that Application." (*I.C.J. Pleadings, Oral Arguments, Documents*, pp. 407, 408.)

Sir Frank Soskice then referred in his argument to passages in the work by Professor Hudson and in the *Polish Agrarian Reform and the Germany Minority* case. He cited a number of decisions of the Mixed Arbitral Tribunals, which he submitted illustrated and affirmed the same principles. And he continued in his argument:

"The Court will find a statement of the effect of the decision of the Mixed Arbitral Tribunals in this matter in the following passage in Dr. Dumbauld's book on interim measures of protection:

"Another important principle emphasized in the jurisprudence of the Mixed Arbitral Tribunals is that in order to grant interim measures

it is not necessary to decide whether the tribunal has jurisdiction in the main proceedings on its merits, but it suffices that *prima facie* there is a possibility of a decision in favour of the plaintiff and the tribunal's lack of jurisdiction is not manifest.' (*Interim Measures of Protection* 1932, p. 140.)

In the same work, Dr. Dumbauld states the principle as being of general application. He says:

'Equally fundamental is the rule that the principal proceedings (*Hauptsache*) are in no wise affected by interim measures. The action in chief and the action with a view to security are altogether independent of each other. In rendering its final judgment the Court is not bound by its interlocutory decisions, and may disregard it entirely.'

Consequently jurisdiction to grant protection *pendente lite* is not dependent upon jurisdiction in the principal action. From this it follows that interim measures may be granted before a plea to the jurisdiction is disposed of; and that one court may provide a remedy *pendente lite* in aid of an action of which another court has cognizance.' (At p. 186.)

The author of another book on the same subject, published in 1932, expresses the same view even more clearly. I refer to the monograph, in German, of Dr. Niemeyer, entitled *Provisional Orders of the World Court. Their Object and Limits*. He rejects emphatically the view that a decision on jurisdiction is necessary before the Court can make an order for interim protection. He says:

'This would necessitate an exhaustive examination of the case; it would make necessary an examination of the evidence. In brief, the exact situation would arise which must be avoided: a protracted argument which would waste time, which would deprive the provisional measures both of their true character and of their urgency, and which would prejudge the eventual outcome of the final decision which is in no way connected with the object of provisional measures. A provisional order given in that way would achieve only a negligible degree of its intended effectiveness. It is, therefore, clear that, for reasons of practical convenience, there is no room for an examination of the question of jurisdiction on the merits in connection with a request for interim protection.' (P. 70.)

In the latest edition, published in 1943, of his treatise on the Permanent Court of International Justice, Professor Hudson summarizes the legal position as follows:

'Nor is jurisdiction to indicate provisional measures dependent upon a previous determination of the Court's jurisdiction to deal with the case on the merits.' " (At p. 425.)

I may add . . . that there is, so far as I am aware, no writer who has on this question expressed a view differing from that which I am now submitting to the Court.

Quite apart from the opinions expressed by writers on the subject, there are, I submit, Mr. President the strongest practical reasons to support the view which I have presented to the Court. To concede to a party the right to ask, before any interim order can be made, for a decision on the question of jurisdiction—a matter which, as the ex-

perience of the Court has shown, may necessitate weeks, if not months, of oral and written pleadings—would altogether frustrate the object of the request for interim measures of protection. Undoubtedly, it is conceivable that a party may abuse the right to ask for interim measures by asking for them in a case in which it is apparent that the Court has no jurisdiction on the merits. If that were to happen, the Court would find means to discourage any such abuse of its process. It may wish to satisfy itself that there is a *prima facie* case for the exercise of its jurisdiction. There is no such difficulty in the present case."

In my submission there is certainly no difficulty in this present case before the Court this morning. Finally, may I refer to a short passage in the argument advanced to the Court in 1951 in which Sir Frank Soskice referred to the case of the *Electricity Company of Sofia and Bulgaria*. He set out the Order which was made by the Court in the following terms and commented as follows:

"The Court,

indicates as an interim measure that, pending the final judgment of the Court in the suit submitted by the Belgian Application on January 26th, 1938, the State of Bulgaria should ensure that no step of any kind is taken capable of prejudicing the rights claimed by the Belgian Government or of aggravating or extending the dispute submitted to the Court.' (P. 199.)

I submit [said Sir Frank] that this is the most complete statement of the principles on which the Court should act in granting interim relief. I submit further that the principles so enunciated precisely cover the circumstances which the Court is now considering."

So much then, Mr. President, for the argument in 1951, in the *Anglo-Iranian Oil Company* case. In that case, despite the fact that the Imperial Government of Iran had appointed no agent, but had confined itself to sending a telegram stating that that Government hoped that the Court would declare that the case was not within its jurisdiction, the Court ruled that it could not be accepted *a priori*, that the claim based on the United Kingdom's complaint of an alleged violation of international law fell completely outside the scope of international jurisdiction and that this consideration sufficed "to empower the Court to entertain the request for interim measures of protection" (p. 93).

Although in the submission of Her Majesty's Government the law was clear before 1951, I submit that there is no doubt whatsoever that it has been definitively clarified by the Order made by this Court on 5 July 1951 (*I.C.J. Reports 1951*, p. 89).

Mr. President and Members of the Court, there are three views on the capacity of the Court then to order interim measures before confirming its jurisdiction to deal with the merits. The first, and possibly the widest, view is that of the Court itself, as expressed in the *Anglo-Iranian Oil Company* case. And according to this view it appears to be sufficient for the appellant to show that *a priori* his claim does not fall "outside the scope of international jurisdiction".

This statement was of course made in the context of that particular case, but it clearly shows that, in considering a request for the indication of interim measures of protection, the Court does not require the applicant to do more than show that *prima facie* there are reasonable grounds for believing that the Court possess jurisdiction to deal with the merits. This I submit must be right in principle. I repeat that passage from Sir Hersch Lauterpacht:

"Any contrary rule would not be in accordance with the nature of the request for measures of interim protection and the factor of urgency inherent in the procedure under Article 41 of the Statute."

Secondly, there is the view of Sir Hersch Lauterpacht where, discussing the principles underlying the suggestion in a more general way than the Court understandably was able to do so in the context of a particular case, he said that interim measures ought not to be ordered "in cases in which there is no reasonable possibility, *prima facie* ascertained by the Court, of jurisdiction on the merits"; and that the correct principle is that:

"... the Court may properly act under the terms of Article 41 provided that there is in existence an instrument such as a Declaration of Acceptance of the Optional Clause, emanating from the Parties to the dispute, which *prima facie confers jurisdiction upon the Court and which incorporates no reservations obviously excluding its jurisdiction*" (*Inter-handel case, I.C.J. Reports 1957*, pp. 118-119).

Thirdly, there is the view expressed by Judges Winiarski and Badawi in their dissenting opinion in the *Anglo-Iranian Oil Company* case (*I.C.J. Reports 1951*, pp. 96-98), where they said:

"... the Court ought not to indicate interim measures of protection unless its competence, in the event of this being challenged, appears to the Court to be nevertheless reasonably probable".

In the submission of Her Majesty's Government, that view is wrong in principle. For that view would necessarily involve the Court in prejudging the question of its jurisdiction without having heard proper argument, and it could have a serious prejudicial effect on the applicant's position if he were denied interim relief on the ground that the Court, on a purely summary view, had come to the conclusion that it would probably hold later on that it was not entitled to exercise jurisdiction.

But notwithstanding and, even so, in the submission of Her Majesty's Government, whichever of these three tests is applied, although I repeat, the third view is in my submission clearly wrong, it matters not in the present case. For, in my submission, the Court has jurisdiction to deal with the merits on all three tests. First, the United Kingdom's claim is certainly based on a complaint of a violation of international law and it certainly "cannot be accepted *a priori* that a claim based on such a complaint falls completely outside the scope of international jurisdiction". Second, it cannot be argued, to adapt Sir Hersch Lauterpacht's phrase, that "there is no reasonable possibility *prima facie* ascertainable by the Court, of jurisdiction on the merits". Third, and finally, even if the Court were to follow the stricter view of Judges Winiarski and Badawi, there is every reason why it should appear to the Court, upon "a consideration, entirely summary in character", to borrow their phrase, of the ground upon which the Government of the United Kingdom alleges that the Court has jurisdiction that "its competence, in the event of this being challenged, appears... to be nevertheless reasonably probable".

As I have said, Mr. President and Members of the Court, Her Majesty's Government founds the jurisdiction of the Court on the penultimate paragraph of the exchange of Notes of 11 March 1961 between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Iceland. That Note, after referring to the intention of the Ice-

Icelandic Government to continue to work for the implementation of the Althing Resolution of 5 May 1959 regarding the extension of fisheries jurisdiction around Iceland, provides, and I repeat again, "in case of a dispute in relation to such extension, the matter shall, at the request of either party, be referred to the International Court of Justice". This exchange of Notes contains no termination clause, and it is therefore covered by what Lord McNair has referred to in *The Law of Treaties, 1961*, as the "general presumption against the existence of any right of unilateral termination of a treaty".

I should now, Mr. President, refer briefly to the letter sent to the Registrar of the Court of 29 May 1972 by the Minister for Foreign Affairs of Iceland. In that letter the Foreign Minister gave a number of reasons why his Government were unwilling to recognize the jurisdiction of the Court in this case or to appoint an agent, as they would normally have been expected to do under Article 35 (3) of the Rules of Court.

It is the understanding of Her Majesty's Government that this letter does not constitute a preliminary objection within the meaning of Article 62 (1) of the Rules. It does not therefore have the effect of suspending the proceedings on the merits. Accordingly Her Majesty's Government have the right to expect that after the Court has given its ruling at the conclusion of the present hearings, it will give directions for the filing of the Memorial and Counter-Memorial of the Parties, as required by Articles 37 and 41 (2) of the Rules.

Her Majesty's Government believe that it is not only unnecessary, but would also be wrong in principle, for the Court to examine at this stage the arguments on the question of jurisdiction proffered by the Icelandic Foreign Minister in his letter of 29 May. Such an examination would be entirely incompatible with the urgency of the present proceedings.

The Court will have read that telegram from the Foreign Minister of Iceland filed with the Registrar of the Court on 29 July, just three days before this hearing. If this telegram is directed to suggest that the Request for the Indication of Interim Measures is inadmissible, then I emphasize that the rights for which the United Kingdom has requested protection under Article 41 of the Statute are the rights of the United Kingdom, that is to say its rights as a State under public international law to ensure that its fishing vessels be permitted to fish on the high seas in the neighbourhood of Iceland outside the 12-mile limit as agreed upon in the Exchange of Notes of 11 March 1961.

If, on the other hand, the telegram is intended to suggest that the claim as formulated in the United Kingdom Application of 14 April 1972 is inadmissible, then, first, the United Kingdom is claiming its right under public international law as a State and second, even if it were found to be proceeding on behalf of the private interest of its nationals, this it is entitled to do, under public international law, and third, questions of admissibility, like those of jurisdiction should be dealt with at a later stage of the proceedings.

Her Majesty's Government, in any event, contend that the Icelandic arguments are entirely without foundation and do not affect in any way the right of the Court to exercise jurisdiction in this case. Nevertheless, if it is the wish of the Court to accelerate the normal procedure and to take up the question of jurisdiction before the Parties have filed pleadings on the merits, we are at the disposal of the Court and stand ready to do so at a convenient time.

I submit therefore that there are no considerations relating to the jurisdiction of the Court which should inhibit the Court from indicating interim measures in this case if, in the opinion of the Court, circumstances require that such measures be taken. It is abundantly clear that "the indication of

such measures in no way prejudges the question of the jurisdiction of the Court to deal with the merits of the case and leaves unaffected the right of the Respondent to submit arguments against such jurisdiction" (*Anglo-Iranian Oil Company case, I.C.J. Reports 1951*, p. 93).

There is thus no reason to fear that the rights of Iceland would in any way be prejudiced if the Court were to exercise its jurisdiction under Article 41 of its Statute and so were to indicate interim measures as sought by Her Majesty's Government.

The Court adjourned from 11.10 to 11.30 a.m.

I now turn to the effect which the proposed regulations, if implemented, would have on the United Kingdom fishing industry and on the public.

The regulations promulgated by Iceland to take effect on 1 September, are set out in Annex A to the request.

Article 1 starts as follows: "The fishing limits off Iceland shall be drawn 50 nautical miles outside baselines drawn between the following points."

The regulations then specify some 31 points by name and by reference to geographical co-ordinates. These baselines appear to differ in certain respects from those which were agreed upon between the United Kingdom and Iceland in the 1961 Exchange of Notes as the basis for the 12-mile limit. This is a matter to which we may have to revert at a later stage in these proceedings but it does not affect our present case.

The article continues: "Limits shall also be drawn round the following points 50 nautical miles seaward."

Two offshore points are then defined, one to the north and one to the east of Iceland.

Article 2 is quite categorical: "Within the fishery limits all fishing activities by foreign vessels shall be prohibited in accordance with the provisions of Law No. 33 of 19 June 1922, concerning Fishing inside the Fishery Limits."

Articles 3, 4 and 5 concern the regulation of Icelandic vessels within the 50-mile limit.

Article 6 provides that violation of the provisions of these regulations is to be subject to certain penalties including fines of up to 100,000 Icelandic Kronur.

Article 7 provides that:

"These regulations are promulgated in accordance with Law No. 44 of 5 April 1948, concerning the Scientific Conservation of the Continental Shelf Fisheries, cfr. Law No. 81 of 8 December 1952. When these regulations become effective, Regulation 3 of 11 March 1961, concerning the Fishery Limits off Iceland shall cease to be effective."

Those, Mr. President and Members of the Court, are the regulations imposing the 12-mile limit which formed the subject of the 1961 agreement between Iceland and the United Kingdom.

Law No. 44 of 5 April 1948, which is referred to in the Article 7 which I have just read to the Court, is set out in enclosure 2 to Annex H of the Application initiating these proceedings, at page 45, and Article 2 of that Law provides that "the regulations promulgated under Article 1 of the present law"—which now by virtue of Article 7 include these regulations—"shall be enforced only to the extent compatible with agreements with other countries to which Iceland is or may become a party".

Since, however, Iceland has made it clear that she proposes to repudiate the 1961 agreement, United Kingdom vessels have nothing to hope from that provision.

Article 8 of the regulations provides that the regulations become effective on 1 September 1972.

In the request, Her Majesty's Government has recited in some detail the economic results which would flow from such a drastic exclusion from these very important fishing grounds. Her Majesty's Government has shown the impossibility of redeploying any considerable portion of the fishing fleet in other areas. We have referred to the unemployment and the permanent loss of vessels which would follow, and to the financial and economic consequences. I hope that there has been set out therein sufficient detail for the purposes of this application.

In essence our case is very simple.

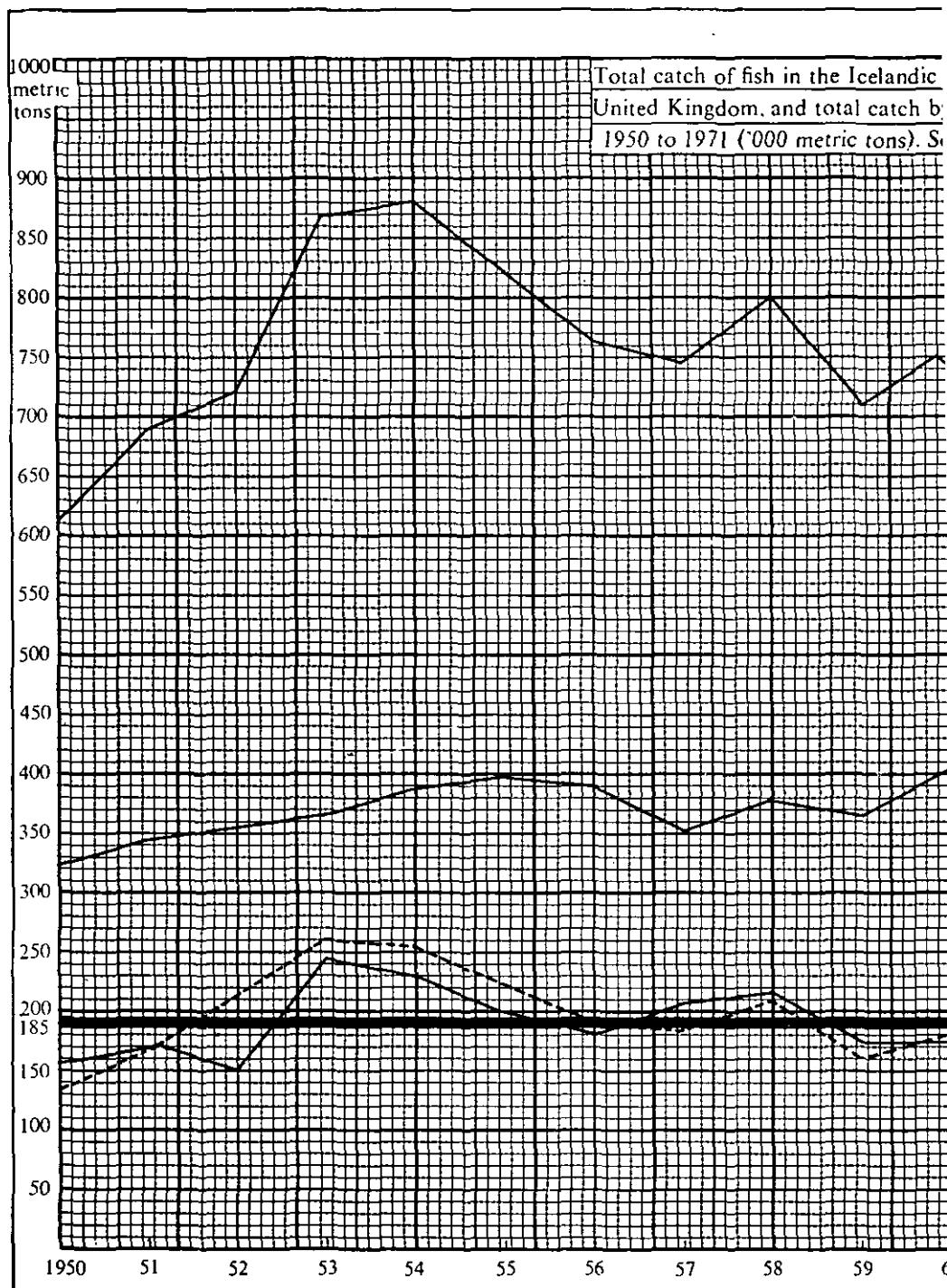
If a nation such as the United Kingdom, with a large and important fishing industry, is abruptly deprived of fishing grounds which her vessels have fished for many years and which, over a long period of time, have provided nearly one-half of that nation's distant water catch and approximately one-fifth of her total catch of all fish, demersal and pelagic, in all waters, that fishing industry must inevitably suffer grave dislocation, which will have disastrous economic effects on that industry and on other industries dependent upon it.

Apart from the hardship to the industry, there would arise widespread hardship to the population as a whole. Fish is an important part of the diet of the population of the United Kingdom, and in particular as a source of protein. If the proposed regulations are enforced, the population of the United Kingdom would be deprived at once of a source of fish supplying, on the 1971 figure, which is shown in column 9 of Annex C, something over £22 million worth of fish to the United Kingdom market. This is the landed price. The retail value is of course much higher.

This would undoubtedly lead to an immediate shortage and, we fear, a dramatic rise in the price. The supply of fresh wet fish through the fishmonger and processed fish such as fish fingers would be seriously affected. Housewives would find fish scarce in the shops. If it were obtainable, the price could well soar beyond the budget of the housewife for whose family fish is a traditional, important and regular item of food. Moreover much of the fish from the Iceland area and other distant water fisheries has for a long time been taken by the traditional fish and chip shops which are a popular feature of British towns and especially industrial towns, and at least one of which is usually found in most neighbourhoods, where fish is sold fried and hot, to be taken away and eaten off the premises. A large proportion of the population would at once feel the consequences of the proposed Icelandic regulations. As Her Majesty's Government has pointed out in the request there is no available alternative source of supply.

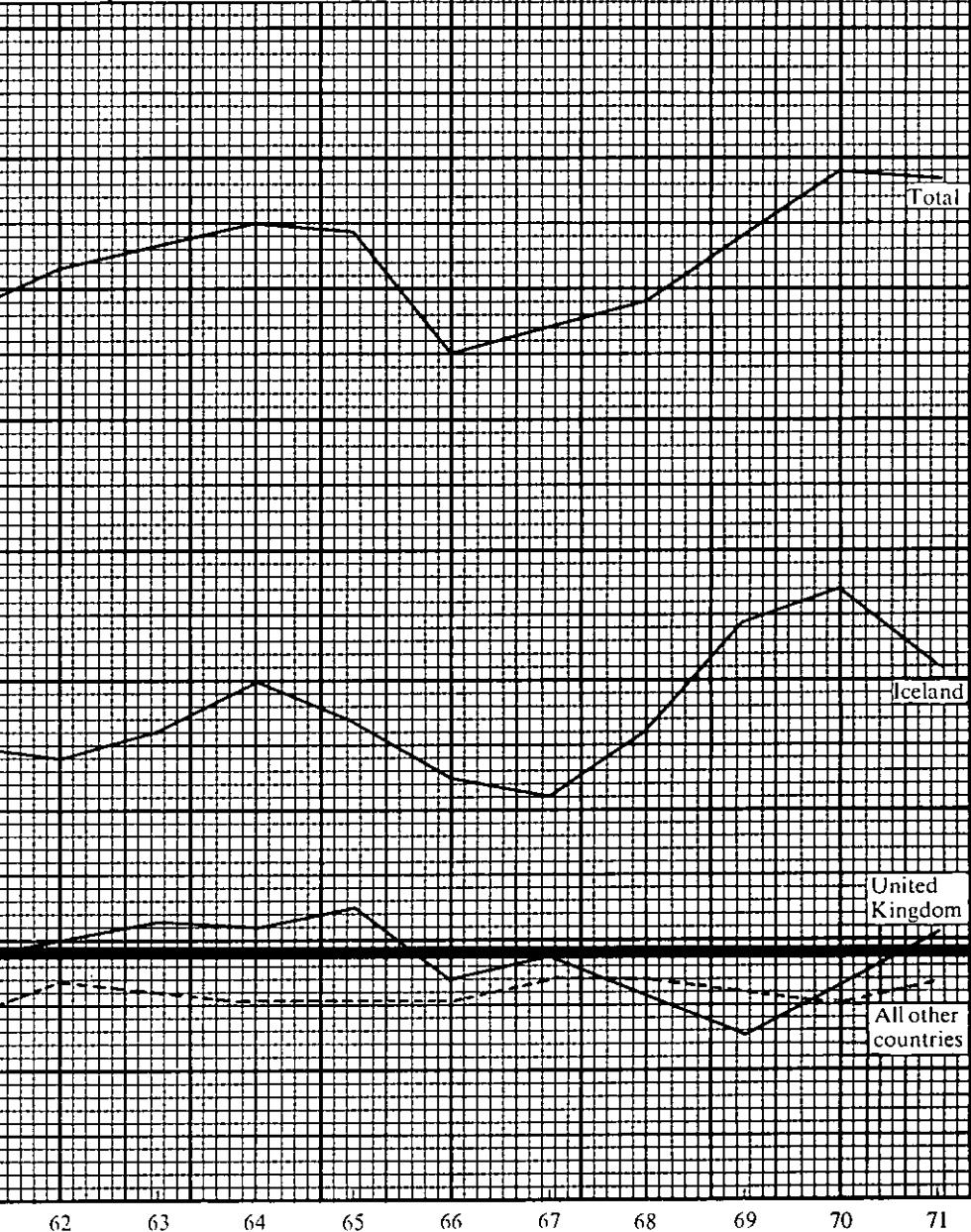
Let there then be no doubt that the Icelandic regulations, if implemented, would exclude fishermen of other nations, including those of the United Kingdom, from all but a minute part of the fishing grounds. This is, I hope, clearly shown by the map which is before the Court at Annex B1¹ to the request for interim measures and, if I may, Mr. President, I invite the Court to study that map, so that I might shortly explain some of the features of the map.

¹ See p. 81, *supra*.



countries; total catch by Iceland and
other fishing countries (demersal species only)

In Statistique des Pêches Martimes



It is described thereon as the Iceland fishing grounds related to statistical rectangles. The innermost line is the coast line of Iceland. The next outer lines are the baselines which were agreed between the United Kingdom and Iceland in 1961 for the purpose of drawing the agreed 12-mile limit of fisheries jurisdiction. The broken line shows the 12-mile limit. Now there are of course many valuable fishing grounds within that limit, but they are not shown on the map because we are not concerned with them in this case.

The thin continuous black line outside that represents the 50-mile limit now claimed by Iceland. The fishing grounds outside the 12-mile limit are indicated by the shaded areas on the map.

The heavy broken line is the 400-metre isobath. That is a line similar to a contour line joining all points at which the sea reaches a depth of 400 metres, a figure which is sometimes taken arbitrarily as marking the limit of the Continental Shelf around Iceland.

Now, demersal fish are caught at varying depths by different methods of fishing, for example, by drift nets and purse seines near the surface, and by long lines and trawls on the bottom. The use of trawl nets which, with negligible exceptions, is the only method used by United Kingdom fishermen in the Iceland area, is restricted to grounds where the bottom is relatively free from obstructions which would impede or damage the trawl. While the principal trawling grounds from which the catch has been taken are indicated by the shaded areas on the map before the Court, their limits cannot be precisely defined, and a certain amount of fishing takes place from time to time in other places which are not fished with sufficient regularity to be regarded as established fishing grounds.

For the purposes of the International Council for the Exploration of the Sea, the whole area is divided into the statistical squares indicated on that map, and after each voyage trawlers are required to state the squares from which their catch is taken. The figures for 1971 have been used to form an estimate of the proportion of the catch taken outside the 50-mile limit. When the limit line—as you will see it does on occasion—crosses a square, a notional apportionment of the catch inside and outside the limit has been made, according to the proportion of the area of the square which lies outside or inside the limit line. This shows that only 4 per cent. of the total United Kingdom catch in the Iceland area was taken outside the proposed 50-mile limit.

This method of assessment can only be applied to fresher trawlers, because freezers are not required to attribute their catches to particular squares within the area, but there is no reason to suppose that their pattern of fishing differs significantly from that of the fresher trawlers, and in any event the freezer trawlers accounted for only 6 per cent. of the United Kingdom catch in the Iceland area.

These fishing grounds have, as I have said, been a very important source of fish for the United Kingdom over very many years. Not only has this source been important both in absolute terms and in terms of the percentage of the total United Kingdom catch it has supplied, but the catch obtained has remained remarkably consistent from year to year.

In Annex G to the request the court will see figures derived from the *Bulletin statistique des pêches maritimes* which go back to 1950, that is to say about the period when conditions returned to normal after the Second World War. This table shows year by year the total demersal catch in the Iceland area and how much of that catch was taken by Icelandic and United Kingdom vessels respectively.

Whatever fears the Icelandic Government may express about the future, there is no doubt that the picture which emerges from these figures for 21 years up to and including 1971 is of remarkable stability. This is illustrated by the graph of those figures (see pp. 110-111), copies of which have been put before the Court and, if I may, I would once again invite the Court to look at the document and to look in particular at that graph.

It is simply a graphical representation of Annex G which is among the Court's papers, but this is just a simple graph which I think will illustrate, I hope clearly, to the Court, the point that I am submitting. That document—the graph—is headed "Total catch of fish in the Icelandic area by all countries . . ." and so on.

The top line in the graph shows the total catch. Now that in itself is a remarkably consistent record. The lowest figure is 616,000 tons in 1950, rising to the highest figure recorded so far of 881,000 tons in 1954. That is the total catch. Since then, the total catch has varied very little from year to year and has certainly shown no tendency to decline in recent years. On the contrary, the catches for 1970 and 1971 are the highest since 1958.

Now the second line down from the top shows the catch taken by Icelandic vessels. Their share has consistently been larger than that of any other nation, and in 12 out of the last 21 years, including each of the last 4 years, has been larger than that of all the other nations put together.

The general trend of the Icelandic catch is upward, and the drop in 1971 from the high peak of 1970 is no greater than the fluctuation in the past between one year and another. There is certainly nothing in these figures which suggests any tendency to a decline in the Icelandic catch.

Well below the Icelandic graph are two intertwining lines. They represent the catches of the United Kingdom and all other nations respectively. The United Kingdom catch has consistently been higher than that of any other nation except Iceland. By and large, United Kingdom vessels have usually taken about half as much as those of Iceland, and about the same amount as the vessels of all other nations put together. The straight line, in heavy black ink, represents 185,000 tons which is the average United Kingdom catch for the years 1960 to 1969 which I shall refer to later when I refer to the interim measures which I invite the Court to indicate.

In my submission, the figures in the Annex and as represented on this graph show conclusively: first, that if the United Kingdom fishing vessels were to be excluded as is proposed by Iceland, the effect on the United Kingdom fishing industry would be immediate and disastrous; second, that if the status quo were allowed to continue for the period which must elapse before the Court gives its final decision on the merits, the Icelandic fishing industry will not be affected.

So, in terms used by the English courts in such matters, the "balance of convenience" is heavily in favour of maintaining the present position *pendente lite*. In terms of the Statute of this Court, that is the way in which "the rights of the parties" will best be "preserved". In terms of the French text of Article 41 of the Statute, such measures would be in the truest sense "mesures conservatoires".

The first of the interim measures which we ask the Court, then, to indicate is in subparagraph (a) of paragraph 20 of the request, and it is, if I may read it, as follows, "that, pending the final judgment of the Court" in this suit,

"(a) the Government of Iceland should not seek to enforce the regulations referred to in paragraph 4 above against, or otherwise interfere

or threaten to interfere with, vessels registered in the United Kingdom fishing outside the 12-mile limit agreed on by the parties in the Exchange of Notes between the Government of the United Kingdom and the Government of Iceland dated 11 March 1961 (as set out in Annex A to the said Application)".

This deals with the direct interference with the vessels fishing or threats of such interference. But it is not only on the high seas that measures may be taken to enforce a fishing ban. The Government of Iceland might, for example, attempt to arrest a United Kingdom fishing vessel which was perfectly lawfully sailing within the 12-mile limit on the grounds not that it had been fishing within that limit but that it had been fishing on the high seas outside that limit contrary to their regulations. Or the Icelandic Government might take measures against a fishing vessel which, whether in distress or in the ordinary course of business, put in at an Icelandic port, on the grounds that it had in the past infringed the regulations. Furthermore, the possibility of other methods of interfering with the freedom of fishing such as measures against sister ships or the attempted organization of boycotts cannot be ruled out.

Accordingly, the measures set out in subparagraph (a) which I have just read are not enough in themselves to meet the requirements of the case. In my submission they should be supplemented by those set out in subparagraph (b) namely:

"(b) the Government of Iceland should not take or threaten to take in their territory (including their ports and territorial waters) or inside the said 12-mile limit or elsewhere measures of any kind against any vessels registered in the United Kingdom, or against persons connected with such vessels, being measures which have as their purpose or effect the impairment of the freedom of such vessels to fish outside the said 12-mile limit."

Subparagraph (c), the third of the subparagraphs of paragraph 20, requires further explanation.

The Government of Iceland have said that they fear that the United Kingdom fishing fleet intends to increase its effort in the Iceland area in the near future to the detriment of the Icelandic catch and of fish stocks. If this is their fear, it was of course perfectly open to them to come to the Court and ask for interim measures which would prevent this happening. They have not chosen to do so.

Her Majesty's Government does not accept that Iceland has any valid grounds for fearing a significant increase in the effort by United Kingdom fishing vessels. But as it appears that these fears may exist, however ill-founded, Her Majesty's Government are willing that they should be allayed pending the decision of this case. Accordingly, Her Majesty's Government have included in their request for the indication of interim measures, in subparagraph (c), a request that the Court should indicate that the United Kingdom should itself place certain restrictions on its fishing vessels while these proceedings are pending.

The full text of the subparagraph runs as follows:

"(c) in conformity with sub-paragraph (a) above, vessels registered in the United Kingdom should be free, save in so far as may be provided for by arrangements between the Government of the United Kingdom and the Government of Iceland such as are referred to in paragraph 21

(b) of the said Application, to fish as heretofore in all parts of the high seas outside the said 12-mile limit, but the Government of the United Kingdom should ensure that such vessels do not take more than 185,000 metric tons of fish in any one year from the sea area of Iceland, that is to say, the area defined by the International Council for the Exploration of the Sea as area Va and so marked on the map attached hereto at Annex B2".

This figure of 185,000 tons is the average United Kingdom annual catch in the Iceland area over the decade 1960 to 1969 and it was shown on the heavy black line on the graph which the Court recently examined. It is less than the United Kingdom catch last year which was 207,700 tons.

Moreover, while the United Kingdom invites the Court, if it considers it appropriate, to place United Kingdom vessels under this limitation *pendente lite*, Her Majesty's Government does not propose any corresponding restriction on Icelandic vessels. The measures requested in subparagraphs (d) and (e) are of a more general nature. They are based on the general measures indicated by the Court in the *Anglo-Iranian Oil Co.* case and are, in our submission, measures which it is desirable that the Court should indicate. In submitting these proposals, Her Majesty's Government have sought to adapt the form used by the Court in the *Anglo-Iranian Oil Co.* case to the requirements of the present case.

To return now to the measures requested in subparagraph (b), it will be noted that Her Majesty's Government does not claim absolutely and without qualification that United Kingdom vessels should be free to fish as heretofore in the water outside the 12-mile limit. The claim is that they should be free to do so "save in so far as may be provided for by arrangements between the Government of the United Kingdom and the Government of Iceland such as are referred to in paragraph 21 (b) of the said Application", which is the Application instituting proceedings in this suit.

Now paragraph 21 (b) of this Application asks the Court when it comes to deal with the case on the merits, to declare that:

"... questions concerning the conservation of fish stocks in the waters around Iceland are not susceptible in international law to regulation by the unilateral extension by Iceland of its exclusive fisheries jurisdiction to fifty nautical miles from the aforesaid baselines but are matters which may be regulated, as between Iceland and the United Kingdom, by arrangements agreed between those two countries, whether or not together with other interested countries and whether in the form of arrangements reached in accordance with the North-East Atlantic Fisheries Convention of 24 January, 1959, or in the form of arrangements for collaboration in accordance with the Resolution on Special Situations relating to Coastal Fisheries of 26 April, 1958, or otherwise in the form of arrangements agreed between them that give effect to the continuing rights and interests of both of them in the fisheries of the waters in question."

I advise the Court that Her Majesty's Government attaches the greatest importance to this part of the case. I do not assert that no control of fishing in the Iceland area is, or ever will be, necessary. Far from it.

Her Majesty's Government's case is that any control which is required can be effectively carried out by international agreement by the machinery set up

under the North-East Atlantic Fisheries Convention, and that if it should be necessary to adopt measures restricting the total catch in the area, as may well happen, the undoubtedly strong claim of Iceland to preferential treatment can be adequately met. The text of that North-East Atlantic Fisheries Convention is set out in full at Annex F in the Application. The preamble is as follows:

"The States Parties to this Convention

Desiring to ensure the conservation of the fish stocks and the rational exploitation of the fisheries of the North-East Atlantic Ocean and adjacent waters, which are of common concern to them;

Have agreed as follows:".

The area covered by the Convention is shown on the map at Annex B2 to our request and includes Iceland. It is the unshaded portion of the ocean on the east side of the map which is divided into areas indicated by roman figures. The Iceland area is area Va.

The 14 contracting States include Iceland, the United Kingdom, the Federal Republic of Germany and all the States whose vessels fish to any extent in the Iceland area. Under that Convention, a permanent commission has been set up with its headquarters in London. This Commission is advised on scientific questions of fish conservation by the International Council for the Exploration of the Sea (ICES).

Acting on this scientific advice, the Commission has recommended to the contracting States, and the contracting States have accepted and imposed on their fishing vessels, various conservation measures of the type described in Article 7 (1) of the Convention, namely measures, such as the regulation of the size of mesh of fishing nets or for the minimum size of fish to be landed, falling short of regulating, however, the amount of catch. These measures apply, among others, to the Iceland area.

Even more important, the Commission, which consists of representatives of all the contracting States, has proposed to the contracting States under Article 7 (2) that the Commission should be empowered to recommend measures which include limitation of catch and of fishing effort, and this proposal has now been formally approved by all the contracting States except Belgium, Iceland and Poland whose formal approval is expected shortly.

Accordingly, when these formalities are completed, the Commission will be able to recommend measures of catch limitation in any part of the North-East Atlantic, including the Iceland area, if it is satisfied on scientific advice that such are necessary.

There is, therefore, certainly no necessity on conservation grounds for Iceland to take this drastic and unilateral step. Indeed, if implemented, the *action threatened would preclude any possibility of resolving the differences between Iceland and those other nations who fish in the Iceland area of the high seas, through the machinery of the Convention.*

Nor is there any reason why the special needs of Iceland should not receive recognition. Paragraph 21 (b) of the Application refers to the Resolution on Special Situations Relating to Coastal Fisheries adopted at Geneva on 26 April 1958, the full text of which is set out at Annex E to the Application. This resolution was accepted by Her Majesty's Government when it was adopted at Geneva, and its implementation remains the policy of Her Majesty's Government.

It recommends that:

"... where, for the purpose of conservation, it becomes necessary to limit the total catch of a stock or stocks of fish in an area of the high seas adjacent to the territorial sea of a coastal State, any other States fishing in that area should collaborate with the coastal State to secure just treatment of such situation, by establishing agreed measures which shall recognise any preferential requirements of the coastal State resulting from its dependence upon the fishery concerned while having regard to the interests of the other States".

The United Kingdom recognizes that Iceland is a coastal State which is dependent upon this fishery, and that Iceland should receive preferential treatment if it should become necessary to limit the total catch in the Iceland area.

In the north-west Atlantic, a very similar Convention is in force, to which both the United Kingdom and Iceland are contracting States, setting up a similar Commission, known as the International Commission for the North-West Atlantic Fisheries. The parties to this Convention, of whom there are 15, have actually agreed measures of catch limitation covering the principal species in four out of the five of the sub-areas into which the Convention area is divided. This agreement was reached in Washington in June of this year.

In agreeing those measures the parties to that Convention have, in conformity with the spirit of the Geneva resolution, given preferential treatment to the coastal States.

Accordingly, Mr. President and Members of the Court, the issue in this case is not whether the fish stocks of the Iceland area should receive any protection which may be necessary. Her Majesty's Government have agreed that they should. Nor is the issue whether the protective measures should, if necessary, include a limitation on catch. Her Majesty's Government agrees that they should. Nor is it that Iceland's need for preferential treatment in allocation of catch quotas should be recognized. Her Majesty's Government agrees that it should.

The issue in this case is whether Iceland should be entitled by unilateral decision to take all the fish for herself, notwithstanding the disastrous effect this would have on those who, up to now, have shared the fishery with her.

At the proper time I shall argue that Iceland has no right in international law to do any such thing. At this stage my contention is simply that Iceland should not take such drastic and unilateral action while her right to do so is the subject of proceedings before this Court.

The contracted negotiations to which I have referred, with Her Majesty's Government meeting point by point the Icelandic objections but without achieving agreement, are evidence of Her Majesty's Government's determined and urgent desire to avoid litigation. Her Majesty's Government sought first an agreed settlement of the whole issue; when that failed, Her Majesty's Government sought fair and just conditions pending the decision of the true arbiter of this disagreement, namely this Court.

Whatever measures this Court may indicate, Her Majesty's Government will certainly co-operate in their implementation.

I should like, Mr. President, to thank the Court for the expedition with which, in accordance with the spirit and letter of the Rules, this application has been heard by the Court.

I much regret that reasons of State compel my immediate return to London

after the conclusion of these submissions, but my counsel will remain to afford the Court any additional information which it may seek.

I end, if I may, by emphasizing once again that this application arises out of an issue which is a matter of the utmost gravity for the United Kingdom for whom I appear in this Court.

I remind the Court of the solemn agreement made between the two Governments on 11 March 1961. I remind the Court of the unilateral and precipitate act of the Icelandic Government. I remind the Court of the length of time which must pass before a final decision can be given by the Court, and of the grave consequences which must follow from this act by the Iceland Government upon the fishermen, the people, and the economy of the United Kingdom.

In my submission there could be no stronger case to fall within Article 41 of the Statute. I repeat, Mr. President, that this is a matter of the gravest urgency to the United Kingdom and I respectfully but earnestly request the Court to indicate interim measures in the form presented in paragraph 20 of the request.

The PRESIDENT: On behalf of the Court, I wish to thank the Agent and counsel of the United Kingdom for their assistance. The oral proceedings on the request for the indication of interim measures of protection in this case are now completed, but I would ask the Agent of the United Kingdom to be at the disposal of the Court to furnish any further information¹ the Court may require. Subject to that reservation I declare the hearing closed. The decision of the Court on the request for the indication of interim measures of protection will be given in due course in the form of an Order.

The Court rose at 12.10 p.m.

¹ II, pp. 391-392.

SECOND PUBLIC SITTING (17 VIII 72, 10 a.m.)

Present: [See sitting of 1 VIII 72.]

READING OF THE ORDERS

The PRESIDENT: The Court meets today to announce its decisions on two requests for the indication of interim measures of protection, under Article 41 of the Statute and Article 61 of the Rules of Court, made by the United Kingdom of Great Britain and Northern Ireland¹ and by the Federal Republic of Germany², in the proceedings instituted by those two States against the Republic of Iceland concerning the fisheries jurisdiction of Iceland. These are two separate cases pending before the Court, but the requests for interim measures of protection were made within two days of each other, the oral proceedings on the two requests were held on two successive days, and it has been considered convenient to announce the two decisions at a single sitting of the Court.

I shall first read the Order of the Court in the proceedings instituted by the United Kingdom of Great Britain and Northern Ireland against the Republic of Iceland.

[The President reads from paragraph 1 to the end of the Order³.]

In accordance with the usual practice of the Court, I call upon the Registrar to read the French text of the operative clause of the Order.

[The Registrar reads the operative clause in French⁴.]

The Vice-President, Judges Forster and Jiménez de Aréchaga append a joint declaration to the Order of the Court; Judge Padilla Nervo appends a dissenting opinion to the Order of the Court.

I now turn to the proceedings instituted by the Federal Republic of Germany against the Republic of Iceland, and shall now read the Court's Order in that case.

[The President reads from paragraph 1 to the end of the Order⁵.]

I call upon the Registrar to read the French text of the operative clause of the Order.

[The Registrar reads the operative clause in French⁶.]

The Vice-President, Judges Forster and Jiménez de Aréchaga append a joint declaration to the Order of the Court; Judge Padilla Nervo appends a dissenting opinion to the Order of the Court.

¹ See pp. 71-78, *supra*.

² II, pp. 23-31.

³ *I.C.J. Reports 1972*, pp. 13-18.

⁴ *Ibid.*, pp. 17-18. See also II, p. 61, and *I.C.J. Reports 1973*, p. 302.

⁵ *I.C.J. Reports 1972*, pp. 31-37.

⁶ *Ibid.*, pp. 36-37. See also II, p. 61, and also *I.C.J. Reports 1973*, p. 313.

In view of the urgency of a decision on a request for the indication of interim measures of protection, the two Orders of today have been read from a mimeographed text. The usual printed copies will be available in about ten days' time.

(*Signed*) ZAFRULLA KHAN,
President.

(*Signed*) S. AQUARONE,
Registrar.
