

CORRESPONDENCE

(UNITED KINGDOM *v.* ICELAND;
FEDERAL REPUBLIC OF GERMANY *v.* ICELAND)

1. THE CHARGÉ D'AFFAIRES OF THE BRITISH EMBASSY IN THE NETHERLANDS
TO THE REGISTRAR

14 April 1972.

I am directed by Her Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs to notify you, in accordance with Article 35 (2) of the Court's Rules, of the appointment of Mr. Henry Steel, OBE, one of the Legal Counsellors in the Foreign and Commonwealth Office, as Agent for the purpose of the proceedings which are now being instituted before the Court by the Government of the United Kingdom of Great Britain and Northern Ireland against the Government of Iceland by means of a written Application¹ under Article 40 (1) of the Statute and Article 32 (2) of the Rules of Court² in respect of a dispute that has arisen concerning the proposed extension by the Government of Iceland of its fisheries jurisdiction around Iceland.

I certify that the signature on the application is the signature of Mr. Steel.

In accordance with Article 35 (5) of the Rules of Court, I have the honour to state that the address for service of the Agent of Her Majesty's Government is this Embassy.

(Signed) R. S. FABER.

2. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

(telegram)

14 April 1972.

Have honour inform you that on 14 April Application was filed in Registry of Court on behalf of United Kingdom of Great Britain and Northern Ireland instituting proceedings against Iceland concerning dispute relating to legality of decision said to be announced by Government of Iceland unilaterally to extend exclusive fisheries jurisdiction of Iceland. Application requests Court to declare:

[See I, p. 10]

Have honour to draw your attention to Article 35, paragraph 3, of Rules of Court which provides that party against whom application is made and to whom it is notified shall, when acknowledging receipt of notification, or as soon as possible, inform Court of name of its agent. Paragraph 5 of same Article provides that appointment of agent must be accompanied by statement of address for service at seat of Court. Copies of Application airmailed today.

(Signed) AQUARONE.

¹ I, pp. 1-10.

² Rules of Court adopted on 6 May 1946, *I.C.J. Acts and Documents*, No. 1, 2nd edition, pp. 54-83.

3. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

14 April 1972.

I have the honour to enclose herewith a confirmatory copy of a cable which I have today addressed to Your Excellency, together with two copies, of which one is a certified true copy, of the Application, filed today in the Registry of the Court, by which the Government of the United Kingdom of Great Britain and Northern Ireland institutes proceedings against Iceland.

I also enclose herewith a copy of a letter of today's date from the Chargé d'Affaires at The Hague of the United Kingdom, which accompanied the filing of the Application.

I shall in due course transmit to Your Excellency printed copies of the Application in the English and French edition which will be prepared by the Registry.

The question of the fixing of time-limits for the filing of pleadings in the case will form the subject of a later communication. In this connection I would venture to draw Your Excellency's attention to Article 37, paragraph 1, of the Rules of Court.

**4. THE REGISTRAR TO THE CHARGÉ D'AFFAIRES OF THE
BRITISH EMBASSY IN THE NETHERLANDS**

14 April 1972.

I have the honour to acknowledge the receipt of the letter of 14 April 1972 whereby you transmitted to the International Court of Justice an Application on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland instituting proceedings against the Government of Iceland and informed me of the appointment of Mr. Henry Steel, OBE as the Agent for the Government of the United Kingdom for the purpose of these proceedings. It has been duly noted that the address for service of Mr. Steel is the British Embassy in The Hague.

**5. THE REGISTRAR TO THE AGENT FOR THE GOVERNMENT
OF THE UNITED KINGDOM**

14 April 1972.

I have the honour to refer to the letter of 14 April 1972 by which Her Britannic Majesty's Chargé d'Affaires in The Hague informed me of your appointment as Agent of the Government of the United Kingdom of Great Britain and Northern Ireland in proceedings instituted before the International Court of Justice against the Government of Iceland by means of a written Application under Article 40, paragraph 1, of the Statute of the Court, and to inform you that an Application in these proceedings was filed in the Registry today, 14 April 1972.

I have the further honour to inform you that a certified copy of the Application has been transmitted to the Respondent.

The question of the fixing of time-limits for the filing of the pleadings in this case will form the subject of a later communication. In this connection I venture to draw your attention to Article 37, paragraph 1, of the rules of Court.

6. THE REGISTRAR TO THE SECRETARY-GENERAL OF THE UNITED NATIONS

5 May 1972.

I have the honour to refer to my cable of 14 April 1972, a copy of which is enclosed herewith, and to inform you that I am forwarding to you under separate cover (by airmailed parcel post, marked "Attention, Director, General Legal Division") 150 copies of the Application filed on 14 April 1972 on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland instituting proceedings against the Government of Iceland in a dispute relating to the fisheries jurisdiction of Iceland.

I should be grateful if, in accordance with Article 40, paragraph 3, of the Statute of the Court, you would be good enough to inform the Members of the United Nations of the filing of this Application.

7. LE GREFFIER AU MINISTRE DES AFFAIRES ÉTRANGÈRES D'AFGHANISTAN¹

5 mai 1972.

Le 14 avril 1972 a été déposée au Greffe de la Cour internationale de Justice, au nom du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord, une requête par laquelle le Gouvernement britannique introduit contre l'Islande une instance en l'affaire intitulée *Compétence en matière de pêcheries*.

J'ai l'honneur, à toutes fins utiles, de transmettre ci-joint à Votre Excellence un exemplaire de cette requête.

8. LE GREFFIER AU CHEF DU GOUVERNEMENT DU LIECHTENSTEIN²

5 mai 1972.

Le 14 avril 1972 a été déposée au Greffe de la Cour internationale de Justice, au nom du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord, une requête par laquelle le Gouvernement britannique introduit contre l'Islande une instance en l'affaire intitulée *Compétence en matière de pêcheries*.

Me référant à l'article 40, paragraphe 5, du Statut, j'ai l'honneur, à toutes fins utiles, de transmettre ci-joint à Votre Excellence un exemplaire de cette requête.

9. THE REGISTRAR TO THE AGENT FOR THE GOVERNMENT
OF THE UNITED KINGDOM³

9 May 1972.

I have the honour to transmit herewith for your information three copies of the bilingual edition, printed by the Registry, of the Application of the United Kingdom of Great Britain and Northern Ireland in the case relating to the fisheries jurisdiction of Iceland.

¹ La même communication a été adressée aux autres Etats Membres des Nations Unies.

² La même communication a été adressée aux autres Etats non membres des Nations Unies admis à ester devant la Cour.

³ A communication in the same terms was sent to the Minister for Foreign Affairs of Iceland.

With reference to the last paragraph of my letter of 14 April 1972, I have the further honour to inform you that the President will shortly wish to indicate the date of the meeting for which, in accordance with Article 37, paragraph 1, of the Rules of Court, he will summon the Agents to The Hague in order to ascertain the views of the Parties with regard to questions of procedure.

10. THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND TO THE REGISTRAR

(telegram)

15 May 1972.

Your letter dated 14 April is still under consideration by the Government of Iceland and negotiations with the United Kingdom are in progress but my letter to you will be despatched as soon as possible.

(Signed) Einar AGUSTSSON.

**11. THE STATE SECRETARY OF THE FOREIGN OFFICE OF THE FEDERAL
REPUBLIC OF GERMANY TO THE REGISTRAR**

26 May 1972.

I have the honour to transmit to you, for communication to the President and the Judges of the International Court of Justice, the Application¹ instituting proceedings on behalf of the Federal Republic of Germany against the Republic of Iceland relating to the extension of fisheries jurisdiction by the Republic of Iceland.

I have the further honour to inform you that Professor Dr. Günther Jaenicke has been appointed Agent of the Federal Republic of Germany for the purposes of these proceedings, and to certify that the signature under the Application referred to above is the signature of Professor Dr. Günther Jaenicke, Agent of the Federal Republic of Germany. The Embassy of the Federal Republic of Germany at The Hague, Nieuwe Park Laan 17, has been selected as the address for service at the seat of the Court to which all communications relating to the proceedings should be sent.

For the Federal Minister for Foreign Affairs,
(Signed) FRANK.

12. THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND TO THE REGISTRAR

29 May 1972.

I have the honour to refer to your letter of 14 April 1972, informing me of an "Application filed today in the Registry of the Court, by which the Government of the United Kingdom of Great Britain and Northern Ireland institutes proceedings against Iceland".

The United Kingdom Government relies "on the jurisdiction vested in the

¹ See pp. 1-11, *supra*.

Court by Article 36 (1) of the Statute of the Court and by an Exchange of Notes between the Government of the United Kingdom and the Government of Iceland dated 11 March 1961”.

In that connection I have the honour to request you to bring to the attention of the Court the contents of the Icelandic Government's aides-mémoire of 31 August 1971 and 24 February 1972, as well as the Law concerning the Scientific Conservation of the Continental Shelf Fisheries of 5 April 1948 and the Resolutions adopted unanimously by the Althing, the Parliament of Iceland, on 5 May 1959 and 15 February 1972 (annexes I, II, III, IV and V). Those documents deal with the background and termination of the agreement recorded in the Exchange of Notes of 11 March 1961, and with the changed circumstances resulting from the ever-increasing exploitation of the fishery resources in the seas surrounding Iceland. The danger which this entails for the Icelandic people necessitates further control by the Government of Iceland, the only coastal State concerned.

The 1961 Exchange of Notes took place under extremely difficult circumstances, when the British Royal Navy had been using force to oppose the 12-mile fishery limit established by the Icelandic Government in 1958. It constituted the settlement of that dispute, but the agreement it recorded was not of a permanent nature. The United Kingdom Government acknowledged the exceptional dependence of the Icelandic people upon coastal fisheries for their livelihood and economic development and recognized the 12-mile fishery zone, subject to an adjustment period of three years. (Incidentally, the United Kingdom Government has since adopted a 12-mile fishery zone in British waters.) The Icelandic Government for its part stated that it would continue to work for the implementation of the Althing Resolution of 5 May 1959 regarding the extension of fisheries jurisdiction around Iceland, but would give to the United Kingdom Government six months' notice of such extension, with a possibility of recourse to the International Court of Justice in the event of a dispute in relation to such extension. Thus the United Kingdom Government was given opportunity of recourse to the Court, should the Icelandic Government without warning further extend the limits immediately or in the near future.

The agreement by which that dispute was settled, and consequently the possibility of such recourse to the Court (to which the Government of Iceland was consistently opposed as far as concerns disputes over the extent of its exclusive fisheries jurisdiction, as indeed the United Kingdom recognizes), was not of a permanent nature. In particular, an undertaking for judicial settlement cannot be considered to be of a permanent nature. There is nothing in that situation, or in any general rule of contemporary international law, to justify any other view.

In the aide-mémoire of 31 August 1971 the Government of Iceland *inter alia* gave to the United Kingdom Government twelve months' notice of its intention to extend the zone of exclusive fisheries jurisdiction around its coasts to include the areas of sea covering the continental shelf, the precise boundaries of which would be furnished later. It also expressed its willingness to explore possibilities for finding a practical solution to the problems with which the British trawler industry found itself faced and such discussions are still in progress between representatives of the two Governments in view of the fact that the extension has not yet come into effect. It was specifically stated that the new limits would enter into force not later than 1 September 1972. At the same time it was intimated that the object and purpose of the 1961 agreement had been fully achieved. The position of the Icelandic Government was

reiterated in the aide-mémoire of 24 February 1972, which again indicated that the 1961 Exchange of Notes was no longer applicable and was terminated. Copies of that aide-mémoire were transmitted to the Secretary-General of the United Nations and the Registrar of the International Court of Justice.

After the termination of the agreement recorded in the Exchange of Notes of 1961, there was on 14 April 1972 no basis under the Statute for the Court to exercise jurisdiction in the case to which the United Kingdom refers.

The Government of Iceland, considering that the vital interests of the people of Iceland are involved, respectfully informs the Court that it is not willing to confer jurisdiction on the Court in any case involving the extent of the fishery limits of Iceland, and specifically in the case sought to be instituted by the Government of the United Kingdom of Great Britain and Northern Ireland on 14 April 1972.

Having regard to the foregoing, an Agent will not be appointed to represent the Government of Iceland.

Annex I

GOVERNMENT OF ICELAND'S AIDE-MÉMOIRE
OF 31 AUGUST 1971

[See Annex C to the United Kingdom Application, I, p. 14]

Annex II

GOVERNMENT OF ICELAND'S AIDE-MÉMOIRE
OF 24 FEBRUARY 1972

(including Memorandum entitled *Fisheries Jurisdiction in Iceland*)

[See Annex H to the United Kingdom Application, I, pp. 26-66]

Annex III

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

[See Annex H to the United Kingdom Application, I, pp. 45-47]

Annex IV

RESOLUTION OF THE ALTHING, 5 MAY 1959

The Althing resolves to protest emphatically against the violations of Icelandic fisheries jurisdiction instigated by British authorities with constant acts of violence of British naval vessels inside the Icelandic fishery limits, recently even within the 4 mile fishery limits of 1952. Since such activities are evidently aimed at forcing the Icelandic people to retreat the Althing declares

that it considers *that* Iceland has an indisputable right to fishery limits of 12 miles, *that* recognition should be obtained of Iceland's right to the entire continental shelf area in conformity with the policy adopted by the Law of 1948, concerning the Scientific Conservation of the Continental Shelf Fisheries and *that* fishery limits of less than 12 miles from base-lines around the country are out of the question.

Annex V

RESOLUTION ADOPTED BY THE ALTHING
ON 15 FEBRUARY 1972

[See Annex G to the United Kingdom Application, I, p. 25]

13. THE REGISTRAR TO THE AGENT FOR THE GOVERNMENT
OF THE UNITED KINGDOM

31 May 1972.

I have the honour to send you herewith a copy of a letter received in the Registry today from the Minister for Foreign Affairs of Iceland, referring to the Application filed by the United Kingdom Government on 14 April 1972. Enclosed with that letter were five Annexes, copies of which I am also sending herewith, and a copy of the Memorandum entitled *Fisheries Jurisdiction in Iceland* issued by the Ministry for Foreign Affairs of Iceland in February 1972; I am not sending you a further copy of this Memorandum, since it was reproduced *in extenso* as Enclosure 2 to Annex H to the United Kingdom Application.

14. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

(telegram)

5 June 1972.

Have honour inform you that on 5 June Application was filed in Registry Court on behalf of Federal Republic of Germany instituting proceedings against Iceland concerning dispute as to compatibility or otherwise with international law of unilateral extension of exclusive fisheries jurisdiction of Iceland said to have been decided by Government of Iceland. Application requests Court to declare:

[See p. 11, *supra*]

Have honour to draw your attention to Article 35, paragraph 3, of Rules of Court¹ which provides that party against whom Application is made and to whom it is notified shall, when acknowledging receipt of notification, or as soon as possible, inform Court of name of its agent. Paragraph 5 of same Article provides that appointment of agent must be accompanied by statement of address for service at seat of Court. Copy of Application airmailed today.

¹ Rules of Court adopted on 6 May 1946, *I.C.J. Acts and Documents, No. 1*, 2nd edition, pp. 54-83.

15. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

5 June 1972.

I have the honour to enclose a confirmatory copy of a telegram which I have today addressed to Your Excellency, together with a signed copy, certified as a true copy, of the Application filed today in the Registry of the Court, by which the Government of the Federal Republic of Germany institutes proceedings against Iceland.

I also enclose a copy of a letter dated 26 May 1972 from the State Secretary of the Foreign Office of the Federal Republic of Germany, which accompanied the filing of the Application.

I shall in due course transmit to Your Excellency printed copies of the Application in the English and French edition which will be prepared by the Registry.

The question of the fixing of time-limits for the filing of pleadings in the case will form the subject of a later communication. In this connection I would venture to draw Your Excellency's attention to Article 37, paragraph 1, of the Rules of Court.

**16. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS
OF THE FEDERAL REPUBLIC OF GERMANY**

5 June 1972.

I have the honour to acknowledge the receipt of Your Excellency's letter of 26 May 1972, handed to me today by the Ambassador of the Federal Republic of Germany in the Netherlands, whereby you transmitted to the International Court of Justice an Application on behalf of the Federal Republic of Germany against the Republic of Iceland, and informed me of the appointment of Professor Dr. Günther Jaenicke as Agent of the Federal Republic for the purposes of these proceedings. It has been duly noted that the address for service of Professor Jaenicke is the Embassy of the Federal Republic of Germany at The Hague.

**17. THE REGISTRAR TO THE AGENT FOR THE GOVERNMENT
OF THE FEDERAL REPUBLIC OF GERMANY**

5 June 1972.

I have the honour to refer to a letter of 26 May 1972 by which the Federal Minister for Foreign Affairs of the Federal Republic of Germany informed me of your appointment as Agent of the Federal Republic in proceedings instituted before the International Court of Justice against the Government of Iceland by means of a written Application under Article 40, paragraph 1, of the Statute of the Court, and to inform you that these proceedings were filed in the Registry today, 5 June 1972.

I have the further honour to inform you that a certified copy of the Application has been transmitted to the Respondent.

The question of the fixing of time-limits for the filing of the pleadings in this case will form the subject of a later communication. In this connection, I venture to draw your attention to Article 37, paragraph 1, of the Rules of Court.

18. THE AGENT FOR THE GOVERNMENT OF THE UNITED KINGDOM
TO THE REGISTRAR

7 June 1972.

1. I have the honour to acknowledge receipt of your letter of 31 May 1972 which enclosed a copy of a letter, dated 29 May 1972, from the Minister for Foreign Affairs of Iceland referring to the Application filed by the Government of the United Kingdom in the above case.

2. The Government of the United Kingdom have taken note of what is said in the letter from the Minister for Foreign Affairs of Iceland. They are unable to accept the validity of the arguments contained in that letter relating to the Exchange of Notes of 1961 and to the legal effect of the various Aides-Memoire and other documents cited by the Government of Iceland.

3. The Government of the United Kingdom regret that the Government of Iceland have not so far felt able to support any objections that they might have to the Court's jurisdiction by addressing full argument to the Court in the manner prescribed by Rule 62 of the Rules, thereafter accepting the Court's decision on this question of law as is provided for by Article 36 (6) of the Statute, and that they have indicated their intention of not appointing an Agent to represent them in this case. The Government of the United Kingdom remain hopeful that the Government of Iceland may now or at a later stage reconsider that decision and agree to take the necessary steps to give effect to their obligations as a Party to the Statute. In the meantime, the Government of the United Kingdom for their part maintain their rights under the Statute and, in accordance with Article 53 of the Statute, request the Court to continue with the consideration of this case and in due course to decide in favour of their claim therein.

(Signed) H. STEEL.

19. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

9 June 1972.

I have the honour to refer to Your Excellency's letter of 29 May relating to the Application filed by the United Kingdom on 14 April, instituting proceedings against Iceland, and to send you herewith a copy of a letter dated 7 June from the Agent of the United Kingdom, received in the Registry today.

20. THE REGISTRAR TO THE SECRETARY-GENERAL OF THE UNITED NATIONS

22 June 1972.

I have the honour to refer to my cable of 5 June 1972, a copy of which is enclosed herewith, and to inform you that I am forwarding to you under separate cover (by airmail parcel post, marked "Attention, Director, General Legal Division") 150 copies of the Application filed on 5 June 1972 on behalf of the Government of the Federal Republic of Germany instituting proceedings against Iceland in a dispute relating to the fisheries jurisdiction of Iceland.

I should be grateful if, in accordance with Article 40, paragraph 3, of the Statute of the Court, you would be good enough to inform the Members of the United Nations of the filing of this Application.

21. LE GREFFIER AU MINISTRE DES AFFAIRES ÉTRANGÈRES D'AFGHANISTAN¹

22 juin 1972.

Le 5 juin 1972 a été déposée au Greffe de la Cour internationale de Justice, au nom de la République fédérale d'Allemagne, une requête introduisant une instance contre l'Islande.

J'ai l'honneur, à toutes fins utiles, de transmettre ci-joint à Votre Excellence un exemplaire de cette requête.

22. LE GREFFIER AU MINISTRE DES AFFAIRES ÉTRANGÈRES D'AFGHANISTAN¹

. 22 juin 1972.

Le 5 juin 1972 a été déposée au Greffe de la Cour internationale de Justice, au nom de la République fédérale d'Allemagne, une requête introduisant une instance contre l'Islande.

Me référant à l'article 40, paragraphe 3, du Statut de la Cour, j'ai l'honneur de transmettre ci-joint à Votre Excellence un exemplaire de cette requête.

23. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND*(telegram)*

26 June 1972.

On instructions of President of Court have honour inform Your Excellency that in case concerning *Fisheries Jurisdiction (UK v. Iceland)* he will hold meeting at Peace Palace Hague on Thursday 29 June at 14.30 hrs to ascertain views of Parties with regard to questions of procedure in accordance with Article 37 of Rules of Court. Agent for UK will attend. Whilst noting that an agent will not be appointed to represent Government of Iceland in the case am instructed inform you that should Your Excellency's Government wish to be represented at the foregoing meeting person designated would be welcome to attend².

24. THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND TO THE REGISTRAR

27 June 1972.

I have the honour to refer to your letter of 5 June 1972, informing me of an "Application filed today in the Registry of the Court, by which the Government of the Federal Republic of Germany institutes proceedings against Iceland".

The Government of the Federal Republic relies "on the jurisdiction vested in the Court by Article 36 (1) of the Statute, by an Exchange of Notes between the Government of the Federal Republic of Germany and the Government of Iceland dated 19 July 1961 (which provides for reference to the Court of any dispute in relation to the extension of fisheries jurisdiction round Iceland) and by the declaration made by the Federal Republic of Germany in connection with the Exchange of Notes mentioned above on 29 October 1971, and

¹ La même communication a été adressée aux autres Etats Membres des Nations Unies.

² On 29 June 1972 the President met the Agent of the Government of the United Kingdom.

transmitted to the Registrar of the International Court of Justice on 22 November 1971”.

In that connection I have the honour to request you to bring to the attention of the Court the contents of the Icelandic Government's aides-mémoire of 31 August 1971 and 24 February 1972, as well as the Law concerning the Scientific Conservation of the Continental Shelf Fisheries of 5 April 1948 and the Resolutions adopted unanimously by the Althing, the Parliament of Iceland, on 5 May 1959 and 15 February 1972 (Annexes I, II, III, IV and V). Those documents deal with the background and termination of the agreement recorded in the Exchange of Notes of 19 July 1961, and with the changed circumstances resulting from the ever-increasing exploitation of the fishery resources in the seas surrounding Iceland. The danger which this entails for the Icelandic people necessitates further control by the Government of Iceland, the only coastal State concerned.

The 1961 Exchange of Notes took place under extremely difficult circumstances. It constituted the settlement of that dispute, but the agreement it recorded was not of a permanent nature. The Government of the Federal Republic acknowledged the exceptional dependence of the Icelandic people upon coastal fisheries for their livelihood and economic development and recognized the 12-mile fishery zone, subject to an adjustment period of three years. The Icelandic Government for its part stated that it would continue to work for the implementation of the Althing Resolution of 5 May 1959 regarding the extension of fisheries jurisdiction around Iceland, but would give to the Government of the Federal Republic six months' notice of such extension, with a possibility of recourse to the International Court of Justice in the event of a dispute in relation to such extension. Thus the Government of the Federal Republic was given opportunity of recourse to the Court, should the Icelandic Government without warning further extend the limits immediately or in the near future.

The agreement by which that dispute was settled, and consequently the possibility of such recourse to the Court (to which the Government of Iceland was consistently opposed as far as concerns disputes over the extent of its exclusive fisheries jurisdiction), was not of a permanent nature. In particular, an undertaking for judicial settlement cannot be considered to be of a permanent nature. There is nothing in that situation, or in any general rule of contemporary international law, to justify any other view.

In the aide-mémoire of 31 August 1971 the Government of Iceland *inter alia* gave to the Government of the Federal Republic twelve months' notice of its intention to extend the zone of exclusive fisheries jurisdiction around its coasts to include the areas of sea covering the continental shelf, the precise boundaries of which would be furnished later. It also expressed its willingness to explore possibilities for finding a practical solution to the problems with which the German trawler industry found itself faced and such discussions are still in progress between representatives of the two Governments in view of the fact that the extension has not yet come into effect. It was specifically stated that the new limits would enter into force not later than 1 September 1972. At the same time it was intimated that the object and purpose of the 1961 agreement had been fully achieved. The position of the Icelandic Government was reiterated in the aide-mémoire of 24 February 1972, which again indicated that the 1961 Exchange of Notes was no longer applicable and was terminated. Copies of that aide-mémoire were transmitted to the Secretary-General of the United Nations and the Registrar of the International Court of Justice.

After the termination of the agreement recorded in the Exchange of Notes of 1961, there was on 5 June 1972 no basis under the Statute of the Court to exercise jurisdiction in the case to which the Government of the Federal Republic refers.

The Government of Iceland, considering that the vital interests of the people of Iceland are involved, respectfully informs the Court that it is not willing to confer jurisdiction on the Court in any case involving the extent of the fishery limits of Iceland, and specifically in the case sought to be instituted by the Government of the Federal Republic of Germany on 5 June 1972.

Having regard to the foregoing, an Agent will not be appointed to represent the Government of Iceland.

(Signed) Einar ÁGÚSTSSON.

Annex I

GOVERNMENT OF ICELAND'S AIDE-MÉMOIRE OF 31 AUGUST 1971

[See Annex D to the Application, p. 15, supra]

Annex II

GOVERNMENT OF ICELAND'S AIDE-MÉMOIRE OF 24 FEBRUARY 1972

(including Memorandum entitled *Fisheries Jurisdiction in Iceland*)

[See Annex H to the Application, pp. 17-18, supra, and
Annex H to the United Kingdom Application, I, pp. 27-66]

Annex III

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

[See Annex H to the United Kingdom Application, I, pp. 45-47]

Annex IV

RESOLUTION OF THE ALTHING, 5 MAY 1959

[See Annex IV to the letter of the Foreign Minister of Iceland to the Registrar
dated 29 May 1972, pp. 376-377, supra]

Annex V

RESOLUTION ADOPTED BY THE ALTHING ON 15 FEBRUARY 1972

[See Annex G to the United Kingdom Application, I, p. 25]

25. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

(telegram)

30 June 1972.

On instructions of President of Court have honour inform Your Excellency that in case concerning *Fisheries Jurisdiction (Germany v. Iceland)* he will hold meeting at Peace Palace, Hague, on Tuesday 4 July 14.30 hrs to ascertain views of Parties with regard to questions of procedure in accordance with Article 37 of Rules of Court. Agent for Germany will attend. Whilst noting that an agent has not yet been appointed to represent Government of Iceland in the case am instructed inform you that should Your Excellency's Government wish to be represented at the foregoing meeting person designated would be welcome to attend¹.

26. THE REGISTRAR TO THE AGENT FOR THE GOVERNMENT
OF THE FEDERAL REPUBLIC OF GERMANY

4 July 1972.

I have the honour to transmit herewith a copy of a letter which I have today received from the Minister for Foreign Affairs of Iceland with reference to the Application filed on 5 June 1972 on behalf of the Federal Republic of Germany.

There were attached to the Minister's letter the following documents: Annex I—Government of Iceland's Aide Mémoire of 31 August 1971; Annex II—Government of Iceland's Aide Mémoire of 24 February 1972; Annex III—Law Concerning the Scientific Conservation of the Continental Shelf Fisheries dated April 5, 1948; Annex IV—Resolution of the Althing, May 5, 1959; Annex V—Resolution adopted by the Althing on 15 February, 1972 and a copy of a Memorandum entitled *Fisheries Jurisdiction in Iceland* issued by the Ministry for Foreign Affairs of Iceland in February 1972.

The documents listed above as Annexes I, II and V and the Memorandum referred to above correspond to documents attached to the Application of the Federal Republic of Germany as Annex D, Annex H, Annex G and Enclosure 2 to Annex H respectively.

I am enclosing herewith copies of Annexes III and IV.

27. THE AGENT FOR THE GOVERNMENT OF THE FEDERAL REPUBLIC
OF GERMANY TO THE REGISTRAR

14 July 1972.

I have the honour to acknowledge receipt of your letter of 4 July 1972 by which you were good enough to transmit a copy of a letter, dated 27 June 1972, from the Minister for Foreign Affairs of Iceland referring to the Application filed by the Government of the Federal Republic of Germany on 5 June 1972 in the *Fisheries* case between the Federal Republic of Germany and the Republic of Iceland.

The Government of the Federal Republic of Germany has taken note of

¹ On 4 July 1972 the President met the Agent for the Government of the Federal Republic of Germany.

the contents of this letter from the Foreign Minister of Iceland, and in particular of the unwillingness of the Government of Iceland to recognize the jurisdiction of the International Court of Justice in this case.

The Government of the Federal Republic of Germany is unable to accept the validity of the arguments advanced by the Government of Iceland in support of its contention that the agreement between the Governments of the Federal Republic of Germany and the Republic of Iceland contained in the Exchange of Notes of 19 July 1961 by which both Governments accepted the jurisdiction of the International Court with respect to any dispute relating to an extension by Iceland of its fisheries jurisdiction, should be considered as being "no longer applicable" and "terminated".

The arguments contained in the letter of 27 June 1972 from the Minister for Foreign Affairs of Iceland are the same as had been put forward in the aide-mémoires of the Government of Iceland of 31 August 1971 and 24 February 1972 which had already been rejected by the Government of the Federal Republic of Germany. According to Article 36, paragraph (6), of the Statute of the Court, it is for the Court to decide on its jurisdiction, and the Government of the Federal Republic of Germany will submit further arguments in its pleadings in support of its contention that the validity of the agreement contained in the Exchange of Notes of 19 July 1961, has remained unaffected and that, consequently, the Court has jurisdiction in this case. At this stage of the proceedings it may suffice to point to the fact that the agreement contained in the Exchange of Notes of 19 July 1961 by which the Governments of the Federal Republic of Germany and of the Republic of Iceland accepted the jurisdiction of the Court, was specifically designed to provide for the judicial settlement of any dispute which might arise between them in case the Republic of Iceland would, as already envisaged in the agreement, extend its fisheries jurisdiction beyond the 12 miles limit. The present dispute is precisely of such a nature as the parties had envisaged in paragraph 5 of that agreement.

The Government of the Federal Republic of Germany regrets that the Government of Iceland has so far not felt able to follow the procedure prescribed by Article 62 of the Rules of the Court for raising any objections it might have to the jurisdiction of the Court, and has indicated its intention of not appointing an agent to represent the Republic of Iceland before the Court. The Government of the Federal Republic of Germany remains hopeful that the Government of Iceland will reconsider that decision at a later stage of the proceedings.

In the meantime, the Government of the Federal Republic of Germany for its part avails itself of the right under Article 53 of the Statute of the Court to request the Court to continue with the consideration of this case and in due course to decide in favour of its claim.

(Signed) Günther JAENICKE.

28. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

19 July 1972.

I have the honour to refer to Your Excellency's letter of 27 June 1972 relating to the Application filed by the Government of the Federal Republic of Germany on 5 June 1972, instituting proceedings against Iceland, and to send you herewith a copy of a letter dated 14 July 1972 from the Agent of the Federal Republic of Germany, received in the Registry today.

29. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

(telegram)

19 July 1972.

Reference *Fisheries Jurisdiction* case brought by United Kingdom have honour inform you United Kingdom filed this day request for indication interim measures of protection in accordance with Articles 41, Statute, and 61, Rules. Measures requested read as follows:

[See I, pp. 77-78]

Copy request airtailed to you today express. In accordance with Rules Article 61, paragraph 8, Court ready to receive observations of Iceland on the request in writing and will hold hearings opening on 1 August at 10 a.m.¹ in Peace Palace The Hague to give Parties opportunity of presenting their observations on the request. Would appreciate being informed soonest whether your Government intends avail itself provisions Article 31, paragraph 2, of Statute of Court.

30. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

19 July 1972.

Express Airmail

I refer to the proceedings instituted by the United Kingdom of Great Britain and Northern Ireland against Iceland on 14 April last (*Fisheries Jurisdiction* case), and to my cable of today's date, of which a confirmatory copy is enclosed, and have the honour to transmit to Your Excellency herewith a certified true copy of a request by the United Kingdom for the indication of interim measures of protection in that case, which was filed in the Registry today.

Article 61, paragraph 8, of the Rules of Court, provides that

“The Court shall only indicate interim measures of protection after giving the parties an opportunity of presenting their observations on the subject . . .”

I confirm that, as stated in my cable, the Court is ready to receive the written observations of the Government of Iceland on the subject, and will hold public hearings at the Peace Palace, The Hague, opening on Tuesday, 1 August 1972 at 10 a.m., to give both Parties the opportunity of presenting their observations orally.

I venture to draw Your Excellency's attention to Article 31, paragraph 2, of the Statute of the Court, the first sentence of which reads as follows:

“If the Court includes upon the Bench a judge of the nationality of one of the parties, any other party may choose a person to act as judge.”

Should the Government of Iceland consider that it possesses, and intend to exercise, the right to choose a judge under this Article, Your Excellency will appreciate that it should so notify the Court in accordance with Article 3

¹ I, pp. 91-118.

of the Rules of Court, in sufficient time for the person chosen to be able to take his place on the bench for the consideration of the United Kingdom's request.

31. THE REGISTRAR TO THE AGENT FOR THE GOVERNMENT
OF THE UNITED KINGDOM

19 July 1972.

I have the honour to acknowledge receipt of a request by the United Kingdom of Great Britain and Northern Ireland for the indication of interim measures of protection in the *Fisheries Jurisdiction* case, filed in the Registry today. The Government of Iceland is being informed by telegram of the filing of this request, and a certified true copy thereof is being despatched to the Minister for Foreign Affairs of Iceland by express air mail.

I have further to inform you that the Court will hold public hearings at the Peace Palace, The Hague, opening on Tuesday 1 August 1972, at 10 a.m., to give both Parties the opportunity of presenting their observations on the subject.

Copies of the telegram and letter I have today despatched to the Foreign Minister of Iceland are enclosed.

32. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

(telegram)

21 July 1972.

Reference *Fisheries Jurisdiction* case brought by Federal Republic of Germany have honour inform you Federal Republic filed this day request for indication interim measures of protection in accordance with Articles 41, Statute, and 61, Rules. Measures requested read as follows:

[See pp. 30-31, supra]

Copy request airtailed to you today express. In accordance with Rules Article 61, paragraph 8, Court ready to receive observations of Iceland on the request in writing and will hold hearings opening on 2 August 10 a.m.¹ in Peace Palace The Hague to give Parties opportunity of presenting their observations on the request.

33. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

21 July 1972.

Express Airmail

I refer to the proceedings instituted by the Federal Republic of Germany against Iceland on 5 June last (*Fisheries Jurisdiction* case), and to my cable of today's date, of which a confirmatory copy is enclosed, and have the honour to transmit to Your Excellency herewith a certified true copy of a request by

¹ See pp. 41-60, supra.

the Federal Republic of Germany for the indication of interim measures of protection in that case, which was filed in the Registry today.

Article 61, paragraph 8, of the Rules of Court provides that

“The Court shall only indicate interim measures of protection after giving the parties an opportunity of presenting their observations on the subject . . .”

I confirm that, as stated in my cable, the Court is ready to receive the written observations of the Government of Iceland on the subject, and will hold public hearings at the Peace Palace, The Hague, opening on Wednesday 2 August 1972 at 10 a.m., to give both parties the opportunity of presenting their observations orally.

**34. THE REGISTRAR TO THE AGENT FOR THE GOVERNMENT
OF THE FEDERAL REPUBLIC OF GERMANY**

21 July 1972.

I have the honour to acknowledge receipt of a request by the Federal Republic of Germany for the indication of interim measures of protection in the *Fisheries Jurisdiction* case, filed in the Registry today. The Government of Iceland is being informed by telegram of the filing of this request, and a certified true copy thereof is being despatched to the Minister for Foreign Affairs of Iceland by express air mail.

I have further to inform you that the Court will hold public hearings at the Peace Palace, The Hague, opening on Wednesday 2 August at 10 a.m., to give both Parties the opportunity of presenting their observations on the subject.

Copies of the telegram and letter I have today despatched to the Foreign Minister of Iceland are enclosed.

**35. THE AGENT FOR THE GOVERNMENT OF THE FEDERAL REPUBLIC
OF GERMANY TO THE REGISTRAR**

21 July 1972.

I have the honour to inform you that the Government of the Federal Republic of Germany having no Judge of the nationality of the Federal Republic of Germany on the Bench would like to avail itself of the right under Article 31, paragraph 3, of the Statute of the Court to choose a person to sit as Judge in the *Fisheries Jurisdiction (Federal Republic of Germany v. Iceland)* case. However, in view of the urgency of the decision of the Court on the request for interim measures of protection, the Government of the Federal Republic of Germany will, at this stage of the proceedings, not yet nominate a person of its choice, thereby reserving its right under Article 31 to a later stage of the proceedings.

36. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

24 July 1972.

I have the honour to transmit to Your Excellency herewith a copy of a letter dated 21 July, received in the Registry today, from the Agent of the Federal Republic of Germany in the *Fisheries Jurisdiction* case.

37. THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND TO THE REGISTRAR

(telegram)

28 July 1972.

I have the honour to acknowledge receipt of your telegram concerning the United Kingdom's request filed 19 July 1972. In my letter of 29 May 1972 I stated that "after the termination of the Agreement recorded in the Exchange of Notes of 1961, there was on 14 April 1972 no basis under the Statute for the Court to exercise jurisdiction in the case to which the United Kingdom refers" and that "an agent will not be appointed to represent the Government of Iceland".

It follows that there is no basis for the request to which your telegram refers. In any event the Application of 14 April 1972 refers to the legal position of the two States and not to the economic position of certain private enterprises or other interests in one of those States.

Without prejudice to any of its previous arguments the Government of Iceland objects specifically to the indication by the Court of provisional measures under Article 41 of the Statute and Article 61 of the Rules of the Court in the case to which the United Kingdom refers, where no basis for jurisdiction is established.

For the information of the Court the Government of Iceland also wishes in this connection to refer to its arguments for the extension of the fisheries jurisdiction which were embodied in its letter to the Court dated 29 May and the documents attached thereto.

38. THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND TO THE REGISTRAR

(telegram)

28 July 1972.

I have the honour to acknowledge receipt of your telegram concerning the Federal Republic of Germany's request filed 21 July 1972. In my letter of 27 June 1972 I stated that "after the termination of the Agreement recorded in the Exchange of Notes of 1961 there was on 5 June 1972 no basis under the Statute for the Court to exercise jurisdiction in the case to which the Government of the Federal Republic refers" and that "an agent will not be appointed to represent the Government of Iceland".

It follows that there is no basis for the request to which your telegram refers. In any event the Application of 5 June 1972 refers to the legal position of the two States and not to the economic position of certain private enterprises or other interests in one of those States. It is also recalled that the Federal Republic of Germany only accepted the jurisdiction of the Court by its declaration of 29 October 1971, transmitted to the Registrar on 22 November 1971, after it had been notified by the Government of Iceland, in its aide-mémoire of 31 August 1971, that the object and purpose of the provision for recourse to judicial settlement of certain matters had been fully achieved.

Without prejudice to any of its previous arguments the Government of Iceland objects specifically to the indication by the Court of provisional measures under Article 41 of the Statute and Article 61 of the Rules of the Court in the case to which the Government of the Federal Republic refers where no basis for jurisdiction is established.

For the information of the Court the Government of Iceland also wishes in this connection to refer to its arguments for the extension of the fisheries jurisdiction which were embodied in its letter to the Court dated 27 June and the documents attached thereto.

**39. THE REGISTRAR TO THE AGENT FOR THE GOVERNMENT
OF THE UNITED KINGDOM¹**

31 July 1972.

I have the honour to transmit herewith a certified copy of the telegram dated 28 July 1972 and received on 29 July from the Minister for Foreign Affairs of Iceland, the contents of which I communicated to you by telephone as soon as it was received.

**40. THE REGISTRAR TO THE AGENT FOR THE GOVERNMENT
OF THE UNITED KINGDOM²**

31 July 1972.

Article 60, paragraph 3, of the Rules of Court provides, with reference to speeches and statements made during the oral proceedings, that:

“A transcript of speeches or declarations made by agents, counsel or advocates shall be made available to them for correction or revision, under the supervision of the Court.”

The transcript of the oral proceedings held to hear the observations of the parties on the United Kingdom's request for the indication of interim measures of protection will be made available on the same day.

In order to facilitate any supervision which the Court may feel it proper to exercise, and in order not to delay the Court's consideration of the request for the indication of interim measures of protection, any correction or revision which Agents, counsel or advocates may wish to make to the transcript should be handed to the Registrar's secretary as early as possible on the day following the sitting, and in any event not later than 6 p.m. on that day.

41. THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND TO THE REGISTRAR

(telegram)

31 July 1972.

For the information of the Court I am transmitting below the text of my Note of today to the Embassy of the United Kingdom:

“The Ministry for Foreign Affairs presents its compliments to the British Embassy and has the honour to acknowledge receipt of the Embassy's Note No. 40 dated 28 July 1972 confirming a communication

¹ A communication in the same terms was sent to the Agent for the Government of the Federal Republic of Germany.

² A Communication in the same terms was sent to the Agent for the Government of the Federal Republic of Germany and similar communications were sent to the Agents before the opening of the oral proceedings on the jurisdiction of the Court and on the merits of the dispute in both cases.

which the British Ambassador made to the Icelandic Minister for Foreign Affairs on that date. In this communication it is stated among other things that:

‘the British Government have been and remain prepared to meet the Icelandic authorities at short notice and at whatever level is appropriate if such proposals are forthcoming, but in their absence there is no basis for further discussions, and the British Government have no alternative but to proceed with their Application to the International Court’.

With respect to this the Ministry wishes to draw attention to the fact that the Government of Iceland has both before and after the issuance of the Regulations concerning the fishery limits off Iceland, on 14 July 1972, made known its willingness to continue discussions with the United Kingdom with a view to finding a solution to the fisheries dispute on an interim basis. That position of willingness on the Icelandic side is still unchanged. The Ministry for Foreign Affairs avails itself of this opportunity to renew to the British Embassy the assurances of its highest consideration.”

42. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND ¹

2 August 1972.

I have the honour to send Your Excellency herewith three copies of the provisional verbatim record of the public hearing of today's date, relating to the request by the Federal Republic of Germany for the indication of interim measures of protection in the *Fisheries Jurisdiction* case, together with a copy of a map deposited and referred to in the course of that hearing.

43. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND ²

3 August 1972.

I refer to my letter of yesterday enclosing three copies of the provisional verbatim record of the hearing of 2 August, and now have the honour to send Your Excellency herewith a further copy of the verbatim record, incorporating the corrections made by the Agent of the Federal Republic of Germany.

44. THE MINISTRY OF FOREIGN AFFAIRS OF ICELAND TO THE REGISTRAR

(telegram)

3 August 1972.

Receipt is acknowledged with thanks of your letter dated 1 August with enclosed 3 exemplars of verbatim record of 1 August 1972. Would much appreciate if possible receiving 25 exemplars of future verbatim records in *Fisheries Jurisdiction* cases.

¹ Similar communications were sent to the Minister for Foreign Affairs of Iceland after each public sitting held in both cases.

² Similar communications were sent to the Minister for Foreign Affairs of Iceland concerning each public sitting held in both cases.

45. THE COUNSEL FOR THE GOVERNMENT OF THE
UNITED KINGDOM TO THE REGISTRAR

3 August 1972.

On 2 August you were good enough to hand me the text of 2 questions which the Court wished to address to the Agent for the Government of the United Kingdom.

The first question reads as follows:

"In the course of counsel's argument on 1 August, reference was made to various negotiations for a provisional agreement (see verbatim record, I, pp. 96-97). Can the Court be given further details of any proposals made by Iceland in the course of those negotiations?"

The following are the further details requested by the Court.

The first specific Icelandic proposal made in the course of negotiations was that only vessels of less than 160 feet in length which had fished off Iceland in the past two years would be allowed to continue to fish. Freezers would be excluded. The area within 25 miles from baselines would be reserved to Icelandic vessels. Outside this limit there would be two areas closed on conservation grounds to all trawling whether by Icelandic or foreign vessels. The rest of the area between a 25-mile limit and a 50-mile limit would be divided into six sectors of which two at a time would be open in rotation to British vessels for three or four months of the year. The Icelandic authorities would be responsible for enforcement including the right to arrest and punish vessels for any infringement of the arrangements. The agreement would run until 1 January 1974.

Subsequently these proposals were modified to the extent that the area permanently closed to British vessels would be bounded by a line whose distance from the baselines would vary between 14 and 27 miles but which would have substantially the same restrictive effect as a line at a uniform distance of 25 miles from the baseline. The sectors outside this line which would be open in rotation two at a time for four months were specified. On this basis Her Majesty's Government calculated that the areas in question during the respective periods in which they would be open currently produced only 20 per cent. of the United Kingdom catch. The Icelandic delegation indicated that the details of the arrangement were negotiable and were prepared to discuss modifications in the original proposals regarding restrictions on the size of vessels and the duration of the agreement. At the conclusion of the talks the Icelandic delegation asserted that the total effect on British fishing of the restrictions Iceland required need not be greater than a reduction of 25 per cent. below the 1971 catch level but the Icelandic authorities have not put forward any further specific proposals or withdrawn any of the restrictive elements in their previous proposals.

The second question reads as follows:

"The Court has taken note of the proposal by the United Kingdom that as part of the interim measures, the United Kingdom would be prepared to limit the annual catch of fishing vessels registered in the United Kingdom to a certain definite tonnage.

If possible would the Agent of the United Kingdom kindly assist the Court by indicating one or more methods or institutional devices which might be feasibly designed to furnish both Parties the assurance that such limits would not be exceeded?"

In particular does the Agent have in mind in the interests of protecting the respective rights of both the United Kingdom and Iceland, that the assurance noted in paragraph 19 of its Request could be implemented by some appropriate method of supervision or accounting, and if so can he throw some light on such a method."

In reply to the above questions I am authorized to submit the following statements.

1. Her Majesty's Government have no doubt that should the Court indicate as part of the interim measures the limitation on the catch of United Kingdom fishing vessels which they have suggested, this limitation could be enforced by Her Majesty's Government without difficulty and to the satisfaction of the Icelandic Government.

2. Catch limitation schemes for conservation purposes are at the present time occupying the attention of Her Majesty's Government and other nations in particular in connexion with the schemes for the North-West Atlantic referred to by Her Majesty's Attorney-General in his speech on 1 August.

3. In general the implementation of such schemes, once they are agreed, does not appear to give rise to any great difficulty because of the existence of long-established systems of collecting statistics of fish catches and the existence of statutory powers of control. There is a long-standing system in the United Kingdom as in other countries for a collection of statistics of fishing catches by reference to the area from which the fish are taken. This system forms the basis of United Kingdom statistics for the International Council for the Exploration of the Sea (which has published fishing statistics since 1909).

4. The Icelandic area is separated from other distant water fishing grounds by wide stretches of sea which contain no trawling grounds, and catches from the Icelandic area are readily distinguishable by inspection from catches taken in other areas, e.g., off the Norwegian coast or the Faroes. Inspection of the logs, which all ships are legally required to complete, and the daily position reports which distant-water vessels are required to make for safety purposes, would show whether any particular vessel purporting to have fished elsewhere had in fact been fishing in the Iceland area, thereby making further examination of catches necessary. In this way the United Kingdom authorities would be able to ascertain when any catch limitation had been reached and an order would then be made *under the Sea Fish (Conservation) Act 1967* closing the area to further fishing by British vessels for the remainder of the year. In practice Her Majesty's Government expect to be able to agree arrangements with the United Kingdom fishing industry under which fishing would be spread over the whole year without exceeding the prescribed limit.

5. While no doubt has been cast in the past on the validity of United Kingdom fishing statistics by Iceland or by any other party, Her Majesty's Government are perfectly willing, should Iceland so wish, or the Court think it desirable, to give to the Icelandic Government or to any other agency indicated by the Court access to any relevant records or other relevant documents they may wish to see.

(Signed) J. L. SIMPSON.

46. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

3 August 1972.

I have the honour to transmit to Your Excellency herewith a copy of the text of a written request for further information which, on the instructions of the Court, I handed to a representative of the United Kingdom yesterday evening. I also enclose a copy of the information filed in the Registry today by the United Kingdom in response to that request.

47. THE AGENT FOR THE FEDERAL REPUBLIC OF GERMANY
TO THE REGISTRAR*(telegram)*

4 August 1972.

I have the honour to refer to the questions of the Court which you kindly have transmitted to me after the oral proceedings on 2 August 1972 and which read as follows:

“(1) In the course of counsel’s argument on 2 August, reference was made to various negotiations for a provisional agreement (see verbatim record, pp. 45-46, *supra*). Can the Court be given further details of any proposals made by Iceland in the course of these negotiations?”

(2) The Court has taken note of the proposal by the Federal Republic of Germany that as part of the interim measures, the Federal Republic would be prepared to limit the annual catch of fishing vessels registered in the Federal Republic to a certain definite tonnage.

If possible would the Agent of the Federal Republic of Germany kindly assist the Court by indicating one or more methods or institutional devices which might be feasibly designed to furnish both parties the assurance that such limits would not be exceeded?

In particular, does the Agent have in mind in the interests of protecting the respective rights of both the Federal Republic of Germany and the Republic of Iceland, that the assurance noted in paragraph 17 of its request could be implemented by some appropriate method of supervision or accounting, and if so can he throw some light on such a method.”

In answering the first of the two questions, I refer to a series of talks which were held between the Federal Republic of Germany and Iceland on 15 May, 2 June and 7 July 1972. In the meeting of 15 May, the representative of the Federal Government explained the concept of the Federal Government of an interim arrangement on the basis of limiting the annual catches of fishing vessels from the Federal Republic of Germany to the average of the years 1960 to 1969. The Foreign Minister of Iceland at that time informed the delegates of the Federal Republic of Germany that Icelandic proposals were being prepared, but had still to be agreed upon by the Icelandic Cabinet. He promised to forward these concrete proposals in the near future to the Government of the Federal Republic of Germany.

At the meeting of 2 June 1972, the Icelandic Foreign Minister presented proposals for an agreement between the Federal Republic of Germany and Iceland which he handed to the Foreign Minister of the Federal Republic of Germany in writing. These proposals, consisting of seven points, read as follows:

"1. We propose that the arrangement should stipulate the number of German vessels which are authorized to fish within the 50-mile limits. The authorization should only cover vessels of a limited size which have been fishing off Iceland during the last two years. We consider it natural that fishing vessels, which have not fished off Iceland, should be excluded. We also want to exclude freezer trawlers, factory vessels and other large fishing vessels from fishing within the 50-mile limits.

2. We propose that the fishing areas, where German trawlers would fish, should be outside 25 miles from the baselines and thus Icelanders would benefit from having the exclusive right to fish on additional grounds outside the present 12-mile fishing limits. This proposal is similar to the one agreed upon in 1961 when German vessels were authorized to fish on certain grounds within the outer 6-mile area. The period during which fishing would be allowed in each fishing area should be specially agreed upon.

3. We have proposed tentatively which fishing zones could be considered. The main point is that the fishing grounds around Iceland should be divided into 6 areas with the idea that normally 2 areas will be open at the same time, for instance 3-4 months annually. In that way it will be possible for German vessels to fish all year round in some of these fishing areas.

4. We propose that the arrangement should apply until the end of 1973.

5. We wish that at least two fishing areas will be completely closed off for a short time each year, 1-2 months, for trawling by Icelandic as well as foreign vessels.

These areas will be selected with the view of preventing harmful catching of young fish in April and May off the north-east coast and to protect the important spawning grounds at Selvogsbank. However, most of that fishing ground is already within the present fishing limits.

6. We consider it necessary irrespective of the possible arrangement, that the Icelandic Government can continue to reserve certain grounds for line and net fishing exclusively to the Icelandic motor vessel fleet. In such cases trawling by Icelandic as well as foreign trawlers would be prohibited.

7. We wish to emphasize that the Icelandic Government will have the right to enforce the rules and regulations concerning the fishing grounds."

The Government of the Federal Republic of Germany carefully examined the effects which these Icelandic proposals would have. The limitation of types and sizes of vessels, the exclusion of freezer trawlers, the total exclusion of vessels from the Federal Republic of Germany from the 25-mile zone, and the discriminatory closing of areas outside this 25-mile limit would in their combination result in a drastic reduction of the amount of annual catches of fishing vessels of the Federal Republic of Germany to approximately only 20 per cent. of the actual annual catches. The assumption of the right to enforce the rules and regulations by the Icelandic Government would amount in effect, to an acceptance by the Government of the Federal Republic of Germany of Icelandic jurisdiction over fishing vessels from the Federal Republic of Germany on the high seas.

It follows from these proposals that the intention of the Icelandic Government was not to agree on an interim arrangement preserving the rights of the Parties during the proceedings before the Court, but rather a phasing-out system of our rights in the waters concerned, limited to the end of 1973. It is significant for the Icelandic attitude that the Icelandic Foreign Minister introduced these proposals with the following words to the Foreign Minister of the Federal Republic of Germany:

"The British and German proposals for catch limitation and the closure of certain areas for all trawling (Icelandic and foreign) although they are helpful as far as they go, do not take the basic principle of preferential treatment sufficiently into account because if you continue to fish up to the 12-mile limit more or less as you have done our preferential position is not recognized. It would rather mean the freezing of the status quo . . . What we are really talking about is the reduction of your fishing in Icelandic waters in a tangible, visible manner."

In the meeting of 7 July 1972, the Government of the Federal Republic of Germany set out the reasons why the proposals of the Government of Iceland were not appropriate as a basis for an interim arrangement. No other proposals were made at this meeting by the Icelandic Delegate.

After the talks of 7 July 1972, the Government of the Federal Republic of Germany through diplomatic channels expressed its readiness to continue negotiations for an interim arrangement taking due account of the interests of both sides either on the basis of a catch limitation scheme as proposed by the Federal Republic of Germany or on the basis of any new proposals from the Icelandic side. No further proposals however, were made by the Icelandic Government.

An answer to the second question asked by the Court will be transmitted to you as soon as possible.

48. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

4 August 1972.

I have the honour to transmit to Your Excellency herewith a copy of the text of a written request for further information which, on the instructions of the Court, I handed to the Agent of the Federal Republic of Germany on the evening of 2 August. I also enclose a copy of the information filed in the Registry today by the Federal Republic in response to that request.

**49. THE AGENT FOR THE FEDERAL REPUBLIC OF GERMANY
TO THE REGISTRAR**

(telegram)

5 August 1972.

I have the honour to refer to my telegram of 4 August 1972 and to answer the second question of the Court as follows:

1. The observance of catch limitations could be effectively secured by currently recording the landings of the trawlers of the Federal Republic of Germany from the "Iceland Area" (statistical area Va of the International Council for the Exploration of the Sea (ICES)) by the existing statutory reporting scheme of the Federal Republic of Germany for the collection of data relating to catches of the distant water fishing fleet. This scheme has proved to be reliable. Once the maximum quantity having been reached, any further fishing in the Iceland area will then be prohibited.

2. Legislation as basis for such regulation does already exist in the Federal Republic of Germany: (a) according to the "Gesetz über Eine Fischerei-statistik" (Act on Fisheries Statistics) of 21 July 1960 (BGBl. I, p. 589), all landings by fishing vessels whether in the Federal Republic of Germany or in other countries have to be reported currently to the competent Federal authorities and specified, *inter alia*, as to the amount of catch of the different species and as to the statistical areas where such catches have been taken. *Omission or neglect to comply with the reporting requirements, and the submission of incorrect or incomplete data are punishable.* (b) Controls of the data reported are carried out when the catches are landed, sorted out and weighed for the market. The correctness of the reports as to the geographical origin of the catches is normally checked by external characteristics of the fish. Moreover, the legally prescribed daily entries of the vessels' position and course in the log-books give evidence on the areas in which the vessel operated during its trip. Furthermore, the three fishery assistance vessels of the Federal Ministry of Food, Agriculture and Forestry which are permanently assisting the deep-sea fishing fleet at sea and also controlling the observance of national and international fishery regulations, may be instructed to check on the spot the correctness of entries in the log-books.

(c) The fixing of a maximum quantity for fishing vessels of the Federal Republic of Germany in the Iceland area and the prohibition of further fishing after the allowed quantity has been reached could, if an Order of the Court should so require, be prescribed by regulations issued by the Federal Minister of Food, Agriculture and Forestry under Article 3 in connection with Article 2, paragraph 2, N. 4 of the "Seefischereivertragsgesetz 1971" of 25 August 1971 (BGBl. II, p. 1057).

3. In the interest of mutual confidence between the Parties, the Federal Government would be willing to inform the Government of Iceland, the Secretariat of the Court or another agency to be designated by the Court of the catches in the Iceland area either at regular intervals or when a certain amount will have been reached or at any time if so requested.

4. The Federal Government would also be willing to give a representative of the Government of Iceland, of the Court or of an agency to be designated by the Court an opportunity to inspect, if they so want, the relevant statistical documents and to inform themselves of the collection, evaluation and control of data.

5. The Federal Government would also be prepared to enter into an agreement with the Icelandic Government which allows the Icelandic authorities to stop and board vessels fishing in the Iceland area in order to satisfy themselves of the correct keeping of log-books and catch recordings. The procedure for such controls could be modelled after the "joint enforcement scheme" for the North-East Atlantic Fisheries Commission which has been accepted for controls relating to the observance of regulatory measures of the North-East Atlantic Fisheries Commission by the Federal Republic of Germany as well as by Iceland.

6. A similar method of current control of catches as suggested in paragraph 1 of this telegram is already applied by the International Commission for the North-West Atlantic Fisheries (ICNAF) for the presently applied general limitation of haddock catches in sub-areas 4 and 5. Member States record the haddock landings by their fleet from these areas and report them by 700-tons increments to the Secretariat of the Commission by telex. Shortly before the overall catch limit is reached, the Secretariat informs member States that fishing activities have to be stopped within a certain time limit.

50. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

5 August 1972.

I have the honour to refer to the letter of 4 August 1972 with which I transmitted a copy of the text of a written request for further information handed to the Agent of the Federal Republic of Germany on 2 August, together with a copy of a telegram in response thereto.

The final paragraph of the telegram received on 4 August referred to an answer to the second question which would be transmitted as soon as possible.

I now have the honour to enclose herewith a copy of a telegram which I have today received from the Agent of the Federal Republic of Germany.

51. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND¹*(telegram)*

11 August 1972.

Have honour inform you Court will hold public sitting on Thursday 17 August at 10 a.m. at which decisions on requests of United Kingdom and Federal Republic of Germany for indication of interim measures of protection will be announced. President proposes convene Agents of Parties to *Fisheries Jurisdiction* cases for meeting immediately following sitting to ascertain views with regard to questions of procedure pursuant Rules Article 37. Without prejudice to provisions of Statute and Rules regarding appointment of an Agent, am instructed to inform you that should Your Excellency's Government wish to be otherwise represented at meeting referred to person designated will be welcome to attend².

52. THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND TO THE REGISTRAR

(telegram)

11 August 1972.

I have today delivered to the British Ambassador a note verbale of the following content:

[See Annex 10 to the United Kingdom Memorial on the Merits of the Dispute, I, p. 387]

The Government of Iceland avails itself of this opportunity to reiterate its view that there is no basis for the International Court of Justice to exercise jurisdiction in the cases filed against Iceland by the United Kingdom Government and the Government of the Federal Republic of Germany.

¹ Similar communications were sent to the Agents for the Governments of the United Kingdom and the Federal Republic of Germany.

² On 17 August 1972, the President met successively the Agents for the Governments of the United Kingdom and the Federal Republic of Germany.

53. THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND TO THE REGISTRAR

11 August 1972.

I have the honour to transmit herewith a copy of the note delivered today to the United Kingdom Ambassador referred to in my cable to the International Court of Justice as well as a copy of the said telegram.

As stated in the telegram the Government of Iceland wishes to emphasize that in its view there is no basis for the International Court of Justice to exercise jurisdiction in the cases filed against Iceland by the Government of the United Kingdom and the Government of the Federal Republic of Germany.

54. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

(telegram)

17 August 1972.

Have honour inform Your Excellency Court today delivered Order on United Kingdom request for indication provisional measures in *Fisheries Jurisdiction* case. Following is operative clause of Order.

[See *I.C.J. Reports 1972, pp. 17-18*]

Official copy Order and 25 other copies airmailed to you today.

55. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

(telegram)

17 August 1972.

Have honour inform Your Excellency Court today delivered Order on request of Federal Republic of Germany for indication provisional measures in *Fisheries Jurisdiction* case. Following is operative clause of Order.

[See *I.C.J. Reports 1972, pp. 35-36.*]

Official copy Order and 25 other copies airmailed to you today.

56. THE REGISTRAR TO THE SECRETARY-GENERAL OF THE UNITED NATIONS¹

17 August 1972.

I have the honour, in accordance with Article 41, paragraph 2, of the Statute of the Court, to send you herewith an official copy for transmission to the Security Council of an Order of today's date by which the Court, following the request dated 19 July 1972 of the United Kingdom of Great Britain and Northern Ireland, indicated interim measures of protection in the *Fisheries Jurisdiction* case.

¹ A communication in the same terms was sent to the Secretary-General of the United Nations regarding the *Federal Republic of German v. Iceland* case.

57. THE PRIME MINISTER OF ICELAND TO THE REGISTRAR

(telegram)

18 August 1972.

The Government of Iceland strongly protests against the Order delivered by the International Court of Justice on the cases filed against Iceland by the United Kingdom and the Federal Republic of Germany. The Government expresses its astonishment at the fact that the Court considers itself to be in a position to deliver such an order while it has not ruled on its jurisdiction in the said cases. The Government of Iceland, considering that the Exchange of Notes of 1961 upon which the United Kingdom and the Federal Republic of Germany base their institution of proceedings is no longer in force, has from the beginning and repeatedly objected emphatically to the Court's right of jurisdiction. Further, the Government of Iceland is surprised that the Court considers itself competent to indicate some kind of a quota system in the fisheries around Iceland.

The Government of Iceland which—as was known to the Court—has always expressed its willingness to solve this dispute by interim arrangement, considers that this interference in a dispute still at the stage of negotiations is highly unfortunate and likely to hamper the negotiations.

As hitherto the Government of Iceland protests against the Court's right of jurisdiction in the said cases and it will not consider this Order by the Court binding in any way.

The Government will firmly carry out its decision to extend the fisheries jurisdiction to 50 nautical miles as of September 1st 1972 in conformity with the resolution adopted unanimously by the Parliament of Iceland.

(Signed) Olafur JOHANNESON.

58. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND¹

18 August 1972.

I have the honour to refer to my two cables of today (confirmatory copies of which are enclosed) and to send Your Excellency herewith a copy of each of the two Orders² of today's date, by which the Court decided that the first pleadings in the *Fisheries Jurisdiction* cases should be addressed to the question of the jurisdiction of the Court, and fixed 13 October 1972 as the time-limit for the Memorials of the United Kingdom and the Federal Republic of Germany, and 8 December 1972 for the Counter-Memorials of Iceland.

59. LE GREFFIER EN EXERCICE AU MINISTRE DES AFFAIRES ÉTRANGÈRES
D'AFGHANISTAN³

28 août 1972.

Le Greffier en exercice de la Cour internationale de Justice a l'honneur de transmettre, sous ce pli, un exemplaire de l'ordonnance rendue par la Cour le

¹ Similar communications were sent to the Agents for the Governments of the United Kingdom and the Federal Republic of Germany.

² *I.C.J. Reports 1972*, pp. 181 and 188.

³ Cette communication a été adressée, pour chacune des deux affaires, aux Etats Membres des Nations Unies et aux Etats non membres des Nations Unies admis à ester devant la Cour.

17 août 1972 sur la demande en indication de mesures conservatoires présentée par le Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord en l'affaire relative à la *Compétence en matière de pêcheries*.

D'autres exemplaires seront expédiés ultérieurement par la voie ordinaire.

60. THE AGENT FOR THE GOVERNMENT OF THE FEDERAL
REPUBLIC OF GERMANY TO THE REGISTRAR

6 October 1972.

I have the honour to refer to my letter of 21 July 1972 by which I informed you that the Government of the Federal Republic of Germany would like to avail itself of the right under Article 31, paragraph (3), of the Statute of the Court to choose a person to sit as Judge ad hoc in the *Fisheries Jurisdiction* case (Federal Republic of Germany v. Iceland), but that, in view of the urgency of the proceedings on the Request by the Federal Republic of Germany for interim measures of protection, the Government of the Federal Republic would not yet nominate a person of its choice at that stage of the proceedings.

In view of the time-limit prescribed in Article 3 of the Rules of Court I would like to state that the Government of the Federal Republic of Germany still intends to exercise the right under Article 31, paragraph (3), of the Statute of the Court.

61. THE REGISTRAR TO THE AGENT OF THE GOVERNMENT
OF THE FEDERAL REPUBLIC OF GERMANY

12 October 1972.

I have the honour to acknowledge receipt of your letter of 6 October 1972, stating that the Government of the Federal Republic of Germany intends to exercise the right under Article 31, paragraph 3, of the Statute to choose a judge to sit in the *Fisheries Jurisdiction (Federal Republic of Germany v. Iceland)* case. Pursuant to Article 3, paragraph 1, of the Rules of Court, the President of the Court has fixed 6 November 1972 as the time-limit within which the name of the person chosen to sit as judge is to be stated.

62. LE GREFFIER AU MINISTRE DES RELATIONS EXTÉRIEURES DE L'ÉQUATEUR¹

12 octobre 1972.

Me référant à votre lettre du 1^{er} juin 1972 et à la réponse du Greffier en date du 26 juin, j'ai l'honneur de vous faire savoir que les Parties à l'affaire concernant la *Compétence en matière de pêcheries (Royaume-Uni c. Islande)* ont indiqué ne voir aucune objection à ce que le Gouvernement équatorien reçoive les pièces de procédure et que le Président de la Cour a décidé en

¹ Une communication analogue a été adressée pour l'affaire *Royaume-Uni c. Islande* au gouvernement de la République fédérale d'Allemagne (10 octobre 1972), pour l'affaire *République fédérale d'Allemagne c. Islande* au Gouvernement du Royaume-Uni (2 novembre 1972) et pour les deux affaires aux Gouvernements du Sénégal (8 janvier 1973), de l'Australie (6 février 1973), de la Nouvelle-Zélande (8 et 20 février 1973), de l'Inde (13 mars et 9 avril 1973) et de l'Argentine (8 et 21 juin 1973).

conséquence, en application de l'article 44, paragraphe 2, du Règlement, de tenir lesdites pièces à votre disposition.

Dans ces conditions, je vous adresse deux exemplaires de la demande en indication de mesures conservatoires présentée par le Royaume-Uni le 19 juillet 1972 et vous enverrai les pièces de procédure suivantes au fur et à mesure de leur dépôt. Je me permets d'appeler votre attention sur le caractère confidentiel des pièces de procédure tant que les affaires sont *sub judice*.

63. THE AGENT FOR THE GOVERNMENT OF THE UNITED KINGDOM
TO THE REGISTRAR

13 October 1972.

I have the honour to refer to the Order made by the Court on 18 August 1972 and to transmit herewith one signed copy and 29 unsigned copies of the Memorial¹ of the United Kingdom (together with the Annexes thereto) on the question of the Court's jurisdiction to entertain the Application by the United Kingdom on the merits of the dispute. A further 95 unsigned copies will be sent to you as soon as possible.

64. THE AGENT FOR THE GOVERNMENT OF THE UNITED KINGDOM
TO THE REGISTRAR

13 October 1972.

I have the honour to refer to my letter to you of today's date transmitting to you, in accordance with the Order made by the Court on 18 August 1972, copies of the Memorial of the United Kingdom on Jurisdiction (together with the Annexes thereto). In compliance with Article 43 (1) of the Rules of Court, I now transmit to you, for the use of the Court and of the Government of Iceland, one copy of each of certain documents referred to in that Memorial which, in accordance with the said Article 43 (1), are not annexed to it.

These documents are as follows:

- (a) the Memorandum² entitled *The Problem of the Fisheries Around Iceland* which was submitted to the General Assembly of the United Nations by the Government of the United Kingdom in November 1958 (see paragraph 20 of the Memorial and Annex B thereto);
- (b) the contemporary records of the Anglo-Icelandic Discussions³ which took place between 1 October 1960 and 4 December 1960 (inclusive) (see paragraph 21 of the Memorial);
- (c) the contemporary records of the Anglo-Icelandic Discussions which took place between 17 December 1960 and 20 December 1960⁴ (inclusive) (see paragraph 38 of the Memorial);
- (d) the full text of the speech² to the Althing made by the Prime Minister of Iceland on 9 November 1971, as set out in *Background Information No. 4. Icelandic Fisheries Jurisdiction*, published by the

¹ I, pp. 123-152.

² Not reproduced.

³ I, pp. 178-228.

⁴ I, pp. 229-237.

- Secretary for Press and Information, Prime Minister's Office, Reykjavik (*see paragraph 41 of the Memorial*);
- (e) the Report¹ of the International Council for the Exploration of the Sea made to the North East Atlantic Fisheries Commission meeting in 1972 (*paragraph 58 of the Memorial*); and
- (f) the Report¹ of the ICES/ICNAF Working Group on Cod Stocks in the North Atlantic made to the International Commission for the North West Atlantic Fisheries in June 1972 (*paragraph 58 of the Memorial*).

65. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

13 October 1972.

I have the honour to transmit herewith five copies, one of which is a certified true copy, of the Memorial filed today in the Registry of the Court by the Agent for the United Kingdom in the *Fisheries Jurisdiction* case (*United Kingdom of Great Britain and Northern Ireland v. Iceland*) together with a copy of the covering letter from the Agent and a further letter concerning certain documents referred to in the Memorial which, in accordance with Article 43, paragraph 1, of the Rules of Court, have been deposited in the Registry. The documents in question will remain available in the Registry for consultation by the representatives of Iceland.

66. THE AGENT FOR THE GOVERNMENT OF THE FEDERAL
REPUBLIC OF GERMANY TO THE REGISTRAR

13 October 1972.

I have the honour to transmit to you for communication to the President and the Judges of the Court, a signed copy of the Memorial² submitted on behalf of the Federal Republic of Germany in pursuance of the Order made by the Court on 18 August 1972 in the *Fisheries Jurisdiction* (*Federal Republic of Germany v. Iceland*) case, and 39 additional copies.

67. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

13 October 1972.

I have the honour to transmit herewith three copies, one of which is a certified true copy, of the Memorial filed today in the Registry of the Court on behalf of the Federal Republic of Germany in the *Fisheries Jurisdiction* (*Republic of Germany v. Iceland*) case together with a copy of the covering letter from the Agent of the Federal Republic.

Printed copies of the Memorial will be despatched to you in due course.

¹ Not reproduced.

² See pp. 65-96, *supra*.

68. THE AGENT FOR THE FEDERAL REPUBLIC OF GERMANY
TO THE REGISTRAR

31 October 1972.

I have the honour to refer to my letter of 6 October 1972 stating that the Government of the Federal Republic of Germany intends to exercise the right under Article 31 paragraph (3) of the Statute to choose a Judge ad hoc to sit in the *Fisheries Jurisdiction (Federal Republic of Germany v. Iceland)* case, and to your letter of 12 October 1972 informing me that the President of the Court has fixed 6 November 1972 as the time-limit within which the person chosen to sit as Judge ad hoc should be nominated.

I have the further honour to inform you that the Government of the Federal Republic of Germany has chosen Professor Dr. Hermann Mosler, 69 Heidelberg, Berliner Strasse 48, Max-Planck-Institut für ausländisches Recht und Völkerrecht, to sit as Judge in this case.

Professor Dr. Mosler is Professor of Law at Heidelberg University, Director of the Max Planck Institute for Comparative Public Law and International Law in Heidelberg, Judge of the European Court of Human Rights, Member of the Permanent Court of Arbitration, and Associate Member of the Institute of International Law (Institut de Droit International). Professor Dr. Mosler¹ had been Judge ad hoc in the *North Sea Continental Shelf* cases (Federal Republic of Germany v. Kingdom of Denmark, Federal Republic of Germany v. Kingdom of the Netherlands).

69. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

(telegram)

3 November 1972.

Have honour inform Your Excellency Federal Republic of Germany today notified Court of choice of Professor Hermann Mosler to sit as judge *ad hoc* in *Fisheries Jurisdiction* case. President has fixed 17 November 1972 as time-limit for submission views of Iceland pursuant Rules, Article 3, paragraph 1. Letter follows.

70. THE REGISTRAR TO THE AGENT FOR THE GOVERNMENT
OF THE FEDERAL REPUBLIC OF GERMANY²

20 November 1972.

I have the honour to refer to my letter of 3 November, in which I informed you that, pursuant to Article 3, paragraph 1, of the Rules of Court, the President of the Court had fixed 17 November 1972 as the time-limit within which the views of the Government of Iceland might be submitted to the Court with regard to the choice of Professor Dr. Hermann Mosler to sit as judge *ad hoc* in the *Fisheries Jurisdiction (Federal Republic of Germany v. Iceland)* case.

¹ *I.C.J. Yearbook 1968-1969*, pp. 23-24.

² A communication in the same terms was sent to the Minister for Foreign Affairs of Iceland.

The time-limit fixed by the President having expired without any doubt or objection having been expressed by the Government of Iceland, I am transmitting the documents in the case to Professor Mosler forthwith.

71. THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND TO THE PRESIDENT

(telegram)

4 December 1972.

In my previous communications to the Court I had the honour to set forth the position of my Government as it emerged from the diplomatic correspondence with the Government of the United Kingdom previous to 14 April 1972. It was indicated that the agreement embodied in the Exchange of Notes of 1961 which itself took place under extremely difficult circumstances had already terminated, that no basis exists for the Court to exercise jurisdiction in the case sought to be instituted by the Government of the United Kingdom of Great Britain and Northern Ireland and that the Government of Iceland would not appoint an Agent and would not be represented in those proceedings. The Court was also informed that the vital interests of the people of Iceland are involved and that the Government of Iceland is not willing to confer jurisdiction on the Court in any case involving the extent of the fishery limits of Iceland, and specifically in the case sought to be instituted by the Government of the United Kingdom of Great Britain and Northern Ireland on 14 April 1972. This notwithstanding, the Court made its Orders of 17 and 18 August 1972. Moreover in the second of those Orders, by disturbing the established order of things, the Court has caused further detriment to the people and Government of Iceland now again being subjected to coercion in their efforts to reach an agreed solution. Reiterating all of the foregoing I now have the honour respectfully to inform the Court that the position of the Government of Iceland is unchanged.

72. THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND TO THE PRESIDENT

(telegram)

4 December 1972.

In my previous communications to the Court I had the honour to set forth the position of my Government as it emerged from the diplomatic correspondence with the Government of the Federal Republic of Germany previous to 5 June 1972. It was indicated that the agreement embodied in the Exchange of Notes of 1961 which itself took place under extremely difficult circumstances had already terminated, that no basis exists for the Court to exercise jurisdiction in the case sought to be instituted by the Government of the Federal Republic of Germany and that the Government of Iceland would not appoint an Agent and would not be represented in those proceedings. The Court was also informed that the vital interests of the people of Iceland are involved and that the Government of Iceland is not willing to confer jurisdiction on the Court in any case involving the extent of the fishery limits of Iceland and specifically in the case sought to be instituted by the Government of the Federal Republic of Germany on 5 June 1972. This notwithstanding, the Court made its Orders of 17 and 18 August 1972. Moreover in the second

of those Orders, by disturbing the established order of things, the Court has caused further detriment to the people and Government of Iceland now again being subjected to coercion in their efforts to reach an agreed solution. Reiterating all of the foregoing I now have the honour respectfully to inform the Court that the position of the Government of Iceland is unchanged.

73. THE REGISTRAR TO THE AGENT FOR THE GOVERNMENT
OF THE UNITED KINGDOM¹

5 December 1972.

I have the honour to send you herewith a copy of a telegram received today from the Minister for Foreign Affairs of Iceland.

74. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND²

11 December 1972.

I refer to the Court's Orders dated 18 August 1972, fixing time-limits for the initial pleadings in the *Fisheries Jurisdiction (United Kingdom v. Iceland and Federal Republic of Germany v. Iceland)* cases and have the honour to inform Your Excellency that, no Counter-Memorial having been filed by the Government of Iceland in either of these cases within the time-limits fixed therefor, the Court will proceed to hold public sittings to hear the oral arguments of the Parties on the question of the jurisdiction of the Court to entertain the dispute in each case.

The public hearing in the proceedings brought by the United Kingdom will open at 10 a.m. on Friday, 5 January 1973³, and the hearing in the proceedings brought by the Federal Republic will open at 3 p.m. on Monday 8 January 1973⁴, in each case at the Peace Palace, The Hague.

The Agents of the Parties are also asked to be at the disposal of the Court with a view to a possible preliminary meeting with the President on 4 January 1973 to deal with procedural matters⁵.

75. THE AGENT FOR THE GOVERNMENT OF THE UNITED KINGDOM
TO THE REGISTRAR

19 December 1972.

1. I have the honour to refer to the Order made by the Court on 17 August 1972 on the request made by the Government of the United Kingdom on 19 July 1972 for the indication of interim measures of protection pending the Court's final decision in these proceedings. In paragraph (1) (*e*) of the operative passage of the Order the Court indicated that the United Kingdom should ensure that vessels registered in the United Kingdom did not take an

¹ A communication in the same terms was sent to the Agent for the Government of the Federal Republic of Germany.

² Similar communications were sent to the Agents for the Governments of the United Kingdom and the Federal Republic of Germany.

³ I, pp. 241-262.

⁴ See pp. 120-136, *supra*.

⁵ On 4 January 1973, the President met successively the Agents for the Governments of the United Kingdom and the Federal Republic of Germany.

annual catch of more than 170,000 metric tons of fish from the "Sea Area of Iceland", as defined by the International Council for the Exploration of the Sea as Area Va. In paragraph (1) (f) of the Order the Court indicated that the United Kingdom Government should furnish the Government of Iceland and the Registry of the Court with all relevant information, orders issued and arrangements made concerning the control and regulation of fish catches in the area. In compliance with the said paragraph (1) (f) I now have the honour to supply the following information to the Court.

2. The Government of the United Kingdom have introduced a statutory system for regulating the operation of British fishing vessels in the sea area of Iceland, as defined by the International Council for the Exploration of the Sea as Area Va. This statutory system was put into effect by the Sea Fishing (Specified Northern Waters) Licensing Order 1972 (Statutory Instrument No. 1477 of 1972) which is hereinafter referred to as "the Licensing Order" and a copy of which is attached hereto as Annex A. The Licensing Order was made on 29 September 1972 by the Minister for Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with the sea fishing industry in Scotland and Northern Ireland and, having been laid before the Parliament of the United Kingdom, came into operation on 30 October 1972. It was made under powers conferred by the Sea Fish (Conservation) Act 1967 (which is hereinafter referred to as "the Act of 1967" and a copy of which is attached hereto as Annex B), as amended by the Sea Fisheries Act 1968 (which is hereinafter referred to as "the Act of 1968" and a copy of which is attached hereto as Annex C).

3. The statutory system operates, so as to give effect to the Court's Order, in the following way.

4. The Licensing Order applies, by virtue of Article 4 thereof, to fishing for all sea fish in the area of sea comprising the International Council for the Exploration of the Sea Area Va. By virtue of section 4 of the Act of 1967, the effect of the Licensing Order being given that application is that British vessels may not fish in the area except under the authority of a licence granted by one of the Ministers concerned. Licences are being issued under the Licensing Order in a standard form and a specimen copy is attached hereto as Annex D.

5. It will be seen from Annex D that it is a condition of the licence that the skipper and owner of the vessel concerned should keep and provide full and accurate records of all fishing activity during the whole of each voyage in the course of which fishing is conducted in the International Council for the Exploration of the Sea Area Va. (The reason for the requirement being expressed in this form in that fishing vessels do occasionally catch fish in other waters, for example off the Faroes, when travelling to or from the International Council for the Exploration of the Sea Area Va.) The information which the licence requires to be supplied has to be provided on certain standard forms which are numbered CL.1 and CL.2. Copies of these are attached hereto as Annex E and Annex F respectively.

6. Form CL.1 (Annex E), which is a record of each consecutive haul (in effect a fishing log-book) is made out by the skipper during the voyage and indeed must be completed immediately after each haul. As indicated in paragraph 4 of the reply, given in the letter of 3 August 1972¹, to the second of the two questions addressed by the Court to the Agent of the Government

¹ See p. 394, *supra*.

of the United Kingdom on 2 August 1972, the competent authorities of the Government of the United Kingdom are able, by means of spot-checks of these records and of the ships' ordinary logs (and also, if the need should arise, by checking against the daily position reports which fishing vessels are required to make both to their owners and, for safety reasons and at certain times of the year, to British Government support ships and coastguard authorities), to satisfy themselves of the veracity and accuracy of these records.

7. The information to be provided by means of form CL.2 (Annex F) consists partly of information already supplied in form CL.1 but this information is to be furnished in form CL.2 in a summarised form. In addition to this and to certain other, purely incidental, information, a statement of the quantity of fish actually landed must also be supplied on form CL.2. The Summary of Fishing is supplied by the skipper, the Statement of the Quantity Landed by the owner's representatives.

8. The supplying of all the information required by Forms CL.1 and CL.2 represents an extension of a scheme already in use for fishery statistics purposes. Government statistics collectors normally compile fishing records on the basis of information provided by the ship's skipper or mate and they check landings from the Sales Notes resulting from the sale of the catch after a voyage. Although the information relating to the size of the catch that is now to be provided by the skipper in forms CL.1 and CL.2 can obviously only be an estimate, the records of fish landed and sold are precise and are verifiable and can be taken as completely accurate. (Records of fish landed and sold are indeed used as the basis for paying off the crew.) As was explained in the footnote on page 4 of the request¹ by the Government of the United Kingdom for the indication of interim measures of protection which was filed with the Court on 19 July 1972 (the second footnote to paragraph 6 of that request), there is an accepted direct relationship, varying with the species, between landings and catch; accordingly, the record of landings at any one time is a precise indication of the catch.

9. Simultaneously with the publishing of the Licensing Order, the Ministry of Agriculture, Fisheries and Food and the Department of Agriculture and Fisheries for Scotland put out documents entitled *Notes for the Guidance of Owners and Skippers* (together with an illustrative map) and a *Covering Note for Owners, Skippers and Others*. Copies of these two documents are attached hereto as Annex G and Annex H respectively.

10. The enforcement of the statutory scheme, by way of monitoring the information provided and checking and inspecting vessels, catch and records, is the responsibility of the Government Fisheries Inspectorates of the United Kingdom. The Inspectorates include the statistics collectors referred to in paragraph 8 above and officers of the Inspectorates have the status, under section 7 (1) of the Act of 1968, of "British sea-fishery officers". It will be seen that Article 5 of the Licensing Order confers on every British sea-fishery officer, for the purposes of the enforcement of section 4 of the Act of 1967 in conjunction with the Licensing Order, the powers which are specified in section 8 (2) to (4) of the Act of 1968. It will also be seen that fishing without a licence or the contravention of any of the conditions of a licence may attract heavy penalties by way of a fine, imprisonment and the forfeiture of catch and gear; see footnote (1) of the licence (Annex D) and also section 11 of the Act of 1967. In addition the licence may be withdrawn.

¹ I, p. 72.

11. It will be seen from condition (3) of the licence (Annex D) and from the explanations given in the various Notes published together with the Licensing Order (Annexes G and H) that the Government of the United Kingdom intend to cancel licences if they are satisfied that the total catch by British vessels from the International Council for the Exploration of the Sea Area Va is likely to exceed 170,000 metric tons in any one year beginning on 1 September unless fishing by such vessels in that area is reduced. However, as was indicated in the last sentence of paragraph 4 of the reply, given in the letter of 3 August 1972, to the second of the two questions addressed by the Court to the Agent of the Government of the United Kingdom on 2 August 1972, the Government of the United Kingdom expect that in those circumstances they would in practice be able to agree arrangements with the United Kingdom fishing industry under which the industry would itself operate a voluntary scheme of rationing catches so that the total catch for the whole year could not exceed 170,000 metric tons and no licences would have to be cancelled.

12. Because of the need for consultation with the industry and because of the time required to prepare and make the necessary legislation and the accompanying documents, the statutory scheme could not be introduced in time to take effect on 1 September 1972. But measures to a similar effect were applied on an administrative basis, by arrangement with the industry, so as to secure the necessary information relating to catches made by British vessels in the International Council for the Exploration of the Sea Area Va during the period 1 September 1972 to 30 October 1972. (These measures were based on the existing arrangements for the collection of statistics mentioned in paragraph 8 above.) Accordingly, by taking this information into account together with the information obtained under the statutory scheme, it will be possible for the Government of the United Kingdom to ensure that the total catch for the year beginning 1 September 1972 does not exceed the amount specified in paragraph (1) (e) of the Court's Order.

13. In compliance with the Court's Order, the Government of the United Kingdom are communicating a copy of this letter and its various annexes to the Government of Iceland.

Annex A

THE SEA FISHING (SPECIFIED NORTHERN WATERS) LICENSING ORDER 1972

.....

Citation and Commencement

1. This order may be cited as the Sea Fishing (Specified Northern Waters) Licensing Order 1972 and shall come into operation on 30th October 1972.

Interpretation

2.—(1) In this order:—"The Act" means the Sea Fish (Conservation Act) 1967.

(2) The Interpretation Act 1889 (*c*) shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament.

Appointed day

3. The appointed day for the purposes of section 4 of the Act (which provides for the licensing of British fishing vessels in relation to fishing by way of trade or business in specified areas) in conjunction with this order, is 30th October 1972.

Area

4. This Order applies to fishing for all sea fish in the area of sea comprising the International Commission for the Exploration of the Sea Statistical Area VA, which area is described in the Schedule to this order.

Enforcement

5. For the purposes of the enforcement of section 4 of the Act in conjunction with this order there are hereby conferred on every British sea fishery officer the powers of a British sea fishery officer under sections 8 (2) to (4) of the Sea Fisheries Act 1968.

SCHEDULE

INTERNATIONAL COMMISSION FOR THE EXPLORATION OF THE
SEA STATISTICAL AREA VA

The area of sea contained within a line drawn from a position having the coordinates of 68° north latitude and 27° west longitude due south to the parallel of 62° north latitude, thence due east to the meridian of 15° west longitude, thence north to the parallel of 63° north latitude, thence east to the meridian of 11° west longitude, thence north to the parallel of 68° north latitude, thence west to the meridian of 27° west longitude.

Annex B

SEA FISH (CONSERVATION)
ACT 1967

Regulation of fishing for sea fish

4.—(1) As from such day as may be appointed by an order made by the Ministers and subject to such exceptions as may be made by any such order, no British fishing boat registered in the United Kingdom shall be used by way of trade or business for fishing in any area specified in the order, and no fishing boat which is British-owned but not registered under the Merchant Shipping Act 1894 shall be used by way of trade or business for fishing for salmon or migratory trout in any area so specified, except under the authority of a licence granted by one of the Ministers and for the time being in force.

(2) An order made under this section in respect of fishing in any area may be made so as to apply to fishing in that area generally, or may be made subject to any one or more, or any combination, of the following limitations, that is to say, limitations whereby the order applies to fishing in that area—

- (a) for fish of a description specified in the order and not for any other descriptions of fish, or for fish of any description except a description so specified;
- (b) by a method specified in the order and not by any other method, or by any method except a method so specified;
- (c) during a season of the year specified in the order and not during any other season of the year, or at any season of the year except a season so specified;
- (d) during a period specified in the order and at no other time.

(3) Subject to subsection (4) below, any licence granted under this section may authorise either fishing generally or fishing for, or except for, any description of fish specified in the licence, and may do so either unconditionally or subject to such conditions as appear to the Minister granting the licence expedient for the purpose of preventing overfishing.

(4) Where an order under this section is made subject to any such limitations as are mentioned in subsection (2) above, the licensing powers exercisable under this section in pursuance of that order shall be exercisable only within those limitations.

(5) The licensing powers conferred by this section may be so exercised as to limit the number of British fishing boats, or any class of such boats, engaged in fishing in any area or in fishing in any area for any description of fish to such extent as appears to the Ministers to be necessary or expedient for the purpose of preventing overfishing, but the Ministers shall exercise those powers in such a way as appears to them to be likely to cause the least possible hardship.

(6) An order under this section, made with the consent of the Treasury for the purposes of this subsection, may authorise any of the Ministers to make a charge, not exceeding such amount as may be specified in the order, for the granting of a licence under this section, and different amounts may be so specified in relation to different classes of licences.

(7) If subsection (1) above is contravened in the case of any fishing boat, the master, the owner and the charterer (if any) shall each be guilty of an offence under this section.

(8) Subject to subsection (9) below, an order appointing a day for the purposes of this section shall not be made in relation to any area unless the Ministers are satisfied that measures substantially equivalent to the provisions of this section are being taken by the governments of other countries interested in fishing in that area, and in exercising in relation to any area the powers conferred by this section the Ministers shall have regard to the extent to which fishing in that area is being restricted by those governments.

(9) Subsection (8) above shall not apply in relation to the imposition of any restriction—

- (a) on fishing for salmon or migratory trout, whether within or outside the fishery limits of the British Islands, or
 - (b) on fishing for any other sea fish in any waters adjacent to Great Britain and within those limits.
-

Penalties for, and other provisions as to, offences

11.—(1) Any person guilty of an offence under any provision of this Act shall be liable on summary conviction—

- (a) in the case of a first offence under that provision, to a fine not exceeding £100;
- (b) in the case of a second or subsequent offence under section 1(1) or (3), section 2 or section 5(6), to a fine not exceeding £200; and
- (c) in the case of a second or subsequent offence under any other provision of this Act, to imprisonment for a term not exceeding three months or a fine not exceeding £200 or both.

(2) Subject to the following provisions of this section, the court by which a person is convicted of an offence under any of the following provisions of this Act, that is to say, sections 1(3), 3, 4, 5(1) or (6) and 6, may—

- (a) in the case of an offence under section 1(3), order the forfeiture of any fish in respect of which the offence was committed;
- (b) in the case of an offence under section 3, order the forfeiture of the net or other fishing gear in respect of which the contravention constituting the offence occurred;
- (c) in the case of an offence under section 4 or section 5(1) or (6), order the forfeiture of any fish in respect of which the offence was committed and of any net or other fishing gear used in committing the offence;
- (d) in the case of an offence under section 6, order the forfeiture of any fish in respect of which the offence was committed and of any net or other fishing gear used on the vessel in catching any fish landed in contravention of an order under that section.

(3) Any person guilty of an offence under section 4, section 5(1) or (6) or section 6 of this Act shall, subject to subsection (5) below, be liable on summary conviction to a fine not exceeding the value of the fish in respect of which the offence was committed.

(4) A person shall not be liable to a fine under subsection (3) above in respect of an offence if, under subsection (2) above, the court orders the forfeiture of the fish in respect of which the offence was committed; and where a fine is imposed under subsection (3) above in respect of any offence, the court shall not have power under subsection (2) above to order the forfeiture of the fish in respect of which the offence was committed.

(5) Subject to subsection (4) above, any fine to which a person is liable under subsection (3) above in respect of an offence shall be in addition to any other penalty (whether pecuniary or otherwise) to which he is liable in respect of that offence under this section or under any other enactment.

Enforcement of orders, etc.

15.—(1) Subject to the provisions of section 18 of the Sea Fish Industry Act 1962, every British sea-fishery officer shall have the powers conferred by the following provisions of this section.

(2) Any such officer may seize—

- (a) any net or other fishing gear in respect of which a contravention of

- an order under section 3 of this Act has been, or is being, committed;
- (b) any fish caught by the use of a fishing boat contravening section 4(1) of this Act, or caught in contravention of a prohibition imposed by an order under section 5 thereof, where the fish are on the fishing boat or, as the case may be, on the fishing boat used in contravention of such a prohibition or are in the ownership or custody, or under the control, of the owner or master or the charterer (if any) of the fishing boat;
 - (c) any net or other fishing gear used in contravening the said section 4(1) or used in contravention of a prohibition imposed by an order under the said section 5;
 - (d) any fish landed in contravention of an order under section 6 of this Act, and any net or other fishing gear used in catching any fish so landed.

(3) Any such officer may exercise, with respect to any fishing boat in any waters adjacent to the United Kingdom and within the fishery limits of the British Islands, and with respect to any British fishing boat registered in the United Kingdom, wherever it may be, such of the powers conferred on British sea-fishery officers by paragraphs (1) to (8) of section 12 of the Sea Fisheries Act 1883 as may be conferred on him by order of the Ministers, being powers which the Ministers consider necessary for the enforcement of section 1, 3, 4(1) or 5(6) of this Act or of any order under section 1, 3, 5 or 6 thereof.

(4) Any such officer may exercise with respect to any fishing boat which is British-owned but not registered under the Merchant Shipping Act 1894, wherever it may be, such of the powers mentioned in subsection (3) above as may be conferred on him by order of the Ministers, being powers which (in so far as they are not exercisable with respect to any such fishing boat by virtue of an order under subsection (3) above) the Ministers consider necessary for the enforcement of section 4(1) of this Act in respect of fishing for salmon or migratory trout or of any order under section 5 or 6 thereof in relation to the fishing for, or landing of, salmon or migratory trout.

(5) Any such officer may make any examination or inquiry which he deems necessary to ascertain whether any contravention of any of the following provisions of this Act, that is to say, sections 1, 3, 4(1), 5, 6 and 7, or of an order under any of the said sections 1, 3, 5 and 6, has been committed and may administer an oath for that purpose.

(6) Any such officer shall be entitled to the same protection in respect of any action brought against him for any act done or omitted to be done in the exercise of any power conferred on him by virtue of this section to seize or detain a fishing boat as is given, with respect to the seizure or detention of any ship, to an officer of customs by section 76 of the Merchant Shipping Act 1894.

(7) If any person obstructs any such officer in acting under the powers conferred by this section or refuses or neglects to comply with any requisition or direction lawfully made, or to answer any question lawfully asked, by any such officer in pursuance of this section he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50 or, in the case of a conviction in Scotland, £200 or to imprisonment for a term not exceeding three months.

.....

Annex C

SEA FISHERIES ACT 1968

Regulation of sea fishing operations

7.—(1) The following persons shall be British sea-fishery officers for the purposes of the Sea Fisheries Acts, that is to say—

- (a) officers of the sea-fishery inspectorates of each of the appropriate Ministers other than assistant fishery officers;
- (b) commissioned officers of any of Her Majesty's ships;
- (c) persons in command or charge of any aircraft or hovercraft of the Royal Navy, the Army or the Royal Air Force;
- (d) officers of the fishery protection service of the Secretary of State holding the rank of commander, first officer or second officer;
- (e) officers of Customs and Excise;
- (f) the following members of the Coastguard, that is to say, inspectors, district officers and members in charge of coastguard stations;
- (g) other persons appointed as British sea-fishery officers by one of the appropriate Ministers.

8.—(1) For the purpose of enforcing the provisions of any order under section 5 above or of section 6 above or any order thereunder a British sea-fishery officer may exercise in relation to any fishing boat within the fishery limits of the British Islands and in relation to any British fishing boat anywhere outside those limits the powers conferred by subsections (2) to (4) below.

(2) He may go on board the boat, with or without persons assigned to assist him in his duties, and for that purpose may require the boat to stop and do anything else which will facilitate the boarding of the boat.

(3) He may require the attendance of the master and other persons on board the boat and may make any examination and inquiry which appears to him to be necessary for the purpose mentioned in subsection (1) above and, in particular,—

- (a) may examine any fish on the boat and the equipment of the boat, including the fishing gear, and require persons on board the boat to do anything which appears to him to be necessary for facilitating the examination; and
- (b) may require any person on board the boat to produce any documents relating to the boat or the persons on board which are in his custody or possession and may take copies of any such document.

(4) Where it appears to a British sea-fishery officer that a contravention of any provision of an order under section 5 above or of section 6 above or any order thereunder has at any time taken place within the fishery limits of the British Islands, he may take the boat in relation to which the contravention

took place and the crew of the boat to the port which appears to him to be the nearest convenient port and detain the boat and the crew in the port until the completion of proceedings for the contravention.

Supplemental

22.—(1) The enactments specified in Schedule 1 to this Act shall have effect subject to the amendments set out in that Schedule, being minor amendments and amendments consequential on the foregoing provisions of this Act.

SCHEDULE 1

MINOR AND CONSEQUENTIAL AMENDMENTS

PART II

AMENDMENTS COMING INTO FORCE ON APPOINTED DAY

The Sea Fish (Conservation) Act 1967 (c. 84)

38.—(1) Section 15 (powers of British sea-fishery officers) shall be amended in accordance with the following provisions of this paragraph.

(2) In subsection (1) the words from the beginning to "1962" shall cease to have effect.

(3) For subsections (3) to (7) there shall be substituted the following subsections:—

"(3) Any such officer may exercise in relation to any fishing boat in any waters adjacent to the United Kingdom and within the fishery limits of the British Islands, and in relation to any British fishing boat registered in the United Kingdom and any British owned fishing boat (not so registered) anywhere outside those limits, such of the powers of a British sea-fishery officer under section 8(2) to (4) of the Sea Fisheries Act 1968 as may be conferred on him by order of the Ministers, being powers which the Ministers consider necessary for the enforcement of any of the provisions of sections 1 to 7 of this Act or any order made under any of those sections.

(4) An order under this section may make different provision for different cases.

(5) Section 10 of the Sea Fisheries Act 1968 shall apply in relation to the provisions of an order under this section and the powers thereby conferred as they apply in relation to section 8 of that Act and the powers thereby conferred; and, in relation to an offence under the said section 10 as it applies by virtue of this subsection, sections 12 to 14 of that Act shall apply accordingly."

Annex D

Licence No. SPECIMEN

SEA FISH (CONSERVATION) ACT 1967

THE SEA FISHING (SPECIFIED NORTHERN WATERS) LICENSING ORDER 1972

NAME OF VESSEL

REGISTERED NO.

NAME OF OWNER

The above vessel is hereby licensed to be used for fishing under the terms of the above Order from _____ to 31 August, 1973. The vessel may fish in the area defined in the Schedule to the Order and at Note 2 below, known as ICES Statistical Area Va, subject to the following conditions:

- (1) A Record of fishing activity shall be kept during the whole of each voyage in the course of which fishing is conducted in the said area, in a form prescribed by the Ministers, and shall be produced to the authorised agents of the Ministers on request.
- (2) On the completion of each such voyage, the owners shall provide to the authorised agent of the Ministers:—
 - (a) a certified summary of the daily record, in a form prescribed by the Ministers
 - (b) a certified statement of the quantity of fish landed.
- (3) This licence may be cancelled if the appropriate Minister is satisfied that the total catch by British vessels from ICES Statistical Area Va is likely to exceed 170,000 metric tons in any one year beginning on 1st September unless fishing by such vessels in that Area is reduced.

Signed
District Inspector/Area Inspector
on behalf of the Minister of Agriculture,
Fisheries and Food/Secretary of State
for Scotland.
Date

Notes

1. Failure to comply with the terms of this licence may constitute an offence under the terms of the Sea Fish (Conservation) Act 1967, Section 4, which carries maximum penalties of a fine of £100 for a first offence and £200 or three months imprisonment or both for second or subsequent offences. Additionally, the fish in respect of which the offence was committed may be forfeited, together with any net or other fishing gear used in committing the offence.
2. ICES Statistical Region Va is the area of sea bounded by a line drawn from a position 68°N, 27°W due south to the parallel 62°N, thence east to the meridian 15°W, thence north to the parallel 63°N, thence east to the meridian 11°W, thence north to the parallel 68°N, thence west to the meridian 27°W.

Annex E

RECORD OF EACH CONSECUTIVE HAUL

(Form CL.1)

*[Not reproduced]***Annex F**

SUMMARY OF FISHING

(Form CL.2)

*[Not reproduced]***Annex G**

THE SEA FISHING (SPECIFIED NORTHERN WATERS) LICENSING ORDER 1972

Notes for the Guidance of Owners and Skippers

1. Licences issued under the above Order allow British Vessels to fish in Icelandic waters (ICES Statistical Area Va, defined below). From the 30 October 1972 no British fishing boat registered in the United Kingdom may fish in that area unless it has the authority of such a licence. A copy of the licence should be carried on board at all times.
2. ICES Statistical Area Va is the area of sea bounded by a line drawn from a position 68°N, 27°W due south to the parallel 62°N, thence east to the meridian 15°W, thence north to the parallel 63°N, thence east to the meridian 11°W, thence north to the parallel 68°N, thence west to the meridian 27°W. An illustrative map is enclosed.
3. Each licence is issued on the condition that certain information is supplied to the Ministry. This information is needed in order to satisfy the International Court of Justice that the United Kingdom fishing industry is respecting the catch limitation laid down in the Court's interim judgment on Icelandic fishing limits.
4. Licences will be issued on application to your District Inspector of Fisheries.
5. Throughout any voyage which included fishing in Statistical Area Va, fishing records must be kept on Form CL1 and at the end of the voyage a return must be completed on Form CL2.
6. Instructions on the use of these forms are given below and should be carefully followed. Both types of form should be completed in duplicate and one copy of each forwarded by the owner to the District Inspector of Fisheries within two days of the end of the voyage.

Instructions for Completion of Forms

7. *Form CL1—Record of Hauls*

This record must be completed immediately after each haul, including hauls made outside Area Va.

A separate sheet should be used for each region fished, and the appropriate letter for that region should be entered at the top of each sheet. A fresh sheet should also be used if the vessel returns to a region already fished, after moving to another region.

Hauls must be numbered consecutively throughout the voyage.

Species other than Cod, Saithe, Haddock and Redfish should be recorded under "Others", unless they form a substantial portion of a haul.

If there are any rejections, indicate the main species under "Remarks".

8. *Form CL2—Fishing Summary and Statement of Quantity Landed*

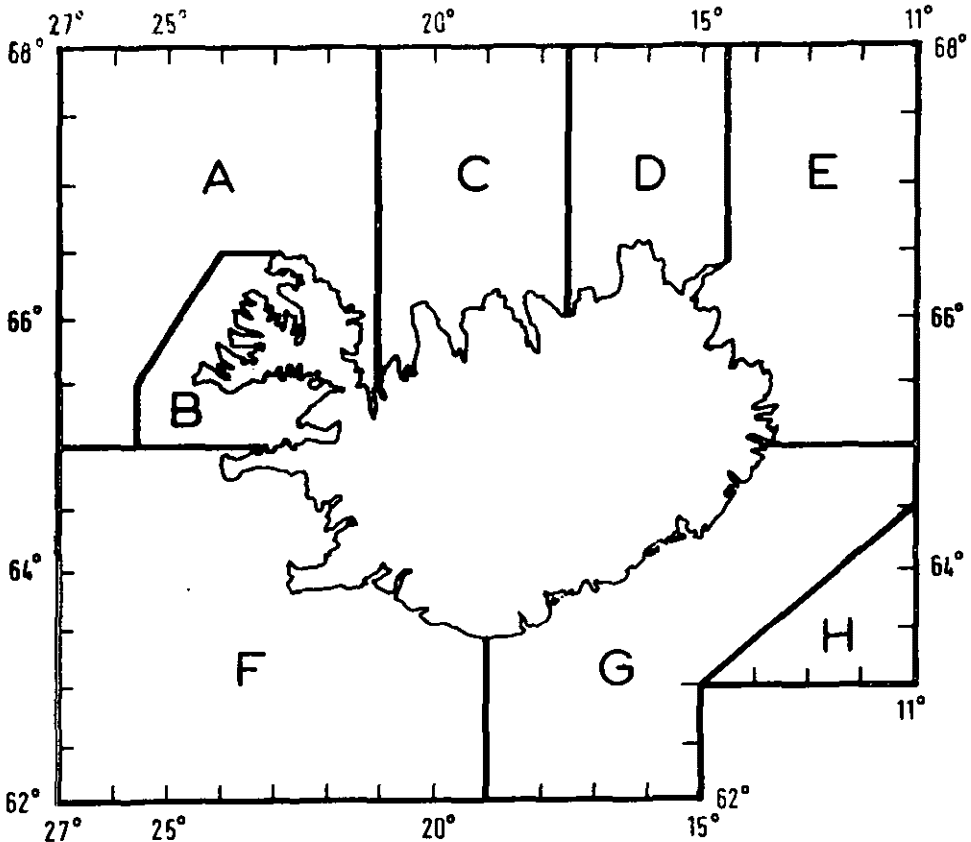
This will be compiled from the forms CL1, and all fishing will be included. If more than four regions are fished during a trip the Summary should be continued on a second form.

The Fishing Summary should be signed by the Skipper and handed to the Owner together with the Record of Hauls.

The Statement of Quantity Landed gives totals of all fish landed from a voyage and must be supported by sales notes or other documentation. It should be completed and signed by the Owner or his representative.

Ministry of Agriculture, Fisheries and Food
Department of Agriculture and Fisheries
for Scotland.

October 1972.



Annex H**THE SEA FISHING (SPECIFIED NORTHERN WATERS) LICENSING ORDER 1972****Covering Note for Owners, Skippers and Others****1. Purpose of this Note**

This note is being issued with the formal Notes for Guidance and the forms which make up the mechanism for introducing and enforcing the catch limitation scheme which the International Court of Justice (ICJ) has directed the British Government to implement. It gives the background to the scheme, and some informal advice on the part skippers and owners have to play in it. It is issued at the request of the industry's Joint Action Committee on Iceland, which has been consulted on and approved the scheme.

2. General

From the point of view of the owners and skippers, the scheme represents a further burden of form-filling, partly under the difficult conditions of fishing operations off Iceland. It is however absolutely necessary, and in the interests of all in the fishing industry that it is scrupulously observed. It is designed to cause the minimum possible inconvenience consistent with the proper discharge of our international obligations.

3. Need for the scheme

When the ICJ gave its ruling on the Government's application for "measures of interim relief"—a sort of restraining injunction—in the matter of the limits dispute with Iceland, it directed *Iceland* to let us go on fishing up to 12 miles and the *United Kingdom* to ensure that our catch did not exceed 170,000 tons caught weight (the average catch for the previous five years). The Government, and the industry, accepted this ruling. We have to demonstrate to the Court, and to Iceland, that our catches are being effectively checked and that the 170,000 ton ceiling will not be exceeded. Any doubt as to our capacity to do this will seriously hinder the conduct of our case, and undermine our chances of achieving a satisfactory resolution of the dispute.

The international conservation commissions are turning to catch limitation schemes as the most effective, and in economic terms the most efficient, means of achieving proper management of the stocks. Catch limitation schemes have already been agreed for the North West Atlantic, and the extension of the system to the North East can be expected before long. These schemes will rely upon records made during fishing operations, and a form of fishing log-book has been agreed (after consultation on our part between industry and the Ministry). It is very desirable that this catch limitation scheme for Iceland follows the internationally agreed lay-out with which skippers and owners will become familiar over the next few years.

4. Details of the scheme

We have had for decades a very effective machinery for gathering catch statistics for economic and scientific purposes, run on a voluntary, agreed basis with the full co-operation of the industry. The new scheme makes full use of that machinery. But it is necessary to supplement it in two ways to create a water-tight scheme that will command the international confidence we require. First, the statistics at present gathered by the Fisheries Inspectorate on the completion of each voyage will have to be provided and certified by skippers and owners. Just the same information is required, but the form

will need to be filled in by the skippers and owners, and its correctness vouched for by a signature, instead of being filled in by the Inspector on the basis of information given to him. Second, this information, which is at present based on memory and/or records kept privately will have to be documented by records in standard form made on the grounds while fishing is going on. This is essential for a credible scheme. For any Court, special validity attaches to records made on the spot, and only if records are kept day-to-day will the scheme achieve its objective. These are the requirements that have dictated the introduction and the design of the two forms referred to in the formal Notes for Guidance.

5. Filling in the forms

Form CL 1 is in effect a fishing log-book. Form CL 2 is a summary of it. In CL 2, completed after landing, it will be possible to give the actual quantities of fish. When the skipper makes out a record of each haul in CL 1, however, he will only be able to make an estimate of the amount of fish. Precise measurement is not possible, nor is it required. The skipper can only estimate as best he can. Estimates in terms of kits would be preferred, but if it is easier estimates in terms of the other measures shown on the form are perfectly acceptable. The only thing is to ensure that the same unit is used throughout—hopping about from kits to stones to baskets will cause problems.

The information asked for in form CL 1 is on the lines of that required at present by the Ministry's Collector to make his summary at the end of each voyage. So although making the record while fishing may be a chore, it should make things easier for skipper and mate at the end of the trip.

The absolutely essential pieces of this form are the records for each haul of the date, the ground, the *estimated* number of kits (or other unit of measure), and the main species caught. Unless this information is provided to the Ministry the control will not be effective and the object of the scheme will be lost. This is a statutory scheme, and providing this data is a condition of the licence.

The other information required—time spent steaming, the timing of shooting and hauling, and information on rejects—is not essential for the purposes of meeting our obligations to the ICJ. It is however essential information for the proper management of any catch limitation scheme, and it will be a statutory requirement for the schemes introduced by the international commissions.

Turning to CL 2, it will be noted that the information described as absolutely essential in the case of CL 1 is the information summarised in CL 2, on the front. The skipper is required to complete and sign this summary. The back of the form is in effect a summary of the sales note, to be completed by the owners.

Conclusion

This scheme will enable our fishing off Iceland to be monitored and the catch limitation observed. Iceland's rejection of the ICJ ruling has made for difficult working on Icelandic grounds, and unless the situation improves there may well be difficulty in catching enough fish over the years to approach the 170,000 ton figure. However, if that figure is approached, the Minister will have to make another Order stopping all fishing at a time judged to keep the total just below the ceiling. However, this monitoring system will enable the Ministry to foresee the approach of the ceiling, and in the eventuality arrangements will be agreed with the industry's representatives to avoid sudden and

disruptive action or the ban being put on well before the end of the year. Finally, the scheme can be changed in detail in the light of practical experience. Suggestions for improvements should be sent to Federation or Guild representatives in the first instance rather than direct to the Ministry.

Ministry of Agriculture, Fisheries and Food
Department of Agriculture and Fisheries
for Scotland.

October 1972.

76. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

22 December 1972.

With reference to the *Fisheries Jurisdiction (United Kingdom v. Iceland and Federal Republic of Germany v. Iceland)* cases, may I invite Your Excellency's attention to Article 44, paragraph 3, of the Rules of Court (1946 edition), which reads as follows:

"The Court, or the President if the Court is not sitting, may, with the consent of the Parties, authorize the pleadings and annexed documents in regard to a particular case to be made accessible to the public before the termination of the case."

It has for some years been the practice of the Court to seek the parties' consent to the pleadings and annexed documents in cases before the Court being made accessible to the public with effect from the opening of the oral proceedings in each case; the oral proceedings themselves are, by virtue of Article 46 of the Statute of the Court, public unless the Court decides otherwise, and it is often difficult to understand the oral argument without having had sight of the pleadings.

In order that the Court may, if it sees fit, consider this question, I shall be grateful if Your Excellency will inform me whether the Government of Iceland would have any objection to the pleadings and annexed documents so far filed in each of the two *Fisheries Jurisdiction* cases being made accessible to the public with effect from the opening of the oral proceedings in each case.

The Court may also wish to consider making accessible to the public the various communications which I have had the honour to receive from Your Excellency setting out the position of the Government of Iceland with reference to the proceedings. These documents, although they do not fall within the category of pleadings, may well be referred to in oral argument, and would normally be published after the termination of the case in the appropriate part of the relevant volume in the Court's series of publications devoted to *Pleadings, Oral Arguments, Documents*. I would therefore be grateful if Your Excellency would also indicate whether the Government of Iceland would have any objection to these documents also being made accessible to the public at the same time as the pleadings.

I am writing also to the Agents of the United Kingdom and the Federal Republic of Germany to enquire whether their respective Governments, with regard to the proceedings they have each instituted, would have any objection to the pleadings and other documents referred to above being made accessible to the public¹.

¹ I, p. 242, and p. 121, *supra*.

77. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

4 January 1973.

I have the honour to refer to my letters of 3 and 20 November concerning the choice by the Government of the Federal Republic of Germany of Professor Dr. Hermann Mosler to sit as judge *ad hoc* in the *Fisheries Jurisdiction (Federal Republic of Germany v. Iceland)* case.

I have the honour to inform Your Excellency that the Court, after deliberating on the question, is unable to find that the appointment of a judge *ad hoc* by the Federal Republic of Germany in this phase of the case would be admissible. This decision affects only the present phase of the proceedings, that is to say that concerning the jurisdiction of the Court, and does not in any way prejudice the question whether, if the Court finds that it has jurisdiction, a judge *ad hoc* might be chosen to sit in the subsequent stages of the case¹.

Accordingly the Court will sit in its regular composition, without a judge *ad hoc*, for the public hearing to be held on Monday 8 January, and the subsequent deliberation in this phase of the case.

78. THE AGENT FOR THE GOVERNMENT OF THE UNITED KINGDOM
TO THE REGISTRAR

5 January 1973.

I have the honour to transmit to you a written statement of the formal contentions and submissions of the Government of the United Kingdom as made at the conclusion of the presentation of the case for the United Kingdom at today's oral hearing by the Court.

The Government of the United Kingdom contend

[see I, p. 262]

79. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

5 January 1973.

I have the honour to send Your Excellency herewith a copy of the verbatim record of today's hearing in the *Fisheries Jurisdiction (United Kingdom v. Iceland)* case, and a certified true copy of a letter from the United Kingdom Agent, filed in the Registry immediately after the hearing, setting out the formal submissions of the United Kingdom.

In accordance with the request made in Your Excellency's telegram of 3 August 1972, I am sending under separate cover 24 further copies of the verbatim record of today's hearing.

¹ See p. 120, *supra*, and *I.C.J. Reports 1973*, p. 51.

80. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND¹*(telegram)*

30 January 1973.

Have honour inform you Court will hold public sitting on Friday 2 February at 10 a.m. at which Judgments will be delivered on question of Court's jurisdiction in *Fisheries Jurisdiction* cases instituted by United Kingdom and Federal Republic of Germany.

81. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND*(telegram)*

2 February 1973.

Have honour inform you Court today delivered Judgments in *Fisheries Jurisdiction* cases. Operative clause in Judgment in case instituted by United Kingdom reads as follows:

[See I.C.J. Reports 1973, p. 22]

Operative clause in case instituted by Federal Republic of Germany reads as follows:

[See I.C.J. Reports 1973, p. 66]

Judgments airmailed to you today.

82. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND*(telegram)*

12 February 1973.

On instructions of President of Court have honour inform Your Excellency that he is convening meetings in *Fisheries Jurisdiction* cases on Thursday 15 February to ascertain views of Parties regarding questions of procedure in cases on merits pursuant Article 37 Rules of Court; *Federal Republic of Germany v. Iceland*, 10 a.m., Agent for Federal Republic of Germany will attend, *United Kingdom v. Iceland*, 11 a.m., Agent for United Kingdom will attend. Whilst noting that Agent has not been appointed by Iceland am instructed inform you that should Your Excellency's Government wish to be represented at these meetings person designated would be welcome to attend².

¹ Similar communications were sent to the Agents for the Governments of the United Kingdom and the Federal Republic of Germany.

² On 15 February 1973, the President met successively the Agents for the Governments of the United Kingdom and the Federal Republic of Germany.

83. LE GREFFIER AU MINISTRE DES AFFAIRES ÉTRANGÈRES D'AFGHANISTAN¹

13 février 1973.

Le Greffier de la Cour internationale de Justice a l'honneur de transmettre, sous ce pli, un exemplaire de chacun des arrêts rendus par la Cour le 2 février 1973 dans les affaires relatives à la *Compétence en matière de pêcheries (Royaume-Uni de Grande-Bretagne et d'Irlande du Nord c. Islande; République fédérale d'Allemagne c. Islande)*.

D'autres exemplaires seront expédiés ultérieurement par la voie ordinaire.

84. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND²*(telegram)*

15 February 1973.

Have honour inform Your Excellency that by two Orders³ of today Court fixed following time-limits for written proceedings on merits in *Fisheries Jurisdiction* cases: 1 August, 1973 for Memorials of United Kingdom and Federal Republic of Germany; 15 January 1974 for Counter-Memorials of Iceland.

85. THE MINISTRY OF FOREIGN AFFAIRS OF ICELAND TO THE REGISTRAR

(telegram)

16 February 1973.

Would appreciate receiving earliest opportunity 20 copies each of Judgment delivered by the Court 2 February in *Fisheries Jurisdiction* cases.

86. THE AGENT FOR THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY TO THE REGISTRAR

21 May 1973.

I have the honour to refer to the Order made by the Court on 17 August 1972 in the *Fisheries Jurisdiction (Federal Republic of Germany v. Iceland)* case on the Request made by the Government of the Federal Republic of Germany dated 21 July 1972 for the indication of interim measures of protection pending the Court's final decision in these proceedings. In paragraph (1) (e) of the operative passage of the Order the Court indicated that the

¹ Une communication analogue a été adressée aux autres Etats Membres des Nations Unies et aux Etats non membres des Nations Unies admis à ester devant la Cour.

² Similar communications were sent to the Agents for the Governments of the United Kingdom and the Federal Republic of Germany.

³ *I.C.J. Reports 1973*, pp. 93 and 96.

Federal Republic should ensure that vessels registered in the Federal Republic do not take an annual catch of more than 119,000 metric tons of fish from the "Sea Area of Iceland", as defined by the International Council for the Exploration of the Sea as Area Va. In paragraph (1) (f) of the Order the Court indicated that the Federal Republic should furnish the Government of Iceland and the Registry of the Court with all relevant information, orders issued and arrangements made concerning the control and regulation of fish catches in the area. In compliance with the said paragraph (1) (f) I now have the honour to supply the following information to the Court:

1. Statutory authority for regulating the operation of fishing vessels of the Federal Republic, in particular for regulating the amount of total catch or the amount of fishing effort in any period or any area, is contained in the Law Implementing the International Convention for the Northwest Atlantic Fisheries and the North-East Atlantic Fisheries Convention and Making Further Provision for the Regulation of Sea Fishing, enacted on 25 August 1971 (hereinafter referred to as the Sea Fisheries Conventions Law 1971). A copy of the Sea Fisheries Conventions Law 1971, together with an English translation, is attached hereto as Annex A¹.

2. Statutory authority for regulating the operation of fishing vessels of the Federal Republic had been primarily introduced for the purpose of putting into effect proposals and recommendations of the Northwest Atlantic and North-East Atlantic Fisheries Commissions (see Article 2 of the Sea Fisheries Convention Law 1971). This authority may, however, also be used independently from proposals or recommendations of the Fisheries Commissions if regulatory measures prove necessary for the conservation and optimal utilization of fish stocks (Article 3 of the aforementioned Law). Under Articles 2 and 3 of the Sea Fisheries Conventions Law 1971 the Federal Minister of Food, Agriculture and Forestry (hereinafter referred to as the "Federal Minister") is authorized to issue regulations whereby, inter alia, the amount of total catch in a specified area may be limited, and, for the implementation of such a catch limitation, fishing in the specified area may be prohibited or made subject to a licence to be issued by the Federal Minister (Article 2, paragraph (2), No. 4, and paragraph (3) of the Sea Fisheries Conventions Law 1971). For securing compliance with such Regulations, the Federal Minister is further authorized to impose on the masters of fishing vessels or on the fishing enterprises the duty to keep the necessary records of their operations or to give other requisite information which shows the compliance with regulations issued for the purpose of catch limitation (Article 2, paragraph (2), No. 6, of the Sea Fisheries Convention Law 1971). Supervision of compliance with the regulations by the fishing vessels of the Federal Republic on the High Seas, is carried out by the masters or ships' officers in the nautical service of the fishery protection vessels of the Federal Republic of Germany, or by other officials appointed by the Federal Minister (Article 4 of the Sea Fisheries Conventions Law 1971).

3. For the purpose of compliance with the Court's Order of 17 August 1972 the Federal Minister issued the Third Regulation Implementing the Sea Fisheries Conventions Law 1971 on 6 September 1972. A copy of this Regulation, together with a translation is attached hereto as Annex B 2. Section 1

¹ See p. 427, *infra*.

² See p. 434, *infra*.

of this Regulation deals with the limitation of fishing for herring in the North-west Atlantic which is not relevant here; Section 2 relates to the fishing in the "Sea Area of Iceland", i.e., the statistical area Va of the International Council for the Exploration of the Sea to which the Order of the Court refers in paragraph (1) (*e*) of its operative passage. Paragraph (1) of section 2 of the aforementioned Regulation makes fishing within the said area subject to a licence issued by the Federal Minister, and stipulates that the total catch within one calendar year shall not exceed 119,000 tons. Paragraph (2) imposes certain duties on the masters of fishing vessels for keeping daily records of their catches, and on fishing enterprises in possession of a licence to furnish the requisite statements and documents for proving that the amount of the total catch is not in excess of the amount laid down in the licence. The scheme of control will be explained in more detail in the later paragraphs of this report.

4. By letter of 16 October 1972 addressed to the German Trawler Owners' Association, a copy of which together with a translation is attached hereto as Annex C¹, the Federal Minister issued a general licence to the enterprises members of the German Trawler Owners' Association to catch 119,000 tons of fish in the area mentioned in the Sea Area of Iceland. The Minister left it to the Association to distribute this amount among the members of the Association but reserved the right to revoke this licence with regard to individual enterprises if this would be necessary in the interest of an equitable utilization by all enterprises of the total quota granted. It was made clear that, for the calendar year 1972, the catches already made prior the entry into force of the Regulation of 6 September 1972 were to be deducted from the amount stated in the licence. As landings from the Iceland area in the calendar year 1972 remained considerably below 119,000 tons, it was not necessary to revoke the licence for all or some fishing enterprises being members of the German Trawler Owners' Association before the end of 1972.

5. The system for controlling the compliance with the Regulation of 6 September 1972 and with the condition of the general licence issued on 16 October 1972 operates in the following way:

6. An obligatory statistical information scheme had already been in operation under the Law on Fishery Statistics of 21 July 1960 (*BGBI. I*, p. 589). According to this Law all landings of German deep-sea fishing vessels in the Federal Republic of Germany are being recorded and specified as to the fishing vessel, the fishing ground and the catch after each fishing voyage. The heads of the sea fish market administrations are responsible for giving information on the fishing vessels; the heads of the fishing enterprises are responsible for giving information on the fishing ground and the catch. The data are being entered by the head of the fishing enterprise in the green "Registration Form 1 b" (attached hereto as Annex D²). As regards "fresh fish voyages" the registration form will be supplemented by a "catch list" prepared by the sea fish market administration (attached hereto as Annex E²) containing the species of fish landed and its weight, and the prices obtained at the auction. For landings abroad the head of the fishing enterprise will have to enter the necessary data in the "Registration Form 3" (attached hereto as Annex F²). According to sections 6, 10 and 14 of the Law on Statistics for Federal purposes of 3 September 1953 (*BGBI. I*, p. 1413) amended for the last time by Article 35 of the Law introducing the *Ordnungs-*

¹ See p. 436, *infra*.

² See p. 438, *infra*.

widrigkeiten-Gesetz (Law on Minor Offences) of 27 May 1968 (*BGBI.* I, p. 503) refusal or delay in furnishing the required data, as well as incorrect or incomplete supply of data will be punished by a fine up to 10,000 DM. The registration forms and catch lists will be handed over by the heads of the sea fish market administrations to the Federal Research Board for Fisheries which is a federal agency under the supervision of the Federal Ministry of Food, Agriculture and Forestry. There they will be scrutinized and evaluated (extrapolation to the "nominal catch" requested by the international organizations = life weight of the fish intended for human consumption including the fish processed into fish meal on board) and then forwarded to the Federal Office of Statistics in Wiesbaden where the final statistical compilation will be made. In addition, the specified origin of the catches (fishing grounds) is being checked on the sea fish markets according to certain exterior criteria of the fish landings (composition of the catch and size of fish) although there is no legal obligation to do this. The determination of origin is, however, relevant to the classification of catches and thus has an effect on the price which can be obtained in the auction on the sea fish markets.

7. Since the specifications required by the Law on Fishery Statistics cover the fishing ground, the catch and the duration of the voyage, but do not include the exact time and place where the individual catches have been made, the following supplementary requirements were introduced by the Third Regulation of 6 September 1972. For the purpose of control of compliance with the catch limitation contained in Section 2, paragraph (1), of this Regulation, Section 2, paragraph (2), refers to Section 1, paragraphs (2) to (4), of the Regulation. This means that the masters of the fishing vessels have to keep daily records of their catches, specifying the date, position, quantity, waste, and utilization of the catch and stating the type of fishing gear used as well as the amount of fishing effort (number of hauls multiplied by fishing time) (Section 1, paragraph (2)). These data are put down by the master of the fishing vessel in the fishing log book [*Logbuchschein*] (see Annex G¹).

Section 1, paragraph (3), of the Regulation requires that fishing enterprises have to give information on the duration of the fishing voyages of their vessels to the Federal Research Board for Fisheries and to the Federal Office of Statistics at their request which information has to be accompanied by all relevant declarations and documents which are necessary for verification; if so requested they shall furthermore submit the necessary statements and documents to prove that the amount of catch allowed by the licence had not been exceeded. According to Section 4 of the Regulation in connection with Article 6 of the Sea Fisheries Convention Law 1971 infringements may be punished by fines up to 10,000 DM together with a confiscation of fishing gear and catch.

8. In his letter of 16 October 1972 the Minister had requested that all catches have to be reported to the Federal Research Board for Fisheries. This was carried out in the following way: The fishing enterprises passed on the fishing log books and the green registration forms to the sea fish market administrations which in turn handed them over to the Federal Research Board for Fisheries. The Research Board was able to scrutinize these documents together with the data of the sea fish markets on landings and thus to check exactly for each vessel and each voyage when and where which type and which amount of fish had been caught. In addition, the information of the fishing enterprises could be compared with the reports of the German fishery

¹ See p. 438, *infra*.

protection vessels on the number of German vessels which operated around Iceland and on their catches. These reports are rather comprehensive because all 4 protection vessels have been concentrated in the waters around Iceland since 1 September 1972.

9. On the information provided by the Federal Research Board for Fisheries, the provisional figure of the nominal catch of the fishing vessels of the Federal Republic in the Iceland Area (Iceland = ICES Area Va) in the year 1972 amounts to 93,672 tons. This amount keeps within the limit set by the Court in its Order of 17 August 1972.

Annex A

Law

Approving Amendments to and Implementing the International Convention for the Northwest Atlantic Fisheries and the North-East Atlantic Fisheries Convention, and Making Further Provision for the Regulation of Sea Fishing
- Sea Fisheries Conventions Law 1971 -
25 August 1971

[Translation¹]

Be it enacted by the Bundestag as follows:

Article 1

The following international agreements are approved:

1. The Protocol of 1 October 1969 to the International Convention for the Northwest Atlantic Fisheries (*Bundesgesetzblatt* 1957 II, p. 265), signed by the Federal Republic of Germany in Washington on 3 October 1969, relating to Panel Membership and to Regulatory Measures.
2. The Protocol of 6 October 1970 to the International Convention for the Northwest Atlantic Fisheries (*Bundesgesetzblatt* 1957 II, p. 265), signed by the Federal Republic of Germany in Washington on 9 October 1970, relating to Amendments to the Convention.
3. The Proposal to supplement the North-East Atlantic Fisheries Convention (*Bundesgesetzblatt* 1963 II, p. 157) in accordance with its Article 7 paragraph (2) which proposal was adopted by the North-East Atlantic Fisheries Commission at its Eighth Meeting held in London from 6 to 11 May 1970.

The Protocols and the Proposal referred to above are published hereunder.

Article 2

(1) The Federal Minister of Food, Agriculture and Forestry ("the Federal Minister") is authorized to issue Regulations which do not require prior consent of the *Bundesrat* (Federal Council), for the purpose of giving effect to

¹ Original text (*Bundesgesetzblatt* 1971 II, pp. 1057-1064) not reproduced.

1. proposals put forward by the International Commission for the Northwest Atlantic Fisheries under the provisions of Article VIII of the International Convention for the Northwest Atlantic Fisheries of 8 February 1949, as amended;
2. recommendations made by the North-East Atlantic Fisheries Commission under the provisions of Article 7 of the North-East Atlantic Fisheries Convention of 24 January 1959, as amended.

(2) Under the provisions of paragraph (1) above, and in so far as such *action is required to attain the objectives of the Convention*, measures may be taken for

1. the regulation of the properties of fishing gear and appliances,
2. the regulation of the species, quantity and size of fish that may be retained on board vessels or landed or exposed or offered for sale,
3. the establishment of closed seasons and closed areas,
4. the regulation of the amount of total catch or the amount of fishing effort in any period or any area,
5. any other regulation directly related to the conservation and optimal utilization of all fish stocks in the Convention area,
6. the imposition of the duty to record, give information on, notify or otherwise report details of compliance with regulations issued under sub-paragraphs 1 to 5 above,
7. the supervision of compliance with regulations issued under sub-paragraphs 1 to 6 above. Such supervision may include in particular the stopping of fishing vessels, access to and inspection of rooms and containers for fishing gear and appliances or fish or logbooks and other ship's papers, and may further include inspection of such books and papers as well as requiring the necessary explanations with respect to the objects of control. The fundamental right of privacy of the home (Article 13 of the Basic Law) may be restricted to that extent.

(3) In implementation of the regulations under paragraph 2 (4) above, fishing for certain species of fish may in certain periods or areas be prohibited or made subject to a licence from the Federal Minister. There may be attached to such licence certain conditions pertaining to the maximum permissible catch, the use of certain types of fishing vessels or of fishing gear and appliances or of fishing methods, or to the duration of the fishing effort or of the stay of the vessel in the fishing grounds concerned. When granting such licence the fishing capacity and qualification of the fishing enterprise and its previous participation in the fishery concerned shall be taken into consideration and allowance shall be made for the rational utilization of the fishing fleet and the best possible supply of the market. If there exists a marketing association (Section 7 of the Fish Law of 31 August 1955 (*Bundesgesetzblatt I*, p. 567)), most recently amended by the Marketing Fund Law of 26 June 1969 (*Bundesgesetzblatt I*, p. 635), it shall be heard before a licence will be granted.

Article 3

The Federal Minister is authorized, even without a proposal from the International Commission for the Northwest Atlantic Fisheries or a recommendation from the North-East Atlantic Fisheries Commission, to take regulatory

measures pursuant to Article 2 (2) of this Law by means of Regulations which do not require the prior consent of the Federal Council, provided that this proves necessary for the conservation and optimal utilization of fish stocks or for supervising compliance with the regulations issued on the basis of this Law; the said authorization may, in addition, be used for the implementation of Regulations issued by the Council of the European Communities under Article 5 of EEC Regulation No. 2141/70 of 20 October 1970 concerning the Adoption of a Common Structural Policy for the Fishing Industry (*Official Gazette of the European Communities*, No. L 236 of 27 October 1970, p. 1).

Article 4

(1) Supervision of compliance with the Regulations issued under the authority of this Law, outside the limits of the territorial sea of the Federal Republic of Germany shall be carried out by the masters or ship's officers in the nautical service of the fishery protection vessels of the Federal Republic of Germany, by other officials appointed by the Federal Minister or, provided reciprocity is guaranteed, by specially authorized inspectors of the fishery control services of the States parties to the International Fisheries Conventions.

(2) Any act of specially authorized inspectors in the exercise of supervision shall be deemed equal to official acts of civil servants within the meaning of Article 113 of the Penal Code.

Article 5

(1) Any person who, without authority, discloses a secret of another, notably a business secret, of which he has obtained knowledge as a member or representative of an agency fulfilling responsibilities under this Law, shall be liable to a term of imprisonment not exceeding one year and with a fine or with either of these penalties.

(2) If the offender acts for a consideration or with intent to enrich himself or injure another party, the penalty shall be imprisonment not exceeding two years; in addition, a fine may be imposed. Similarly, any person who, without authority, uses a secret of another, notably a business secret of which he has obtained knowledge under the circumstances described in paragraph 1 above, shall also be liable to punishment.

(3) The offence shall be prosecuted only upon the application of the injured party.

Article 6

(1) Any person who wilfully or negligently contravenes a Regulation issued under the provisions of Article 2 or 3 of this Law shall be deemed to have committed an offence in so far as that Regulation refers to this Article with regard to that specific contravention.

(2) Such offence may be punished with a fine not exceeding ten thousand German Marks.

(3) Any fishing gear and appliances used or fish caught in contravention to a Regulation envisaged by paragraph 1 above, may be confiscated. Section 19 of the Law on Minor Offences (*Gesetz über Ordnungswidrigkeiten*) shall apply.

Article 7

The present Law shall also apply to Land Berlin, provided that Land Berlin makes an enactment to this effect. Regulations issued under this Law shall be applicable in the Land Berlin in accordance with Section 14 of the Third Transitional Law (*Überleitungsgesetz*) of 4 January 1952 (*Bundesgesetzblatt I*, p. 1).

Article 8

(1) This Law shall enter into force on the day after its promulgation. At the same time, Article 2 (3) of the Law of 28 April 1954 concerning the Accession of the Federal Republic of Germany to the Convention of 5 April 1946 of the International Overfishing Conference, as amended by the Supplementary Law of 13 June 1955 (*Bundesgesetzblatt II*, p. 697), Articles 2 to 4 of the Law of 22 December 1959 Amending and Implementing the Law concerning the Accession of the Federal Republic of Germany to the Convention of 5 April 1946 of the International Overfishing Conference (*Bundesgesetzblatt 1959 II*, p. 1511), and Article 3 of the Law of 19 March 1963 relating to the North-Atlantic Fisheries Convention (*Bundesgesetzblatt 1963 II*, p. 157) shall cease to have effect.

(2) The date on which

1. the Protocol relating to Panel Membership and to Regulatory Measures, pursuant to its Article IV, paragraph (2);
 2. the Protocol relating to Amendments to the Convention, pursuant to its Article II, paragraph (2);
 3. the Proposal to supplement the North-East Atlantic Fisheries Convention, pursuant to Article 7, paragraph (2), of that Convention,
- enter into force for the Federal Republic of Germany, shall be published in the *Bundesgesetzblatt*.

The constitutional rights of the *Bundesrat* (Federal Council) are observed. The foregoing Law is hereby promulgated.

Bonn, 25 August 1971.

The Federal President

HEINEMANN

The Federal Chancellor

BRANDT

The Federal Minister of
Food, Agriculture and Forestry

J. ERTL

The Federal Minister for Foreign Affairs

SCHEEL

PROTOCOL TO THE INTERNATIONAL CONVENTION FOR THE NORTHWEST
ATLANTIC FISHERIES RELATING TO PANEL MEMBERSHIP AND TO
REGULATORY MEASURES

The Governments parties to the International Convention for the Northwest Atlantic Fisheries signed at Washington under date of 8 February 1949, which Convention as amended is hereinafter referred to as the Convention, desiring to establish a more appropriate basis for the determination of representation on the Panels established under the Convention, and desiring to provide for greater flexibility in the types of fisheries regulatory measures which may be proposed by the International Commission for the Northwest Atlantic Fisheries, agree as follows:

Article I

Paragraph 2 of Article IV of the Convention shall be amended to read as follows:

2. Panel representation shall be reviewed annually by the Commission, which shall have the power, subject to consultation with the Panel concerned, to determine representation on each Panel on the basis of current substantial exploitation of the stocks of fish in the subarea concerned or on the basis of current substantial exploitation of harp and hood seals in the Convention Area, except that each Contracting Government with coastline adjacent to a subarea shall have the right of representation on the Panel for the subarea.

Article II

Paragraph 2 of Article VII of the Convention shall be amended to read as follows:

2. Each Panel, upon the basis of scientific investigations, and economic and technical considerations, may make recommendations to the Commission for joint action by the Contracting Governments within the scope of paragraph 1 of Article VIII.

Article III

Paragraph 1 of Article VIII of the Convention shall be amended to read as follows:

1. The Commission may, on the recommendations of one or more Panels, and on the basis of scientific investigations, and economic and technical considerations, transmit to the Depositary Government appropriate proposals, for joint action by the Contracting Governments, designed to achieve the optimum utilization of the stocks of those species of fish which support international fisheries in the Convention Area.

Article IV

1. This Protocol shall be open for signature and ratification or approval or for adherence on behalf of any Government party to the Convention.

2. This Protocol shall enter into force on the date on which instruments of ratification or approval have been deposited with, or written notifications of adherence have been received by, the Government of the United States of America, on behalf of all the Governments parties to the Convention.

3. Any Government which adheres to the Convention after this Protocol has been opened for signature shall at the same time adhere to this Protocol.

4. The Government of the United States of America shall inform all Governments signatory or adhering to the Convention of all ratifications or approvals deposited and adherences received and of the date this Protocol enters into force.

Article V

1. The original of this Protocol shall be deposited with the Government of the United States of America, which Government shall communicate certified copies thereof to all the Governments signatory or adhering to the Convention.

2. This Protocol shall bear the date on which it is opened for signature and shall remain open for signature for a period of fourteen days thereafter, following which period it shall be open for adherence.

In Witness Whereof the undersigned, having deposited their respective full powers, have signed this Protocol.

Done at Washington this first day of October 1969, in the English language.

PROTOCOL TO THE INTERNATIONAL CONVENTION FOR THE NORTHWEST ATLANTIC FISHERIES RELATING TO AMENDMENTS TO THE CONVENTION

The Governments parties to the International Convention for the Northwest Atlantic Fisheries signed at Washington under date of February 8, 1949, which Convention, as amended, is hereinafter referred to as the Convention, desiring to facilitate the entry into force of amendments to the Convention, agree as follows:

Article I

Article XVII of the Convention is renumbered "Article XVIII" and a new Article XVII is inserted to read as follows:

"Article XVII

1. Any Contracting Government or the Commission may propose amendments to this Convention to be considered and acted upon by a regular meeting of the Commission or by a special meeting of the Commission called in accordance with the provisions of paragraph 6 of Article II of the Convention. Any such proposed amendment shall be sent to the Executive Secretary at least ninety days prior to the meeting at which it is proposed to be acted upon, and he shall immediately transmit the proposal to all Contracting Governments and to all Commissioners.

2. A proposed amendment to the Convention shall be adopted by the Commission by a three-fourths majority of the votes of all Contracting

Governments. The text of any proposed amendment so adopted shall be transmitted by the Depository Government to all Contracting Governments.

3. Any amendment shall take effect for all Contracting Governments one hundred and twenty days following the date on the notification by the Depository Government of receipt of written notification of approval by three-fourths of all Contracting Governments unless any other Contracting Government notifies the Depository Government that it objects to the amendment, within ninety days of the date on the notification by the Depository Government of such receipt, in which case the amendment shall not take effect for any Contracting Government. Any Contracting Government which has objected to an amendment may at any time withdraw that objection. If all objections to an amendment are withdrawn, the amendment shall take effect for all Contracting Governments one hundred and twenty days following the date on the notification by the Depository Government of receipt of the last withdrawal.

4. Any Government which becomes a party to the Convention after an amendment has been adopted in accordance with paragraph 2 of this Article shall be deemed to have approved the said amendment.

5. The Depository Government shall promptly notify all Contracting Governments of the receipt of notifications of approval of amendments, the receipt of notifications of objection or withdrawal of objections, and the entry into force of amendments."

Article II

1. This Protocol shall be open for signature and ratification or approval or for adherence on behalf of any Government party to the Convention.

2. This Protocol shall enter into force on the date on which instruments of ratification or approval have been deposited with, or written notices of adherence have been received by, the Government of the United States of America, on behalf of all Governments parties to the Convention.

3. Any Government which becomes a party to the Convention after this Protocol has been opened for signature shall at the same time adhere to this Protocol.

4. The Government of the United States of America shall inform all Governments signatory or adhering to the Convention of all ratifications and approvals deposited and adherences received and of the date this Protocol enters into force.

5. Any Protocol amending the Convention which has been signed but which has not entered into force at the date of entry into force of the present Protocol shall thereafter enter into force in accordance with the provisions of the present Protocol, provided, however, that, if instruments of ratification or approval or notices of adherence with respect to such Protocol have been received by the Depository Government from three-fourths of all Contracting Governments at the time of entry into force of the present Protocol, the date on which the ninety, and one hundred and twenty, day periods specified in the first sentence of paragraph 3 of Article XVII shall commence with regard to such amendment shall be the date of entry into force of the present Protocol.

Article III

1. The original of this Protocol shall be deposited with the Government of the United States of America, which Government shall communicate certified

copies thereof to all the Governments signatory or adhering to the Convention.

2. This Protocol shall bear the date on which it is opened for signature and shall remain open for signature for a period of fourteen days thereafter, following which period it shall be open for adherence.

In Witness Whereof the undersigned, having deposited their respective full powers, have signed this Protocol.

Done at Washington this sixth day of October 1970, in the English language.

Activation of Article 7 (2)

The Commission agreed a proposal reading as follows:

"in accordance with Article 7 (2) of the Convention the Commission hereby proposes that the following additions be made to the list of measures in Article 7 (1):—

- (g) any measures for the regulation of the amount of total catch and its allocation to Contracting States in any period; and
- (h) any measures for the regulation of the amount of fishing effort and its allocation to Contracting States in any period."

Annex B

THIRD REGULATION IMPLEMENTING THE SEA FISHERIES CONVENTIONS LAW 1971 OF 6 SEPTEMBER 1972

[*Translation*¹]

By virtue of Articles 2 and 3 of the Sea Fisheries Conventions Law 1971 of 25 August 1971 (*Bundesgesetzblatt* II, p. 1057) it is ordered as follows:

Section 1

(1) Fishing for herring (*Clupea harengus* L.) shall be subject to a licence issued by the Federal Minister of Food, Agriculture and Forestry ("the Federal Minister") in the following areas:

1. within that part of area NW 4 designated in Section 1 (1) (8) of the First Regulation Implementing the Sea Fisheries Conventions Law 1971 of 26 August 1971 (*Bundesgesetzblatt* II, p. 1065) which lies between the boundary between areas NW 4 and NW 5 and the coasts of New Brunswick and Nova Scotia and between a line running from the east coast of Nova Scotia along 44°52' north latitude to 60° west longitude; thence southward along that parallel to 44°10' north latitude; thence due east along that parallel to 59° west longitude; thence to the south along that parallel to 39° north latitude; thence westward along that parallel up to the boundary between areas NW 4 and NW 5;

¹ Original text (*Bundesgesetzblatt* 1972 II, pp. 1109-1110) not reproduced.

2. within area NW 5 designated in Section 1 (1) (9) of the First Regulation Implementing the Sea Fisheries Conventions Law 1971, as well as in the waters adjacent thereto to the west and south between the east coast of the United States, 35° north latitude and 65°40' west longitude.

(2) The masters of vessels fishing for herring in the areas designated in paragraph 1 above shall keep daily records of their catches, specifying the date, position, quantity, waste, and utilization of the catch and stating the type of fishing gear used as well as the amount of fishing effort (number of hauls multiplied by fishing time).

(3) Fishing enterprises in possession of a licence issued under paragraph 1 above, shall upon request inform the Federal Institute for the Exploration of Fisheries and the Federal Office of Statistics of the dates of commencement and termination of their herring fishing and in substantiation thereof submit the requisite statements and documents; if so requested they shall furthermore submit the necessary statements and documents to prove that the amount of herring catch is not in excess of the amount laid down in the licence.

(4) For the calendar year 1972 the catches made prior to the entry into force of this Regulation shall be deducted from the amount stated in the licences issued under paragraph 1 above.

Section 2

(1) Within that part of area NE 1 designated in Section 1 (1) (1) of the First Regulation Implementing the Sea Fisheries Conventions Law 1971, which lies around Iceland and which is delimited by straight lines between the following points: 68° N, 27° W; 68° N, 11° W; 63° N, 11° W; 63° N, 15° W; 62° N, 15° W; 62° N, 27° W (statistical area Va of the International Council for the Exploration of the Sea), the total catch within one calendar year shall not exceed 119,000 tons. Fishing within the said area shall be subject to a licence issued by the Federal Minister.

(2) Section 1, (2) to (4), shall apply *mutatis mutandis*.

Section 3

Within area NW 5 and within that part of area NW 4 designated in Section 1 (1) (1) it is forbidden to catch or retain on board herring of a size not exceeding 22.7 centimetres measured from the tip of snout to the extreme end of the tail fin (undersize herring). However, 10 per cent of the total weight of the herring caught by a vessel within one calendar year in the areas designated in the first sentence above, may be undersize.

Section 4

Any person who, wilfully or negligently,

1. contrary to Section 1 (1) fishes for herring in a closed area without a licence;
2. contrary to Section 1 (2) or Section 2 (2) in conjunction with Section 1 (2) fails to keep the prescribed record or to keep it properly or fully;
3. fails to comply, or to comply properly or fully, with a request pursuant to Section 1 (3) or Section 2 (2) in conjunction with Section 1 (3);
4. contrary to Section 2 (1) fishes for herring in the area designated without a licence, or

5. contrary to Section 3 fishes for or retains on board undersize herring, shall be deemed to have committed an offence within the meaning of Article 6 (1) of the Sea Fisheries Conventions Law 1971.

Section 5

Pursuant to Section 14 of the Third Transitional Law (*Überleitungsgesetz*) of 4 January 1952 (*Bundesgesetzblatt* I, p. 1) in conjunction with Article 7 of the Sea Fisheries Conventions Law 1971, the present regulation shall also be applicable within the Land Berlin.

Section 6

This Regulation shall enter into force on the day after its promulgation.

Bonn, 6 September 1972

The Federal Minister
of Food, Agriculture and Forestry
J. ERTL

Annex C

THE FEDERAL MINISTER OF FOOD, AGRICULTURE AND FORESTRY TO THE
GERMAN TRAWLER OWNERS' ASSOCIATION

16 October 1972.

[Translation ¹]

Ref.: My Letter of 22 June 1972

Third Regulation Implementing the Sea Fisheries Conventions Law
1971

I.

The above-mentioned Regulation was issued on 6 September 1972 and promulgated in the *Bundesgesetzblatt* (Federal Law Gazette) Part II, No. 61, of 27 September 1972, page 1109, ten copies of which are enclosed herewith. In deviation from the original draft, two major alterations have been made:

1. In order to dispel doubts as to its constitutionality the Regulation has not been given retroactive effect; however, its Section 1, paragraph (4), provides that catches made prior to the entry into force of the Regulation shall be deducted from the amount laid down in the licences issued, so that in effect the quotas granted cover the whole calendar year 1972.
2. A new Section 2 takes into account the order of the International Court of Justice of 17 August 1972, and limits the German catch within the statistical area "Iceland" to 119,000 tons for the year 1972.

¹ Original text not reproduced.

In addition, I wish to inform you that the Soviet Union has already filled its herring quota within area 5 Z and has terminated its herring fishing there.

II.

After having heard the Federal Marketing Association of the Fish Industry, I hereby grant a licence to the enterprises members of your Association to fish for herring throughout the year 1972, subject to the provisions of Article 2, paragraph (3), of the Sea Fisheries Conventions Law 1971 (*Bundesgesetzblatt II*, p. 1057).

1. in the area designated in Section 1, paragraph (1) No. (1), of the Third Regulation Implementing the Sea Fisheries Conventions Law 1971 of 6 September 1972 (*Bundesgesetzblatt II*, p. 1109). As soon as catches made by the enterprises members of your Association have reached the amount of 100 tons, I must be informed immediately as well as of any further 100-ton catch. I reserve the right to revoke this licence at any time since the total herring catch limit for the State parties to the ICNAF is 1,000 tons only;
2. (a) to catch 2,500 tons of herring in the northern part of the area designated in Section 1, paragraph (1), No. (2), of the Third Regulation Implementing the Sea Fisheries Convention Law 1971 (statistical part-area 5 Y of the International Fisheries Commission);
(b) to catch 31,600 tons of herring in the southern part of the area designated in Section 1, paragraph (1), No. (2), of the Third Regulation Implementing the Sea Fisheries Conventions Law 1971 (statistical sub-areas 5 Z and 6 of the International Commission for the North-west Atlantic Fisheries); allocation to the enterprises concerned shall be according to the schedule set out in your letter of 17 July 1978;
3. to catch 119,000 tons of fish in the area mentioned in Section 2, paragraph (1), of the Third Regulation Implementing the Sea Fisheries Conventions Law 1971. In so far as you do not distribute this amount among the various enterprises, I reserve the right to revoke this licence with regard to individual enterprises if this will be necessary in the interest of an equitable utilization by all enterprises of the total quota granted.

The catches must be reported to the Federal Institute for the Exploration of Fisheries and the Federal Office of Statistics in the usual way. In addition, I require immediate information of any termination of herring fishing in the areas designated in paragraph 2 (a) and (b).

In conclusion, I wish to point out that fishing enterprises catching herring in excess of the amount permitted in the areas designated in paragraphs 1 and 2 above, or catching fish of all species in the area designated in paragraph 3 above, and fishing enterprises failing to keep, or to keep properly or fully, the records prescribed in Section 1, paragraph (2), of the Third Regulation Implementing the Sea Fisheries Conventions Law 1971, may be liable to a fine.

Will you please confirm in writing that you have received this information and communicated its contents to the enterprises members of your Association.

By order
MÖCKLINGHOFF

Annex D*Registration Form 1 b**[Not reproduced]***Annex E***Catch List**[Not reproduced]***Annex F***Registration Form 3**[Not reproduced]***Annex G***Fishing Log Book**[Not reproduced]***87. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND**

22 May 1973.

With reference to my letter of 7 May, a copy of which was, as mentioned in the letter, communicated to the Agent of the United Kingdom in the *Fisheries Jurisdiction* case, I have the honour to send Your Excellency herewith a copy of a letter from the United Kingdom Agent dated 14 May and received in the Registry on 17 May.

**88. THE AGENT FOR THE GOVERNMENT OF THE FEDERAL REPUBLIC
OF GERMANY TO THE REGISTRAR**

30 May 1973.

I have the honour to inform you that the report on the orders issued and arrangements made by the Government of the Federal Republic of Germany concerning the control and regulation of fish catches in the "Sea Area of Iceland" which I have submitted to the Court by my letter of 21 May 1973 in compliance with paragraph (1) lit. (f) of the Court's Order of 17 August 1972 in the *Fisheries Jurisdiction (Federal Republic of Germany v. Iceland)* case, has also been transmitted to the Government of Iceland through the diplomatic channel.

89. THE AGENT FOR THE GOVERNMENT OF THE UNITED KINGDOM
TO THE REGISTRAR

22 June 1973.

1. I have the honour to refer to operative paragraph (2) of the Order made by the Court on 17 August 1972 which reads as follows:

“Unless the Court has meanwhile delivered its final judgment in the case it shall, at an appropriate time before 15 August 1973 review the matter at the request of either Party in order to decide whether the foregoing measures shall continue or need to be modified or revoked.”

2. Since it is clear that the Court will not deliver final judgment before 15 August 1973, the Government of the United Kingdom now ask the Court to consider the measures and to confirm that they will continue without modification until final judgment is given or until further order.

3. The measures indicated by the Court in its Order of 17 August 1972 were as follows:

- (a) the United Kingdom and the Republic of Iceland should each of them ensure that no action of any kind is taken which might aggravate or extend the dispute submitted to the Court;
- (b) the United Kingdom and the Republic of Iceland should each of them ensure that no action is taken which might prejudice the rights of the other Party in respect of the carrying out of whatever decision on the merits the Court may render;
- (c) the Republic of Iceland should refrain from taking any measures to enforce the Regulations of 14 July 1972 against vessels registered in the United Kingdom and engaged in fishing activities in the waters around Iceland outside the twelve-mile fishery zone;
- (d) the Republic of Iceland should refrain from applying administrative, judicial or other measures against ships registered in the United Kingdom, their crews or other related persons because of their having engaged in fishing activities in the waters around Iceland outside the twelve-mile fishery-zone;
- (e) the United Kingdom should ensure that vessels registered in the United Kingdom do not take an annual catch of more than 170,000 metric tons of fish from the “Sea Area of Iceland” as defined by the International Council for the Exploration of the Sea as area Va;
- (f) the United Kingdom Government should furnish the Government of Iceland and the Registry of the Court with all relevant information, orders issued and arrangements made concerning the control and regulation of fish catches in the area.

4. The Government of the United Kingdom for their part have complied fully with the requirements of the Court's Order. They have done everything within their power to ensure that no action of any kind is taken which might aggravate or extend the dispute. They have done so in the face of serious difficulties caused by the Government of Iceland. They have taken no action which might prejudice the rights of Iceland in respect of the carrying out of whatever decision on the merits the Court may render.

5. The Government of the United Kingdom have introduced a statutory scheme to ensure that British vessels do not take an annual catch of more than 170,000 metric tons of fish from the “Sea Area of Iceland” and they have given full particulars thereof, by letter of 19 December 1972, to the Registry

of the Court. In conformity with paragraph (f) of the measures indicated by the Court, a copy of that letter was transmitted to the Government of Iceland on 3 January 1973. The Annex to the present letter gives details of fish taken in the "Sea Area of Iceland" by British vessels since 1 September 1972. They show that the catch up to 2 June 1973 was 106,259 metric tons. Later figures will be put before the Court when the Government of the United Kingdom make their oral observations to the Court on the present request. The Government of the United Kingdom repeat their assurance to the Court that their statutory powers will, if necessary, be exercised to ensure that British vessels do not take more than 170,000 metric tons of fish from the said area before 1 September 1972.

6. On the other hand, the Government of Iceland have unfortunately not complied with the Court's Order. The Attorney-General, in addressing the Court on 5 January 1973 on behalf of the Government of the United Kingdom, gave some account of the breaches of the Order which the Government of Iceland had committed up to that date. In their oral observations to the Court on the present request, the Government of the United Kingdom will give the Court a full account of the still more serious breaches of the Order committed by the Government of Iceland since that date and of the measures taken by the Government of the United Kingdom in the light of those breaches.

7. The Government of the United Kingdom submit that the Court's Order of 17 August 1972 remains wholly appropriate to the situation and that no modification of the measures indicated in that Order is required. Accordingly, the Government of the United Kingdom now request the Court to confirm that those measures will continue until the Court has given final judgment in this case or until further order. At this stage of the proceedings, there would seem to be little point in the Court's fixing a further date on which those measures should again be reviewed. If there is at any time a change in the situation, the Court may, under Article 61 (7) of the Rules of Court, revoke or modify its decision.

Annex

WEEKLY LANDINGS BY UK TRAWLERS FROM THE "SEA AREA OF ICELAND"

<i>Week ending</i>	<i>Landings: (long tons) cumulative totals</i>
9 September 1972	338
16 September 1972	1,897
23 September 1972	4,217
30 September 1972	7,931
7 October 1972	11,364
14 October 1972	14,593
21 October 1972	17,607
28 October 1972	20,795
4 November 1972	24,023
11 November 1972	26,572
18 November 1972	29,324

<i>Week ending</i>	<i>Landings: (long tons) cumulative totals</i>
25 November 1972	31,149
2 December 1972	33,522
9 December 1972	36,677
16 December 1972	38,752
23 December 1972	41,531
30 December 1972	43,497
6 January 1973	45,266
13 January 1973	46,462
20 January 1973	48,365
27 January 1973	50,073
3 February 1973	51,477
10 February 1973	53,576
17 February 1973	56,007
24 February 1973	57,714
3 March 1973	59,348
10 March 1973	61,671
17 March 1973	64,415
24 March 1973	66,439
31 March 1973	69,356
7 April 1973	71,665
14 April 1973	74,050
21 April 1973	76,991
28 April 1973	79,857
5 May 1973	82,777
12 May 1973	83,670
19 May 1973	85,201
26 May 1973	87,062
2 June 1973	88,427

Note: The figures given in this Annex show the landed (gutted) weight since in practice fish are weighed on landing rather than on being caught. The catch (original) weight is higher and is obtained by applying a known factor for each species of fish, which is determined by the anatomical characteristics of that species. For demersal species catch weights are between 18 per cent. and 20 per cent. higher than landed weights. The cumulative total of 88,427 long tons landed weight in fact represents a total catch weight of 106,259 metric tons.

90. THE AGENT OF THE FEDERAL REPUBLIC OF GERMANY TO THE REGISTRAR

22 June 1973.

I refer to the Order made by the Court on 17 August 1972 in the *Fisheries Jurisdiction (Federal Republic of Germany v. Iceland)* case concerning the Request for the Indication of Interim Measures of Protection.

1. By paragraph (1) of the operative passage of its Order the Court had indicated, pending its final decision in the proceedings, the following provisional measures:

- (a) The Federal Republic of Germany and the Republic of Iceland should each of them ensure that no action of any kind is taken which might aggravate or extend the dispute submitted to the Court;
- (b) the Federal Republic of Germany and the Republic of Iceland should each of them ensure that no action is taken which might prejudice the rights of the other Party in respect of the carrying out of whatever decision on the merits the Court may render;
- (c) the Republic of Iceland should refrain from taking any measures to enforce the Regulations of 14 July 1972 against vessels registered in the Federal Republic and engaged in fishing activities in the waters around Iceland outside the 12-mile fishery zone;
- (d) the Republic of Iceland should refrain from applying administrative, judicial or other sanctions or any other measures against ships registered in the Federal Republic, their crews or other related persons, because of their having engaged in fishing activities in the waters around Iceland outside the 12-mile fishery zone;
- (e) the Federal Republic should ensure that vessels registered in the Federal Republic do not take an annual catch of more than 119,000 metric tons of fish from the "Sea Area of Iceland" as defined by the International Council for the Exploration of the Seas as area Va;
- (f) the Government of the Federal Republic should furnish the Government of Iceland and the Registry of the Court with all relevant information, orders issued and arrangements made concerning the control and regulation of fish catches in the area.

In the succeeding paragraph (2) of the operative passage of its Order the Court had stated:

Unless the Court has meanwhile delivered its final judgment in the case, it shall, at an appropriate time before 15 August 1973, review the matter at the request of either Party in order to decide whether the foregoing measures shall continue or need to be modified or revoked.

2. As the Court, in the introductory words of paragraph (1) of the operative part of its Order of 17 August 1972, had expressly stated that it indicated the provisional measures "pending its final decision", the Government of the Federal Republic of Germany interprets the Order of the Court in the sense that it should normally remain operative until the final judgment will be rendered by the Court in the proceedings, without prejudice of course, to the Court's competence under Article 61, paragraph 7, of the Rules of Court to review the matter at any time. It is true that in paragraph (2) of its Order the Court had provided that it would before 15 August 1973 review the matter "at the request of either Party" in order to decide whether the interim measures indicated by the Court shall continue or need to be modified or revoked.

However, the Government of the Federal Republic understands this part of the Order not as providing for a definite time-limit for the duration of the Court's Order of 17 August 1973, but rather as being a proviso which should give either Party, apart from the Court's general competence to review the matter *ex officio*, the opportunity to ask specifically for such a review by the Court before the final judgment. Therefore, the Government of the Federal Republic of Germany is of the opinion that the Court's Order of 17 August 1972 will continue to be operative after 15 August 1973 if neither Party asks for such a review and the Court, too, does not consider such a review being necessary in view of the circumstances of the case.

3. As it is within the competence of the Court to interpret the meaning of its Order of 17 August 1972 if any doubts in this respect persist, the Government of the Federal Republic leaves it to the Court to decide whether the interpretation outlined in the preceding paragraph conforms with the Court's own interpretation of its Order or whether, in the Court's view, it would be necessary to take a formal and express decision on the continuation of its Order after 15 August 1973 at a specific request by the Federal Republic to this effect. Whatever may be the view of the Court in this respect, the Government of the Federal Republic considers it being imperative, in view of the aggravated situation between the Parties which is due to the persistent non-observance of the Court's Order by the Government of Iceland, to ask the Court to ensure by such procedure as it considers appropriate for this purpose, that the measures indicated in its Order of 17 August 1972 will remain operative after 15 August 1973.

4. The Government of the Federal Republic of Germany has faithfully observed its obligations under the Court's Order of 17 August 1972 and has taken no action of any kind which might have been capable to aggravate or extend the dispute between the Parties. I refer in this context to my letter of 21 May 1973 whereby I have furnished the Registry of the Court with all relevant information on the measures taken by the Government of the Federal Republic of Germany concerning the control of fish catches in the Iceland area, and where I have stated that according to the provisional statistical figures available to the Government of the Federal Republic of Germany the annual catch taken by the vessels registered in the Federal Republic of Germany from the sea area of Iceland in 1972 has been kept well below the limit indicated by the Court in paragraph (1) (e) of the operative passage of its Order of 17 August 1972. The fishing vessels of the Federal Republic of Germany have been carrying on their fishing operations in the waters around Iceland to which they were entitled under international law and under the Court's Order of 17 August 1972, in the normal way without taking any provocative attitude which might have been capable of aggravating the situation. No incidents have been due to any action of the vessels of the Federal Republic of Germany; all incidents that occurred since the Court's Order of 17 August had been caused by illegal actions of the coastal patrol boats of the Republic of Iceland in defiance of the express stipulations contained in paragraph (1) (c) and (d) of the operative passage of the Court's Order.

5. The Government of Iceland, moreover, has openly declared that it would not comply with the Court's Order of 17 August 1972 and has given plain evidence of its defiant attitude by the continuing actions of its coastal patrol boats. The coastal boats of the Government of Iceland had not only illegally assumed police functions in the waters of the high seas outside the 12-mile limit by ordering the fishing vessels of the Federal Republic of Germany to leave the 50-mile zone claimed by Iceland, but had also continuously used force against the vessels of the Federal Republic of Germany by trying and in many cases succeeding in cutting the trawl-wires or warps of German trawlers. These actions do not only constitute an illegal use of force and an arrogation of sovereign powers by the Government of Iceland in waters of the high seas; they also violate the generally recognized rules for the safety of navigation. In particular, these actions taken by the Icelandic coastal patrol boats on the order of the Government of Iceland constitute a deliberate non-observance of the Court's Order of 17 August 1972 by which the Court had indicated that the Government of Iceland should refrain from

taking any measures to enforce its Regulations of 14 July 1972 against vessels registered in the Federal Republic of Germany and engaged in fishing activities in the waters around Iceland outside the 12-mile zone and, in particular, refrain from applying administrative, judicial or other sanctions or any other measures against ships registered in the Federal Republic of Germany because of their having engaged in fishing activities in the waters around Iceland outside the 12-mile zone.

6. A list of incidents that have occurred since 1 September 1972, the day on which the Icelandic Regulations of 14 July 1972 were put into effect, and which have been caused by illegal actions of the Icelandic coastal patrol boats against German fishing vessels in the waters of the high seas outside the 12-mile limit, has been attached hereto as *Annex A*.

The list contains those incidents during the period from 1 September 1972 to the beginning of May 1973 which have been reported by the German Trawler Owners' Association to the Government of the Federal Republic of Germany. The cases listed illustrate the continuous attempts by Icelandic coastal patrol boats to interfere with the fishing operations of the German fishing vessels and to destroy or damage intentionally their fishing equipment thereby causing not only considerable material loss but even endangering the safety of the ship and the crew. As the list of cases shows there have been 61 reported attempts to cut the trawl-wires or warps of German fishing vessels. In 13 cases the trawl-wires or warps were cut and in 10 cases the fishing gear had been lost thereby. In one case a member of the crew was injured having been struck by the broken end of a wire which flung back to the deck of the trawler.

As it became apparent that the Government of Iceland had no intention to comply with the Court's Order of 17 August 1972 and started to interfere with the fishing operations of German fishing vessels within the 50-mile zone the Government of the Federal Republic of Germany continued its efforts to bring about an interim agreement with the Government of Iceland in order to prevent further incidents. In September 1972 the Government of the Federal Republic proposed trilateral talks between Iceland, the United Kingdom and the Federal Republic of Germany for negotiating such an interim agreement. The Government of Iceland, however, refused to take up negotiations on a trilateral basis but seemed to be inclined to enter into negotiations on a bilateral basis. The Government of the Federal Republic, through its Ambassador in Reykjavik, invited the Government of Iceland to take up negotiations for the conclusion of an interim agreement with respect to the exercise of the fishing rights of the Federal Republic on the waters around Iceland outside the 12-mile limit during the pendency of the proceedings before the Court. The Government of Iceland, however, made it clear that it was not willing to start such negotiations until the Government of the Federal Republic had beforehand proposals for a possible interim settlement which the Government of Iceland would consider as a suitable basis. Although this demand for a prior commitment by the Federal Republic before the beginning of negotiations was somewhat unusual, the Federal Republic being anxious to bring about an interim agreement as soon as possible in order to prevent further incidents, eventually agreed to this procedure and on 12 February 1973 transmitted, through its Ambassador in Reykjavik, a paper to the Government of Iceland which contained detailed proposals for such an interim agreement. A copy of the paper has been attached hereto as *Annex B*. The main features of these proposals were that the Government of the Federal Republic of Germany in conjunction with an agreed catch

limitation would be prepared to abstain voluntarily from exercising its fishing rights in certain areas within the 50-mile zone which would vary on a rotational basis from time to time during the year and, in addition, to abstain from fishing in certain specific areas which are known as spawning and nursery grounds (conservation areas) or which are frequented by Icelandic small boat fishermen. The proposal expressly stated that the interim agreement would not affect the basic question of the rights of the Federal Republic of Germany and its trawlers in the waters around Iceland nor its positions before the International Court of Justice. The Government of Iceland indicated its willingness to enter into negotiations on the basis of these proposals, and talks were held between representatives of both Governments in Reykjavik on 3 and 4 April 1973. During these talks, however, the representatives of the Government of the Federal Republic were unexpectedly again confronted with a refusal of the Government of Iceland to negotiate an interim agreement on the proposed basis because, in the view of the Government of Iceland, these proposals were still unacceptable. Instead, the Government of Iceland presented a counter-proposal the main points of which consisted in asking the Federal Republic of Germany to refrain from exercising its fishing rights within a 25-30-mile zone and to refrain from employing factory ships or freezer trawlers in the remaining part of the 50-mile zone around Iceland; in addition, fishing vessels of the Federal Republic of Germany operating within that remaining part should be subject to catch limitation, as well as to control and enforcement by the Icelandic coastal patrol. These Icelandic proposals were unacceptable for the Federal Republic of Germany. They would not only result in a drastic reduction of the obtainable catch by the fishing vessels of the Federal Republic, but would also seriously prejudice the fishing rights of the Federal Republic in the waters of the high seas around Iceland. A new round of talks is scheduled for 29 June 1973. The attitude so far shown by the Government of Iceland as well as the actions of its coastal patrol boats against the vessels of the Federal Republic have aggravated the dispute to such an extent that the need for interim protection of the rights of the Federal Republic of Germany during the pendency of the proceedings is now even more apparent than it was already at the time when the Court made its Order of 17 August 1972. Under these circumstances the Government of the Federal Republic of Germany considers it necessary to ask the Court to issue an urgent appeal to the Parties to refrain from any further action which might aggravate the dispute, and in particular to call upon the Republic of Iceland which until now had thought it fit to disregard the Court's Order of 17 August 1972, to comply in future with the measures indicated in the Court's Order of 17 August 1972.

8. In its reasons for the Order made on 17 August 1972 the Court had stated that the provisional measures indicated under Article 41 of its Statute had the object to preserve the respective rights of the Parties pending the final decision of the Court so that no irreparable prejudice should be caused to rights which are the subject of dispute and that the Court's judgment should not be anticipated by reason of any initiative regarding the measures which are in issue. The Court had further stated that the implementation by Iceland of its Regulations of 14 July 1972 concerning the extension of its fishery jurisdiction to a 50-mile zone would, by anticipating the Court's judgment, prejudice the rights claimed by the Federal Republic of Germany and affect the possibility of their full restoration in the event of a judgment in its favour. These reasons on which the Court relied for the measures indicated in its Order of 17 August 1972, are still valid today and, in view of

the attitude of the Government of Iceland, will remain valid in the future as long as no interim agreement between the Parties is forthcoming which effectively preserves and protects the fishing rights of the Federal Republic in the waters of the high seas around Iceland.

9. Therefore, the Government of the Federal Republic of Germany respectfully requests the Court to consider the following:

- (1) that the measures indicated in the Order of 17 August 1972 should be maintained and continued after 15 August 1973 pending the final decision of the Court in the dispute between the Parties;
- (2) that the Government of the Republic of Iceland should be called upon to comply with the measures indicated by the Court in its Order of 17 August 1972 and in particular to refrain in future from any action against the vessels of the Federal Republic of Germany engaged in fishing activities in the waters around Iceland outside the 12-mile limit;
- (3) that the Parties should again be admonished to ensure that no action of any kind is taken which might aggravate or extend the dispute submitted to the Court.

Annex A

OBSTRUCTIVE ACTIVITY AND INCIDENTS WITHIN THE 12-50 SEA MILE ZONE OFF ICELAND

*[See Annex L to the Federal Republic of Germany Memorial on the
Merits of the Dispute, pp. 279-284, supra, Nos. (1)-(73)]*

Annex B

PROPOSALS OF THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY OF 12 FEBRUARY 1973

*[See Annex D to the Federal Republic of Germany Memorial on the
Merits of the Dispute, pp. 269-270, supra]*

91. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND¹

(telegram)

22 June 1973.

Have honour inform Your Excellency that letter from Agent of United Kingdom in *Fisheries Jurisdiction* case filed today refers to Court's Order of 17 August 1972 and to alleged breaches of said Order by Iceland and continues:

"Government of the United Kingdom submit that the Court's Order of 17 August 1972 remains wholly appropriate to the situation and that no modification of the measures indicated in that Order is required. Accordingly the Government of the United Kingdom now request the

¹ A similar communication was sent to the Minister for Foreign Affairs of Iceland regarding the *Federal Republic of Germany v. Iceland* case.

Court to confirm that those measures will continue until the Court has given final Judgment in this case or until further Order.”

Copy of letter airmailed express to you today.

92. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND¹

22 June 1973.

Express Airmail

I refer to my cable of today's date, a confirmatory copy of which is enclosed, and have the honour to send Your Excellency herewith a copy of a letter received in the Registry today from the Agent of the United Kingdom in the *Fisheries Jurisdiction (United Kingdom v. Iceland)* case.

93. THE REGISTRAR TO THE AGENT FOR THE GOVERNMENT
OF THE UNITED KINGDOM

27 June 1973.

I have the honour to confirm the information conveyed to you yesterday by telephone, namely that the Court does not find it necessary to hold a public hearing in respect of the request of the United Kingdom Government, made in your letter of 22 June 1973, for confirmation of the continuance in force of the interim measures of protection indicated on 17 August 1972 in the *Fisheries Jurisdiction (United Kingdom v. Iceland)* case; and that the decision of the Court on the said request will be made known in due course.

94. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

28 June 1973.

I have the honour to enclose for Your Excellency's information a copy of a letter which I addressed yesterday to the Agent of the United Kingdom in the *Fisheries Jurisdiction* case (*United Kingdom v. Iceland*).

95. THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND TO THE REGISTRAR

(telegram)

2 July 1973.

With reference to your telegrams and letters of 22 June 1973 I wish to recall the protests made by the Icelandic Government on 28 July 1972 and 4 December 1972 against an indication by the Court of provisional measures in August 1972.

The Government of Iceland now protests against the continuation of measures indicated.

The extension of the fishery limits of Iceland was effected in order to protect vital interests of the Icelandic nation and conserve fish stocks in

¹ A communication in the same terms was sent to the Minister for Foreign Affairs of Iceland regarding the *Federal Republic of Germany v. Iceland* case.

areas within as well as outside the former 12-mile limit. This has not been respected by the United Kingdom. British and Icelandic catches continue to decrease per unit effort and small immature fish of the 1970 year-class which is the only known sizeable year-class and should constitute the main source of supply in 1976-78 (and the necessary recruitment) are now increasingly being landed in United Kingdom ports.

On the basis of the said Court's Order the United Kingdom sent their navy inside the fisheries limits thus suspending further negotiations for the settlement of the dispute after having offered a catch limitation of 145 thousand tons on annual basis which my Government considers excessive. Since 1969 the share of Iceland in the total demersal catch in the Iceland area has been reduced from approx. 60 per cent. to approx. 53 per cent.

The basic proposition maintained by Iceland is that highly mobile fishing fleets of the distant-water fishing nations should not be allowed to cause dangerous fluctuations in the catch rates and inflict a constant threat of the deterioration of the fishstocks and thus endanger the viability of a one-source economy. It is submitted that the Court by endeavouring to freeze the present dangerous situation is completely ignoring the scientific and economic facts of the case. In that manner irreparable harm might be done to the interests of the Icelandic nation for the temporary benefit of private industries in a foreign country.

96. THE AGENT FOR THE GOVERNMENT OF THE UNITED KINGDOM
TO THE REGISTRAR

4 July 1973.

I have the honour to acknowledge receipt of your letter of 2 July 1973 enclosing a copy of a telegram received on that day from the Minister for Foreign Affairs of the Government of Iceland. The Government of Iceland have refused to accept the Court's decision that it has jurisdiction in this matter and have refused to appear before the Court to make any submissions or tender to it in these proceedings any evidence in support of their contentions. In particular they have not so tendered any evidence of what are described in the telegram as "the scientific and economic facts of the case". In these circumstances, the Government of the United Kingdom do not consider that it would be appropriate for them, unless the Court so wishes, to offer any observations on the contents of the telegram. But they would of course be ready at any time to submit such observations as the Court might indicate would be of assistance to it.

97. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND¹

(telegram)

12 July 1973.

Have honour inform you that Court today, 12 July, made two separate Orders² in proceedings concerning *Fisheries Jurisdiction* instituted by United Kingdom and Federal Republic of Germany. In each Order the Court:

¹ Similar communications were sent to the Agents for the Governments of the United Kingdom and the Federal Republic of Germany.

² *I.C.J. Reports 1973*, pp. 302 and 313.

“Confirms that the provisional measures indicated in operative paragraph 1 of the Order of 17 August 1972 should, subject to the power of revocation or modification conferred on the Court by paragraph 7 of Article 61 of the 1946 Rules, remain operative until the Court has given final judgment in the case.”

One official copy of each Order expressed to you today and official transmission follows.

**98. THE REGISTRAR TO THE SECRETARY-GENERAL OF THE
UNITED NATIONS¹**

12 July 1973.

I have the honour, in accordance with Article 41, paragraph 2, of the Statute of the Court and with reference to the Order made by the Court on 17 August 1972 in the case concerning *Fisheries Jurisdiction (United Kingdom v. Iceland)*, to send you herewith an official copy for transmission to the Security Council of an Order of today's date whereby the Court, following a request which the Government of the United Kingdom submitted on 22 June 1973 under operative paragraph (2) of the Order of 17 August 1972, has confirmed that the interim measures of protection indicated therein should remain operative until the Court has given final judgment in the case.

**99. THE AGENT FOR THE FEDERAL REPUBLIC OF GERMANY
TO THE REGISTRAR**

13 July 1973.

I have the honour to acknowledge the receipt of your letter of 2 July 1973 containing a copy of the telegram received by the Court from the Minister for Foreign Affairs of Iceland on 2 July 1973.

The telegram of the Icelandic Minister does not refer specifically to facts or considerations contained in my letter of 22 June 1973 relating to the continuation of the Court's Order of 17 August 1972; it contains, however, some remarks alleging a deterioration of fishstocks in the Iceland Area. These remarks do not constitute an adequate presentation of the facts. The Government of the Federal Republic of Germany will, in its Memorial to be filed on 1 August 1973, comment in more detail on the factual situation in the Iceland Area.

**100. THE DEPUTY-REGISTRAR TO THE MINISTER FOR FOREIGN
AFFAIRS OF ICELAND**

18 July 1973.

I have the honour, with reference to the cases concerning *Fisheries Jurisdiction (United Kingdom v. Iceland; Federal Republic of Germany v. Iceland)*,

¹ A communication in the same terms was sent to the Secretary-General of the United Nations regarding the *Federal Republic of Germany v. Iceland* case.

to enclose herewith copies of letters dated respectively 4 July and 13 July 1973 from the Agents of the applicant Governments, containing observations on Your Excellency's telegram of 2 July 1973.

(Signed) W. TAIT.

101. LE GREFFIER ADJOINT AU MINISTRE DES AFFAIRES ÉTRANGÈRES
D'AFGHANISTAN¹

20 juillet 1973.

Le Greffier adjoint de la Cour internationale de Justice a l'honneur de transmettre, sous ce pli, un exemplaire de l'ordonnance rendue par la Cour le 12 juillet 1973 prévoyant le maintien en vigueur de mesures conservatoires dans l'affaire relative à la *Compétence en matière de pêcheries (Royaume-Uni c. Islande)*.

D'autres exemplaires seront expédiés ultérieurement par la voie ordinaire.

102. THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND TO THE REGISTRAR

(telegram)

23 July 1973.

I have the honour to refer to your telegram of July 12 1973 concerning the Orders of the Court of that date continuing interim measures of protection in the *Fisheries Jurisdiction* cases.

The Government of Iceland maintains all the reservations previously made with regard to all questions of jurisdiction and admissibility. With regard to the scientific and factual aspects I wish to state that scientific evidence shows clear signs of overfishing of the cod stocks in Icelandic waters. The proportion of immature fish in the total catch of cod has increased at an alarming rate in the past few years, and catch per unit effort of all vessel and gear categories has gone down for all demersal species including cod. This is *inter alia* shown by the report of the joint ICNAF/ICES Working Group on the state of the cod stocks in the North Atlantic, particularly in the light of developments since that report was made.

In the opinion of my Government the continued maintenance of the interim measures which have already led to serious incidents will cause irreparable prejudice to the rights of Iceland. It is also to be noted that, as appears from the discussions in the 27th session of the General Assembly of the United Nations and the work in 1973 of the Sea-Bed Committee in preparation for the forthcoming Law of the Sea Conference, the international community today generally supports extensive coastal jurisdiction over fisheries which takes full account of the vital interests of the coastal State in the conservation and exploitation of the resources of the coastal area. It is *inter alia* in the light of this that the Government of Iceland must take all the necessary measures to protect the vital interests of the Icelandic nations.

In consequence, I have the honour to inform you that while reserving all its rights, the Government of Iceland is unable to modify its position with regard to the interim measures.

¹ Cette communication a été adressée, pour chacune des deux affaires, aux Etats Membres des Nations Unies et aux Etats non membres des Nations Unies admis à ester devant la Cour.

103. THE DEPUTY-REGISTRAR TO THE AGENT FOR THE GOVERNMENT
OF THE UNITED KINGDOM¹

24 July 1973.

I have the honour to send you herewith a copy of a telegram received yesterday from the Foreign Minister of Iceland referring to the telegram by which the Government of Iceland was notified of the Order made by the Court on 12 July 1973 in the *Fisheries Jurisdiction (United Kingdom v. Iceland)* case.

104. THE AGENT FOR THE GOVERNMENT OF THE UNITED KINGDOM
TO THE REGISTRAR

31 July 1973.

I have the honour to refer to the Order made by the Court on 15 February 1973 and to transmit herewith one signed copy and twenty-nine unsigned copies of the Memorial of the United Kingdom (together with the Annexes thereto)² on the merits of the dispute. Because of their bulk the remaining ninety-five unsigned copies are being sent to you separately.

105. THE AGENT FOR THE GOVERNMENT OF THE UNITED KINGDOM
TO THE REGISTRAR

31 July 1973.

I have the honour to refer to my letters to you of today's date, under cover of which I transmitted to you the Memorial of the United Kingdom (together with the Annexes thereto) on the merits of the dispute as required by the Order made by the Court on 15 February 1973. At various points in the Memorial reference is made to documents³ which, because of their length, are not themselves annexed and in each case the Memorial states that a copy of the document will be communicated to you in accordance with Article 43 (1) of the Rules of Court. I enclose with this letter a list of the documents so referred to (with an indication, in each case, of the passage in the Memorial in which the reference is first to be found) and one copy of each of those documents.

List of documents communicated to the Registrar in accordance with Article 43 (1) of the Rules of Court:

A. Report of ICES/ICNAF Working Group on Cod Stocks in the North Atlantic (C.M. 1972/F:4)

Paragraph 76: footnote

¹ A communication in the same terms was sent to the Agent for the Government of the Federal Republic of Germany.

² I, pp. 267-432.

³ Not reproduced.

- B. United Kingdom Sea Fisheries Statistical Tables, 1971
Paragraph 77: footnote
- C. ICES Report of North-Western Working Group, 1970 (Liaison Committee/Li: 3, February 1971)
Ibid.
- D. Review of the Status of Some Heavily Exploited Fish Stocks, FAI Fisheries Circular No. 313, FID/C/313
Paragraph 79
- E. ICNAF Annual Proceedings, Vol. 22, 1971-72
Paragraph 81: footnote
- F. NEAFC, Summary Record for 7th Session of 11th Meeting (NC 11/195, 7th Session)
Paragraph 82: footnote
- G. NEAFC, Summary Record for 8th Session of 11th Meeting (NC 11/195, 8th Session)
Ibid.
- H. Icelandic Government pamphlet: *Iceland and the Law of the Sea*
Paragraph 84
- I. List of Recommendations by NEAFC currently in force
Paragraph 96: footnote
- J. NEAFC, Summary Record for 3rd Session of 10th Meeting (NC/175, 3rd Session)
Paragraph 98: footnote
- K. NEAFC Summary Record for 2nd Session of 11th Meeting (NC 11/195, 2nd Session)
Ibid.
- L. NEAFC 11th Meeting, Conclusions and Recommendations (NC 11/204)
Paragraph 99: footnote
- M. NEAFC, Scheme of Joint Enforcement
Paragraph 102
- N. NEAFC, Report of 5th Meeting
Paragraph 105: footnote
- O. NEAFC, Report of 6th Meeting
Paragraph 109: footnote
- P. NEAFC, Summary Record of 8th Session of 6th Meeting (NC 6/90, 8th Session)
Paragraph 110: footnote
- Q. NEAFC, Report of ICES Liaison Committee for 1971 (NC 9/141)
Paragraph 112: footnote
- R. NEAFC, Summary Record for 7th Session of 9th Meeting (NC 9/150, 7th Session)
Paragraph 113: footnote
- S. NEAFC, 9th Meeting, Conclusions and Recommendations (NC 9/163)
Paragraph 119: footnote

- T. NEAFC, Summary Record for 3rd Session of Special Ministerial Meeting (NC M/7, 3rd Session)
Paragraph 117: footnote
- U. NEAFC, Report of ICES Liaison Committee for 1972 (NC 10/165)
Paragraph 118: footnote
- V. OECD Draft Review of Fisheries in Member Countries, 1972
Paragraph 123: footnote
- W. OECD Economic Surveys: "Iceland", March 1972
Paragraph 129: footnote
- X. Limits and Status of the Territorial Sea, Exclusive Fishing Zones, Fishery Conservations Zones and the Continental Shelf, FAO Fisheries Circular No. 127, FID/C/127
Paragraph 245: footnote
- Y. International Boundary Study, Series A, Limits in the Seas, "National Claims to Maritime Jurisdictions", No. 36, March 1973
Ibid.

**106. THE AGENT FOR THE GOVERNMENT OF THE UNITED KINGDOM
TO THE REGISTRAR**

31 July 1973.

I have the honour to refer to the letter to you, dated 14 April 1972, from Her Britannic Majesty's Chargé d'Affaires at The Hague, in which he notified you, in accordance with Article 35 (2) of the Rules of Court, of my appointment as Agent for the Government of the United Kingdom for the purposes of the proceedings in the above case. I now have the honour to notify you that my place as Agent will be taken, as from 2 August 1973, by Mr. David Heywood Anderson, one of the Legal Counsellors in the Foreign and Commonwealth Office.

Mr. Anderson's address for service will be the British Embassy at The Hague. I certify that the signature below mine on this letter is Mr. Anderson's signature.

107. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

31 July 1973.

I have the honour to send you herewith five copies, one of which is a certified true copy, of the Memorial on the merits of the dispute in the *Fisheries Jurisdiction (United Kingdom v. Iceland)*, case filed today in the Registry of the Court by the Agent of the United Kingdom. I also enclose copies of two letters from the United Kingdom Agent, one of which concerns certain documents referred to in the Memorial, and the other the appointment by the United Kingdom of Mr. D. H. Anderson as Agent in place of Mr. H. Steel. The documents listed in the attachment to the first of these letters have been deposited in the Registry in accordance with Article 43, paragraph 1, of the 1946 Rules of Court, and will thus be available for consultation by the representatives of Iceland.

108. THE AGENT FOR THE GOVERNMENT OF THE FEDERAL REPUBLIC
OF GERMANY TO THE REGISTRAR

1 August 1973.

I have the honour to transmit herewith, in accordance with the Court's Order of 15 February 1973, one signed copy of the Memorial¹ of the Government of the Federal Republic on the Merits in the *Fisheries Jurisdiction (Federal Republic of Germany v. Iceland)* case, together with 35 additional mimeographed copies of that Memorial.

109. THE DEPUTY-REGISTRAR TO THE MINISTER FOR FOREIGN
AFFAIRS OF ICELAND

1 August 1973.

I have the honour to send you herewith a certified copy of the Memorial of the Federal Republic of Germany on the merits of the dispute in the *Fisheries Jurisdiction (Federal Republic of Germany v. Iceland)* case, which was filed in the Registry today. Two further copies are being sent under separate cover; additional printed copies will be despatched to you in due course.

110. THE AGENT FOR THE FEDERAL REPUBLIC OF GERMANY
TO THE REGISTRAR

1 August 1973.

I have the honour to refer to my letters of 21 July 1972 and 6 October 1972 whereby I notified the Court that the Government of the Federal Republic of Germany would like to avail itself of the right under Article 31, paragraph 3, of the Statute of the Court to choose a person to sit as judge *ad hoc* in the *Fisheries Jurisdiction (Federal Republic of Germany v. Iceland)* case.

In the Public Sitting², held on 8 January 1973, the President of the Court stated that the Court, after deliberating on this question, had been unable to find that the appointment of a judge *ad hoc* by the Federal Republic of Germany in that phase of the proceedings would be admissible. The President added, however, that this decision of the Court affected only that phase of the proceedings, that is to say that concerning the jurisdiction of the Court, and does not in any way prejudice the question whether, if the Court finds that it has jurisdiction, a judge *ad hoc* might be chosen to sit in subsequent stages of the case. In its Judgment³ of 2 February 1973, the Court explained this decision by stating that, taking into account the proceedings instituted against Iceland by the United Kingdom on 14 April 1972 and the composition of the Court in that Case which includes a judge of United Kingdom nationality, the Court had found that there was, in the phase of the proceedings concerning the jurisdiction of the Court, a common interest in the sense of Article 31, paragraph 5, of the Statute which justified the refusal of the request of the Federal Republic of Germany for the appointment of a judge *ad hoc*.

¹ See pp. 141-265, *supra*.

² See p. 120, *supra*.

³ *I.C.J. Reports 1973*, p. 51.

I have the honour to state, on behalf of the Government of the Federal Republic of Germany, that the Government of the Federal Republic proceeds on the assumption that its request to have a judge *ad hoc* in this case still stands. However, the Government of the Federal Republic, before taking a decision on the nomination of a person to sit as judge *ad hoc* in the future proceedings in this case, would like to know whether in the opinion of the Court, in the present phase of the proceedings a common interest continues to exist which might be regarded as an obstacle to the admission of a judge *ad hoc*.

111. THE DEPUTY-REGISTRAR TO THE MINISTER FOR FOREIGN
AFFAIRS OF ICELAND

3 August 1973.

I have the honour to send you herewith a copy of a letter received in the Registry on 1 August 1973 from the Agent for the Federal Republic of Germany in the *Fisheries Jurisdiction* case.

112. THE REGISTRAR TO THE AGENT FOR THE GOVERNMENT
OF THE UNITED KINGDOM

17 August 1973.

I have the honour to refer to paragraph 7 of the Court's Judgment of 2 February 1973 in the *Fisheries Jurisdiction (Federal Republic of Germany v. Iceland)* case, and to the decision of the Court, recorded in that paragraph, that, taking into account the proceedings instituted by the United Kingdom, and the composition of the Court in the case between the Federal Republic and Iceland, there was in that phase of the latter case a common interest in the sense of Article 31, paragraph 5, of the Statute which justified the refusal of the request of the Federal Republic for the appointment of a judge *ad hoc*.

In this connection, I have the honour to confirm the information already conveyed orally to your predecessor as Agent, namely that the Court does not propose to take a decision at this time on the question of appointment of a judge *ad hoc* by the Federal Republic of Germany to sit in the present phase of the proceedings instituted by the Federal Republic, it being understood that this does not imply any taking of position by the Court on this question.

In deciding to defer its decision, the Court took into account that it would shortly be in possession of the Memorial of the Federal Republic on the merits of the case between the State and Iceland, and of the Memorial of the United Kingdom on the merits of the case between the United Kingdom and Iceland, both of which have in fact now been filed. Furthermore the Court was aware that your predecessor as Agent had expressed on behalf of your Government the wish of your Government to present observations on any contemplated joinder of these proceedings with those instituted by the Federal Republic of Germany; and the Court considers that these observations should now be made available to it.

Accordingly, I have the honour to inform you that the Court has fixed 30 September 1973 as the time-limit within which any written observations which the Government of the United Kingdom may wish to present on the question of possible joinder of the two *Fisheries Jurisdiction (United Kingdom v. Iceland and Federal Republic of Germany v. Iceland)* cases are to be filed.

The Government of the Federal Republic of Germany is being similarly invited to present its observations on joinder; and a copy of this letter is being transmitted to the Government of Iceland.

**113. THE REGISTRAR TO THE AGENT FOR THE GOVERNMENT
OF THE FEDERAL REPUBLIC OF GERMANY**

17 August 1973.

I have the honour to refer to your letter of 1 August 1973, by which you inform me, with reference to the decision of the Court refusing the request of the Federal Republic of Germany for the appointment of a judge *ad hoc* to sit in the jurisdiction phase of the *Fisheries Jurisdiction (Federal Republic of Germany v. Iceland)* case, that the Government of the Federal Republic proceeds on the assumption that its request to have a judge *ad hoc* in that case still stands; and that that Government, before taking a decision on the nomination of a person to sit in that capacity, would like to know whether in the opinion of the Court, in the present phase of the proceedings a common interest continues to exist which might be regarded as an obstacle to the admission of a judge *ad hoc*.

In this connection, I have the honour to confirm the information already conveyed to you orally, namely that the Court does not propose to take a decision at this time on the question of the appointment of a judge *ad hoc* by the Federal Republic to sit in the present phase of the proceedings, it being understood that this does not imply any taking of position by the Court on the question.

In deciding to defer its decision, the Court took into account that it would shortly be in possession of the Memorial of the Federal Republic on the merits of the case, and of the Memorial of the Government of the United Kingdom in the proceedings instituted by that Government against Iceland, both of which have in fact now been filed. Furthermore the Court was aware that you had expressed on behalf of your Government the wish of your Government to present observations on any contemplated joinder of these proceedings with those instituted by the United Kingdom; and the Court considers that these observations should now be made available to it.

Accordingly, I have the honour to inform you that the Court has fixed 30 September 1973 as the time-limit within which any written observations which the Government of the Federal Republic of Germany may wish to present on the question of possible joinder of the two *Fisheries Jurisdiction (Federal Republic of Germany v. Iceland and United Kingdom v. Iceland)* cases are to be filed.

The Government of the United Kingdom is being similarly invited to present its observations on joinder; and a copy of this letter is being transmitted to the Government of Iceland.

**114. THE AGENT FOR THE GOVERNMENT OF THE FEDERAL
REPUBLIC OF GERMANY TO THE REGISTRAR**

25 September 1973.

I have the honour to refer to your letter of 17 August 1973 in the *Fisheries Jurisdiction (Federal Republic of Germany v. Iceland)* case by which you informed me that observations of the Government of the Federal Republic

of Germany with respect to a possible joinder of the proceedings in this case with those instituted by the United Kingdom against Iceland should be made available to the Court until 30 September 1973. In response to this request, I respectfully submit, on behalf of the Government of the Federal Republic of Germany, the following observations:

The Government of the Federal Republic of Germany is aware of the fact that important legal issues are common to both proceedings; the Court will, however, recognize that the facts and considerations as well as the submissions put forward in the Memorials on the Merits filed by the Government of the United Kingdom and by the Government of the Federal Republic respectively differ, and that the disputes submitted to the Court in both cases have distinct features. Moreover, the Government of the Federal Republic of Germany attaches great value to pleading its case separately and proposing its own submissions. The Government of the Federal Republic of Germany has on the other hand no objection to and would favour the continuance of the co-ordination of the proceedings in both cases with respect to their timing as practised previously, if that would be convenient to the Court. In view of these considerations the Government of the Federal Republic of Germany is of the opinion that there is no sufficient reason for a formal joinder of the proceedings in both cases¹.

I have the further honour to revert to the question of the appointment of a judge *ad hoc* and to inform the Court, on behalf of the Government of the Federal Republic of Germany, of the following: The Government of the Federal Republic has examined this question in the light of the situation in the present phase of the proceedings. The Government of the Federal Republic takes account of the fact that the Government of Iceland still declines to take part in the proceedings and to avail itself of the right to have a judge *ad hoc* on the bench of the Court, and, as long as this situation persists, the Government of the Federal Republic, for its part, does not feel it necessary to insist on the appointment of a judge *ad hoc*.

**115. THE AGENT FOR THE GOVERNMENT OF THE UNITED KINGDOM
TO THE REGISTRAR**

26 September 1973.

1. I have the honour to refer to your letter dated 17 August 1973 and respectfully to submit the following observations of the Government of the United Kingdom on the question of possible joinder of the two *Fisheries Jurisdiction (United Kingdom v. Iceland and Federal Republic of Germany v. Iceland)* cases.

2. The Government of the United Kingdom have given the most careful consideration to this question. There are of course legal issues and other features which are common to the two cases, but as the Court will be aware from the Memorials on the Merits which have already been filed by the Government of the United Kingdom and the Government of the Federal Republic of Germany, there are also differences as to the facts of the two cases and in the considerations and submissions presented by the two Governments. If the cases were joined these differences could give rise to

¹ See p. 289, *supra*.

practical difficulties in the conduct of the proceedings and hamper the parties in the presentation of their cases. The Government of the United Kingdom therefore attach importance to being able to conduct their own case separately as in the earlier stages of the proceedings.

3. In view of the above considerations, the Government of the United Kingdom wish respectfully to state that they do not wish their case to be joined to that between the Federal Republic of Germany and Iceland¹.

(Signed) D. H. ANDERSON.

**116. THE DEPUTY-REGISTRAR TO THE MINISTER FOR FOREIGN
AFFAIRS OF ICELAND**

28 September 1973.

I refer to my letter of 17 August 1973, with which I sent Your Excellency copies of the letters I had on that date addressed to the Agents of the United Kingdom and the Federal Republic of Germany in the *Fisheries Jurisdiction* cases; I now have the honour in this connection to send Your Excellency herewith a copy of a letter dated 26 September 1973 from the Agent of the United Kingdom, and a copy of a letter dated 25 September 1973 from the Agent of the Federal Republic of Germany, both of which were received in the Registry today.

**117. THE AGENT FOR THE GOVERNMENT OF THE UNITED KINGDOM
TO THE REGISTRAR**

25 October 1973.

1. I have the honour to refer to the letter of the Agent for the Government of the United Kingdom dated 19 December 1972 concerning paragraphs 1 (e) and 1 (f) of the Order made by the Court on 17 August 1972 indicating Interim Measures of Protection.

2. In compliance with the said paragraph 1 (f), I now have the honour to supply the following further information to the Court. According to information supplied to the competent British authorities in accordance with the legislation in force in the United Kingdom, the total catch of vessels registered in the United Kingdom in the year from 1 September 1972 to 31 August 1973 from the "Sea Area of Iceland", as defined by the International Council for the Exploration of the Sea as area Va, was 160,714 metric tons.

3. A copy of this letter will be communicated to the Government of Iceland in conformity with paragraph 1 (f) of the Order of 17 August 1972.

**118. THE AGENT FOR THE GOVERNMENT OF THE UNITED KINGDOM
TO THE REGISTRAR**

21 November 1973.

1. I have the honour, with reference to the Orders made in this case on 17 August 1972 and 12 July 1973 indicating Interim Measures of Protection, to convey the following information to the Court.

2. On 13 November 1973, an Exchange of Notes was concluded between the Foreign Minister of Iceland and the British Ambassador in Reykjavik.

¹ I, p. 437.

Enclosed with this letter are copies of the Exchange of Notes constituting an Interim Agreement in the Fisheries Dispute between the Government of the United Kingdom and the Government of Iceland. The Exchange of Notes, which is stated to be without prejudice to the legal position or rights of either Government in relation to the substantive dispute, will be registered with the Secretary-General of the United Nations in accordance with Article 102 of the United Nations Charter.

EXCHANGE OF NOTES
CONSTITUTING AN INTERIM AGREEMENT IN THE FISHERIES
DISPUTE BETWEEN THE GOVERNMENT OF THE UNITED
KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
AND THE GOVERNMENT OF THE REPUBLIC OF ICELAND

No. 1

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

No. 23

*Reykjavik,
November 13, 1973*

Your Excellency,

I have the honour to refer to the discussions which have taken place between our two Governments concerning the fisheries dispute between our two countries. In these discussions the following arrangements have been worked out for an interim agreement relating to fisheries in the disputed area, pending a settlement of the substantive dispute and without prejudice to the legal position or rights of either Government in relation thereto, which are based on an estimated annual catch of about 130,000 metric tons by British vessels:

1. The British fleet of fresher trawlers which will fish in the area will be reduced, by comparison with the number of vessels notified as fishing in 1971, by 15 of the largest trawlers and 15 other trawlers so that it will consist of not more than 68 trawlers of 180 feet or more in registered length and 71 trawlers of less than 180 feet in registered length; and no freezer or factory trawlers will fish in the area.

2. British trawlers will not fish in conservation areas during periods specified as follows:

(I) Off the Northwest Coast all year in an area demarcated by a line between the following points:

(a) 66° 57' N, 23° 36' W.

(b) 67° 01' N, 22° 24' W

and a line drawn 340° from point (a) and 22° 24' W.

(II) Off the South Coast during the period 20 March to 20 April in an area demarcated by lines between the following points:

(a) 63° 32' N, 21° 25' W

(b) 63° 00' N, 21° 25' W

(c) 63° 00' N, 22° 00' W

(d) 63° 32' N, 22° 00' W

(III) Off the Northeast Coast during the period 1 April to 1 June in an area demarcated by $16^{\circ} 11' 8''$ W and a line drawn 045° from Langanes ($66^{\circ} 22' 7''$ N, $14^{\circ} 31' 9''$ W).

3. British trawlers will not fish in small boat areas as follows:

- (I) Off the West Coast in an area bounded by a line drawn 20 nautical miles outside baselines, north of $65^{\circ} 30'$ N and west of $22^{\circ} 24'$ W.
- (II) Off the East Coast in an area bounded by a line drawn 20 nautical miles outside baselines, north of $64^{\circ} 44' 4''$ N and south of a line drawn 045° from Bjarnarey ($65^{\circ} 47' 1''$ N, $14^{\circ} 18' 2''$ W.)
- (III) Off the North Coast in an area bounded by a line between the following points:
 - (a) $66^{\circ} 39' 7''$ N, $22^{\circ} 24' 0''$ W
 - (b) $66^{\circ} 23' 8''$ N, $18^{\circ} 50' 0''$ W

4. British trawlers will not fish in the following areas during the periods indicated:

- (A) Off the Northwest Coast an area demarcated by $22^{\circ} 24'$ western longitude and $65^{\circ} 30'$ northern latitude. Closed September/October.
- (B) Off the Southwest Coast an area demarcated by $65^{\circ} 30'$ northern latitude and $20^{\circ} 30'$ western longitude. Closed November/December.
- (C) Off the South Coast an area demarcated by $20^{\circ} 30'$ and $14^{\circ} 30'$ western longitude. Closed May/June.
- (D) Off the Southeast Coast an area demarcated by $14^{\circ} 30'$ western longitude and a line drawn 045° from Bjarnarey ($65^{\circ} 47' 1''$ N, $14^{\circ} 18' 2''$ W). Closed January/February.
- (E) Off the Northeast Coast an area demarcated by a line drawn 045° from Bjarnarey and $16^{\circ} 11' 8''$ western longitude. Closed July/August.
- (F) Off the North Coast an area demarcated by $16^{\circ} 11' 8''$ and $22^{\circ} 24'$ western longitude. Closed March/April.

5. The arrangements specified in subparagraphs 2, 3 and 4 above are indicated on the attached map.

6. An agreed list of vessels which may fish in these waters in terms of this interim agreement shall be established. The Icelandic Government will not object to the named vessels fishing around Iceland as long as they comply with the terms of this interim agreement. Should a vessel be discovered fishing contrary to the terms of the agreement, the Icelandic coastguard shall have the right to stop it, but shall summon the nearest British fishery support vessel in order to establish the facts. Any trawler found to have violated the terms of the agreement will be crossed off the list.

7. The agreement will run for two years from the present date. Its termination will not affect the legal position of either Government with respect to the substantive dispute.

If the foregoing is acceptable to the British Government, I have the honour to propose that this Note and Your Excellency's reply in that sense shall constitute an interim agreement between our two countries which shall become effective forthwith and be registered with the Secretary-General of the United Nations in accordance with Article 102 of the United Nations Charter.

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

EINAR AGÜSTSSON,
Minister for Foreign Affairs.

No. 2

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

*British Embassy,
Reykjavik.*

13 November, 1973

Your Excellency,

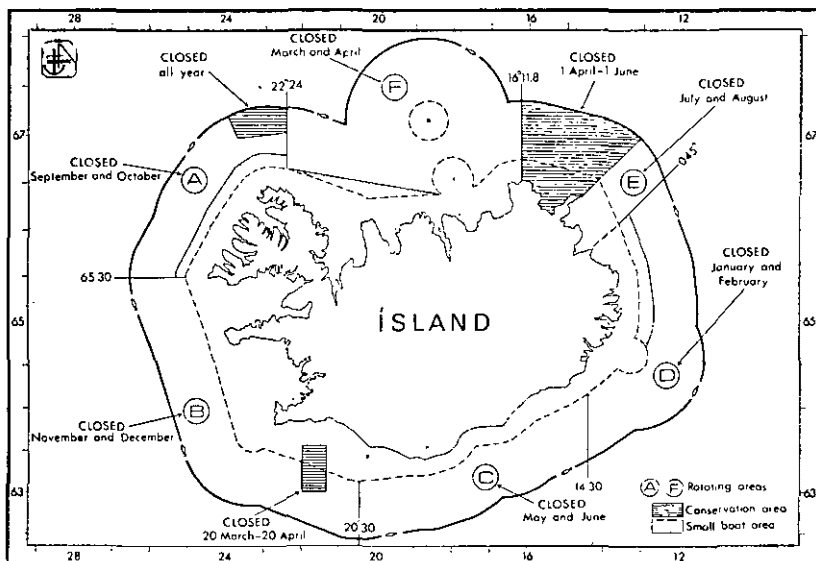
I have the honour to acknowledge receipt of Your Excellency's Note of today's date, together with the map attached, concerning the fisheries dispute between our two countries.

I have the honour to confirm that the contents of Your Excellency's Note are acceptable to the British Government, who therefore agree that Your Excellency's Note and this reply constitute an interim agreement which shall become effective forthwith and be registered with the Secretary-General of the United Nations in accordance with Article 102 of the United Nations Charter.

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

John McKENZIE.

(Cmnd. 5484)



119. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

22 November 1973.

I have the honour to send Your Excellency herewith a copy of a letter I have today received from the Agent of the United Kingdom in the *Fisheries Jurisdiction (United Kingdom v. Iceland)* case, together with a copy of the Exchange of Notes (in the form of a United Kingdom Government publication, Cmnd. 5484) which was enclosed with that letter.

120. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND*(telegram)*

8 January 1974.

On instructions of President of Court have honour inform Your Excellency that he is convening meetings on *Fisheries Jurisdiction* cases on Wednesday, 16 January, to ascertain views of Parties with regard to questions of further procedure pursuant Rules, Article 37: United Kingdom v. Iceland, 3 p.m., Agent of the United Kingdom will attend; Federal Republic of Germany v. Iceland, 4 p.m., Agent of Federal Republic of Germany will attend. Whilst noting that Agent has not been appointed by Iceland am instructed inform you that should Your Excellency's Government wish to be represented at these meetings person designated would be welcome to attend¹.

121. THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND TO THE REGISTRAR*(telegram)*

11 January 1974.

With reference to your telegram I have the honour to inform you that the following letter has been airmailed to you:

*[See No. 125, below]***122. THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND TO THE REGISTRAR**

11 January 1974.

I have the honour to refer to the cases entered in the Court's general list, entitled *Fisheries Jurisdiction* cases, and to bring the following to your attention.

In the period between 15 October and 6 November 1973 the First Committee of the General Assembly of the United Nations examined the Report of the Committee on the Peaceful Uses of the Sea-bed and the Ocean Floor beyond the limits of national jurisdiction. This discussion led to the adoption by the General Assembly of resolution 3067 (XXVIII). Under that resolution the Third United Nations Conference on The Law of the Sea has been convened. The first session of the conference took place in New York between

¹ On 16 January and 5 February 1974, the President met the Agents for the Governments of the United Kingdom and the Federal Republic of Germany.

3 and 15 December 1973. The second session which will deal with substantive matters is scheduled to take place in Caracas, Venezuela, for a period of 10 weeks commencing on 20 June 1974.

During the long period of preparation for this conference it was frequently pointed out that the Sea-bed Committee was a principal forum for ascertaining the views of the members of the international community on the various aspects of the Law of the Sea, including the extent of the jurisdiction of a coastal State. It is now a fact that the concept of an exclusive economic zone (to which many different names are given) of up to 200 miles in extent enjoys very wide support. This finds expression in a number of legislative enactments, conclusions of international meetings and statements by delegations in the formal and informal meetings of the Sea-bed Committee as well as in the General Assembly of the United Nations. One of the most recent examples is the Conference on Non-Aligned States in Algiers, 5-9 September 1973.

The evidence available as to the views of States is aimed not only at what should be decided by the Law of the Sea Conference but no less at reflecting what the law is today.

As a result of this the complex and delicate process of consolidating, codifying and progressively developing the entire law of the sea has entered upon a new and, it is hoped, a final stage.

On 13 November 1973 an Agreement was concluded between the Governments of Iceland and the United Kingdom and a copy of it is enclosed¹. Under its terms authorization is given for a specified number of British trawlers to continue fishing within the 50 mile limit, subject to the restrictions laid down. These relate to size and type of vessels, areas and periods, and are based on an estimated total catch of about 130,000 tons. This Agreement is in further implementation of the policy of the Government of Iceland to solve the practical difficulties of the British trawling industry arising out of the application of the 1948 law and the Althing resolution of 14 February 1972, by providing an adjustment during the next two years. It also contributes to the reduction of tension which has been provoked by the presence of British armed naval vessels within the 50-mile limit.

Negotiations with the Government of the Federal Republic of Germany are progressing.

With reference to the time-limit fixed by the Court for the submission of Counter-Memorials by the Government of Iceland, I have the honour to inform you that the position of the Government of Iceland with regard to the proceedings in question remains unchanged and, consequently, no Counter-Memorials will be submitted. At the same time, the Government of Iceland does not accept or acquiesce in any of the statements of facts or allegations or contentions of law contained in the Memorials filed by the Parties concerned.

123. THE REGISTRAR TO THE AGENT FOR THE GOVERNMENT
OF THE UNITED KINGDOM²

14 January 1974.

I have the honour to send you herewith a copy of a telegram from the Minister for Foreign Affairs of Iceland, referring to the *Fisheries Jurisdiction*

¹ See pp. 459-461, *supra*.

² A similar communication was sent to the Agent for the Government of the Federal Republic of Germany.

cases, and a copy of the letter referred to in the telegram, which was received in the Registry today. The text of the Exchange of Notes enclosed with the letter is identical with the printed text (Cmnd. 5484) transmitted to the Court with your letter of 21 November 1973.

**124. THE AGENT FOR THE GOVERNMENT OF THE UNITED KINGDOM
TO THE REGISTRAR**

20 February 1974.

1. I have the honour, with reference to the United Kingdom Agent's letter of 19 December 1972 furnishing the Court with information, etc., in compliance with paragraph 1 (*f*) of its Order of 17 August 1972 (Interim Measures of Protection), to supply the following further information to the Court.

2. The Sea Fishing (Specified Northern Waters) Licensing Order 1972 (a copy of which was enclosed with the letter of 19 December 1972) has been replaced by the Sea Fishing (Specified Northern Waters) Licensing Order 1973 (a copy of which is enclosed with this letter). The broad effect of the Order of 1973 is the same as that of the Order of 1972, except that the Order of 1973 applies to the area between the 12-mile line and the 50-mile line around Iceland (as defined in its Article 2 (1) and Schedule 2). That area lies within ICES Statistical Area Va but does not include all of it.

3. The arrangements for recording the catch by British vessels within the 12 to 50-mile belt around Iceland remain very substantially the same as those set out at paragraphs 5 to 7 of the United Kingdom Agent's letter of 19 December 1972. Any catch taken in the area between the 50-mile line and the boundary of ICES Statistical Area Va will be recorded under the existing system used by the Fisheries Departments for recording the catch and area of capture.

4. In compliance with the Court's Order of 17 August 1972, a copy of this letter (with its enclosure) will be communicated to the Government of Iceland.

**THE SEA FISHING (SPECIFIED NORTHERN WATERS) LICENSING
ORDER 1973**

Citation and commencement

1. This order may be cited as the Sea Fishing (Specified Northern Waters) Licensing Order 1973, and shall come into operation on 1st December 1973.

Interpretation

2.—(1) In this order—

“the Act” means the Sea Fish (Conservation) Act 1967;

“the baselines” means the lines drawn round the coast of Iceland so as to join successively, in the order in which they are there set out, the

points identified by the co-ordinates of latitude and longitude in Schedule 1 to this order;

“mile” means nautical mile;

“the 12 mile line” means a line drawn round the coast of Iceland 12 miles from the baselines and extended seawards by lines drawn 12 miles from and around the Island of Grimsey (from its outermost headlands and skerries) and around Hvalbakur (64° 35.8' north latitude 13° 16.7' west longitude);

“the 50 mile line” means a line drawn round the coast of Iceland 50 miles from the baselines and extended seawards by lines drawn 50 miles around Hvalbakur (64° 35.8' north latitude 13° 16.7' west longitude) and Kolbeinsey (67° 07.5' north latitude 18° 36' west longitude).

“the specified area” means the area described in Schedule 2 to this Order.

(2) The Interpretation Act 1889 shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament, and as if this order and the order hereby revoked were Acts of Parliament.

Revocation of previous Order

3. The Sea Fishing (Specified Northern Waters) Licensing Order 1972 is hereby revoked.

Appointed Day

4. The appointed day for the purpose of section 4 of the Act (which provides for the licensing of British fishing vessels in relation to fishing by way of trade or business in specified areas) in conjunction with this order is the day on which this order comes into operation.

Area and Period

5. This order applies to fishing for sea fish in the specified area for the period beginning with the day on which this order comes into operation and ending on 13th November 1975 (both dates inclusive).

Provided that nothing in this order shall authorize a licence under section 4 of the Act to be granted in respect of any part of the specified area in any period in which fishing for sea fish in such part is prohibited by the Sea Fishing (Specified Northern Waters) Prohibition Order 1973.

Enforcement

6. For the purposes of the enforcement of section 4 of the Act in conjunction with this order there are hereby conferred on every British sea-fishery officer the powers of a British sea-fishery officer under section 8 (2) and (3) of the Sea Fisheries Act 1968.

.....

SCHEDULE 2

The area of sea between the 12 mile line and the 50 mile line but excluding therefrom the area within a radius of 12 miles from Kolbeinsey (67° 07.5' north latitude 18° 36' west longitude).

.....

**125. THE AGENT OF THE FEDERAL REPUBLIC OF GERMANY
TO THE REGISTRAR**

6 March 1974.

I have the honour to refer to the Order made by the Court on 17 August 1972 in the *Fisheries Jurisdiction (Federal Republic of Germany v. Iceland)* case indicating interim measures of protection, and to the Order made by the Court on 12 July 1973 by which the Court confirmed that the provisional measures indicated in the operative paragraph (1) of the Order of 17 August 1972 should, subject to the power of revocation or modification conferred on the Court by paragraph (7) of Article 61 of the 1946 Rules, remain operative until the Court has given final judgment in the case. In the operative paragraph (1) (e) of the Order, the Court had indicated that the Federal Republic should ensure that vessels registered in the Federal Republic do not take an annual catch of more than 119,000 metric tons of fish from the "Sea Area of Iceland", as defined by the International Council for the Exploration of the Sea as Area Va; and in the operative paragraph (1) (f) of the Order, the Court had indicated that the Federal Republic should furnish the Government of Iceland and the Registry of the Court with all relevant information, orders issued and arrangements made concerning the control and regulation of fish catches in the area.

In compliance with the said paragraph (1) (f) of the Order of 17 August 1972, I had already informed the Registry of the Court by letter of 21 May 1973 of the measures taken by the Government of the Federal Republic of Germany with respect to the control and regulation of fish catches in the "Sea Area of Iceland". I have the honour to refer to the contents of my letter of 21 May 1973, and to inform the Court, on behalf of the Government of the Federal Republic of Germany, that the statutory basis for the regulation and control of fish catches in the aforementioned area, the Regulations issued by the Federal Minister of Food, Agriculture and Forestry to this effect, and the administrative machinery for controlling the compliance with these regulations have remained unchanged. Again the general licence had been issued which allowed the enterprises members of the German Trawler Owners' Association to catch not more than 119,000 tons of fish in the "Sea Area of Iceland" during the year 1973.

According to the information provided by the Federal Research Board for Fisheries, the provisional figure of the nominal catch by fishing vessels of the Federal Republic in the "Sea Area of Iceland" during the year 1973 is estimated as amounting to approximately 85,000 tons. This figure, however, is only a rough estimate on the basis of the statistical data so far supplied; the final figure might well be 3,000 tons higher or lower than at present estimated. Final figures are available only for the seven months from January to July 1973, showing a total catch of 53,608 tons (nominal catch) in the Iceland area during these seven months. In any event, the final figure for 1973 will keep within the limit set by the Court in its Order of 17 August 1972.

While the Government of the Federal Republic of Germany has faithfully observed its obligations under the Court's Order of 17 August 1972 and has taken no action of any kind which might have been capable to aggravate or extend the dispute between the Parties, the Government of Iceland has persisted in not observing the express stipulations contained in the operative paragraphs (1) (c) and (d) of the Court's Order, and its coastal patrol boats have continued, by the threat or use of force, to prevent vessels of the Federal Republic of Germany from carrying out fishing operations in the waters around Iceland to which they were entitled under International Law and under the Court's Order of 17 August 1972.

A report of the incidents that have been caused by the actions of the Icelandic coastal patrol boats, up to the first days of July 1973, had already been given by the Government of the Federal Republic of Germany in its Request to the Court, dated 22 June 1973, for the continuation of interim measures of protection and in its Memorial on the Merits (Part V) filed on 1 August 1973. Since then, the actions of the Icelandic coastal patrol boats continued and even intensified in the following months of 1973, in particular during the months of August, September and again in December 1973. In addition to the 111 incidents listed in the Annex L of the aforementioned Memorial covering the time from 3 September 1972 to 4 July 1973, 126 more incidents were reported until the end of 1973. In most cases the Icelandic coastal patrol boats attempted to cut the fishing lines of German trawlers which had been fishing within 50 miles off Iceland; in three cases the fishing gear was lost thereby.

I attach to this letter copies of two Verbal Notes, handed by the Ambassador of the Federal Republic of Germany to the Minister for Foreign Affairs of Iceland on 31 December 1973 and 7 January 1974 respectively, by which strong protests were lodged with respect to incidents which had occurred on 22 and 31 December 1973. In both cases the fishing lines of German trawlers were cut without prior warning.

The continuous harassing by the Icelandic coastal patrol boats and the resulting manoeuvres of the German trawlers to avoid their fishing lines being cut have repeatedly forced the German trawlers to curtail their fishing activities or even to leave the Icelandic fishing grounds. There can be no doubt that the actions of the Icelandic coastal patrol boats which were undertaken on the order of the Government of Iceland, have contributed to the low figure of the total catch in the year 1973 compared with catches in the previous years.

In order to prevent further incidents, the Government of the Federal Republic of Germany has, within the framework of the Court's Order of 17 August 1972, continued in its efforts to reach an interim agreement with the Government of Iceland. Negotiations proceeded along the lines of the proposal made by the Government of the Federal Republic of Germany on 29 June 1973 (see Part I, paragraphs 49 to 51 of the Memorial of the Federal Republic on the Merits). Since 1 August 1973, the date on which the Memorial of the Federal Republic was filed, talks were held at Bonn on 6 to 7 September, and at Reykjavik on 22 October 1973. An exchange of letters took place between the Ministers for Foreign Affairs of the two countries on 7 December 1973 and 11 January 1974 respectively, and it is hoped that negotiations will be resumed in the near future.

I should recall that the essence of the Federal Republic's compromise proposal consisted in that the Federal Republic would, pending a settlement of the fisheries dispute and without prejudice to the legal position of the

Federal Republic of Germany as submitted to the Court in its pleadings, voluntarily reduce its fishing effort in the area concerned to a degree even below the requirements contained in the Court's Order.

In the talks which were held on 6 to 7 September and 22 October 1973 an agreement seemed to be in reach, in particular with regard to the location of the "line of abstention" proposed by the Federal Republic of Germany and reproduced in Annex F to the Memorial of the Federal Republic filed on 1 August 1973. However, the representatives of the Government of Iceland remained adamant, during all these discussions, in insisting that no factory ships and freezer trawlers should be admitted in the remaining parts of the area concerned.

The representatives of the Federal Republic have made it clear that the complete exclusion of freezer trawlers from the waters around Iceland would entail, in view of the present structure of the German fishing fleet which comprises now already 39 freezer trawlers representing 70 per cent. of the total tonnage, serious economic consequences which would by far exceed the concessions made by the United Kingdom in the Exchange of Notes with Iceland of 13 November 1973.

Although the Government of the Federal Republic has offered guarantees which would in effect ensure that the German freezer trawlers would operate around Iceland under the same conditions as wetfish trawlers and would use the same fishing gear, the Government of Iceland made it a question of principle to insist on the total exclusion of freezer trawlers from the waters around Iceland. In a personal letter, dated 7 December 1973, the Minister for Foreign Affairs of the Federal Republic of Germany made an urgent appeal to the Minister for Foreign Affairs of Iceland to reconsider the position of the Government of Iceland in this respect. In his letter of 11 January 1974, the Minister for Foreign Affairs of Iceland, however, restated that the Government of Iceland were not in a position to agree to the admission of freezer trawlers within the area concerned. Under these circumstances, the negotiations for an interim agreement have remained adjourned. Up to now, *no date for further negotiations* has been agreed upon. Nevertheless, the Government of the Federal Republic earnestly hopes that it may become possible to find a way out of this deadlock; but it is unfortunately unable to see prospect of an interim agreement in the near future.

Annex A

VERBAL NOTE OF THE EMBASSY OF THE FEDERAL REPUBLIC OF GERMANY IN REYKJAVÍK OF 31 DECEMBER 1973

The Embassy of the Federal Republic of Germany presents its compliments to the Icelandic Ministry of Foreign Affairs and has the honour, upon instructions of the Government of the Federal Republic of Germany, to communicate the following.

In the course of the last weeks, a number of incidents have occurred in the waters of the high seas around Iceland which were caused by Icelandic coast guard vessels using or threatening to use force against German fishing vessels.

The most serious incident happened on 22 December 1973 at 13 hours 45, when the Icelandic coast guard vessel *Odin* cut off the fishing gear of the German trawler *Spizbergen* fishing at position 63 degrees 3 minutes North

and 24 degrees 16 minutes West, consequently at a distance of 46 miles off the Icelandic coast, without having previously warned the captain of the *Spitzbergen*.

The action taken by the *Odin* against the *Spitzbergen* on the high seas, which evidently had been ordered, or in any case permitted, by the Icelandic Government, constitutes an offence against elementary principles of international law, namely against the prohibition of the use of force and the principle that no State has the right to prevent foreign vessels from fishing peacefully on the high seas. The action is moreover contrary to the Orders on interim measures of protection issued by the International Court of Justice on 17 August 1972 and 12 July 1973 according to which the Republic of Iceland should "refrain from taking any measures to enforce the Regulations of 14 July 1972 against vessels registered in the Federal Republic and engaged in fishing activities in the waters around Iceland outside the twelve-mile fishery zone".

The action taken by the *Odin* moreover is not consistent with the fact, that the Federal Government and the Icelandic Government have entered into negotiations with a view to reaching agreement on a *modus vivendi* by concluding an interim agreement, which to bring to a successful end the Federal Government is making every effort. In this connection a statement had been given by the Icelandic side in the course of the latest negotiation in Reykjavik on 22 October 1973, to inform the competent Icelandic authorities of the German request that any further incidents should be avoided.

The Federal Government expresses its particular surprise over the fact that the incidents were caused at the very moment when the negotiations promised to enter into a new and more successful phase, after the personal letter of the Federal Minister for Foreign Affairs from 7 December 1973 had been handed over to H.E. the Minister for Foreign Affairs of the Republic of Iceland in Reykjavik on 19 December 1973. The incident of 22 December 1973 is not conducive to a peaceful settlement of the fisheries dispute, which the Federal Government has been trying to achieve all along. Nor could it be estimated in the public opinion of the Federal Republic of Germany as a sign for the Icelandic Government's readiness to reach agreement.

The Government of the Federal Republic of Germany hereby protests strongly against the irresponsible and unlawful action taken by the Icelandic coast guard vessel *Odin*. It will, in particular, hold the Icelandic Government responsible for the damage caused to the *Spitzbergen* equally as for all damage which has been caused to German fishing vessels by similar action taken by Icelandic coast guard vessels in earlier cases.

Annex B

VERBAL NOTE OF THE EMBASSY OF THE FEDERAL REPUBLIC OF GERMANY IN REYKJAVIK OF 7 JANUARY 1974

The Embassy of the Federal Republic of Germany presents its compliments to the Icelandic Ministry of Foreign Affairs and has the honour to communicate the following on behalf of the Government of the Federal Republic of Germany.

The Federal Government has seen itself obliged to protest with its Note of 31 December 1973 against the action taken by the coastguard vessel *Odin* against the German trawler *Spitzbergen* on 22 December 1973 on the high

seas. Hardly had it taken this step than it had to take note with great dismay of another equally grave incident again caused by the *Odin*. According to the facts so far established, the *Odin* tore away the fishing gear of the German trawler *Orthmarschen* whilst it was fishing at position 64 degrees 4 minutes North and 13 degrees 8 minutes West at approximately 0500 hours on 31 December 1973. The *Odin's* action was all the more dangerous as it was again taken without previous warning.

The Federal Government strongly protests against this repeated action by the Icelandic coastguard vessel *Odin*, which was both irresponsible and in violation of international law. For the rest, it refers to its comments in the Note handed over by the Embassy of the Federal Republic of Germany on 31 December 1973, which apply to this case also. The Federal Government reserves all its rights to claim compensation for the damage to the *Orthmarschen*.

126. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND¹

12 March 1974.

I refer to my letter of 22 December 1972 concerning the question of making accessible to the public the pleadings and annexed documents in the jurisdiction phase of the two *Fisheries Jurisdiction (United Kingdom v. Iceland and Federal Republic v. Iceland)* cases, pursuant to Article 44, paragraph 3, of the 1946 Rules of Court.

In order that the Court may, if it sees fit, consider the question, I shall be grateful if Your Excellency will inform me whether the Government of Iceland would have any objection to the pleadings and annexed documents relating to the merits in the two *Fisheries Jurisdiction* cases being made accessible to the public with effect from the opening of the oral proceedings in that phase of the cases.

The Court may also wish to consider making accessible to the public the further communications which I have had the honour to receive from Your Excellency setting out the position of the Government of Iceland with reference to the proceedings. As I observed in my letter of 22 December 1972, these documents, although they do not fall within the category of pleadings, may well be referred to in oral argument, and would normally be published after the termination of the case in the appropriate part of the relevant volume in the Court's series of publications devoted to *Pleadings, Oral Arguments, Documents*. I would therefore be grateful if Your Excellency would also indicate whether the Government of Iceland would have any objection to these documents also being made accessible to the public at the same time as the pleadings.

I am writing to the Agents of the United Kingdom and the Federal Republic of Germany to enquire whether their respective Governments, with regard to the proceedings they have each instituted, would have any objection to the pleadings and other documents referred to above being made accessible to the public².

¹ Similar communications were sent to the Agents for the Governments of the United Kingdom and the Federal Republic of Germany.

² I, p. 438 and p. 289, *supra*.

127. THE REGISTRAR TO THE AGENT FOR THE GOVERNMENT
OF THE FEDERAL REPUBLIC OF GERMANY

13 March 1974.

I have the honour to acknowledge receipt of your letter of 6 March, referring to your letter of 21 May 1973, and containing further information supplied in compliance with operative paragraph 1 (*f*) of the Court's Order of 17 August 1972 in the *Fisheries Jurisdiction (Federal Republic of Germany v. Iceland)* case. It is my understanding, following our telephone conversation this morning, that, in further compliance with that paragraph, the Government of the Federal Republic of Germany is transmitting a copy of your letter to me of 6 March to the Government of Iceland.

128. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND¹

14 March 1974.

I refer to the Court's Order dated 15 February 1973, fixing time-limits for the pleadings on the merits in the two *Fisheries Jurisdiction* cases (*United Kingdom v. Iceland and Federal Republic of Germany v. Iceland*), and have the honour to inform Your Excellency that, no Counter-Memorial having been filed by the Government of Iceland in either of these cases within the time-limit fixed therefor, the Court will proceed to hold public sittings to hear the oral arguments of the Parties.

As I had the honour to inform Your Excellency by my telegram of today's date (a confirmatory copy of which is enclosed), the public hearings in the proceedings instituted by the United Kingdom will open at 10 a.m. on Monday 25 March 1974², and the hearings in the proceedings instituted by the Federal Republic will open at 10 a.m. on Thursday 28 March 1974³, in each case at the Peace Palace, The Hague.

129. THE AGENT FOR THE GOVERNMENT OF THE UNITED KINGDOM
TO THE REGISTRAR

14 March 1974.

1. I have the honour to inform you that consideration is being given to the possibility of citing certain documents of recent date during the course of the oral arguments to be advanced on behalf of the United Kingdom in this case. The documents in question are the following:

- (1) The Declaration of the Organisation of African Unity on the Issues of the Law of the Sea of 24 May 1973 (Report of the Committee on the Peaceful Uses of the Seabed and the Ocean Floor Beyond the Limits of National Jurisdiction, 1973, Official Records of the Twenty-Eighth

¹ Similar communications were sent to the Agents for the Governments of the United Kingdom and the Federal Republic of Germany.

² I, pp. 435-478.

³ See pp. 287-351, *supra*.

- Session of the General Assembly Supplement No. 21 (A/9021), Volume II, page 4) ¹.
- (2) The Resolution Concerning the Law of the Sea adopted by the Fourth Conference of Heads of State or Government of Non-Aligned Countries of 9 September 1973 (NAC/ALG/CONF.4/Res.13) ¹.
 - (3) The Exchange of Notes constituting an Interim Agreement in the Fisheries Dispute between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Iceland of 13 November 1973 (Cmnd. 5484, copies of which were enclosed with my letter of 21 November 1973) ².
 - (4) Provisional Verbatim Record of the 2203rd Meeting of the General Assembly on 17 December 1973 (A/PV.2203) ¹.
 - (5) General Assembly resolution 3171 (XXVIII) of 17 December 1973 ¹.
 - (6) Arrangement relating to fisheries in waters surrounding the Faroe Islands of 18 December 1973 ³.
 - (7) Letter from the Minister of Foreign Affairs of Iceland to the Registrar of the International Court of Justice dated 11 January 1974 ⁴.

130. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

20 March 1974.

Express Airmail

I have the honour to enclose herewith a copy of a letter dated 14 March 1974 which I have received from the Agent for the United Kingdom in the *Fisheries Jurisdiction (United Kingdom v. Iceland)* case. The Agent therein indicates that consideration is being given to the possibility of citing certain documents which are listed. Some of the documents concern proceedings of the United Nations and the work of the conference of Non-Aligned States which were alluded to in Your Excellency's letter of 11 January 1974 while others are Your Excellency's letter above referred to and the Exchange of Notes a copy of which was transmitted to me with that letter.

I am enclosing herewith a Xerox copy of the Arrangement relating to fisheries in waters surrounding the Faroe Islands of 18 December 1973, made from a Xerox copy transmitted to me by the Agent for the United Kingdom.

Having regard to the possible application of Article 48 of the 1946 Rules of Court, I should be most grateful if Your Excellency would be so good as to take the earliest possible opportunity of informing me whether the Government of Iceland would desire to make any observations concerning the production of the documents in question at the hearing on 25 March 1974.

I am attaching, for the convenience of Your Excellency, a copy of the text of the provision of the Rules in question.

¹ Not reproduced.

² See pp. 459-461, *supra*.

³ I, pp. 455 and 513-514.

⁴ See p. 462, *supra*.

131. THE AGENT FOR THE GOVERNMENT OF THE UNITED KINGDOM
TO THE REGISTRAR

20 March 1974.

1. I have the honour to inform you that consideration is being given to the possibility of citing a further document of recent date during the course of the oral arguments to be advanced on behalf of the United Kingdom in this Case.

2. This document is the: Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland, the Government of the Kingdom of Norway and the Government of the Union of Soviet Socialist Republics on the Regulation of the Fishing of North-East Arctic (Arcto-Norwegian) Cod which was signed at London on 15 March 1974¹. Enclosed is a certified copy of this Agreement. Further copies will be supplied shortly.

132. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

22 March 1974.

Express Airmail.

Further to my letter of 20 March 1974, with which I sent Your Excellency a copy of a letter from the Agent of the United Kingdom in the *Fisheries Jurisdiction* case and of certain documents referred to therein, I have the honour to send Your Excellency herewith a copy of a further letter from the Agent of the United Kingdom, dated 20 March and received in the Registry today, and a copy of the Agreement dated 15 March 1974 referred to in and enclosed with that letter.

133. THE AGENT FOR THE GOVERNMENT OF THE UNITED KINGDOM
TO THE REGISTRAR

25 March 1974.

1. I have the honour to communicate the Submissions of the United Kingdom in this case.

2. The Government of the United Kingdom submit to the Court that the Court should adjudge and declare:

[See I, p. 476]

134. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

26 March 1974.

I have the honour to send Your Excellency herewith a copy of the verbatim record of the hearing of 25 March 1974² in the *Fisheries Jurisdiction (United Kingdom v. Iceland)* case, and a copy of a letter from the United Kingdom Agent, filed in the Registry immediately after the hearing, setting out the formal submissions of the United Kingdom.

¹ I, pp. 455, 503 and 513-514.

² I, pp. 435-478.

I have the further honour to enclose the text, in French and English, of two written questions addressed to the Agent of the United Kingdom by Members of the Court, which were handed by me to the United Kingdom Agent today¹. It is contemplated that the Court will hold a further public sitting on Friday 29 March at 10 a.m. to hear the replies of the United Kingdom Government to these questions², and to those put orally at yesterday's hearing.

In accordance with the request made in Your Excellency's telegram of 3 August 1972, I am sending under separate cover 24 further copies of the verbatim record of the hearing of 25 March.

Question posée par M. Gros

Dans le mémoire et en plaidoirie le Gouvernement du Royaume-Uni s'est référé à plusieurs reprises à la position prise sur la question des pêcheries autour de l'Islande par les pays directement intéressés (par exemple: mémoire, paragraphes 240, 242, 243, 244, 280 et 306, ce dernier paragraphe ayant été lu en plaidoirie le 25 mars 1974, I, p. 474). A cet égard: quelle conséquence est-il possible de déduire de l'accord entre la Communauté économique européenne et l'Islande du 22 juillet 1972, y compris le protocole n° 6, tant pour la position de l'Islande que pour celle des Etats de la Communauté économique européenne?

Question posée par M. Petré

Au paragraphe *e)* des conclusions finales est envisagée l'éventualité de négociations bilatérales entre le Royaume-Uni et l'Islande devant conduire à l'instauration d'un « régime qui, compte étant dûment tenu des intérêts des autres Etats, garantisse à l'Islande, relativement aux restrictions qui apparaîtraient nécessaires ainsi qu'il est dit plus haut, une situation privilégiée conforme à sa position d'Etat spécialement tributaire desdites pêcheries, et qui assure également au Royaume-Uni une situation conforme à ses intérêts traditionnels et à ses droits acquis sur lesdites pêcheries, ainsi qu'à sa situation actuelle de dépendance à l'égard de ces pêcheries ».

Est-il prévu par là que le régime de pêcheries à établir bilatéralement par le Royaume-Uni et l'Islande serait fondé aussi sur une appréciation globale des intérêts d'autres Etats à titre d'intérêts traditionnels ou de droits acquis?

135. THE AGENT FOR THE GOVERNMENT OF THE UNITED KINGDOM
TO THE REGISTRAR

28 March 1974.

1. I have the honour, with reference to my letters of 14 and 20 March 1974, to confirm that copies of the documents mentioned in those letters have been delivered to the Registry of the Court, with the exception of item 7 in the letter of 14 March.

¹ I, p. 478.

² I, pp. 505-507.

2. The Exchange of Notes of 13 November 1973 between Iceland and the United Kingdom, the Arrangement relating to fisheries in waters surrounding the Faroe Islands of 18 December 1973 and the Agreement of 15 March 1974 between Norway, the Union of Soviet Socialist Republics and the United Kingdom on the Regulation of the Fishing of North East Arctic (Arcto-Norwegian) Cod have been registered with the Secretariat of the United Nations.

**136. THE AGENT FOR THE GOVERNMENT OF THE UNITED KINGDOM
TO THE REGISTRAR**

28 March 1974.

I have the honour, with reference to Question 4 asked by Judge Sir Humphrey Waldock on 25 March 1974 during the course of the oral proceedings¹, to inform you that Counsel for the United Kingdom proposes to refer to the tables of figures set out in the enclosure to this letter during the sitting of the Court to be held on 29 March 1974².

**137. THE AGENT FOR THE GOVERNMENT OF THE UNITED KINGDOM
TO THE REGISTRAR**

2 April 1974.

1. I have the honour, with reference to the question put by Judge Petrén to Counsel for the United Kingdom during the course of the public sitting of the Court on 29 March 1974 (Verbatim record, I, p. 494), to submit the following response on behalf of Her Majesty's Government.

2. In paragraph 297 of the United Kingdom's Memorial, the intention was essentially to make the point that the forthcoming Third United Nations Conference on the Law of the Sea may reveal whether a consensus can be reached which will bring about a development in the law so as to permit the kind of claim which Iceland is now making. Such a development may come about as a result of the adoption of a new Convention on the Law of the Sea and subsequent State practice. Hence, since in the view of Her Majesty's Government the Icelandic claim was not permissible when made and is still not permissible at this time, the proper course for Iceland to have taken would have been to have awaited the outcome of the forthcoming Conference. The United Kingdom could not have delayed the institution of proceedings before the Court until the outcome of that Conference was known. British fishing vessels were being prevented from fishing and harassed from September 1972 onwards and Her Majesty's Government at that stage saw no real alternative to seeking the protection of the Court. The refusal by Iceland to accept the Court's Order of 17 August 1972, indicating interim measures of protection, was part of the background against which Her Majesty's Government concluded the Interim Agreement of 13 November 1973. There has been no further harassment since the conclusion of the Agreement, but that in no way lessens the importance of the Court's judgment in this case. The Interim Agreement expressly states that it is "without prejudice to the legal position or rights of either government in relation" to the substantive dispute.

¹ I, pp. 477-478.

² I, pp. 502-503 and p. 519.

3. With regard to the forthcoming Conference on the Law of the Sea, the first substantive session is due to begin on 20 June 1974. It is widely expected that a second substantive session will be held during 1975. Accordingly, it is far from certain that the forthcoming Conference will have produced a clear outcome by 13 November 1975 when the Interim Agreement, in the absence of agreement to the contrary, is due to expire. This consideration lay behind paragraph 298 of the United Kingdom Memorial where it is stated that "what a new Conference might agree about changes in the law is irrelevant to the present case before the Court".

4. Her Majesty's Government will take a positive attitude towards the negotiations on the many inter-related items on the List of Subjects and Issues before the Conference, with a view to contributing to the adoption of a new convention. Such a convention may clarify a number of existing issues, as well as contribute to the progressive development of international law in this field. However, even if a new convention were to be concluded reasonably quickly, it would remain to be seen how long it would take formally to enter into force or to have an impact upon the development of the law through state practice. It also remains to be seen whether Iceland will become a party to a new convention: Her Majesty's Government feel bound to point out that Iceland to this day has not become a party to any of the Geneva Conventions of 1958.

5. The Court's judgment in this case will constitute an authoritative statement of the rights and obligations of the parties under existing law and may provide a basis for the negotiation of arrangements to follow those contained in the Interim Agreement.

6. For these reasons, Her Majesty's Government consider it quite compatible with the view expressed at the beginning of paragraph 297 of the Memorial that they should seek of the Court a judgment on the United Kingdom's submissions, a judgment moreover which the Court could be expected to give after the normal time required for deciding matters of this degree of importance.

138. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

2 April 1974.

I have the honour to send Your Excellency herewith a copy of a letter, dated today, which I have received from the Agent of the United Kingdom in the *Fisheries Jurisdiction* case, setting out the reply of the United Kingdom Government to the question put by Judge Petrón at the hearing of 29 March 1974 (I, p. 494).

139. THE AGENT FOR THE FEDERAL REPUBLIC OF GERMANY TO THE REGISTRAR

3 April 1974.

I have the honour to refer to the questions put by Judges Jiménez de Aréchaga, Sir Humphrey Waldock, and Dillard to the Federal Republic of Germany during the course of the public sitting of the Court on 2 April 1974 (pp. 358 and 367, *supra*) in the *Fisheries Jurisdiction* case (*Federal Republic of Germany v. Iceland*), and to submit on behalf of the Government of the Federal Republic the answers to these questions in the same order as they were asked by the Judges during the course of the sitting:

I

1. The *first* question posed by Judge Jiménez de Aréchaga (p. 358, *supra*) relates to some differences which seem to have appeared in the statements made by the Attorney-General for the United Kingdom on 25 March 1974 and by the Agent for the Federal Republic of Germany on 28 March 1974 in expressing the position of the United Kingdom and the Federal Republic of Germany with respect to the degree of preference to be accorded to Iceland.

2. I do not think that these differences are expression of a different position as to the substance of the matter, and that for the following reasons: the Government of the United Kingdom and the Government of the Federal Republic of Germany, both maintain that the allocation of shares in an agreed catch-limitation scheme, if such a measure would become necessary, should be determined by equitable principles. The Attorney-General for the United Kingdom, in discussing the dependence of Iceland, the United Kingdom and the Federal Republic on the fisheries around Iceland (25 March 1974, I, p. 456), indicated that "it *may be* that to enable Iceland to maintain a reasonable rate of expansion, she should be permitted to take a larger share of the demersal fishery than in the past"; he mentioned this, as I understand it, as a possibility, not as a foregone or necessary conclusion for the eventuality of an agreed catch limitation scheme. He did not elaborate the equities in the determination of the national shares in an eventual catch-limitation scheme any further, but continued to state that it "would obviously be inequitable" if Iceland which for many years has taken about half the demersal catch, would be allowed, "suddenly and from a date of its own choice to take it all". The essential point in this statement is, in my view, that the Attorney-General made clear that Iceland's preferential share had to be settled by agreement, not by unilateral action, and that in view of the heavy dependence of other countries like the United Kingdom and the Federal Republic on the same fisheries, certainly not all the catch of demersal fish in the waters around Iceland could be accorded to Iceland.

3. The Agent for the Government of the Federal Republic of Germany, in his pleadings on 28 March 1974 (p. 345, *supra*), discussing the applicability of the concept of preferential rights of the coastal State contained in the resolution of the 1958 Conference on the Law of the Sea to the present case, made a statement to the same effect when he admitted that "it might certainly be argued that there is room for negotiation between the Parties about the future respective shares of each of the Parties", thus admitting the possibility that, in applying equitable principles, an enlargement of Iceland's share is not excluded a priori, but would have to be determined with regard to the circumstances then prevailing, and in particular with regard to the respective dependence of both Parties on the fisheries around Iceland at that time. The Agent for the Government of the Federal Republic has, in this context, tried to define some equitable considerations which, in the view of the Government of the Federal Republic, should among others be applied, if catch limitations require equitable apportionment of the total allowable catch among the countries which are fishing for the same stocks of fish. It is in this context that the Agent for the Government of the Federal Republic of Germany concluded that, under present circumstances, Iceland had by taking now (according to the latest statistical figures of 1972) practically all pelagic fish and 55 per cent. of the demersal fish, in total nearly 68 per cent. of all the fish around Iceland (in the ICES-Area Va) "already secured a *very* prefe-

rential position" (p. 345, *supra*) and that there are some important considerations (pp. 343 and 345, *supra*) which seem to militate against according Iceland an even larger share at the expense of the fisheries of the Federal Republic which, for their part, also heavily depend on the fishing grounds around Iceland and now (figures of 1972) take only 13.6 per cent. of the demersal and about 9.8 per cent. of the total catch of all species in this area.

4. Judge Jiménez de Aréchaga referred specifically to one of these considerations advanced by the Agent for the Federal Republic, namely to the consideration that Iceland, having already secured for itself a share of nearly 70 per cent., could not, under equitable principles, by enlarging its deep-water fishing fleet and thereby deliberately creating a heavier economic dependence on the fisheries around Iceland, claim priority for such economic needs over those of the Federal Republic of Germany, and ask, under present circumstances, for a larger share in these fisheries. This consideration should be understood in the light of the situation with respect to the fisheries around Iceland; it does certainly not apply to cases where a coastal State, in particular a developing State, has still only a minor share in the deep-water fisheries before its coast and is about to develop its national fishing industry.

5. The discussions which led to the adoption of the resolution on Special Situations relating to Coastal Fisheries at the 1958 Geneva Conference and to the adoption of the Brazil, Cuba and Uruguay amendment at the 1960 Geneva Conference, do not throw much light on the question under what circumstances and to what extent a "dependance" of the coastal State on the fisheries before its coast might justify a claim for preferential treatment in relation to other States. The concept of "preferential" rights of the coastal State had been introduced in both Conferences as a more acceptable alternative to the claim of some States for "exclusive" rights beyond 12 miles which was not acceptable to the majority of the other States. Thus, it is beyond doubt that "preferential" rights should not be "exclusive" rights; those who advocated the preferential right concept admitted, that it should not lead to the exclusion of other States, but should merely secure a special consideration of the special needs of the coastal State.

6. It had, however, never been defined what facts constitute a special dependence on the coastal fisheries in the sense of the preferential right concept. The resolution of the 1958 Conference referred in its preamble to the "overwhelming" dependence of the people of the State concerned on the coastal fisheries "for their livelihood or economic development"; similarly, the Brazil, Cuba and Uruguay amendment at the 1960 Conference referred to the "fundamental importance" of the fishery resources for "the feeding of its population" and "the economic development" of the coastal State. It seems that the preferential rights concept had mainly two situations in mind:

First, the situation where the population makes a living out of the fisheries; this relates clearly to a situation where there exists already an economic dependence of some part of the population on the fisheries before the coast, and where a reduction of the possible catch would result in a deterioration of the living standard of that part of the population because they could not divert to other occupations.

Second, the situation where a continuation of the fisheries on the present scale is needed to safeguard the economic development of the

country, and a reduction of the possible catch might hamper the course of steady economic development, because the economic effort could not be diverted to other sectors.

It may be questioned whether and under what circumstances a situation, where an enlargement of the present fishing effort is sought for the expansion of the country's economy, might qualify as a special dependence on the fisheries for economic development in the sense of the second alternative. Obviously, an enlargement of the fisheries would normally always assist the economic development of a country; therefore, this interest alone could not well create the special dependence required for a preferential claim of the coastal State. The test must rather be whether the special need of the coastal State to enlarge its fisheries is so outstanding and indeed indispensable for its economic development that, under equitable principles, this need deserves special consideration in relation to the vested interests of other countries which fish in the same area of the high seas. Such may be the case of States which are still in a stage of development and have only a minor share in the fisheries before their coast; in their case an enlargement of their share, at the expense of the shares presently held by distant-water fishing States could be considered equitable. If, however, a coastal State has already a developed economy (see Part III of the Memorial on the merits as to Iceland's economy) and, in the fisheries before its coast, secured a position under which it takes more than 50 per cent. of the total catch, its interest to invest further in the fishing industry does not, under equitable principles, seem to carry the same weight if compared with the interests of the other States whose economy already relies on the fisheries in question. Reference may be made in this context to the proposal for a fisheries régime submitted by Japan to the United Nations Seabed Committee on 14 August 1972 (A/AC.138/SC.II/L.12) which had been described by the Agent for the Government of the Federal Republic of Germany in his statement in the public sitting of the Court on 28 March 1974 (pp. 300-301, *supra*).

II

7. The *second* question posed by Judge *Jiménez de Aréchaga* (p. 358, *supra*) relates to the different terminology used in the Notes exchanged between the Governments of the United Kingdom and Iceland on 11 March 1961 and the Governments of the Federal Republic of Germany and Iceland on 19 July 1961.

8. In the concluding paragraph of its Note of 11 March 1961, the Government of the United Kingdom confirms "that in view of the exceptional dependence of the Icelandic nation upon coastal fisheries for their livelihood and economic development, and without prejudice to the rights of the United Kingdom under international law towards a third party" the contents of the corresponding Note of the Government of Iceland were acceptable to the United Kingdom. In the concluding paragraph of its Note of 19 July 1961, the Government of the Federal Republic of Germany, "mindful of the exceptional importance of coastal fisheries to the Icelandic economy", agrees to the arrangement set forth in the Note of the Government of Iceland "subject to the stipulation by the Government of the Federal Republic of Germany that this agreement is without prejudice to its rights under international law towards third States". The full text of these Notes has been reproduced in Annexes B and C to the Application of the Federal Republic in this case.

9. The history of the negotiations which led to the Exchange of Notes on 19 July 1961 as far as it can be ascertained from the files of the Foreign Ministry of the Federal Republic of Germany, does not indicate that the aforementioned difference in the wording of the concluding paragraphs in the Notes of the United Kingdom and the Federal Republic of Germany has any legal significance or had been meant to have such significance; in particular, the phrase contained in the Note of the Federal Republic had not been formulated for the purpose to define the conditions under which a claim for a special treatment of the coastal State's interest in the fisheries before its coast would be recognized. As it appears from the context in which reference was made to the "exceptional importance of coastal fisheries to the Icelandic economy", this phrase was only meant to emphasize the exceptional circumstances under which Iceland's claim for a 12-mile exclusive fishery zone was, at that time, recognized de facto by the Federal Republic in order to make clear that this agreement could not be used by other States as a precedent against the Federal Republic for similar claims.

III

10. The question posed by Judge *Sir Humphrey Waldock* (p. 367, *supra*) relates to the meaning which the Federal Republic of Germany attaches to the word "preferential" in the concept of the preferential rights or the preferential position of the coastal State; it is specifically asked whether this word connotes some absolute or independent element of priority in the allocation of resources or involves merely some element of bias in favour of the coastal State when the rights or equities of the parties are otherwise more or less equal.

11. It is indeed a fundamental question of interpretation of the concept of the coastal State's preference whether such preference derives its legal justification solely from the existence of special economic needs, if any, on the part of the coastal State or whether such preference is the legal consequence of an equitable evaluation of the respective weight of the interests of the coastal State and other States fishing for the same stock or stocks of fish. The Federal Republic is of the opinion that the very notion of "preference", if contrasted with exclusiveness, forbids an interpretation of the concept of the coastal State's preference which would imply an absolute priority of the coastal State's interests over those of the other States and might, if carried to the extreme, result in total exclusion of other States from the fisheries in question. The Federal Republic takes the view that coastal States' "preference" requires special consideration of the coastal States' interests in the case of an equivalent scheme, but does not necessarily imply that a coastal State should always get a preferential share; nor could the preference be extended to such a degree that would be incompatible with the reasonable regard standard as set out in Article 2 of the High Seas Convention, with respect to the interests of non-coastal States.

12. This interpretation seems to be in harmony with the notion of preference, as understood in the context of the resolution of the 1958 Conference on Special Situations of Coastal Fisheries. It had been conceived, at that time, in contrast to claims made by some States for "exclusive" rights over the fisheries in the high seas beyond the 12-mile limit, and also in contrast to claims for preferential rights in the sense of according absolute priority to the needs of the coastal State. The essential element of the concept of the

coastal State's preference as it was understood in the resolution of the 1958 Geneva Conference and in the Brazil, Cuba and Uruguay amendment at the 1960 Geneva Conference, was that, if catch limitations become necessary, the needs of the coastal State and the interests of the other non-coastal States fishing for the same stock or stocks of fish had to be balanced against each other, under equitable principles, either by agreement or by the finding of an international arbitral commission. The legal impact of the coastal State's preference on the allotment of national shares in any catch limitation scheme consists in allowing a deviation from the principle of non-discrimination which governs the application of conservation measures on the high seas. The coastal State's preference allows the application of special criteria in favour of the coastal State, supplementary to other criteria applied indiscriminately to all States, such as the criterion of the so-called past performance.

13. To demonstrate the legal impact of the coastal State's preference in catch limitation schemes, reference may be made to the situation where such a scheme entails a more or less drastic reduction of the total allowable catch compared with previous catches. As long as no sensible reduction is imposed, there will normally be no apparent need to give an additional quota to the coastal State. The more the allowable catch is reduced below the previous level, the heavier may be the effect on the coastal State's economy if no other alternatives of fishing possibilities or other sources of fish supply may be available to the coastal State; in such cases the allotment of an additional quota to the coastal State might be justified with due regard to the interests of the other States affected hereby.

14. It should be noted, however, that in practice agreements on catch limitation need not necessarily apply rigid formulas in determining national catch quotas, but may accommodate the different interests of the States which participate in such arrangements, by allotting special quotas with respect to certain fish stocks in which a State is most interested, by reserving specially bounded areas for the coastal small boat fishery, or by other regulations which favour the fisheries of the coastal State (see the Faroese Arrangement of 18 December 1973). Thus, agreed catch limitation schemes may provide more and sometimes better alternatives to satisfy the special economic needs of the coastal State than any rigid preferential formula.

IV

15. The question put by Judge *Dillard* to the Federal Republic of Germany (p. 367, *supra*) relates to the exclusiveness of the fishery zone proclaimed by the Government of Iceland in the Icelandic Regulations No. 189/72 of 14 July 1972. The Agent for the Government of the Federal Republic of Germany has made special reference to this subject in his statement on 28 March 1974 (p. 341, *supra*); the counsel for the United Kingdom had very extensively covered this field in his statement on 29 March 1974 (I, pp. 488-493), to which it may be allowed to refer for the purpose of this answer. The Government of the Federal Republic maintains that the fishery limits decreed in the Regulations No. 189/72 issued by the Icelandic Minister for Fisheries on 14 July 1972 and put in force on 1 September 1972, purport to establish a fishery zone which is truly exclusive in character, and not merely preferential, not even "preferential" in the limited sense that Iceland would feel obliged to allow foreign fishing in so far as Icelandic fishing vessels were not able to harvest all the fish in this zone. The decisive criterion which, in the view of the

Government of the Federal Republic, characterizes the Icelandic 50-mile fishery limits as a claim for fully exclusive fishing rights, is found in the well-known position of the Icelandic Government that they were under no obligation to allow any foreign fishing in this zone, and that, if they did, they did so merely to facilitate the adjustment of foreign fisheries to the new limits.

140. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

8 April 1974.

I have the honour to send Your Excellency herewith a copy of a letter, dated 3 April 1974 and received in the Registry on 6 April, from the Agent of the Federal Republic of Germany in the *Fisheries Jurisdiction* case, setting out the reply of the United Kingdom Government to the questions put by Judges Jiménez de Aréchaga, Sir Humphrey Waldock and Dillard at the hearing of 2 April 1974 (pp. 358 and 367, *supra*).

**141. THE REGISTRAR TO THE AGENT FOR THE GOVERNMENT
OF THE UNITED KINGDOM**

10 May 1974.

I have the honour to send you herewith the text of two questions put to the Government of the United Kingdom by Judge Petrén in the *Fisheries Jurisdiction (United Kingdom v. Iceland)* case, which were communicated to you over the telephone this morning. As I stated in our telephone conversation, it would be appreciated if the replies to these questions could be communicated to the Court by 12 noon on Wednesday next, 15 May.

Questions posées par M. Petrén

1. L'article 7 de l'accord intérimaire conclu entre les Parties le 13 novembre 1973 stipule que son expiration ne modifiera pas la position juridique de l'un ou l'autre gouvernement en ce qui concerne le fond du différend. En revanche, aucune référence n'est faite à un effet à cet égard de l'accord pendant que celui-ci sera en vigueur. Cela n'implique-t-il aucune limitation dans la liberté d'action des Parties pendant cette période en ce qui concerne la poursuite de leurs revendications respectives devant la Cour ou ailleurs?

2. Quelle Partie a proposé la rédaction de l'article 7 avec la référence à l'expiration de l'accord? Cette rédaction a-t-elle fait l'objet d'une discussion quelconque au cours des négociations qui ont précédé la conclusion de l'accord?

142. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

10 May 1974.

I have the honour to send Your Excellency herewith the text of two questions put to the Government of the United Kingdom by Judge Petrén in the *Fisheries Jurisdiction (United Kingdom v. Iceland)* case, which were communicated to the United Kingdom Agent by telephone today, and by letter despatched today.

143. THE AGENT FOR THE GOVERNMENT OF THE UNITED KINGDOM
TO THE REGISTRAR

14 May 1974.

As requested in your letter of 10 May, I have the honour to communicate the replies of Her Majesty's Government to the two questions put by Judge Petré, the text of which was enclosed with your letter.

Question 1

The Interim Agreement of 13 November 1973 was concluded by means of an Exchange of Notes between the Minister for Foreign Affairs of Iceland and the British Ambassador in Reykjavik. Both Notes were in the English language and each consisted of three paragraphs.

The first paragraph of the Foreign Minister's Note begins by referring to discussions concerning the fisheries dispute and continues:

"In these discussions the following arrangements have been worked out for an interim agreement relating to the fisheries in the disputed area, pending a settlement of the substantive dispute and *without prejudice to the legal position or rights of either Government in relation thereto*, which..." (emphasis added).

This part of the first paragraph of the Note is part of the text of the Agreement.

The opening part of the first paragraph of the Foreign Minister's Note was followed by seven subparagraphs (which were described as such in subparagraph 5). The seven subparagraphs set out the detailed arrangements, including those in subparagraph 7 on the duration and termination of the Agreement. The words underlined in the above quotation preserve the legal position or rights of each Government in relation to the substantive dispute. Accordingly, the Interim Agreement does not imply any limitation of the Parties' freedom of action with regard to pursuit of their respective claims with respect to the substantive dispute, before the Court or elsewhere. In a statement made in the House of Commons on the day of signature of the Agreement, the Prime Minister of the United Kingdom, Mr. Edward Heath, said:

"Our position at the World Court remains exactly as it is, and the agreement is without prejudice to the case of either country in this matter."

Question 2

After the conclusion of the agreement in principle between the two Prime Ministers in October 1973, the following form of words was put to the Icelandic authorities during discussion between them and the British Ambassador in Reykjavik of the proposed Exchange of Notes:

"The agreement will run for two years from the present date. The Governments will reconsider the position before that term expires unless they have in the meantime agreed to a settlement of the substantive dispute. In the absence of such a settlement, the termination of this agreement will not affect the legal position of either Government with respect to the substantive dispute."

Part of the above form of words was taken out at the suggestion of the Icelandic authorities and agreement was reached on the wording now contained in sub-paragraph 7 of the Icelandic Foreign Minister's Note.

Accordingly, the form of words in sub-paragraph 7 of the Note emerged in the course of discussion during the negotiations prior to the conclusion of the Agreement. The intention of the British authorities was to make clear that the termination of the Agreement would not in itself extinguish whatever rights either Government had at that time. In particular, the Interim Agreement was not intended by the British authorities to be a "phase out" agreement.

144. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND

17 May 1974.

Further to my letter of 10 May, I have the honour to send Your Excellency herewith a copy of a letter dated 14 May from the United Kingdom Agent setting out the replies of his Government to the two questions put by Judge Petrén in the *Fisheries Jurisdiction (United Kingdom v. Iceland)* case, the text of which was enclosed with my letter of 10 May.

145. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND¹

(telegram)

18 July 1974.

Have honour inform Your Excellency Court will sit on Thursday 25 July for public reading Fisheries Jurisdiction Judgments on Merits. 10 a.m. for United Kingdom case and 3.30 p.m. for Federal Republic.

146. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ICELAND²

(telegram)

25 July 1974.

Have honour inform you Court today delivered Judgment in *Fisheries Jurisdiction case (United Kingdom v. Iceland)*. Operative Clause reads as follows:

[See I.C.J. Reports 1974, pp. 34-35]

Judgment airmailed today.

¹ Similar communications were sent to the Agents for the Governments of the United Kingdom and the Federal Republic of Germany.

² A similar communication was sent regarding the *Federal Republic of Germany v. Iceland* case (see I.C.J. Reports 1974, pp. 205-206).

147. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF THE
FEDERAL REPUBLIC OF GERMANY

2 August 1974.

Article 35, paragraph 3, of the Statute of the Court provides that:

“When a State which is not a Member of the United Nations is a party to a case, the Court shall fix the amount which that party is to contribute towards the expenses of the Court. This provision shall not apply if such State is bearing a share of the expenses of the Court.”

At the date of the filing of its Application instituting proceedings against Iceland in the *Fisheries Jurisdiction* case, the Federal Republic of Germany was not a Member of the United Nations, nor bearing a share of the expenses of the Court, and the paragraph quoted above therefore became applicable.

I have the honour to inform you that the Court, pursuant to the paragraph quoted, having regard to the practice of the Court and to all relevant circumstances, including the period which elapsed between the filing of the Application and the admission of the Federal Republic of Germany as a Member of the United Nations, and taking into account the expenses incurred by the Court in connection with the above-mentioned case, has fixed the amount to be contributed to the expenses of the Court by the Federal Republic of Germany at One hundred and sixty-three thousand, five hundred and one United States Dollars (\$163,501).

I should be obliged if you would arrange for the sum in question to be paid to the Office of Financial Services, United Nations, New York, to which I am sending a copy of this letter. It would be of assistance if the payment by the Federal Republic of Germany were accompanied by a note referring to this letter.

148. LE GREFFIER AU MINISTRE DES AFFAIRES ÉTRANGÈRES D'AFGHANISTAN¹

6 août 1974.

Le Greffier de la Cour internationale de Justice a l'honneur de transmettre, sous ce pli, un exemplaire de chacun des arrêts rendus par la Cour le 25 juillet 1974 dans les affaires relatives à la *Compétence en matière de pêcheries (Royaume-Uni de Grande-Bretagne et d'Irlande du Nord c. Islande; République fédérale d'Allemagne c. Islande)*.

D'autres exemplaires seront expédiés ultérieurement par la voie ordinaire.

¹ Une communication analogue a été adressée aux autres Etats Membres des Nations Unies et aux Etats non membres des Nations Unies admis à ester devant la Cour.

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