INTERNATIONAL COURT OF JUSTICE

PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

FISHERIES CASE

(UNITED KINGDOM *v.* NORWAY)

JUDGMENT OF DECEMBER 18th, 1951

VOLUME IV

Oral proceedings.—Documents.—Correspondence

AFFAIRE DES PÊCHERIES
(ROYAUME-UNI c. NORVÈGE)

FISHERIES CASE
(UNITED KINGDOM *v.* NORWAY)

COUR INTERNATIONALE DE JUSTICE

MÉMOIRES, PLAIDOIRIES ET DOCUMENTS

AFFAIRE DES PÊCHERIES

(ROYAUME-UNI c. NORVÈGE)

ARRÊT DU 18 DÉCEMBRE 1951

VOLUME IV

Procédure orale. — Documents. — Correspondance

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tenues au Palais de la Paix, La Haye,
du 25 septembre au 29 octobre et le 18 décembre 1951,
sous la présidence de M. Basdevant, Président

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SECTION A.—DOCUMENTS SUBMITTED BY THE AGENT OF THE GOVERNMENT OF THE UNITED KINGDOM

1. "LIST OF DOCUMENTS WHICH THE GOVERNMENT OF THE UNITED KINGDOM WISHES NOW TO FILE WITH THE COURT AND REASONS FOR FILING THESE DOCUMENTS AT THIS STAGE OF THE CASE", WITH 14 APPENDICES

(ANNEX TO LETTER OF SEPTEMBER 19th, 1951, FROM THE AGENT OF THE GOVERNMENT OF THE UNITED KINGDOM TO THE REGISTRAR, SEE PART IV, CORRESPONDENCE)

1. *Two charts of the north-west coast of Scotland marked with a pecked green line showing the areas of sea which the United Kingdom Government claims as territorial waters in this region*

In paragraph 527 of the Counter-Memorial the Norwegian Government said that "since the British Memorial refers to the coast of Scotland and Ireland, it would be interesting to know exactly how the territorial waters are defined along these coasts". To this the United Kingdom Government replied (para. 409 of the Reply) "the definition of these coasts is not called for in these proceedings".

In paragraph 150 of its Rejoinder the Norwegian Government retorted as follows:

> "The Norwegian Government, for its part, had asked the British Government to indicate how the lines would be drawn, according to the same system off the coasts of the United Kingdom, in particular, off the Irish and Scottish coasts (see, for instance, para. 527 of the Counter-Memorial).
>
> The British Government can no longer now evade the issue by alleging that it was anxious to keep this information as a 'bargaining point'.
>
> Nor can it any longer evade the Norwegian Government's request on the pretext that, if other nations—including the *United Kingdom*—'have not published charts or lines defining the limits of

their territorial waters', there is 'of course a good reason' for that 'inasmuch as other nations define their lines generally by reference to their coasts. The publication of charts or lines therefore assumes far less importance for such countries than it does for Norway.' (Reply, para. 65, p. 360, Vol. III.)

The British Government has none the less refused to accede to the Norwegian Government's request to be informed how the limit would be defined on the coast of the United Kingdom, according to the British principle. The reason given to justify this refusal is of some interest (Reply, para. 409) :

> 'The definition of these coasts is not called for in these proceedings. Indeed precise definition is, generally speaking, necessary in practice only when the delimitation of coastal waters departs *radically* from the accepted [*sic!*] rules for the tide mark and for bays and islands as is the case with the 1935 Decree.' (Our italics.)

These arguments manifestly do not provide a very solid foundation for this refusal. It would certainly be of *very great interest* to ascertain, by way of comparison, what would be the result of the British 'system' if it were applied to the coasts of the United Kingdom, particularly to the Scottish coast.

Are we not justified in believing that if charts of that sort, showing the application of the British Government's system to its own coasts, could have strengthened its position in regard to the Norwegian limit, it would have produced them *on its own initiative?* What conclusion is therefore to be drawn when it refuses to do so—*in spite of the invitation* addressed to it ?"

The charts which the Government of the United Kingdom wishes now to file show the claim to territorial waters which the Government of the United Kingdom at present makes, on the basis of its own understanding of the rules of international law in

(a) the area "Cape Wrath to the Flannan Isles including the northern parts of the North Minch and Lewis" (the chart filed herewith as Appendix No. 1), and

(b) the area "Ardnamurchan to Summer Isles including the Inner Channel and the Minch" (the chart filed herewith as Appendix No. 2).

Naturally, the Government of the United Kingdom reserves the right to reconsider its claim to territorial waters in this region in the light of the judgment which the Court will deliver in the present case.

2. *Danish and Swedish notes, dated the 18th July, 1951, to the Government of the U.S.S.R.*

In paragraph 120 of its Reply the Government of the United Kingdom drew attention to the notes presented by the Governments of Denmark and Sweden to the Government of the U.S.S.R.

in 1950 and reference was made to a Press release issued in Stockholm by the Swedish Ministry for Foreign Affairs on 25th July, 1950. Copies of the notes were not annexed because, so far as the Government of the United Kingdom was aware at that time, they had not been published. In Annex 111 of its Rejoinder the Norwegian Government published the text of these notes in full (for which action the Government of the United Kingdom is grateful), but in paragraph 263 of the text of its Rejoinder the Norwegian Government challenged the interpretation which the United Kingdom Government had placed upon the Danish and Swedish notes. On 18th July, 1951, further notes were presented by the Governments of Denmark and Sweden to the Government of the U.S.S.R. and the Government of the United Kingdom considers it desirable that copies of these notes should be brought to the attention of the Court as constituting evidence of the latest attitude of the Governments of Denmark and Sweden on the subject of territorial waters. Copies of these notes are, therefore, attached respectively as Appendices Nos. 3 and 4 to this annex.

3. *Recent legislation on the subject of territorial waters and the continental shelf and diplomatic notes protesting against certain aspects of this legislation*

In paragraphs 207-226 of the Counter-Memorial the Norwegian Government referred to some so-called "facts revealing the new tendencies of maritime international law". It cited in this connection a number of recent decrees or proclamations, issued by the Heads of certain States, in which these States purported to claim the right to exercise some form of jurisdiction over larger coastal belts than they had previously claimed. In paragraphs 122-125 of its Reply the United Kingdom Government, while not denying that such claims had been made, argued that it was equally true that other States had expressly declined to recognize these claims. Copies of notes from the United Kingdom Government to the Governments of Peru and Chile were annexed to the Reply as Annexes 38 and 40 as an indication of the refusal of the Government of the United Kingdom to recognize these claims.

In paragraph 264 of its Rejoinder, however, the Norwegian Government returned to this point. In this paragraph the Norwegian Government stated that "the facts which have been referred to in the Counter-Memorial as being evidence of a movement to which at present the practice of States conforms, provide eloquent proof and permit of no doubt concerning the *general trend* which has asserted itself since the failure of the Conference of 1930". The Norwegian Government then cited, *inter alia*,

(a) The Yugoslav Law of 28th November, 1948 (Annex 112, No. 35 *a*, of Rejoinder) ;

(b) The Icelandic Law of 5th April, 1948, and the Icelandic Regulations of 22nd April, 1950 (Annex 112, Nos. 22 *a* and 22 *d*, of Rejoinder) ;

(c) An Egyptian decree of 18th January, 1951 (Annex 112, No. 12 *a*, of Rejoinder).

In addition, in Annex 112 of the Rejoinder, copies were filed of a decree of the President of Honduras dated 28th January, 1950 (No. 20 *b*) ; of a decree of the Junta of the Founders of the Second Republic of Costa Rica, dated 2nd November, 1949 (No. 9), and of a decree of the President of Ecuador, dated 22nd February, 1951 (No. 14 *b*).

In these circumstances the Government of the United Kingdom feel it desirable to file in full with the Court the following further documentary evidence :

(a) Correspondence between the Government of the United Kingdom and the Government of the Federative People's Republic of Yugoslavia (Appendix No. 5 to this annex) ;

(b) Notes from the Government of the United Kingdom to the Government of Iceland (Appendix No. 6 to this annex) ;

(c) Note from the Government of the United Kingdom to the Government of Egypt (Appendix No. 7 to this annex) ;

(d) Recent legislation of the Government of Honduras on the subject of territorial waters and the continental shelf, and two protest notes delivered by the Government of the United Kingdom to the Government of Honduras on this subject (Appendix No. 8 to this annex) ;

(e) Recent legislation of the Government of Ecuador on the subject of territorial waters and the continental shelf, and a protest note delivered by the Government of the United Kingdom to the Government of Ecuador on this subject (Appendix No. 9 to this annex) ;

(f) Recent legislation of the Government of Costa Rica on the subject of territorial waters and the continental shelf, and two protest notes delivered by the Government of the United Kingdom to the Government of Costa Rica on this subject (Appendix No. 10 to this annex) ;

(g) Article 7 of the Political Constitution of El Salvador (1950) and note delivered by the Government of the United Kingdom to the Government of El Salvador protesting against this article (Appendix No. 11 to this annex) ;

(h) The Falkland Islands (Continental Shelf) Order in Council, 1950 (Appendix No. 12 to this annex) ;

(i) Notes delivered by the Government of the United States of America to other governments on the subject of territorial waters and the continental shelf (Appendix No. 13 to this annex) ;

(j) Note delivered by the French Government to the Government of the United Kingdom giving the observations of the French Government with regard to the claims of various Latin-American States to extend their territorial waters (Appendix No. 14 to this annex).

Appendix No. 1

Chart: Cape Wrath to Flannan Isles

[*Not reproduced*]

Appendix No. 2

Chart: Ardnamurchan to Summer Isles

[*Not reproduced*]

Appendix No. 3

Note, dated 18th July, 1951, from the Government of Denmark to the Government of the U.S.S.R.

A l'occasion de certaines saisies de navires danois auxquelles ont procédé les autorités soviétiques dans la mer Baltique, la légation royale de Danemark, par une note du 24 juillet 1950, a soutenu que le Gouvernement danois n'a jamais reconnu le droit, pour aucun des États riverains de la Baltique, de revendiquer des eaux territoriales dans cette mer de 12 milles marins. La légation a en outre souligné que, pendant des siècles, les États européens avaient tenu compte des limites fixes pour l'étendue des eaux territoriales, calculées, en ce qui concerne les États de la Baltique, à trois ou, dans certains cas, à quatre milles marins, et que les eaux au delà de ces limites doivent être considérées comme mer libre, et ne peuvent donc, selon les règles du droit international, faire l'objet d'une occupation. Par conséquent, un élargissement de ces eaux territoriales constitue, de l'avis du Gouvernement danois, une atteinte au domaine de la mer libre.

Contre ces observations, le ministère des Affaires étrangères de l'U. R. S. S., dans sa réponse à la légation du 31 août 1950, a fait les objections suivantes: qu'il n'existe pas, dans le droit international, de règles générales sur l'étendue des eaux territoriales; que l'établissement de l'étendue des eaux territoriales est uniquement du ressort de la compétence des États en cause; que l'étendue des eaux territoriales de l'Union soviétique a été fixée par une ordonnance du 15 juin 1927 sur la protection des frontières de l'État soviétique et par un arrêté du 25 septembre 1935 concernant la réglementation de la pêche et la protection des poissons, dispositions législatives qui ont été publiées

en même temps que leur promulgation. Se référant à ces dispositions, le ministère des Affaires étrangères de l'U. R. S. S. soutient que l'affirmation suivant laquelle un certain élargissement des eaux territoriales de l'Union soviétique et une atteinte au domaine de la mer libre auraient eu lieu, est dénuée de fondement, et que les réserves prises par le Gouvernement danois quant à la validité d'un élargissement, par un État, de son territoire maritime au delà des limites établies par l'histoire, ne peuvent pas viser les dispositions législatives promulguées en 1927 et en 1935. Pour cette raison, le ministère rejette l'affirmation contenue dans la note de la légation relative à une atteinte, par l'Union soviétique, au domaine de la mer libre.

A propos de ce qui précède, le Gouvernement danois désire alléguer que les dispositions législatives promulguées en 1927 et en 1935 n'ont pas pu s'appliquer au golfe de Finlande, étant donné que, par le traité de paix conclu à Dorpat en 1920 entre la Finlande et l'U. R. S. S., les eaux territoriales de l'Union soviétique ont été fixées à quatre milles marins. Elles ne peuvent pas non plus se rapporter au territoire maritime des États baltes, vu que ceux-ci n'étaient pas, à cette époque, incorporés dans l'Union soviétique. Le Gouvernement danois n'ignore pas que l'Union soviétique réclame un territoire maritime de 12 milles marins le long de ses côtes de l'océan Arctique et de l'Asie, mais ce n'est que ces dernières années, du fait des arraisonnements des navires danois par les patrouilleurs soviétiques, que le Gouvernement danois a appris la prétention de l'Union soviétique d'avoir droit à exercer son autorité dans la Baltique sur un territoire s'étendant essentiellement au delà des limites territoriales dont les États riverains de la mer Baltique ont jusqu'à présent tenu compte. Ce n'est qu'en relation avec la remise de la note de la légation du 24 juillet 1950 que le Gouvernement danois a été officiellement informé que les interventions des autorités soviétiques vis-à-vis des navires danois s'appuient sur l'ordonnance du 15 juin 1927 concernant la protection des frontières de l'État soviétique et l'arrêté du 25 septembre 1935 relatif à la réglementation de la pêche.

Le Gouvernement danois soutient que, lorsque le droit international ne contient pas de règles fixes sur l'étendue des eaux territoriales, ce fait ne signifie pas du tout que chaque État peut, à son gré, faire des revendications arbitraires à ce sujet. De l'avis du Gouvernement danois, il en est surtout ainsi lorsque, dans un domaine si extrêmement limité que celui de la Baltique, où, pendant des siècles, les États riverains ont librement pratiqué la pêche et la navigation, un seul de ces États cherche, par un élargissement exorbitant de son territoire maritime, à dérober aux autres une partie essentielle des droits dont ils ont joui jusqu'à présent. Il ne se voit donc pas à même de modifier sa conception exposée dans la note de la légation du 24 juillet 1950, suivant laquelle les revendications d'un territoire maritime de 12 milles marins dans la Baltique, formulées par l'Union soviétique, impliquent un élargissement des eaux territoriales au delà des limites établies par l'histoire et une atteinte au domaine de la mer libre, portant préjudice aux intérêts danois. Jusqu'à présent, d'autres pays, y compris le Danemark, ont pu pratiquer paisiblement la pêche dans les domaines où les autorités soviétiques cherchent maintenant à l'empêcher. Il existe donc, de l'avis du Gouvernement danois, un empiétement non fondé sur des droits acquis à juste titre et s'appuyant sur les règles généralement reconnues concernant le droit de pêche et de navigation en pleine mer.

L'Union soviétique, de sa part, a, par la note du 31 août 1950, contesté cette conception. Il existe donc, entre le point de vue du Gouvernement danois et celui du Gouvernement de l'U. R. S. S., une différence en ce qui concerne le régime juridique.

Si le Gouvernement de l'U. R. S. S. ne se voit pas à même de modifier sa conception, le Gouvernement danois considérera comme naturel et utile de faire disparaître cette divergence de vues concernant le droit international en la soumettant pour décision à une cour internationale. Il est vrai qu'il n'existe pas de traité entre le Danemark et l'U. R. S. S. concernant la décision des différends d'ordre juridique par une cour internationale. Cependant, en leur qualité de Membres des Nations Unies, le Danemark aussi bien que l'Union soviétique, sont *ipso facto*, en vertu de l'article 93 de la Charte, parties au Statut de la Cour internationale de Justice.

Le Gouvernement danois se permet donc de proposer que le Danemark et l'Union soviétique se mettent d'accord pour soumettre à la Cour de La Haye la question de savoir si l'U. R. S. S., et, par là, d'autres États riverains de la Baltique, ont, d'après les règles du droit international, la faculté de s'attribuer un territoire maritime de 12 milles marins le long de leurs côtes dans la Baltique, et d'exercer, en conséquence, à l'intérieur de toute cette zone littorale, les droits de souveraineté qui, en vertu du droit international, appartiennent à l'État riverain en dedans de la limite territoriale.

Appendix No. 4

Note, dated 18th July, 1951, from the Government of Sweden to the Government of the U.S.S.R.

In view of the seizure in certain instances of Swedish ships in the Baltic by Soviet Union authorities the Swedish Embassy declared in a note dated 24th July, 1950, that the Swedish Government had never recognized any right of any of the seaboard States in the Baltic to maintain territorial waters up to 12 nautical miles broad. The Embassy further stated that for centuries past the European States had had a fixed belt of territorial water which, as far as the States on the Baltic seaboard are concerned, has amounted to three or, in certain cases, four miles, and that hereby a legal position has been created to the effect that the sea outside these territorial limits must be regarded as free waters and cannot therefore under the rules of international law become an object of occupation. Consequently, in the view of the Swedish Government, any extension of these territorial limits must involve an encroachment upon the freedom of the seas.

To these representations the Foreign Ministry of the Soviet Union objected in its reply to the Swedish Embassy given on 31st August, 1950, that no general rules of international law exist regarding the extent of territorial waters and that it falls exclusively within the competence of the State concerned to fix the extent of its territorial waters and that the extent of the Soviet Union's territorial waters had been fixed by a decree issued on 15th June, 1927, relating to the protection of the Soviet Union's national boundaries, and published at the

same time as it was issued. Under reference hereto the Foreign Ministry of the Soviet Union asserts that there is no ground whatsoever for the statement that a certain extension of the Soviet Union's territorial waters has taken place, and that the reservation made by the Swedish Government against the validity of a State's present action in extending its territorial waters beyond the historically recognized limits cannot apply to the decree issued in 1927. In connection herewith the Ministry rejects the assertion made in the Embassy's note that there has been an encroachment upon the freedom of the seas on the part of the Soviet Union.

To this the Swedish Government wishes to maintain that neither the above-mentioned legal regulations issued in 1927 nor the decree of 25th September, 1935, referred to in the Soviet Foreign Ministry's note of 26th May, 1950, relating to the regulation of fishing and the protection of the fisheries can have applied to the Gulf of Finland, where the Soviet Union's territorial waters were fixed by the peace treaty concluded between the Soviet Union and Finland in Dorpat in 1920 at four nautical miles, nor to the territorial waters of the Baltic States in the Baltic, seeing that at that time those States were not incorporated by the Soviet Union. It is true that the Swedish Government have been aware that the Soviet Union lays claim to territorial waters 12 nautical miles in width along their coasts on the Arctic Ocean and in Asia. But not until the seizure of Swedish ships by Soviet-Russian coast-guard vessels in recent years did it come to the knowledge of the Swedish Government that the Soviet Union in the Baltic lays claim to exercise jurisdiction over an area of waters extending far beyond those territorial limits which have hitherto been applied by States situated on the Baltic. It was only through the Foreign Ministry's note of 26th May, 1950, that it was officially brought to the notice of the Swedish Government that the acts of intervention carried out by the Soviet authorities against the aforesaid Swedish ships were based on the Decree of 15th June, 1927, relating to the protection of the Soviet Union's national boundaries and on the Decree of 25th September, 1925, governing the regulation of fishing.

The Swedish Government maintain that the fact that there are no definite rules laid down in international law to govern the extent of territorial waters does not by any means imply that each State may at its own discretion present arbitrary claims in such a respect. This, in the view of the Swedish Government, must be deemed to apply in quite a special degree to a case where one single State among the seaboard States within so strictly limited an area as the Baltic, in which all the seaboard States have for centuries past freely carried on fishing and shipping, seeks by an exorbitant extension of its territorial waters to deprive the other seaboard States of an essential part of the rights which they have enjoyed hitherto. The Government cannot see their way to depart from their view expressed in the Embassy's note of 24th July, 1950, that the Soviet Union's claim to territorial waters extending for 12 nautical miles in the Baltic implies an extension of its territorial waters over and above the limits set by historical precedent for territorial waters in the area in question and is an encroachment upon the freedom of the high seas. Swedish interests are prejudiced thereby. Other countries, including Sweden, have hitherto been able without restriction to carry on fishing within those areas in which

Soviet authorities are now seeking to prevent this practice. In the view of the Swedish Government, therefore, the present situation constitutes an unjustifiable encroachment upon traditional rights based upon universally recognized rules governing the right to carry on fishing and shipping in the open sea.

The view to which the Swedish Government thus gave expression in their note of 24th July, 1950, has been challenged by the Soviet Union in its note of 31st August, 1950. Herein, then, lies a divergence of view between the Swedish Government and the Soviet Union in regard to the legal position.

Unless the Soviet Government can see its way to modify its view the Swedish Government would consider it a natural and appropriate step to resolve this difference of opinion on a point of international law by referring it to an international court for decision. It is true that no agreement exists between Sweden and the Soviet Union regarding the settlement through an international court of disputes arising between them, but both Sweden and the Soviet Union, in their capacity of Members of the United Nations, are under Article 93 of the Charter *ipso facto* parties to the Statute of the International Court of Justice.

The Swedish Government, therefore, take the liberty of proposing that an agreement be concluded between Sweden and the Soviet Union to refer to the Hague Court the question of whether under international law the Soviet Union—and consequently other Baltic States as well—are entitled to claim as territorial waters a belt 12 nautical miles broad adjacent to their shores in the Baltic, and consequently to exercise within the whole of that coastal zone such sovereign rights as accrue under international law to seaboard States within the limit of its territorial waters.

Appendix No. 5

Correspondence between the Government of the United Kingdom and the Government of the Federative People's Republic of Yugoslavia relating to the Yugoslav Law of 28th November, 1948, on the subject of territorial waters

NOTE, DATED 5th MAY, 1949, FROM THE GOVERNMENT OF THE UNITED KINGDOM TO THE GOVERNMENT OF THE FEDERATIVE PEOPLE'S REPUBLIC OF YUGOSLAVIA

His Majesty's Government have noted the text of a law concerning the coastal waters of the F.P.R.Y. which was published in the Yugoslav Official Gazette No. 106 of the 8th December, where it was reported to have been passed by the Federal Council and the People's Council of the National Skupstina of the F.P.R.Y. on the 28th November, 1948.

2. In Article 5 of the law it is stated that the territorial waters of the F.P.R.Y. are constituted by a stretch of water 6 nautical miles wide in the direction of the open sea, reckoning from the boundary of internal sea waters or from the low-tide line on the mainland or on islands which lie outside the internal sea waters of the F.P.R.Y. In Article 3 of the law the internal sea waters of the F.P.R.Y. are defined

by means of a line joining various specified points. His Majesty's Government are obliged to place firmly on record with the Government of the F.P.R.Y. that they do not recognize territorial jurisdiction over waters outside the limit of 3 miles from the coast ; and that they will not regard British vessels engaged in their lawful pursuits on the high seas as being subject, without the consent of His Majesty's Government, to any measures which the Government of the F.P.R.Y. may see fit to promulgate in pursuance of the terms in Article 5 of the law concerning coastal waters.

3. It has been noted with surprise that, owing to the relation declared in Article 5 between territorial waters and internal sea waters, and owing to the definition of internal sea waters in Article 3, the boundary of territorial waters claimed by Article 5 does not follow closely the shape of the coast, but consists of a series of straight lines. This procedure is contrary to the generally accepted international practice of measuring the boundary of territorial waters from the coast line except where the coast is so irregularly indented as to justify some special procedure. In the opinion of His Majesty's Government there is no warrant for treating the coast line of Yugoslavia as a special case, and His Majesty's Government cannot recognize the validity of the procedure adopted or the waters thus enclosed outside the normal limits as being territorial.

4. His Majesty's Government must also record their disagreement with the principle in paragraph 6 of Article 3 of the law that bays and river mouths whose width is not more than 12 nautical miles shall be considered to be internal waters of the F.P.R.Y. ; and they must inform the Yugoslav Government that they cannot recognize as internal waters bays or rivers the mouths of which are wider than 6 or in some cases 10 nautical miles.

5. In Article 8 of the law concerning the coastal waters of the F.P.R.Y. it is stated that the competent Yugoslav authorities may carry out inspections of ship's papers in cases of justified suspicion and, if it should be necessary, may search ships under foreign colours inside a zone 4 nautical miles wide calculated from the outer limit of territorial waters in the direction of the open sea. His Majesty's Government are obliged formally to place on record with the Government of the F.P.R.Y. that they cannot recognize the claim of a government to a contiguous zone outside territorial waters, and that they will not regard British vessels engaged in their lawful pursuits on the high seas as being subject, without the consent of His Majesty's Government, to any measures which the Yugoslav Government may see fit to promulgate in pursuance of the provisions of the article in question.

6. It is noted that in Article 13 of the law, it is stated that the provisions of the law do not apply to warships sailing under foreign colours, nor to other vessels sailing under foreign colours which are equivalent to warships, and that the entry, transit and sojourn of foreign warships in the territorial waters of the F.P.R.Y. will be regulated by special decrees of the Government. His Majesty's Government request an assurance from the Yugoslav Government that Article 13 does not in any way conflict with the generally accepted international principle that warships have the same rights of innocent passage through territorial waters as other vessels.

NOTE, DATED 13th MAY, 1949, FROM THE GOVERNMENT OF THE FEDERATIVE PEOPLE'S REPUBLIC OF YUGOSLAVIA TO THE GOVERNMENT OF THE UNITED KINGDOM

The Ministry of Foreign Affairs of the Federal People's Republic of Yugoslavia presents its compliments to the British Embassy and with reference to the Embassy's note No. 209 of 5th May, 1949, has the honour to inform it that the Government of the Federal People's Republic of Yugoslavia submitted its draft law on coastal waters to its legislative bodies in the form and substance exactly in accordance with the generally accepted international principles regulating this matter in the field of maritime law, taking particularly into consideration the final resolution of the International Conference for the Codification of International Law, held at The Hague in 1930.

NOTE, DATED 17th AUGUST, 1949, FROM THE GOVERNMENT OF THE UNITED KINGDOM TO THE GOVERNMENT OF THE FEDERATIVE PEOPLE'S REPUBLIC OF YUGOSLAVIA

His Majesty's Government regret that they must maintain the contentions put forward in their previous note, and state that there is nothing in any of the proceedings of the Hague Codification Conference of 1930 which obliges any State to recognize claims to jurisdiction over territorial waters wider than those stated in the British note of 5th May.

Appendix No. 6

Notes from the Government of the United Kingdom to the Government of Iceland

(i)

NOTE, DATED 6th JULY, 1950, FROM MR. C. W. BAXTER, HIS BRITANNIC MAJESTY'S MINISTER IN REYKJAVIK, TO THE ICELANDIC MINISTER FOR FOREIGN AFFAIRS

Your Excellency,

I have the honour to inform Your Excellency that His Majesty's Government in the United Kingdom have taken note of the regulations published by the Icelandic Government on 22nd April, 1950, relating to the conservation of fisheries off the north coast of Iceland.

2. His Majesty's Government assume that these regulations will not be applied to United Kingdom vessels in any way until at the earliest 3rd October, 1951, when Iceland's notice of termination of the Anglo-Danish Fisheries Convention of 1901 takes effect. Nevertheless, His Majesty's Government consider it desirable to draw the Icelandic Government's attention now to the following two points, which His Majesty's Government cannot accept:

(a) The regulations involve a claim by the Icelandic Government to exercise exclusive fishing rights to a distance of 4 miles to seaward

from the coast. His Majesty's Government cannot, however, agree that Iceland is entitled to apply a 4-mile limit within which United Kingdom vessels are excluded from fishing.

(b) The base-lines described in Section 1 of the regulations are unacceptable to His Majesty's Government, being drawn in a manner which they consider contrary to international law. As the Icelandic Government will be aware, the question of the principles which should govern the determination of base-lines for fishery purposes is at present under consideration by the International Court of Justice at The Hague in connection with the rights which Norway is entitled to exercise in this matter. His Majesty's Government trust that the Icelandic Government will pay due regard to the ruling given by the Court and will, if necessary, amend their regulations to conform with that ruling.

3. It is hoped that the decision of the Hague Court in the Norwegian case will be available during the summer of 1951. Since Iceland's denunciation of the Anglo-Danish Convention of 1901 takes effect on 3rd October of that year, it will clearly be desirable that discussions between the United Kingdom and Iceland authorities should take place as soon as possible after the Court has given its judgment. His Majesty's Government hope therefore that the Icelandic Government will be ready to hold these discussions at short notice when the time comes. They also hope that, if it should nevertheless happen that the issue has not been finally decided between the British and Icelandic authorities by 3rd October, 1951, the Icelandic Government will refrain from applying their regulations or taking any other action affecting United Kingdom vessels until such time as the discussions between the two Governments have been concluded.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

(Signed) C. W. BAXTER.

His Excellency M. Bjarni Benediktsson,
Minister for Foreign Affairs,
Reykjavik.

(ii)

NOTE, DATED 23rd MAY, 1951, FROM Mr. J. D. GREENWAY, HIS BRITANNIC MAJESTY'S MINISTER IN REYKJAVIK, TO THE ICELANDIC MINISTER FOR FOREIGN AFFAIRS

Your Excellency,

I have the honour, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, to invite Your Excellency's attention to my predecessor's note No. 47 of 6th July, 1950, regarding the conservation of fisheries off the north coast of Iceland. In this note, Mr. Baxter stated that it was expected that the decision of the Hague Court in the Anglo-Norwegian fisheries dispute would be made available during the summer of 1951; and expressed the hope that the Icelandic

Government would refrain from imposing their new regulations on the subject until judgment had been given.

His Majesty's Government now learn that there is no prospect of a decision being taken by the Court before 3rd October next, when Iceland's denunciation of the 1901 Convention comes into force. In these circumstances, I am to express the earnest hope that the new regulations will not be applied before there has been an opportunity for the British and Icelandic authorities to discuss the matter in the light of the judgment to be given by the Court. His Majesty's Government are most anxious that this issue should be settled quickly and amicably, but they consider that nothing can be done until the conclusion of the present proceedings at The Hague.

Meanwhile, they feel that it is important that the *status quo* should be maintained and that nothing should be allowed to happen which might give rise to incidents or engender feeling, which could only render an eventual settlement more difficult of attainment.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

(Signed) J. D. GREENWAY.

His Excellency the Minister for Foreign Affairs,
M. Bjarni Benediktsson,
Ministry for Foreign Affairs, Reykjavik.

Appendix No. 7

Note, dated 28th May, 1951, from the Government of the United Kingdom to the Government of Egypt

His Majesty's Embassy present their compliments to the Egyptian Ministry of Foreign Affairs and have the honour to inform the Ministry that His Majesty's Government have come to the conclusion, after most careful consideration of the decree relating to the territorial waters of the Kingdom of Egypt (*Journal officiel* No. 6 of 18th January, 1951), that they are unable to accept this decree as being in conformity with the rules of international law.

2. In the opinion of His Majesty's Government the relevant rules of international law with regard to the delimitation of territorial waters are as follows :

(a) Subject to special rules governing bays and islands, the breadth of the territorial sea—except in the case of those States which can establish a prescriptive claim to a maritime belt wider than that allowed by general international law—is 3 sea miles measured from the line of low-water mark along the entire coast. The line of low-water mark is that indicated on the charts officially used by the coastal State, provided the latter line does not appreciably depart from the line of mean low-water spring tides.

(b) Except in the case of historic bays, a State is only entitled to trace the base-line across the waters of an indentation at the nearest point to the entrance at which the width does not exceed 10 miles

and then only if the indentation qualifies in law as a bay. In order to qualify in law as a bay the indentation must penetrate inland in such proportion to the width of its mouth as to constitute more than a mere curvature of the coast.

(c) An elevation of the sea bed is an island and therefore has its own territorial sea provided that it is an area of land, surrounded by water, which is permanently above high-water mark. However, an elevation of the sea bed which appears at low water only, although is it not an island and therefore does not have a territorial sea, may be taken into consideration for the determination of the base-line of the territorial sea provided that it is situated with the territorial sea as measured from the mainland.

(d) There is no special rule governing groups of islands ; such groups are governed by the same rule as individual islands.

3. In the light of these rules His Majesty's Government find themselves unable to accept the following portions of the Egyptian Decree of 18th January, 1951 :

(a) In Article 1 *(b)* of the decree it is stated that the term "gulf" includes "any inlet, lagoon, bay or arm of the sea" and in Article 6 *(b)* that the base-line from which the coastal sea shall be measured in the case of gulfs shall be a line drawn "from headland to headland across the mouth of the gulf". In the opinion of His Majesty's Government these provisions are unacceptable because it is not stated in Article 1 *(b)* that a gulf must have a reasonable penetration inland in proportion to its width, and, furthermore, there is also no definition of the size of the gulfs covered by the rule in Article 6 *(b)*. Apart from certain historic bays (none of which is situated in Egypt), where a greater distance has been established by continuous and immemorial usage, the most His Majesty's Government are prepared to accept by way of exception to the general rule stated in paragraph 2 *(a)* above is that, in the case of bays bordered by the territory of a single State, territorial waters may be measured from a straight base-line across the bay at the point nearest to the opening towards the sea where the distance between the low-water mark on the opposite sides of the bay is not more than 10 sea miles.

(b) In Article 1 *(c)* of the decree an island is defined as including "any islet, reef, rock, bar or permanent artificial structure which is not submerged by water at lowest tide". In the opinion of His Majesty's Government there is no warrant in international law for such a definition which departs from the generally accepted rule that an island is an area of land, surrounded by water, which is *permanently above high-water mark.* As stated in paragraph 2 *(c)* above, low-tide elevations, although in certain cases they may affect the demarcation of the territorial sea, do not enjoy the juridical status of an "island" and so do not themselves have a territorial sea.

His Majesty's Government also notice that the term "island" as defined by the decree includes "any bar or permanent artificial structure". His Majesty's Government are prepared to admit that in certain circumstances a permanent artificial structure may enjoy the juridical status of an "island", but they reserve their position as regards the actual wording used by the decree, since

it appears to go beyond the observations of Sub-Committee No. II at the Hague Codification Conference which permitted the assimilation of artificial islands to natural islands only so long as they were "true portions of the territory".

(c) As regards Article 4 of the decree, His Majesty's Government cannot regard as being in conformity with international law those sections of the article (sections *(b)*, *(c)* and *(d)*) which .... definition of the term "island" which, for reasons already given (paragraph 3 *(b)* above), they cannot accept. Also His Majesty's Government do not in general admit that the Egyptian Government have any right to treat as inland waters any part of their coastal seas other than the waters within ports and harbours or within bays, bordered by Egyptian territory only, up to a base-line drawn as described in paragraph 2 *(b)* above.

(d) As regards Article 5 of the decree, His Majesty's Government cannot, for reasons already given (paragraph 2 *(a)* above), accept the Egyptian claim to a maritime belt of 6 nautical miles. For the same reason they are unable to accept those portions of the decree (namely Article 4 *(b)*, *(c)* and *(d)*; Article 6 *(c)*, *(e)*, *(f)* and *(g)*, and Article 7) which depend on the fact that 12 miles, instead of 6 miles, is cited as twice the distance of territorial waters.

(e) As regards Article 6 of the decree, His Majesty's Government have already given reasons (paragraphs 3 *(a)* and 3 *(d)* above) why they are unable to accept the greater part of this article. Nor can they accept Article 6 *(a)* of the decree in so far as it appears to suggest that, in the case of islands, the low-water mark is to be taken as the lowest low-water mark instead of the low-water mark at mean low-water spring tide (see paragraph 2 *(a)* above). They are also unable to accept Article 6 *(f)* and *(g)* in so far as these sections of the article appear to suggest that there is a special rule governing groups of islands. As already stated (paragraph 2 *(d)* above), in the opinion of His Majesty's Government, groups of islands are covered by the same rule as individual islands.

4. His Majesty's Government are confident that the Egyptian Government will welcome this frank expression of His Majesty's Government's views on the subject of territorial waters and in particular they are hopeful that on further consideration of the facts set out above the Egyptian Government will feel able to modify the terms of this decree to bring them into line with the views held not only by His Majesty's Government but by the majority of the principal maritime States that 3 sea miles is the proper limit of territorial waters.

5. His Majesty's Government take this opportunity of renewing to the Egyptian Government the assurance of their high consideration.

Appendix No. 8

Recent legislation of the Government of Honduras on the subject of territorial waters and the continental shelf, and two notes from the Government of the United Kingdom to the Government of Honduras on this subject

LEGISLATIVE DECREE NO. 102, DATED 7th MARCH, 1950

THE NATIONAL CONGRESS DECREES :

Article 1.—The name of the single chapter of the first section, the name of the second section, and Articles 4 and 153 of the Political Constitution are amended to read as follows :

(a) Name of the single chapter of the first section : "Of the Nation and its Sovereignty."
(b) Name of the second section : "Of Nationality and Citizenship."
(c) Article 4 : "The boundaries of Honduras and its territorial limits shall be determined by law.—The submarine platform or continental and insular shelf, and the waters which cover it, in both the Atlantic and Pacific Oceans, whatever be its depth and however far it extend, form part of the national territory."
(d) Article 153 : "Full, inalienable and imprescriptible dominion belongs to the State over the waters of the territorial seas to a distance of *twelve kilometres* measured from the lowest tide ; full, inalienable and imprescriptible dominion over its beaches, lakes, lagoons, estuaries, tidal rivers and streams, not including streams that rise and disappear inside private property, and dominion, equally full, inalienable and imprescriptible, over all the resources existing or that can exist in its submarine platform or continental and insular shelf, in its lowest strata and the expanse of sea comprised within the vertical planes corresponding to its limits.

Article 2.—The present decree shall be ratified constitutionally in the next legislative session and will enter into force immediately after its publication in the *Gazette*.

Given in Tegucigalpa, D.C., in the Hall of Sessions, the 7th day of March, 1950.

LEGISLATIVE DECREE NO. 103, DATED 7th MARCH, 1950

THE NATIONAL CONGRESS DECREES :

Article 1.—The first article of the Agrarian Law is hereby amended to read as follows :

"*Article 1.*—The ownership of the land, in its double aspect of soil and subsoil, as well as the waters comprised within it, vests originally in the State, which has the right to transmit its control to individuals, establishing private ownership."

The following belongs to Honduras :

(1) The lands situated on terra firma within its territorial limits, and all the islands and "keys" in the Pacific which have been held to be Honduranean.
(2) The islands del Cisne (Swan Islands), Viciosas, Misteriosas, Mosquitos ; and the "keys" Gorda, Vivorillos Cajones, Becerro, Cocurucuma, Caratazca, Falso, Gracias a Dios, Los Bajos, Pichones, Palo de Campeche and all other islands, banks and reefs situated in the Atlantic, over which Honduras exercises dominion and sovereignty, in addition to the Bay Islands.
(3) The submarine platform or continental and insular shelf, and the waters which cover it in both the Atlantic and Pacific Oceans, whatever be its depth, and however far it extend.

Article 2.—The present decree shall be ratified constitutionally in the next legislative session and will enter into force immediately after its publication in the *Gazette.*

Given in Tegucigalpa, D.C., in the Hall of Sessions, the 7th day of March, 1950.

LEGISLATIVE DECREE NO. 104, DATED 7th MARCH, 1950

THE NATIONAL CONGRESS DECREES :

Article 1.—Articles 619 and 621 of the Civil Code are hereby amended to read as follows :

"*Article 619.*—The State is the owner of all mines producing gold, silver, copper, platinum, mercury, lead, zinc, bismuth, antimony, cobalt, nickel, tin, arseniciron, chrome, manganese, molybdenum, vanadium, rhodium, iridium, radium, uranium, plutonium, tungsten, sulphur, petroleum, apatita, nefelina, rock salt ; also those producing saltpetre, precious stones, coal and fossilized substances, and whatever other minerals and products are specified as national property by the Mining Law, notwithstanding the control by corporate bodies or individuals over the earth's surface beneath which such products are found. However, the right is conceded to individuals to investigate and excavate in land of whatever ownership in order to search for such minerals, and to work and develop them and dispose of them as owners, subject to the requirements and rules prescribed by the said code. With regard to the development and exploitation of radium, uranium, plutonium, and other radioactive metals, as well as of petroleum, this will be the subject of a special law.

The State is likewise the owner of all the natural resources which exist or can exist in its submarine platform or continental and insular shelf, in its lowest strata and in the expanse of sea comprised within the vertical planes corresponding to its limits.

Stone for building or decoration, sand, slate, clay, lime, pozzolana, peat, marl and other substances, belong to the owner of the soil in which they are found, under reserve of the dispositions of the Mining Code."

"*Article 621.*—The adjacent sea, to a distance of twelve kilometres, measured from the limit of the lowest tide, constitutes territorial

waters under national ownership ; however, the sovereignty of the State extends to the submarine platform, or continental and insular shelf and the waters which cover it, whatever be its depth and however far it extend, without affecting the right of free navigation in conformity with international law."

Article 2.—The present decree will come into force immediately after Decrees Nos. 102 and 103 have been constitutionally ratified.

Given in Tegucigalpa, D.C., in the Hall of Sessions, the 7th day of March, 1950.

NOTE, DATED 23rd APRIL, 1951, FROM THE GOVERNMENT OF THE UNITED KINGDOM TO THE GOVERNMENT OF HONDURAS

Your Excellency,

On behalf of His Majesty's Government in the United Kingdom, I have the honour to inform Your Excellency that it has been brought to their attention that Legislative Decree No. 102 (amending Article 153 of the Political Constitution of 1936), as enacted by the National Congress of Honduras on 7th March, 1950, and ratified by Decree No. 48 of 1st February, 1951, states that "Full inalienable and imprescriptible dominion belongs to the State over the waters of the territorial seas to a distance of 12 kilometres measured from the lowest tide." Likewise Legislative Decree No. 104 of the same date (revising Article 621 of the Civil Code), while reaffirming this claim, further states that "the sovereignty of the State extends to the continental shelf, and the waters which cover it, whatever the depth and however far it may extend".

2. His Majesty's Government in the United Kingdom are disquieted by the implications of the above claims, since it would appear from the second legislative decree referred to that it is the intention of the Government of Honduras greatly to extend its sovereignty over the continental shelf without regard to the depth of the sea. In this connection it is pointed out that the Mexican declaration of 9th October, 1945, defined the continental shelf as running from the coasts of Mexico up to the isobath of 200 metres or 109 fathoms. The United States proclamation of 28th September, 1945, was interpreted in a press announcement of the same day to annex the continental shelf up to the isobath of 100 fathoms ; and His Majesty's Orders in Council made on 26th November, 1948, relating to Jamaica and the Bahamas respectively, and the Order in Council made on 9th October, 1950, relating to British Honduras, which extends the boundaries of those colonies to include the continental shelf adjacent to their coasts, are interpreted as having the effect of annexing the continental shelf up to the isobath of 100 fathoms. A similar Order in Council made on 21st December, 1950, in relation to the Falkland Islands expressly defines the boundary of the area of the continental shelf annexed. The greater part of this boundary is formed by the isobath of 100 fathoms, and the remaining part takes the form of a straight line dividing the area of the continental shelf annexed to the Falkland Islands from the main mass of the continental shelf of South America. The depth of the sea along this latter part of the boundary is less than 100 fathoms.

3. In the light of the foregoing considerations His Majesty's Government in the United Kingdom, while not opposed in principle to claims to the exercise of sovereignty over the sea bed contiguous to the Honduranean coast, are unable to recognize the claims set forth in the above-mentioned legislative decree.

4. The action of the Government of Honduras, moreover, in claiming that sovereignty may be extended to a distance of 12 kilometres from the coast of the Republic or alternatively over large and undefined areas of the high seas above the continental shelf, appears to be irreconcilable with the principles of international law governing the extent of territorial waters formerly recognized by the Government of Honduras and by the great majority of other maritime States. The four Orders in Council referred to above, all expressly preserve the character as high seas of the waters above the continental shelf and outside the limits of territorial waters. In this connection His Majesty's Government in the United Kingdom wish to place it on record with the Government of Honduras that they do not recognize the claim of Honduras to exercise sovereignty over waters outside a limit of 3 miles measured from the low-water mark along the coast.

5. His Majesty's Government in the United Kingdom recognize, however, that the protection of fisheries and the conservation of natural resources in the high seas outside territorial waters are a proper object of agreement between all interested States. They regard as a desirable model for this type of agreement the North-West Atlantic Fisheries Convention negotiated between no fewer than eleven States interested in developing and maintaining the fisheries in the North-West Atlantic and signed in Washington on 8th February, 1949. His Majesty's Government would particularly draw the attention of the Government of Honduras to Article XIII of the said convention, which reads as follows :

> "The contracting Governments agree to invite the attention of any government not a party to this convention to any matter relating to the fishing activities in the convention area of the nationals or vessels of that Government which appear to affect adversely the operations of the commission or the carrying out of the objectives of this convention."

From this it will be seen that the convention provides for the position not only of those States whose nationals are already developing and maintaining the fisheries in the area in question but also for inviting the co-operation of other States not immediately interested, and therefore not parties of the convention, but who may become so interested in the future. They note, however, with regret that Legislative Decrees Nos. 102 and 104 claim to establish sovereignty over the high seas without having obtained any agreement of this type and without providing any safeguards with respect to the established interests of other States. They therefore wish to place it on record with the Government of Honduras that, until such an agreement has been reached, they do not recognize and will not consider their nationals as being subject to any measure of restriction or control over the high seas outside territorial waters, which the Government of Honduras may see fit to promulgate in pursuance of the above-mentioned legislative decrees.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

(Signed) G. E. STOCKLEY.

NOTE, DATED 10th SEPTEMBER, 1951, FROM THE GOVERNMENT OF THE UNITED KINGDOM TO THE GOVERNMENT OF HONDURAS

Your Excellency,

On behalf of His Majesty's Government in the United Kingdom, I have the honour to inform your Excellency that it has been brought to their attention that Legislative Decree No. 25, as enacted by the Congress of Honduras on 17th January, 1951, confirms the Decree of the President in Council of Ministers, No. 96 of 28th January, 1950 [1].

2. His Majesty's Government, in their note of 23rd April, 1951, have drawn the attention of the Government of Honduras to Legislative Decrees Nos. 102 and 104 of 7th March, 1950, and have given reasons why they find themselves unable to recognize these decrees as being fully in accordance with international law. His Majesty's Government have no wish to repeat what they have already said in the above-mentioned note, but notice, however, that in Legislative Decree No. 25 of 17th January, 1951, certain general arguments are advanced in order to justify the action taken by the Government of Honduras not only in Decree No. 25 itself but also in the earlier decrees (Nos. 102, 103 and 104 of 7th March, 1950).

3. In particular, His Majesty's Government notice that in the preamble to Decree No. 25, it is stated that it is "commonly recognized and established in international law" that the submarine platform or continental shelf "legally belongs to the adjacent riparian States, who have the right to proclaim their sovereignty over it and over the waters which cover it". His Majesty's Government do not accept this statement as a correct statement of the international law bearing on this question. While not opposed in principle to claims by a littoral State to exercise sovereignty over the continental shelf opposite its shores up to a certain distance, His Majesty's Government wish to place it on record that they do not regard themselves as being obliged to accept any claim made by a littoral State to exercise sovereignty over its continental shelf beyond a depth of 109 fathoms (200 metres). This was the depth claimed by the President of Mexico in his proclamation of 29th October, 1945. The depth usually regarded, however, as the outer limit of the continental shelf is 100 fathoms, which was the depth mentioned in the White House press release of 28th September, 1945, accompanying President Truman's proclamation of the same date. It was also the maximum depth claimed in the United Kingdom's Order in Council of 21st December, 1950, relating to the continental shelf off the Falkland Islands. His Majesty's Government therefore, as they have already stated in their note of 23rd April, 1951, are unable to accept the principle that the sovereignty of Honduras extends to the submarine platform "whatever be its depth and however far it extend".

4. Furthermore, as already stated in their note of 23rd April, 1951, His Majesty's Government cannot in any way accept the claim of Honduras to exercise sovereignty over the waters which cover its submarine platform beyond a distance of three sea miles from the low-water mark along the coast. Nor can they accept the argument advanced in the preamble to Legislative Decree No. 25 that this right is now a recognized right of

[1] For the text of this decree see Norwegian Rejoinder, Annex 112, No. 20 b.

international law on the strength of proclamations made by certain Heads of States since 1945. Such a right was in no way claimed by the Presidents of the United States of America and of Mexico in their proclamations of 28th September, 1945, and 29th October, 1945, respectively. It is true that claims of this nature are made in the proclamation of the President of Chile (23rd June, 1947), in the proclamation of the President of Peru (1st August, 1947), and in the Decree of the Junta of the Founders of the Second Republic of Costa Rica (27th July, 1948). His Majesty's Government, however, have notified the Governments of these countries that they are unable to accept these unilateral claims as having any validity in international law. His Majesty's Government wish to emphasize, that in their view, the right to exercise sovereignty over the continental shelf or submarine platform in no way carries with it the right to exercise sovereignty over the waters above the shelf and, in this connection, they would remind the Government of Honduras of the wording of the following proclamations and enactments :

(i) Proclamation of the President of the United States of America with respect to the natural resources of the subsoil and sea bed of the continental shelf, dated 28th September, 1945 :

"The character as high seas of the waters above the continental shelf and the right to their free and unimpeded navigation are in no way thus affected."

(ii) The Submarine Areas of the Gulf of Paria (Annexation) Order of 6th August, 1942, made by His Majesty in Council :

"Nothing in this order shall :

(a) affect, or imply any claim to, any territory above the surface of the sea or any part of the high seas, or

(b) prejudice any rights of passage or navigation on the surface of the sea."

(iii) The Bahamas (Alteration of Boundaries) Order in Council of 26th November, 1948.

The Jamaica (Alteration of Boundaries) Order in Council of 26th November, 1948.

The British Honduras (Alteration of Boundaries) Order in Council of 9th October, 1950.

The Falkland Islands (Continental Shelf) Order in Council of 21st December, 1950 :

"Nothing in this order shall be deemed to affect the character as high seas of any waters above the continental shelf and outside the limits of territorial waters."

(iv) The Royal Pronouncement of the King of Saudi Arabia with respect to the subsoil and sea-bed areas in the Persian Gulf contiguous to the coasts of the Kingdom of Saudi Arabia, dated 28th May, 1949 :

"The character as high seas of the waters of such areas, the right to the free and unimpeded navigation of such waters, and the air space above those waters, fishing rights in such waters, and the traditional freedom of pearling by the peoples of the gulf, are in no way affected."

Similar phraseology is used in the proclamations of the rulers of Bahrain (5th June, 1949), Kuwait (12th June, 1949) and of other States in the Persian Gulf. It should also be observed that in its report, covering its third session, the International Law Commission recommended that "the exercise by a coastal State of control and jurisdiction over the continental shelf does not affect the legal status of the superjacent waters as high seas".

5. In paragraph 4 of their note of 23rd April, 1951, His Majesty's Government have already stated that "they do not recognize the claim of Honduras to exercise sovereignty over waters outside a limit of three miles measured from the low-water mark along the coast"; and that consequently they cannot accept Legislative Decree No. 102 of 7th March, 1950, which claims that "Full, inalienable and imprescriptible dominion belongs to the State over the waters of the territorial seas to a distance of 12 kilometres measured from the lowest tide", as being in accordance with the principles of international law. For the same reason His Majesty's Government wish to bring it to the notice of the Government of Honduras that they cannot accept, as being in accordance with the principles of international law, Article III of Legislative Decree No. 25 of 17th January, 1951, in so far as it claims to extend the protection and control of the State in the Atlantic Ocean "over the whole extent of sea composed within the perimeter formed by the coast and a parallel line 200 nautical miles distant from the north coast of the mainland of Honduras".

I avail myself of this opportunity to renew to your Excellency the assurance of my highest consideration.

(Signed) G. E. STOCKLEY.

Appendix No. 9

Recent legislation of the Government of Ecuador on the subject of territorial waters and the continental shelf, and a note, dated 14th September, 1951, from the Government of the United Kingdom to the Government of Ecuador on this subject

DECREE OF THE CONGRESS OF THE REPUBLIC OF ECUADOR, DATED 21st FEBRUARY, 1951, RELATING TO TERRITORIAL WATERS

The Congress of the Republic of Ecuador

considering

Whereas it is urgent to determine in an exact form the jurisdiction of Ecuador over the territorial waters;

Whereas the American Community of Nations adopted the resolution on territorial waters recorded at the 1st and 2nd meetings of Ministers for Foreign Affairs, held in Panama and Havana in the years 1939 and 1940 respectively, at which it was recommended that "The American States should adopt in their particular legislation the principles and rules contained in such declarations", and

Whereas as a consequence of military progress the nations are enlarging the limits of their jurisdiction over territorial waters,

Decrees

Art. 1.—The continental shelf or "zocle" adjacent to the Ecuadorian coasts and all and every natural resource found thereon belong to the State, which will control the exploitation of such resources and the protection of the corresponding fishing areas.

Art. 2.—The Ecuadorian continental shelf is considered to comprise the submerged land, contiguous to continental territory, which is covered by not more than 200 metres of water.

Art. 3.—National territorial waters comprise a minimum distance of 12 nautical miles measured from the outermost promontories of the Ecuadorian Pacific coast as well as the inner waters of the gulfs, bays, straits and canals comprised within a line drawn between such promontories.

Also considered as the territorial sea are those waters comprised within a perimeter of 12 nautical miles measured from the outermost promontories of the farthest islands of the Colon Archipelago, the stipulations of Art. 1 of this law being applicable in this case.

Art. 4.—Should, in accordance with the terms of any international conventions or treaties on this subject, such as the Treaty of Mutual Assistance, the maritime areas agreed upon for policing and protection be greater than those laid down in this law, the terms of such treaties will prevail and will be enforced as part of this decree within the extent and range of such treaties.

Art. 5.—By this present decree, which will be in force as from the date of its publication in the *Official Gazette*, the pertinent dispositions of the civil law, the maritime police law, and any laws in contradiction to this decree are hereby amended.

Given at Quito, in the Meeting Hall of the National Congress, 6th November, 1950.

The President of the Senate,
DR. ABEL A. GILBERT.

President of the Chamber of Deputies,
DR. RUPERTO ALARCÓN FALCONI.

The Secretary of the Senate,
DR. RAFAEL GALARZA A.

Secretary of the Chamber of Deputies,
DALTON CAMACHO NAVARRO.

National Palace at Quito, 21st February, 1951.

To be enforced—

(Signed) GALO PLAZA,
Constitutional President of the Republic.

(Signed) M. DIAZ GRANADOS,
Minister of National Defence.

Certified copy—

The Under-Secretary of National Defence,

(Signed) GENERAL CARLOS A. PINTO D.

ARTICLES 1 AND 2 OF THE DECREE OF THE PRESIDENT OF THE REPUBLIC OF ECUADOR, DATED 22nd FEBRUARY, 1951, RELATING TO THE LAW ON SEA FISHING AND HUNTING

Art. 1.—The State exercises its sovereignty over the territorial waters (seas, insular and continental waters, lakes, ponds and river systems) and their resources.

Art. 2.—For purposes of sea fishing and hunting in general the territorial waters of the Republic will be considered to comprise 12 nautical miles, measured from the line of the lowest tide at the extreme points of the furthest islands forming part of the Colon Archipelago (Galapagos Islands), and also as comprising 12 nautical miles measured from the line of the lowest tide at the extreme points of the Ecuadorian mainland and its adjacent inlands, without prejudice to any further extension or modification after the definition of what is to be understood under the term territorial waters of the Republic.

NOTE, DATED 14th SEPTEMBER, 1951, FROM THE GOVERNMENT OF THE UNITED KINGDOM TO THE GOVERNMENT OF ECUADOR

His Majesty's Embassy presents its compliments to the Ministry of Foreign Affairs of the Republic of Ecuador and has the honour to inform the Ministry that His Majesty's Government in the United Kingdom have come to the conclusion, after most careful consideration of the Decree relating to the territorial waters of the Republic of Ecuador, signed by the President of the Republic on 21st February, 1951, that they are unable to accept this decree for the reason that it is not in conformity with the rules of international law.

2. The Decree of 21st February, 1951, has two main functions:

(a) to define the extent of Ecuadorian territorial waters;
(b) to lay claim to the continental shelf off the coasts of Ecuador and the natural resources contained thereon, and to define the extent of such continental shelf.

3. With regard to 2 *(a)* above, it is noted that Article 3 of the decree claims for Ecuador a territorial sea of 12 nautical miles. His Majesty's Government in the United Kingdom wish to place on record with the Government of the Republic of Ecuador that they do not recognize the right of Ecuador to claim territorial waters outside a limit of 3 miles measured from the line of low-water mark. In this connection they invite the attention of the Government of the Republic of Ecuador to the notes presented by Mr. Jerome to Señor R. H. Elizalde on 22nd June, 1915, by Mr. London to Dr. Don Alejandro Ponce Borga on 20th March, 1935, and by Mr. Bullock to Dr. Don Luis Bassano on 4th March, 1938. His Majesty's Government wish further to emphasize that, in their view, Article 3 of the Decree of 21st February, 1951, is contrary to international law in that, not only does it claim a 12-mile limit, but it also fails to state that, subject to certain generally recognized exceptions, such as bays and islands, the outer limit of territorial waters must be measured from the low-water mark along the entire coast.

The formula indicated in Article 3 seems to envisage the drawing of base-lines between the "outermost promontories of the Ecuadorian Pacific coast" regardless of the distance apart of such promontories and regardless of the fact whether the waters enclosed by the base-lines drawn between successive promontories constitute a bay in law or not.

4. With regard to 2 *(b)* above, it is noted that Article 1 of the decree states that "the continental shelf or 'zocle' adjacent to the Ecuadorian coasts and all and every natural resource found thereon belong to the State, which will control the exploitation of such resources and the protection of the corresponding fishing areas" ; whilst Article 2 of the decree defines the Ecuadorian continental shelf as "the submerged land, contiguous to continental territory, which is covered by not more than 200 metres of water". His Majesty's Government are not opposed in principle to the claim of the Republic of Ecuador to exercise control over the resources of the continental shelf contiguous to the coasts of Ecuador up to a depth of 200 metres even if such control extends beyond the internationally recognized limit of territorial waters (i.e. 3 sea miles). His Majesty's Government cannot, however, accept any Ecuadorian claim generally to control fishing areas outside the 3-mile limit of territorial waters. In this connection His Majesty's Government wish to draw the attention of the Government of Ecuador to Article 3 of Part 1 of the Annex to the report of the International Law Commission covering its third session, 16th May-27th July, 1951 (U.N. doc. A/CN. 4/48 of 30th July, 1951, at p. 57), which, in their view accurately states the existing law on this subject. The article says :

> "The exercise by a coastal State of control and jurisdiction over the continental shelf does not affect the legal status of the superjacent waters as high seas."

In the conception of His Majesty's Government in the United Kingdom, there is no right under international law to control fishing outside the limit of territorial waters unless the right forms part of an historic claim to the regulation of sedentary fisheries, and even then such regulation does not affect the general status of the area as high seas.

5. For the reasons given in paragraph 3 above His Majesty's Government in the United Kingdom feel compelled to place on record with the Government of the Republic of Ecuador that they are also unable to accept Article 2 of the decree relating to the Law on Sea Fishing and Hunting, signed by the President of the Republic on 22nd February, 1951, for the reason that it is not in conformity with the rules of international law.

6. His Majesty's Government in the United Kingdom consider that Ecuador has no right to enforce and the United Kingdom would have no duty to acknowledge the enforcement of those portions of the Ecuadorian Decrees of 21st and 22nd February which His Majesty's Government have stated in this note that they are unable to accept, for the reason that such portions of the decrees are not in conformity with the rules of international law.

His Majesty's Embassy avails itself of this opportunity to renew to the Minister for Foreign Affairs of the Republic of Ecuador the assurance of its very high consideration.

Appendix No. 10

Recent legislation of the Government of Costa Rica on the subject of territorial waters and the continental shelf, and two notes from the Government of the United Kingdom to the Government of Costa Rica on this subject

DECREE NO. 116 OF THE JUNTA OF THE FOUNDERS OF THE SECOND REPUBLIC, DATED 27th JULY, 1948

WHEREAS :

1. It is absolutely necessary to legislate without delay for the protection and conservation of the natural resources now known or hereafter to be known to exist on, in or under the national terrain or on, in or under the adjacent coastal waters, continental or insular, the conservation and development of which are vitally important to the nation and therefore demand proper care.

2. To arrive at a methodical and technical regulation of such national resources it is essential that the State should proclaim its national sovereignty and jurisdiction over the terrain and adjacent waters, just as other nations have done *(vide* President of the United States of America, 28th September, 1946 ; President of Mexico, 9th October, 1945 ; President of Argentina, 11th October, 1946 ; President of Chile, 23rd November, 1947 ; and Presidential Decree of Peru, 1st August, 1947).

3. That the international consensus of opinion proclaims and recognizes the inalienable right of nations to regard as a part of the national territory the whole extension of the ocean contiguous thereto and the adjacent continental areas.

4. That the exploitation and care of resources existing in its territory, maritime, terrestrial and aerial calls for protection by the State.

THEREFORE IT DECREES :

Article 1.—National sovereignty is hereby confirmed and proclaimed over the whole submarine platform or socle, continental or insular, adjacent to the continental and insular coasts of national territory, whatever its depth, reaffirming the inalienable rights of the nation over all natural resources on, in or under the platform, known or hereafter to be known to exist.

Article 2.—The national sovereignty is hereby confirmed and proclaimed over the waters adjacent to the continental and insular coasts of national territory, whatever their depth and to the extent necessary for the protection, conservation and exploitation of the resources and natural products on, in or under them, existing or which may hereafter exist. And from now on, the fishing and exploitation of these waters will be subject to the care and vigilance of the Costa-Rican Government so that inadequate exploitation shall not harm national economy or that of the American continent.

Article 3.—The limits of the fishing zones in continental and insular waters which by virtue of this decree come under the control of the Costa-Rican Government will be determined in accord with this declar-

ation of sovereignty as often as the Government may consider it desirable to ratify same, amplifying or modifying such demarcations as the national interest may demand.

Article 4.—The protection by the State is hereby declared of all waters within a perimeter of 200 sea miles parallel to the continental Costa-Rican coasts. With regard to the islands, the demarcation will be fixed to cover a zone of 200 miles from the surrounding coast line.

Article 5.—This declaration of sovereignty does not ignore similar rights of other States on a basis of reciprocity nor does it affect the rights of free navigation on the high seas.

UNITED KINGDOM NOTE CONCERNING DECREE NO. 116 OF 27th JULY, 1948; DELIVERED TO THE GOVERNMENT OF COSTA RICA ON 28th JANUARY, 1949

It has come to the attention of His Majesty's Government in the United Kingdom that a decree was published by the Costa-Rican Government on 27th July, 1948, regarding Costa-Rican sovereignty over certain territory and waters adjacent to the Costa-Rican coasts. Reference was made in the decree to earlier proclamations by the Governments of the United States of America and Mexico regarding their sovereignty over the continental shelves adjacent to their coasts, and to those of the Argentine, Chilean and Peruvian Republics regarding their sovereignty over the continental shelf and the waters above it.

2. In their decree the Government of Costa Rica :

(i) claim national sovereignty over the whole submarine platform or "socle", continental or insular, adjacent to the continental and insular coasts of national territory whatever its depth ;

(ii) proclaim the extension of national sovereignty over the waters adjacent to the continental and insular coasts of national territory, whatever their depth, to the extent necessary for the protection, conservation and exploitation of the resources and natural products in, on, or under them, existing or which hereafter may exist ;

(iii) declare that the limits of fishing zones in continental and insular waters which by virtue of the decree shall come under the control of the Costa-Rican Government shall be determined in accord with the declaration of sovereignty as often as the Government may consider it desirable to ratify the same, amplifying or modifying such demarcations as the national interest may demand ;

(iv) declare the protection of the State over all waters within a perimeter of 200 nautical miles parallel to the Costa-Rican coasts.

3. His Majesty's Government in the United Kingdom are gravely disquieted by the implications of the above claims, which go far beyond those put forward in the earlier declarations referred to above of the United States of America and Mexico. In particular it would appear from the first item quoted in the preceding paragraph that it is the intention of the Costa-Rican proclamation to extend its sovereignty over the continental shelf without regard to the depth of the sea or

the distance from the coast; and from the fourth item that a distance of 200 nautical miles from the Costa-Rican coast may be contemplated for the sea bed as well as for the waters of the sea, whereas the United States Government's announcement made at the time of the issue of their declaration and the Mexican declaration define the continental shelf as that part of the sea bed contiguous to the continent which is covered by not more than 100 fathoms, in the case of the United States of America, and not more than 200 metres or 109 fathoms, in the case of Mexico.

4. In the light of the foregoing considerations His Majesty's Government in the United Kingdom, while not opposed in principle to claims to the exercise of sovereignty over the sea bed contiguous to the Costa-Rican coast, are unable to recognize the claims set forth in the decree of 27th July, 1948.

5. The Costa-Rican Government's action, on the other hand, in claiming that sovereignty may be extended to large areas of the high seas above the continental shelf appears to be irreconcilable with the principles of international law governing the extent of territorial waters hitherto recognized by the Costa-Rican Government or by the great majority of other maritime States. In this connection it is permissible to point out that President Truman's proclamation of September 1945, while asserting certain claims to the control and conservation of fisheries adjacent to the United States coast, made no claim to territorial sovereignty over those waters.

6. While recognizing therefore that the protection and control of fisheries and the conservation of the natural resources in the seas are the legitimate concern of any country within those waters over which its territorial jurisdiction extends, His Majesty's Government wish to place it on record with the Costa-Rican Government that they do not recognize territorial jurisdiction over waters outside the limit of three miles from the coast; nor will they regard their nationals or vessels engaged in their lawful pursuits on the high seas as being subject, without the consent of His Majesty's Government, to any measures which the Costa-Rican Government have promulgated or may see fit to promulgate in pursuance of the declaration.

7. His Majesty's Government also recognize that the protection of fisheries and the conservation of natural resources in the high seas outside territorial waters are a proper object of agreement, between those States whose nationals have joined in developing and maintaining the fisheries and in other activities by which those resources are put to use. They are therefore prepared to enter into negotiations with the Costa-Rican Government, and with any other Government which may have an established interest in the waters concerned, in order to agree on such protection and conservation of the resources in the sea as can be proved to be necessary in the common interest. They note, however, with regret that the declaration claims to establish protection and conservation over the high seas without having obtained any such agreement, and without providing any safeguards with respect to the established interests of other States such as were mentioned in the declaration made by the President of the United States referred to above. They therefore wish to place it on record with the Costa-Rican Government that, until such an agreement has been reached, they do not recognize and will not consider their nationals or vessels as being

subject to any measures of restriction or control over the high seas outside territorial waters which the Costa-Rican Government have promulgated or may see fit to promulgate in pursuance of the declaration.

DECREE NO. 803 OF THE JUNTA OF THE FOUNDERS OF THE SECOND REPUBLIC, DATED 5th NOVEMBER, 1949, AMENDING DECREE NO. 116, DATED 27th JULY, 1948

WHEREAS :

1. The protection and preservation of fishing resources which exist in, on or under the seas adjacent to the continental or insular coasts of the national territory, both those already discovered as well as those which may be so in the future, can be fostered by the improvement in methods of conservation and by international co-operation.

2. The fishing resources, as well as mineral ones under the sea socle, are of capital importance to the country and the State as nutritional and industrial wealth and its improper exploitation will result in loss to the nationals of Costa Rica and to the national and continental economy.

3. International opinion recognizes the right and the duty of a maritime State to foster the exploitation of the fisheries on the high seas bordering its coasts, in accordance with conditions peculiar to each region and in harmony with the private rights and interests of any other State.

4. To achieve the above ends it is indispensable that the State should proclaim a policy concerning the coastal fisheries in certain parts of the high seas and of its rights to the riches under the sea socle.

5. Decree-Law No. 116 of 27th July, 1948, does not ignore the rights of other States on a basis of reciprocity, and in accordance with this principle, the process of making treaties in which factors relating to the conservation and fishing at sea are of prime importance has been started.

6. With the policy of treaties which will be made in recognition of the legitimate rights of other countries and in conformity with international practices, it is useful to clarify the above Decree-Law 116, which has lent itself to wrong interpretation. It will read as follows :

THEREFORE DECREES :

Article 1.—Decree-Law 116 of 27th July will read as follows :

Article 1.—National sovereignty is confirmed and proclaimed over all the submarine platform and continental and insular socle adjacent to the continental and insular coasts of the national territory, at whatever depth this may be, thus reaffirming national rights to all natural wealth which exists in the socle or platform.

Article 2.—The rights and interests of Costa Rica are confirmed over the seas adjacent to the continental and insular coasts of Costa Rica whatever their depth and the extent necessary to protect, preserve and exploit the natural resources and wealth which on, in or below them exists or will exist, and from now on

the fishing and exploitation which occur in the said seas remain under the care of the Government of Costa Rica, with the object of avoiding exploitation unsuited to its natural riches, to the prejudice of nationals of Costa Rica, of the economy of the nation, and of the American continent.

Article 3.—The specification of zones of protection for fishing and exploitation in the continental and insular seas which, by this decree, come under the control of the Government of Costa Rica will be made, in accordance with this declaration, each time that the Government finds it convenient, whether by ratifying, enlarging or modifying such limits, as the national interest demands.

Article 4.—The protection of the State is declared over all the seas within a perimeter of 200 sea miles distant from the continental coasts of Costa Rica. With regard to Costa-Rican islands the limits will be measured by an area of sea 200 sea miles from the coast of the islands.

Article 5.—The present declaration, to which Articles 2, 3 and 4 of this decree refer, does not ignore similar legitimate rights of other countries on a basis of reciprocity, nor does it affect the rights of free navigation on the high seas.

Article 2.—This decree is effective from the date of its publication.

UNITED KINGDOM NOTE CONCERNING DECREE NO. 803 OF 5th NOVEMBER, 1949, DELIVERED TO THE GOVERNMENT OF COSTA RICA ON 9th FEBRUARY, 1950

1. It has come to the notice of His Majesty's Government in the United Kingdom that a decree, No. 803, was published on 5th November, 1949, by the Government of Costa Rica regarding Costa-Rican sovereignty over the sea bed and Costa-Rican rights and interests in the sea water adjoining the coasts of Costa Rica. This decree replaced Decree No. 116 of 27th July, 1948, which was the subject of my note No. 6 of 28th January, 1949, and of Your Excellency's reply dated 29th January, 1949.

2. Article 4 of Decree No. 803 of 5th November, 1949, repeats the claim of Costa Rica to "protection" over all the seas within 200 sea miles of the coasts of Costa Rica, both continental and insular, which was formerly set forth in Article 4 of Decree No. 116 of 27th July, 1948. His Majesty's Government's objections to this claim remain set out in paragraphs 5, 6 and 7 of my note No. 6 of 28th January, 1949, and their willingness to negotiate with the Costa-Rican Government and other interested governments about the protection of fisheries and the conservation of natural resources in the high seas remains as set out in paragraph 7 of that note.

3. It is the understanding of His Majesty's Government that the provisions of Articles 2 and 5 of Decree No. 803 ensure that the rights and interests of United Kingdom nationals in the high seas will not be affected by the decree or by any measure taken by the Costa-Rican Government under it except as may be agreed with His Majesty's

Government, and His Majesty's Government would be glad to receive a confirmation of this understanding.

4. His Majesty's Government invite the Costa-Rican Government to state up to what distance from the continental and insular shores of Costa Rica, or up to what depth line, national sovereignty over the sea bed is claimed in Article 1 of Decree No. 803. In this connection His Majesty's Government would refer the Costa-Rican Government to paragraphs 3 and 4 of my note No. 6 of 28th January, 1949, where their understanding of internationally established precedent on these matters is set out.

Appendix No. 11

Article 7 of the Political Constitution of El Salvador (1950) and note delivered by the Government of the United Kingdom to the Government of El Salvador protesting against that article

The territory of the Republic, within its existing frontiers, is irreducible : it includes the adjacent seas to a distance of two hundred nautical miles from low-water mark and comprises the corresponding aerial space, subsoil and continental shelf.

The provisions of the preceding paragraph do not affect freedom of navigation in conformity with the accepted principles of international law.

The Gulf of Fonseca is an historical bay which is subject to special rules.

NOTE, DATED 12th FEBRUARY, 1950, FROM THE GOVERNMENT OF THE UNITED KINGDOM TO THE GOVERNMENT OF EL SALVADOR

It has come to the attention of His Majesty's Government in the United Kingdom that Article 7 of the new Political Constitution for El Salvador, which has been approved by the Constituent Assembly and promulgated by the Executive Power, includes the following terms :

(i) That the territory of the Republic includes the adjacent seas to a distance of 200 nautical miles from low-water mark and comprises the corresponding aerial space, subsoil and continental shelf.

(ii) That the provisions of the preceding paragraph do not affect freedom of navigation in conformity with the accepted principles of international law.

2. His Majesty's Government in the United Kingdom are disquieted by the implications of the above claims, since it would appear from the first item quoted in the preceding paragraph that it is the intention of the Salvadorean Government to extend its sovereignty over the continental shelf, without regard to the depth of the sea, to the distance of 200 nautical miles from the Salvadorean coast. On the other hand the Mexican declaration of 9th October, 1945, defined the continental

shelf as running from the coasts of Mexico up to the isobath of 200 metres or 109 fathoms. The United States proclamation of 28th September, 1945, was interpreted in a press announcement of the same day to annex the continental shelf up to the isobath of 100 fathoms; and His Majesty's Government's Orders in Council relating to Jamaica and the Bahamas of 26th November, 1948, are interpreted to annex the continental shelf up to the isobath of 100 fathoms.

3. In the light of the foregoing considerations His Majesty's Government in the United Kingdom, while not opposed in principle to claims to the exercise of sovereignty over the sea bed contiguous to the Salvadorean coast, are unable to recognize the claims set forth in the new Constitution.

4. The Salvadorean Government's action, moreover, in claiming that sovereignty may be extended to large areas of the high seas above the continental shelf, appears to be irreconcilable with the principles of international law governing the extent of territorial waters hitherto recognized by the Salvadorean Government and by the great majority of other maritime States. In this connection His Majesty's Government in the United Kingdom wish to place it on record with the Salvadorean Government that they do not recognize territorial sovereignty over waters outside the limit of three miles from the coast.

5. His Majesty's Government in the United Kingdom recognize, however, that the protection of fisheries and the conservation of natural resources in the high seas outside territorial waters are a proper object of agreement between those States whose nationals have joined in developing and maintaining the fisheries and in any other activities by which these resources are put to use, and they are therefore prepared to enter into negotiations with the Salvadorean Government, and with any other government which may have an established interest in the waters concerned, in order to agree on such protection and conservation of the resources of the sea as could be proved to be necessary in the common interest. They note, however, with regret that Article 7 claims to establish sovereignty over the high seas without having obtained any such agreement, and without providing any safeguards with respect to the established interests of other States. They therefore wish to place it on record with the Salvadorean Government that, until such an agreement has been reached, they do not recognize, and will not consider their nationals or vessels as being subject to, any measures of restriction or control over the high seas outside territorial waters, defined as described in paragraph 4 above, which the Salvadorean Government have promulgated or may see fit to promulgate in pursuance of Article 7 of the new Constitution.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration and esteem.

(Signed) B. P. SULLIVAN.

Appendix No. 12

Statutory instruments

1950 No. 2100

Falkland Islands

The Falkland Islands (Continental Shelf) Order in Council, 1950

Made - - - - 21st December, 1950

At the Court at Buckingham Palace, the 21st day of December, 1950

Present :

The King's Most Excellent Majesty in Council

Whereas it is desirable to extend the boundaries of the colony of the Falkland Islands so as to include the continental shelf contiguous to the coasts of the colony :

Now, therefore, His Majesty, in pursuance of the powers conferred upon Him by the Colonial Boundaries Act, 1895 [1], and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :

1. This order may be cited as the Falkland Islands (Continental Shelf) Order in Council, 1950.

2. The boundaries of the colony of the Falkland Islands are hereby extended to include the area of the continental shelf being the sea bed and its subsoil contiguous to the coasts of the Falkland Islands. The boundary of such area shall be from a position on the 100-fathom line 110 nautical miles 023 degrees true from Jason West Cay (the westernmost of the Jason Islands, latitude 50 degrees 58 minutes south, longitude 61 degrees 27 minutes west approximately), following the 100-fathom line as shown on admiralty chart No. 2202 B round the northern, eastern, southern and western sides of the Falkland Islands to a position 20 nautical miles 278 degrees true from Jason West Cay, thence by a straight line crossing in its narrowest part the area where the depths are less than 100 fathoms, in a 032 degree true direction for 115 nautical miles to the starting point.

3. Nothing in this order shall be deemed to affect the character as high seas of any waters above the continental shelf and outside the limits of territorial waters.

(Signed) E. C. E. LEADBITTER.

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[1] 58 & 59 Vict. c. 34.

Appendix No. 13

Notes delivered by the Government of the United States of America to other governments

This Appendix comprises the following notes :

(a) Note to the Government of Chile, dated 2nd July, 1948.
(b) Note to the Government of El Salvador, dated 12th December, 1950.
(c) Note to the Government of Saudi Arabia, dated 19th December, 1949.
(d) Note to the Government of the Argentine, dated 2nd July, 1948.
(e) Note to the Government of Peru, dated 2nd July, 1948.
(f) Note to the Government of Egypt, dated 4th June, 1951.
(g) Note to the Government of Ecuador, dated 7th June, 1951.

Of the above notes, *(a)* has been published in Volume 44 of the *American Journal of International Law* at page 674 ; *(b)* has been published as Department of State press release No. 1256, of 22nd December, 1950 ; *(c)* has been published in Volume 44 of the *American Journal of International Law* at page 675.

The remaining notes, some of which have already been made to the public unofficially, have been communicated by the Government of the United States of America at the request of the Government of the United Kingdom, and the Government of the United States has stated that it has no objection to their being filed as official documents in the case now before the Court.

(a) NOTE, DATED 2nd JULY, 1948, FROM THE GOVERNMENT OF THE UNITED STATES OF AMERICA TO THE GOVERNMENT OF CHILE

Excellency,

I have the honor to refer to the Decree issued by the President of the Republic of Chile on 25th June, 1947, concerning the conservation of the resources of the continental shelf and the epicontinental seas and to advise that I have been instructed by my Government to make certain reservations with respect to the rights and interests of the United States of America.

The United States Government has carefully studied this declaration of the President of the Republic of Chile. The declaration cites the proclamations of the United States of 28th September, 1945, in the preamble. My Government is accordingly confident that His Excellency, the President of the Republic of Chile, in issuing the declaration, was actuated by the same long-range considerations with respect to the wise conservation and utilization of natural resources as motivated President Truman in proclaiming the policy of the United States relative to the natural resources of the subsoil and sea bed of the continental shelf and its policy relative to coastal fisheries in certain areas of the high seas. The United

States Government, aware of the inadequacy of past arrangements for the effective conservation and perpetuation of such resources, views with utmost sympathy the considerations which led the Chilean Government to issue its declaration.

At the same time, the United States Government notes that the principles underlying the Chilean declaration differ in large measure from those of the United States proclamations and appear to be at variance with the generally accepted principles of international law. In these respects, the United States Government notes in particular that (1) the Chilean declaration confirms and proclaims the national sovereignty of Chile over the continental shelf and over the seas adjacent to the coast of Chile outside the generally accepted limits of territorial waters, and (2) the declaration fails, with respect to fishing, to accord appropriate and adequate recognition to the rights and interests of the United States in the high seas off the coast of Chile. In view of these considerations, the United States Government wishes to indicate to the Chilean Government that it reserves the rights and interests of the United States so far as concerns any effects of the declaration of 25th June, 1947, or of any measures designed to carry that declaration into execution.

The reservations thus made by the United States Government are not intended to have relation to or to prejudge any Chilean claims with reference to the Antarctic continent or other land areas.

The Government of the United States of America is similarly reserving its rights and interests with respect to decrees issued by the Governments of Argentina and Peru which purport to extend their sovereignty beyond the generally accepted limits of territorial domain.

I take, etc.

(b) NOTE, DATED 12th DECEMBER, 1950, FROM THE GOVERNMENT OF THE UNITED STATES OF AMERICA TO THE GOVERNMENT OF EL SALVADOR

Excellency,

I have the honor, pursuant to the direction of my Government, to refer to the Constitution of El Salvador of 1950 which in its Article 7 sets forth that the territory of El Salvador comprehends the adjacent seas for the distance of 200 marine miles, calculated from the lowest tide line, and includes the air overhead, the subsoil and the corresponding continental shelf.

I am directed to inform Your Excellency that the Government of the United States of America has noted with deep concern the implications of this provision of the Constitution. Under long-established principles of international law, it is universally agreed that the territorial sovereignty of a coastal State extends over a narrow belt of territorial waters beyond which lie the high seas. The provisions of Article 7 would, if carried into execution, bring within the exclusive jurisdiction and control of El Salvador wide ocean areas which have hitherto been considered high seas by all nations. It would in these extensive waters and in the air spaces above supplant the free and untrammelled navigation of foreign vessels and aircraft by such controls as El Salvador, in the exercise of the sovereignty claimed, might apply. This is true despite the disclaimer of the second paragraph of Article 7, since, consequent upon the assertion of

sovereignty, freedom of navigation in these areas might be claimed to be a privilege granted by El Salvador rather than based on a right deriving from international law.

The United States of America has, in common with the great majority of other maritime nations, long adhered to the principle that the belt of territorial waters extends three marine miles from the coasts. My Government desires to inform the Government of El Salvador, accordingly, that it will not consider its nationals or vessels or aircraft as being subject to the provisions of Article 7 or to any measures designed to carry it into execution.

Please accept, etc.

(c) NOTE, DATED 19th DECEMBER, 1949, FROM THE GOVERNMENT OF THE UNITED STATES OF AMERICA TO THE GOVERNMENT OF SAUDI ARABIA

Excellency,

I have the honor, acting under instructions of my Government, to inform Your Excellency as follows :

> "The United States has taken note of Decree No. 6/4/5/3711 issued by the Kingdom of Saudi Arabia on 28th May, 1949, concerning the territorial waters of Saudi Arabia, and finds itself compelled to take exception to certain provisions thereof, deeming such provisions to be unsupported by accepted principles of international law, and to reserve all its rights and the rights of its nationals with respect thereto, namely :
>
> 1. All provisions to the effect that the inland waters of the Kingdom include waters outside of ports, harbors, bays and other inclosed arms of the sea along its coast ; and
> 2. All provisions to the effect that the coastal sea, i.e. the marginal sea, of the Kingdom extends seaward of a belt of three nautical miles along its coast or around its islands."

I avail, etc.

(d) NOTE, DATED 2nd JULY, 1948, FROM THE GOVERNMENT OF THE UNITED STATES OF AMERICA TO THE GOVERNMENT OF THE ARGENTINE

Excellency,

At the direction of my Government I have the honor to state that the United States Government has carefully studied the declaration of the President of the Argentine Nation of 11th October, 1946, concerning the industrial utilization of the resources of the continental shelf and the coastal seas, together with Decree No. 1386 of 24th January, 1944, which the declaration amplifies. The declaration cites the proclamations of the United States of 28th September, 1945, in the preamble. My Government is accordingly confident that His Excellency, the President of the Argentine Nation, in formulating the declaration, was actuated by the same long-range considerations with respect to the wise conservation and

utilization of natural resources as motivated President Truman in proclaiming the policy of the United States relative to the natural resources of the subsoil and sea bed of the continental shelf and its policy relative to coastal fisheries in certain areas of the high seas. The United States Government, aware of the inadequacy of past arrangements for the effective conservation and utilization of such resources, views with sympathy the considerations which led the Argentine Government to formulate its declaration.

At the same time, the United States Government notes that the principles underlying the Argentine declaration differ in large measure from those of the United States proclamations and appear to be at variance with the generally accepted principles of international law. In these respects, the United States Government notes in particular that (1) the Argentine declaration decrees national sovereignty over the continental shelf and over the seas adjacent to the coasts of Argentina outside the generally accepted limits of territorial waters, and (2) the declaration fails, with respect to fishing, to accord recognition to the rights and interests of the United States in the high seas off the coasts of Argentina. In view of these considerations, the United States Government wishes to inform the Argentine Government that it reserves the rights and interests of the United States so far as concerns any effects of the declaration of 11th October, 1946, or of any measures designed to carry that declaration into execution.

The reservations thus made by the United States Government are not intended to have relation to or to prejudge any Argentine claims with reference to the Antarctic continent or other land areas.

I may state for Your Excellency's information that the United States Government is similarly reserving these rights and interests with respect to decrees of the Governments of Chile and Peru which purport to extend sovereignty beyond the general accepted limits of territorial waters.

Accept, Excellency, etc.

(e) NOTE, DATED 2nd JULY, 1948, FROM THE GOVERNMENT OF THE UNITED STATES OF AMERICA TO THE GOVERNMENT OF PERU

Excellency,

I have the honor to advise your Excellency that the Government of the United States of America has carefully studied the Decree of the President of the Republic issued on 1st August, 1947, concerning the conservation of the resources of the continental shelf and the coastal seas. The decree cites the proclamations of the United States of 28th September, 1945, in the preamble. My Government is accordingly confident that His Excellency, the President of the Peruvian Republic, in issuing the decree, was actuated by the same long-range considerations with respect to the wise conservation and utilization of natural resources as motivated President Truman in proclaiming the policy of the United States relative to the natural resources of the subsoil and sea bed of the continental shelf and its policy relative to coastal fisheries in certain areas of the high seas. The United States Government, aware of the inadequacy of past arrangements for effective conservation and perpetua-

tion of such resources, views with the utmost sympathy the considerations which led the Peruvian Government to issue its decree.

At the same time, the United States Government notes that the principles underlying the Peruvian decree differ in large measures from those of the United States proclamations and appear to be at variance with the generally accepted principles of international law. In these respects, the United States Government notes in particular that (1) the Peruvian decree declares national sovereignty over the continental shelf and over the seas adjacent to the coast of Peru outside the generally accepted limit of territorial waters, and (2) the decree fails, with respect to fishing, to accord recognition to the rights and interests of the United States in the high seas off the coasts of Peru. In view of these considerations, the United States Government wishes to inform the Peruvian Government that it reserves the rights and interests of the United States so far as concerns any effects of the Decree of 1st August, 1947, or of any measures designed to carry that decree into execution.

The Government of the United States is similarly reserving rights and interests with respect to the decrees issued by the Governments of Argentina and Chile which purport to extend sovereignty beyond generally accepted lines of territorial waters.

I avail, etc.

(f) NOTE, DATED 4th JUNE, 1951, FROM THE GOVERNMENT OF THE UNITED STATES OF AMERICA TO THE GOVERNMENT OF EGYPT

The Embassy of the United States of America presents its compliments to the Royal Ministry of Foreign Affairs and has the honor to state that the United States has taken note of the Royal Decree published in the Arabic edition of the *Journal Official* No. 6 of 18th January, 1951, regarding the territorial waters of the Kingdom of Egypt, and finds itself compelled to take exception to certain provisions thereof, deeming such provisions to be unsupported by accepted principles of international law, and to reserve all its rights and the rights of its nationals with respect thereto, namely :

1. All provisions which purport to extend the inland waters of the Kingdom seaward from the waters of ports and harbors and such bays and other enclosed arms of the sea as are recognized as inland waters by international law.

2. All provisions which purport to extend the marginal sea of the Kingdom beyond three nautical miles from the coast and islands and the inland waters as described above.

The Embassy of the United States of America avails itself, etc.

(g) NOTE, DATED 7th JUNE, 1951, FROM THE GOVERNMENT OF THE UNITED STATES OF AMERICA TO THE GOVERNMENT OF ECUADOR

Excellency,

I have the honor, at the direction of my Government, to refer to the law regarding territorial waters and the continental shelf promulgated by

the Government of Ecuador and published in *Registro Official* No. 756 of 6th March, 1951.

I am directed to inform Your Excellency that the United States Government has noted with concern the provisions of this law which purport to extend the sovereignty of Ecuador over a belt of contiguous ocean waters twelve nautical miles in breadth and which would establish rules of base-line measurement at variance with accepted principles of international law. It has also been noted that Colón Archipelago is to be regarded in the sense of a continuous land mass for territorial waters purposes, with the marginal belt enveloping the whole of the archipelago irrespective of the water distances separating the component islands. My Government also regards with concern the provision of Article 1 of this law which implies an unlimited degree of protection and control by Ecuador over fish resources of the water areas corresponding to the continental shelf, as defined in Article 2.

Under long-established principles of international law, it is generally agreed that the sovereignty of a coastal State extends over a narrow belt of territorial waters beyond which lie the high seas. The provisions of this law would, if carried into execution, extend that belt seaward and bring under the exclusive jurisdiction and control of Ecuador an ocean area heretofore regarded as high seas. The enforcement of this law in the area of extension would, therefore, be in derogation of the right of other States to freedom of navigation upon the high seas.

The United States has, in common with the great majority of other maritime nations, long adhered to the principle that the belt of territorial waters extends three marine miles from the coasts. This principle, when applied to insular possessions, contemplates a separate belt of territorial waters for each island, excepting where the water distance separating islands is less than six marine miles. Both the purported establishment of a belt of Ecuadoran territorial waters twelve nautical miles in breadth, and the assertion of a claim to a single belt of territorial waters around the entire Colón Archipelago, contravene this principle of international law. Moreover, in specifying the method of determining base-lines, Article 3 of the law in question does not appear to be in accordance with the principle of international law that, in general, such a base-line follows the sinuosities of the coast at the point of low-water mark. With regard to the implication in Article 1 that the Government of Ecuador may exercise exclusive jurisdiction over the fishing areas corresponding to the continental shelf, it is the view of my Government that the area over which a coastal State may, as a matter of right, exercise exclusive fisheries jurisdiction is coextensive with the belt of territorial waters.

With the foregoing considerations in mind, the Government of the United States desires to inform the Government of Ecuador that it reserves all its interests and the interests of its nationals and vessels under the provisions in question of this law, and under any measures designed to carry them into execution.

Please accept, etc.

Appendix No. 14

Note, dated 7th April, 1951, from the Government of the French Republic to the Government of the United Kingdom giving the observations of the French Government with regard to the claims of various Latin-American States to extend their territorial waters

Le ministère des Affaires étrangères présente ses compliments à l'ambassade de Grande-Bretagne et a l'honneur d'accuser réception de sa lettre No. 62 en date du 21 février 1951 par laquelle elle a exprimé le désir de connaître la position du Gouvernement français à l'égard des revendications de certains pays d'Amérique latine, tendant à étendre les limites de leurs eaux territoriales.

Le Gouvernement français n'a jamais reçu, par la voie diplomatique, notification des résolutions ou propositions adoptées, de 1945 à 1950, par le Mexique, le Chili, le Pérou, Costa-Rica et le Salvador, ayant pour effet de changer la limite de leurs eaux territoriales. Il n'a donc pas eu, dans ces cas précis, à formuler un avis.

Il estime cependant sur un plan général que de telles revendications ne sont pas recevables car elles lui paraissent en contradiction avec un principe de droit international qui n'a jamais, jusqu'à présent, été contesté.

Les revendications contenues dans les décrets pris par les pays intéressés excèdent sans aucun doute l'étendue maxima des eaux territoriales admises en droit international, même en tenant compte du fait que cette étendue est assortie parfois d'une « zone contiguë » dans laquelle l'État adjacent peut exercer certains droits spéciaux (sûreté, police, douanes). Aucun État ne peut, par une déclaration unilatérale, étendre sa souveraineté sur la haute mer et rendre cette annexion opposable aux pays qui ont le droit d'invoquer le principe de la liberté des mers, tant que ces derniers ne l'auront pas formellement acceptée. Une renonciation à une règle de droit international établie dans l'intérêt de la communauté des nations ne peut pas se présumer.

Telle pourrait être la position que le Gouvernement français soutiendrait si un quelconque pays lui notifiait officiellement sa résolution d'étendre la limite de ses eaux territoriales. Cette position n'a aucun caractère confidentiel puisqu'elle est fondée sur des principes universellement reconnus de droit international.

Le ministère des Affaires étrangères saisit, etc.

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2. THREE DIAGRAMS SHOWING THE USE OF THE ARCS OF CIRCLES METHOD FOR DRAWING TERRITORIAL LIMITS ON THE CHART DEPOSITED DURING THE HEARING OF SEPTEMBER 26th, 1951, BY COMMANDER R. H. KENNEDY, O.B.E., R.N. (RETIRED), EXPERT ADVISER TO THE AGENT OF THE GOVERNMENT OF THE UNITED KINGDOM

[*Not reproduced*]

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3. NOTE DATED OCTOBER 3rd, 1951, FROM THE MINISTRY FOR FOREIGN AFFAIRS OF THE NETHERLANDS TO THE BRITISH EMBASSY AT THE HAGUE, WITH AN ENCLOSED MEMORANDUM

(ANNEX TO LETTER OF OCTOBER 4th, 1951, FROM THE AGENT OF THE GOVERNMENT OF THE UNITED KINGDOM TO THE REGISTRAR, SEE PART IV, CORRESPONDENCE)

Ministry for Foreign Affairs.
European Department.
No. 95924.

The Ministry of Foreign Affairs presents its compliments to the British Embassy and has the honour to inform the Embassy, referring to the latter's note dated 11 August, 1951, that the Netherlands Government having studied the Icelandic regulations concerning the conservation of fisheries off the north coast of Iceland have come to the conclusion that these measures contravene the principles of international law which does not permit a State to take unilateral action prohibiting or regulating the fishing of foreign vessels in a certain area of the high seas.

The Icelandic Government has been informed through the intermediary of the Netherlands Ambassador in London of the opinion of the Netherlands Government in the matter.

A copy of the Memorandum which has been presented to the Icelandic diplomatic representative in London, who is also accredited to Her Majesty the Queen, is enclosed herewith.

The Hague, October 3, 1951.

To the British Embassy,
The Hague.

Appendix

Aide-mémoire

The Netherlands Government have been advised that the Icelandic Government have promulgated on the 22nd of April, 1950, certain regulations concerning the conservation of fisheries off the north coast of Iceland.

According to these regulations only Icelandic citizens may henceforth fish for herring in a certain area of the high seas and only Icelandic vessels may be used in this area. The Netherlands Government are of opinion that international law does not allow a State to take unilaterally measures prohibiting or regulating the fishing of foreign vessels in a certain area of the high seas. Such regulations can only refer to the territorial waters of the State. The area envisaged in the

new regulations exceeds the limits of the territorial sea as recognized by international law.

As the Icelandic Government are aware, the Netherlands fishery interests off the coast of Iceland are considerable. These interests would suffer from the coming into force of the regulations in question, which imply, by establishing a four-mile zone which is moreover measured from unilaterally introduced long straight base-lines, an extension of the area in which a State may forbid the fishing by vessels under a foreign flag.

For these reasons the Netherlands Government would appreciate if the Icelandic Government would be willing to refrain from bringing the new regulations into effect.

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4. LETTER DATED OCTOBER 19th, 1951, FROM THE ICELANDIC MINISTER IN LONDON TO THE AGENT OF THE GOVERNMENT OF THE UNITED KINGDOM, WITH AN ENCLOSED LETTER AND A MAP

(ANNEXES TO LETTER OF OCTOBER 22nd, 1951, FROM THE AGENT OF THE GOVERNMENT OF THE UNITED KINGDOM TO THE REGISTRAR, SEE PART IV, CORRESPONDENCE)

17, Buckingham Gate,
London, S.W. 1.

Sendirad Islands 19th October, 1951.

Sir,

On the 9th October, 1951, the Registrar of the International Court of Justice informed me as follows in connection with the fisheries case between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Norway :

> "On the 4th October, 1951, the Agent of the United Kingdom Government filed with the Registry copy of a communication from the Royal Netherlands Government to the Government of Iceland. As the Norwegian Agent does not object to the filing of this document, it becomes my duty to transmit to you herewith copy of the communication."

This communication from the Royal Netherlands Government was first delivered to this Legation on the 9th October, but its contents were immediately brought to the attention of the Icelandic Government. I have now, according to instructions received from my Government, sent a reply note to His Excellency Monsieur D. U. Stikker, Minister for Foreign Affairs of the Netherlands, in which the views of the Icelandic Government in relation to the fisheries jurisdiction of Iceland are set forth.

With reference to the fact that you have filed with the International Court the communication from the Royal Netherlands

Government to the Government of Iceland, I have the honour to forward to you a copy of my said communication to the Minister for Foreign Affairs of the Netherlands, together with a copy of the map showing the platform or continental shelf surrounding Iceland as mentioned in the communication.

I venture to expect that you will be good enough to file the present communication with enclosures with the International Court in the same way as you have done with the copy of the communication from the Royal Netherlands Government to the Government of Iceland.

A similar communication has been addressed to the Agent of the Kingdom of Norway in the fisheries case (Great Britain/Norway), International Court of Justice, The Hague.

I have, etc.,

(Signed) AGNAR KL. JONSSON.

Appendices

Letter from the Icelandic Minister in London to the Netherlands Minister for Foreign Affairs

17, Buckingham Gate,
London, S.W. 1.

19th October, 1951.

Sir,

I have the honour to refer to an aide-mémoire received by this Legation on October 9th, 1951, through the intermediary of the Royal Netherlands Embassy in London, according to which the Royal Netherlands Government expresses the hope that the Icelandic Government would be willing to refrain from bringing new regulations concerning the conservation of fisheries off the north coast of Iceland into effect.

Acting upon instructions from my Government, I have the honour to submit to you the following on the question of the fisheries jurisdiction of Iceland :

Iceland is a country with hardly any natural resources other than its coastal fishing grounds. Only a small part of the country itself can be cultivated, the rest being covered with barren mountains and glaciers. To-day, 97 % of Iceland's exports consist of fisheries products, which in turn finance the badly-needed imports. The fisheries have indeed from the beginning been the *conditio sine qua non* of the survival of the Icelandic people for without them the country would not be habitable.

Investigations in Iceland have quite clearly established that the country rests on a platform or continental shelf whose outlines follow those of the coasts. The attached map indicating the 100-fathom line shows in a striking manner that this platform is a part of the country whereupon the great depths of the real high seas follow. On this platform invaluable spawning grounds are situated upon whose preservation the survival of the Icelandic nation depends.

The Icelandic people have therefore with great concern followed the ever-increasing destruction of the coastal fishing grounds due to overfishing by trawlers from many nations. The Icelandic experts in this field are convinced that unless effective conservation measures are taken to protect the coastal grounds the nation will be faced with irreparable losses and indeed with ruin.

The Government of Iceland does not share the opinion of the Royal Netherlands Government concerning the rules of international law in this field. It considers that the rules of international law do not prevent it from taking the necessary protective measures within a reasonable distance from its coasts in view of geographical, economic, biological and other basic considerations.

The Government of Iceland does not agree with the proposition advocated by some States that a coastal State can prevent other States from exploiting the resources of the sea bed and subsoil of the continental shelf but that it cannot prevent them from destroying the spawning grounds of the same sea bed. Accordingly, on April 5th, 1948, a law was passed in Iceland authorizing the Government to take the necessary measures for the scientific conservation of the continental shelf fisheries. On the basis of this law the regulations of April 22nd, 1950, were issued wherein a four-mile zone is prescribed off the north coast of Iceland measured in the manner which prevailed in Iceland prior to the conclusion of the Anglo-Danish Agreement of 1901 providing for a three-mile fisheries limit in Iceland. When this agreement was concluded the Icelandic people were not consulted. It has now been terminated by Iceland.

The Government of Iceland considers that it has not only the right but also the responsibility to take the necessary measures in this field. The coastal State, in its opinion, has the primary responsibility in protecting its coastal fishing grounds against their destruction by trawlers who, after having destroyed one fishing ground, proceed to another. Furthermore, experience has shown that international arrangements cannot be relied upon in this matter, although they are the only available remedy as far as the real high seas are concerned, i.e., in the case of Iceland, in the waters beyond the continental shelf.

I have, etc.

(Signed) AGNAR KL. JONSSON.

Map showing the continental shelf surrounding Iceland

[*Not reproduced*]

5. LETTER DATED OCTOBER 24th, 1951, FROM THE AGENT OF THE GOVERNMENT OF THE UNITED KINGDOM TO THE REGISTRAR

Sir,

The Norwegian Agent, in his address to the Court this afternoon, referring to the dispute on a point of pure geography which exists

between the Parties relating to the character of the rocks which form base-points Nos. 21, 27 and 39 of the blue line, informed the Court of the statement from the Norwegian Hydrographical Service which quotes the cartographical minutes in the possession of that service (C.R. 51/29 at pp. 6 and 10 [1]). Mr. Arntzen also stated that this information had been communicated to me before the sitting on the afternoon of the 18th October (there must be a slip here because the telegram from Oslo itself is only dated 19th October) and implied that as I had made no observations upon it, it was to be presumed that the Government of the United Kingdom now accepted the accuracy of the statements by the Norwegian Hydrographical Service. I therefore feel it necessary to inform the Court that the Government of the United Kingdom is not able to accept the accuracy of the minutes of the Hydrographical Service with regard to these three points. The reason is that the minutes of the Hydrographical Service are in conflict with the charts for which this service is responsible, and, as I pointed out in my address to the Court (C.R. 51/25 at pp. 37 and 38 [2]), our contention with regard to the character of these three rocks is based upon these charts. The Norwegian Hydrographical Service has not explained the discrepancy between its minutes and the charts which it has issued, nor has it admitted that the charts are inaccurate in this respect. On the other hand, Mr. Arntzen did not contest my statements that information that I gave to the Court regarding these rocks was based on a correct reading of the charts. Further, as I stated in my address, the information on the charts with regard to point 21 is also confirmed by *Den Norske Los*, Volume 10, or, in other words, the Sailing Directions issued by the Norwegian Government.

I have given a copy of this letter to the Norwegian Agent.

I have, etc.

(Signed) ERIC BECKETT.

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6. LETTER DATED OCTOBER 24th, 1951, FROM THE AGENT OF THE GOVERNMENT OF THE UNITED KINGDOM TO THE REGISTRAR

Sir,

I have observed, after hearing Mr. Arntzen's address relating to the Indreleia this afternoon (C.R. 51/29, p. 17 [3]), that a phrase which I used in my address has possibly led to a misunderstanding. The phrase I used was correctly quoted by Mr. Arntzen and reads as follows :

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[1] See pp. 461 and 463 in this volume.
[2] " " 389 " 390 " " " .
[3] See p. 469 in this volume.

"The areas of water which are affected by this point are small and, so far as we know, of no importance to fishing at all." (See C.R. 51/25 at p. 15 [1].)

When I used the word "fishing" here I meant "of no importance to the United Kingdom for fishing" or, in other words, for fishing by trawlers. I mention this point because it is clear from Mr. Arntzen's later remarks that he read the phrase as if it referred to fishing of any kind.

I should also desire to call attention to what may be another misunderstanding. Mr. Arntzen referred (C.R. 51/29, pp. 18 *et seq.* [2]) to the manner in which, in his view, the green line would have to run supposing that the Indreleia is admitted to be Norwegian internal waters. I have thought it desirable to indicate to the Court that the green line as drawn by the Government of the United Kingdom upon this hypothesis would not follow the course which Mr. Arntzen supposes. The Government of the United Kingdom, when it filed an alternative conclusion to operate in the event of the Court deciding that the Indreleia is Norwegian internal waters, did not file alternative charts showing how the green line would run on this hypothesis. There seems to be no reason to do so at present because (1) the Government of the United Kingdom submits that the Court should only deal with matters of principle at this stage, and (2) the Norwegian Government submits that, on the hypothesis that the Court rejects the blue line, the Court should confine itself to giving "indications" (C.R. 51/29 at p. 7 [3]). Since it appears now that the Norwegian contention is that, if the Court does not uphold the blue line, the Court should confine itself to indications of principle, it is not clear to me why the Norwegian Government, in its pleadings, has no often complained that the charts showing the green lines were only delivered with the Reply. On the Norwegian view, explained this afternoon by Mr. Arntzen, it was unnecessary for the United Kingdom ever to have put in charts showing the green lines at all and superfluous for the Norwegian Government in its pleadings, oral or otherwise, to have spent any time criticizing the green lines in detail. In order to avoid misunderstanding, I desire to make it clear (with reference to pp. 19 *et seq.* [2] of C.R. 51/29) that I explained to the Court (C.R. 51/25, pp. 26-27 [4] and pp. 124-125 [5] of the printed record) that I should not go into questions of geographical detail seeing that I was proceeding on the assumption that the Court would at this stage deal with questions of principle only.

[1] See p. 377 in this volume.
[2] ,, pp. 469 *et seq.* in this volume.
[3] ,, p. 462 in this volume.
[4] ,, pp. 382-383 in this volume.
[5] ,, ,, 144-145 ,, ,, ,, .

I have given a copy of this letter to the Agent of the Norwegian Government.

I have, etc.

(Signed) ERIC BECKETT.

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7. LETTER DATED OCTOBER 26th, 1951, FROM THE AGENT OF THE GOVERNMENT OF THE UNITED KINGDOM TO THE REGISTRAR WITH AN ENCLOSED REPORT FROM COMMANDER R. H. KENNEDY, O.B.E., R.N. (RETIRED), EXPERT ADVISER TO THE AGENT OF THE GOVERNMENT OF THE UNITED KINGDOM

Sir,

With reference to the remarks of the Norwegian Agent at the morning session of 25th October (C.R. 51/30, pp. 11 and 12 [1]), I have the honour to enclose herewith, for the information of the Court, a brief report by Commander Kennedy. In this report Commander Kennedy does no more than attempt to explain the symbols used for different types of rocks in the Norwegian charts and to justify the deductions as to the character of certain rocks, which the Government of the United Kingdom have made from these Norwegian charts, these deductions being in conflict with the minutes of the Norwegian Hydrographical Service which Mr. Arntzen has produced. It will be seen, on reading Commander Kennedy's report, that the essence of the difference lies in the following: Commander Kennedy explains that three different symbols are used for three classes of rocks, viz., rock awash, drying rock and above-water rock, whereas Mr. Arntzen's statement appears to imply that there are only two and that the same symbol is used for a rock awash and for a drying rock.

I think that, in the light of Commander Kennedy's explanation, the members of the Court will be able to test the matter themselves by looking at the charts, though the aid of a magnifying glass is desirable. Further, it is easier to see these symbols on the large scale 1 : 50,000 than on the smaller scale 1 : 200,000.

If the Court should desire it, Commander Kennedy will be at their disposal to explain the matter more fully on the charts and with the aid of diagrams.

I have given a copy of this letter and its enclosure to the Agent of the Norwegian Government.

I have, etc.

(Signed) W. E. BECKETT.

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[1] See pp. 479-480 in this volume.

Appendix

Report by Commander Kennedy

I

This report is confined to an explanation of the manner in which various classes of rocks are shown on the Norwegian charts, and of the deductions to be drawn from these charts regarding the rocks which form bases Nos. 21, 27 and 39 of the blue line and regarding certain other rocks to which reference was made by the Norwegian Agent at the morning session of 25th October.

2. The Norwegian charts (both the large scale charts 1 : 50,000 and the smaller charts 1 : 200,000, which were filed as annexes) distinguish between the following three classes of rocks :

(1) *Rocks awash*, i.e. rocks of which the highest points are at the level of the surface of the sea at low tide.
(2) *Drying rocks* (low-tide elevations), i.e. rocks a portion of which is totally exposed at low water and which are completely covered over at high water.
(3) *Above-water rocks*, i.e. those which are permanently above water at all states of the tide.

The manner in which these three classes of rocks are shown on the charts is as follows :

Rocks awash are distinguished by the symbol ⁜.
Drying rocks by a solid black dot, viz., ●.
Above-water rocks by a firm line enclosing an area, viz., O.

(N.B. If the mainland and large islands are stippled, the above-water rock may also be stippled but its size is often so small that the stippling is barely visible or omitted.)

3. The legend of both sets of charts contains the following information :

⁜ "betegner Boe i Vandflaten" (a translation of which is that ⁜ indicates a rock at water level), and the following sentence appears in the legend :

"alle hydrografiske Angivelser refererer sig til Lavvand" (a translation of which is "all hydrographic information is referred to *low water*").

4. It appears from Annex 81 of the Norwegian Rejoinder, the definition under 6 *(b)*, that the Norwegian name for a rock awash is *skvalpeskjær (boe, båe)* (roche sous-marine dont les algues affleurent à marée basse), which is translated into French as *roche à fleur d'eau* and into English as "rock awash". This definition indicates that a rock shown as a rock awash on Norwegian charts may even be below the level of low water, but is still considered to be a rock awash so long as the seaweed on it floats at low water.

5. Though there is in the legend on the charts nothing to explain the difference of marking between drying rocks and above-water rocks, an examination of the charts shows clearly that these two classes of rocks are distinguished by the symbols indicated above and the distinction is

further made in the manner in which the name of the rock in question is printed. Thus, the name of an above-water rock is given in the same sort of type as is that used for places on the mainland or smaller islands, whereas the drying rocks are shown in a different type. This latter sort of type also is used for the rocks awash and for under-water features. This method of using different kinds of type to distinguish above-water features from those submerged at high tide is a common hydrographic practice and is also used by the United Kingdom.

6. While the symbols for drying rocks and above-water rocks are often difficult to distinguish because of the small size of the "dot", the use of a different type for their respective names avoids confusion. On the other hand there should in general be no difficulty in distinguishing the symbol for a rock awash from that used for a drying rock.

II

7. *Base Point No. 21* (Vesterfallet in Gåsan) is shown on Norwegian chart No. 92 (scale 1 : 50,000) and on Norwegian chart No. 322 (scale 1 : 200,000 which is chart No. 6 of Annex 75. *On both these charts the symbol used is* ⁜ *which indicates a rock awash.*

Storfallet in Gåsan is shown on Norwegian chart No. 92 (scale 1 : 50,000, and on Norwegian chart No. 322 (scale 1 : 200,000) as a solid black dot and is named on both charts in upright type, thus indicating that this rock is a drying rock. Both the names Vesterfallet and Storfallet are in the same sort of type, whereas the name Storegrimsholmen (an above-water islet 7,8 miles away) is in slanting type.

8. I am unaware of the existence *or date* of the "carte spéciale" referred to by Mr. Arntzen in his remarks on Storfallet (see p. 12, third paragraph [1], of C.R. 51/30), nor do I know if this special chart has been filed.

9. *Base Point No. 27* (Tokkebåen) is shown on Norwegian chart No. 85 (scale 1 : 50,000) and on Norwegian chart No. 321 (scale 1 : 200,000) which is chart No. 7 of Annex 75. On both these charts the symbol used is ⁜ *indicating a rock awash.*

10. *Base Point No. 39* (Nordböen) is shown on Norwegian chart No. 72 (scale 1 : 50,000) and on Norwegian chart No. 311 (scale 1 : 200,000) which is chart No. 8 of Annex 75. On Chart No. 72 Nordböen is shown as ⁜ indicating two rocks awash at low water and close together and on Chart No. 311 as ⁜ indicating a rock awash.

11. From the above it will be seen that, according to the Norwegian charts, base-points Nos. 21, 27 and 30 are all rocks awash at low water and therefore should not be used as base points. This information is not in agreement with the minutes of the Norwegian Hydrographic Service quoted by Mr. Arntzen yesterday.

III

12. Mr. Arntzen further stated (1) that base-points 24 (Juboen) and 28 (Glimmen) are indicated on the Norwegian charts by the use of the

[1] See bottom of p. 479 in this volume.

same symbol as those used for base-points 21, 27 and 39 (i.e. by the symbol which I say indicates a rock awash), and (2) that these two points 24 and 28 had been used by the Government of the United Kingdom as base-points in the green-lines (the point of the observation being that, if points 24 and 28 were, as I say, rocks awash, they should not have been used as base-points). My observations on this are as follows:

13. *Point No. 24* (Juboen). Because of an obscurity in the printing on Norwegian charts Nos. 88 and 89 (scale 1 : 50,000) at this particular point, I have always been somewhat doubtful as to which symbol had been used for point No. 24. When drawing the pecked green line this rock was used as a base-point because I thought that the symbol used here was probably intended to be that for a drying rock. That this was my view, is shown by Annex 17 of the Memorial, on page 201 (Vol. I), where Juboen is described as a drying rock, and by the Reply on page 704 (Vol. II), where, giving the description of the pecked green line, the point is also referred to as a drying rock and not as a rock awash. On receipt of the Rejoinder, where on page 187 (Vol. III) it is described as a "sèche", I thought that my reading of the symbol had been confirmed. Now, however, that Mr. Arntzen has stated that it is charted as ⁜ indicating a rock awash, it may be that my previous view of the symbol was mistaken, and if Mr. Arntzen's new reading of the symbol is correct, the base-point for the pecked green line should be moved further inshore to the nearest drying rock within 4 miles of an above-water rock.

14. The reason why the symbol at base-point 24 is so difficult to read is as follows. It is shown on large-scale Norwegian charts Nos. 88 and 89 (scale 1 : 50,000) as + with northward of it a danger line enclosing three or four black dots in heavy type, southward of this + is another danger line enclosing a rock awash (⁜) and again three or four heavy black dots. The Norwegian chart on the next largest scale No. 321 (No. 7 of Annex 75) shows the + and black dots northward of it. The blue circle of base-point 24 on this chart *is centred on one of the black dots and its circumference cuts the* + *and there is no rock awash* ⁜ *charted there.*

In the making of charts the greatest danger is always included. Should the black dots refer to very shallow water and not to drying rocks, the rock awash should have been included on the smaller scale chart to the exclusion of the dots if space did not permit their inclusion.

15. *Point No. 28* (the rock NNE of Glimmen) is shown on Norwegian charts Nos. 81 and 82 (scale 1 : 50,000) and Norwegian 321 (scale 1 : 200,000) chart No. 7 of Annex 75, as ⁜ indicating a rock awash. Mr. Artnzen is, however, mistaken in thinking that this point is used as a base-point in the green line. In Annex 17 of the Memorial is given a brief description of the base-points of the 1935 decree line. On page 202 (Vol. I) against No. 28 appears the following: in the column headed "Name": "Dry skjær north-north-east of Glimmen." *This was merely a literal translation from the Norwegian decree.* It is, however, the column headed "Description" which shows the view I took of the nature of the rocks and this column reads: "Shown on Norwegian charts 81 and 82 as a rock awash, about 2½ miles off Andenes. Nearest above-water rock is Flesan about 1 mile southward, but it is not known if Glimmen, about 1 cable from the skjær, is an above-water or drying rock."

In the Reply on page 707 (Vol. II), in the analysis of the blue line, the reference was made to "Point 28, the dry skjær north-north-east of Glimmen". This again is merely the literal translation of the decree.

16. *This rock north-north-east of Glimmen was not used for the pecked green line as stated by Mr. Arntzen on 25th October but another rock (which I think is shown as a drying or as an above-water rock) situated about 1 cable southward of it (now named on Norwegian charts S. Glimmen) was the one used. That this is what I did can be clearly seen from chart No. 6 of Annex 35 to the Reply and from the description on page 708 (Vol. II) of the Reply.*

17. My conclusion therefore is that, contrary to the statement of Mr. Arntzen, no rock awash or rock indicated on the charts by the symbol ⊕ has been used as a base-point for the pecked green line, the base-points for which were selected from the largest-scale Norwegian charts and then transferred to the British charts.

SECTION B. — DOCUMENTS PRÉSENTÉS PAR L'AGENT DU GOUVERNEMENT DE LA NORVÈGE

SECTION B.—DOCUMENTS SUBMITTED BY THE AGENT OF THE GOVERNMENT OF NORWAY

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1. LETTRE EN DATE DU 14 OCTOBRE 1951 DE L'AGENT DU GOUVERNEMENT DE LA NORVÈGE AU GREFFIER, AVEC DEUX NOTES

Monsieur le Greffier,

Dans sa plaidoirie du 12 octobre, le professeur Bourquin a dit (voir le compte rendu, p. 323) :

> « Nous avons mesuré la superficie contestée dans la zone comprise entre la *pecked green line* et la limite du décret de 1935. Elle est de 6.920 km².
>
> Et, pour permettre d'apprécier l'importance relative de cette zone, nous avons demandé à nos experts d'évaluer la superficie totale des zones de chalutage les plus fréquentées de l'Atlantique Nord et de l'océan Glacial.
>
> Ils sont arrivés au chiffre de 1.127.000 km². Je crois inutile de donner en ce moment le détail de cette évaluation. Il sera, bien entendu, communiqué à la Cour et à la Partie adverse. »

Me référant à ce qui précède, j'ai l'honneur de vous remettre ci-joint la traduction certifiée conforme de deux lettres, datées

respectivement des 30 avril et 19 mai 1951, de M. S. Scheen, de l'Institut hydrographique de Norvège, donnant les informations dont il s'agit.

D'autre part, j'ai fait remettre à l'Agent du Gouvernement du Royaume-Uni, ce jour même, copie de la présente lettre à vous adressée ainsi que des annexes susmentionnées.

Veuillez agréer, etc.

(Signé) SVEN ARNTZEN.

Appendice

Note

[*Traduction du norvégien*]

Oslo, le 30 avril 1951.

Calcul de la zone de chalutage

Conformément à la demande de M. Sven Arntzen, avocat à la Cour suprême, j'ai procédé au calcul de la superficie des eaux situées entre la limite de pêche norvégienne de 1935 et la « pecked green line » britannique de 1950. La zone en question se détaille ainsi par feuille de charte analysée :

Carte maritime n° 325	
Annexe 75, n° 3	190 km²
Carte maritime n° 324	
Annexe 75, n° 4	762 »
Carte maritime n° 323	
Annexe 75, n° 5	480 »
Carte maritime n° 322	
Annexe 75, n° 6	2.301 »
Carte maritime n° 321	
Annexe 75, n° 7	677 »
Carte maritime n° 311	
Annexe 75, n° 8	926 »
Carte maritime n° 310	
Annexe 75, n° 9	1.584 »
Total	6.920 km²
environ	6.900 km²

Veuillez agréer, etc.

(Signé) S. SCHEEN.

Pour traduction conforme :
(Signé) SVEN ARNTZEN.

Note

[*Traduction du norvégien*]

Marineholmen (Bergen), le 19 mai 1951.

Calcul de la superficie des zones de chalutage

Il s'est avéré très difficile de fixer exactement la véritable étendue des zones de chalutage les plus fréquentées, mais en mettant en parallèle l'annexe 87, n° 3, à la Duplique, avec des renseignements fournis par le directeur Rollefsen, Bergen, je suis parvenu aux conclusions suivantes :

la zone de la mer du Nord (avec le Skagerak et le Kattegat)	env.	322.000	km²
les eaux des îles Féroé	»	12.000	»
Islande (faces sud, ouest et nord)	»	111.000	»
Vesteraalen-Senja	»	19.000	»
Secteur de l'île des Ours et de la côte occidentale du Spitzberg	»	81.000	»
la mer de Barentz	»	196.000	»
le Groënland occidental	»	78.000	»
les bancs de Terre-Neuve	»	308.000	»
	env.	1.127.000	km²

Comme j'ai précisé lors de notre entretien dans le bureau de M. Evensen, ces chiffres ne sauraient être qu'approximatifs. Mais si j'ai bien compris, une telle estimation suffit aux besoins de M. le professeur Bourquin.

Veuillez agréer, etc.

(Signé) S. SCHEEN.

Pour traduction conforme :

(Signé) SVEN ARNTZEN.

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2. LETTRE EN DATE DU 19 OCTOBRE 1951 DE L'AGENT DU GOUVERNEMENT DE LA NORVÈGE AU GREFFIER, AVEC LA TRADUCTION D'UN TÉLÉGRAMME

Monsieur le Greffier,

J'ai l'honneur de vous transmettre ci-joint un télégramme en original, daté du 19 octobre 1951 et adressé à la délégation de Norvège, Hôtel Wittebrug, par le Service hydrographique de Norvège, ainsi que la traduction certifiée conforme en français de ce télégramme.

D'autre part, je vous informe que, par même courrier, je remets à M. l'Agent du Gouvernement du Royaume-Uni copie de la présente lettre ainsi que des annexes.

Veuillez agréer, etc.

(Signé) SVEN ARNTZEN.

Appendice

Traduction du télégramme adressé à la délégation de Norvège, Hôtel Wittebrug, La Haye, le 19 octobre 1951

Pour Arntzen Confirme avoir envoyé ce jour lettre suivante affaire des pêcheries les minutes cartographiques dans la possession du Service hydrographique de Norvège montrent 1. que Storfallet i Gåsan est une roche qui ne couvre pas à marée haute (which does not cover at high water) 2. que Vesterfallet i Gåsan point de base n° 21 Tokkebaen point de base n° 27 et Nordböen point de base n° 39 sont tous les trois des roches qui ne sont pas constamment submergées (which are not continuously submerged). — Service hydrographique de Norvège : ROLF KJÆR.

Signature confirmée :
G. LIE, télégraphiste.

Pour traduction conforme :
(Signé) SVEN ARNTZEN.

3. LETTRE EN DATE DU 22 OCTOBRE 1951 DE L'AGENT DU GOUVERNEMENT DE LA NORVÈGE AU GREFFIER, AVEC LA TRADUCTION D'UNE NOTE

Monsieur le Greffier,

Au cours de la séance publique du 18 octobre 1951, le professeur Waldock a fait la déclaration suivante (C.R. 51/26, pp. 44-45 [1]) :

> « We possess in our office a complete set of Swedish charts showing Sweden's neutrality limits drawn in accordance with Professor Bourquin's formula. These charts are of course official charts and are dated 1942. The « legend » on these charts—that is the statement of principles upon which the lines are drawn—states in Swedish that the lines are drawn at a distance of three nautical miles from the outermost points of the Swedish coast. I may say by way of explanation that the three-mile measure was used instead of Sweden's normal four-mile measure because Sweden like Norway decided to apply the smaller measure during the last war. That, of course, is not the point. The significant point is that the neutrality limit on the charts is drawn from end to end of the Swedish coast not upon any straight line system but wholly upon the principle of the tide-mark rule, and the arcs of circles procedure has been used to apply the rule, again from end to end of the Swedish coast. The outermost islands and rocks are simply used as the outermost points of the Swedish coast from which it is permissible to draw arcs of circles. »

[1] Voir p. 417 du présent volume.

Me référant à ce qui précède, j'ai l'honneur de vous transmettre ci-joint la copie et la traduction certifiées conformes d'une note que M. Osten Undén, ministre des Affaires étrangères de Suède, a adressée le 20 octobre 1951 à l'ambassadeur de Norvège à Stockholm.

J'envoie par même courrier, à sir Eric Beckett, copie de la présente lettre avec annexes.

Veuillez agréer, etc.

(Signé) SVEN ARNTZEN.

Appendice

Lettre du ministre des Affaires étrangères de Suède à l'ambassadeur de Norvège à Stockholm

[*Traduction*] Stockholm, le 20 octobre 1951.

Monsieur l'Ambassadeur,

En réponse aux questions que vous avez posées, j'ai l'honneur de vous faire connaître ce qui suit :

Au début de la deuxième guerre mondiale, la Suède maintenait, en conformité avec les dispositions en vigueur, une limite de neutralité tirée à la distance de 4 milles marins à partir de lignes de base tracées le long de la côte. Comme il s'avéra impossible, au cours de l'automne 1939, de faire respecter cette limite par les belligérants, les autorités suédoises prirent la décision de défendre, dans la pratique, la neutralité en deçà d'une limite de 3 milles marins seulement. Ladite limite de 3 milles ne fut pas tirée à partir de lignes de base, mais suivait les sinuosités de la côte. On considérait que ce mode de calcul, motivé par le désir d'éviter des discussions avec les belligérants au sujet de la détermination des lignes de base, n'éveillait pas de doute quant aux principes, vu que la limite de 3 milles, dans tous les cas, ne constituait pas la limite des eaux territoriales suédoises. Le tracé de la limite de 3 milles, par conséquent, ne porte pas le moindre préjudice aux principes régissant le calcul de cette limite prénommée qui, dans une série de décisions parmi lesquelles la dernière en date, le décret royal du 9 février 1945 portant certaines prescriptions pour la navigation dans les eaux territoriales suédoises, est fixée à la distance de 4 milles marins à partir de lignes de base tirées en travers de l'entrée des anses et baies, et entre les îles situées sur la côte.

La carte qui, en 1942, fut dressée pour la gouverne des navigateurs et conformément à la décision de maintenir la neutralité seulement en deçà d'une limite de trois milles, ne constitue donc pas de témoignage concernant la question des principes servant à la détermination de la limite des eaux territoriales suédoises.

Veuillez agréer, etc.

(Signé) OSTEN UNDÉN.
