THE TRANSFORMATION OF BRITISH FISHERIES POLICY, 1967-83

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For Becky, Alice and Tom

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FOREWORD

The research on which this thesis is based was carried out, in part, with with the aid of a grant from the Social Science Research Council. I attended as an observer two sessions of the Third United Nations Conference on the Law of the Sea, the "Seventh Session" at Geneva in April and May 1978 and the "Resumed Seventh Session" in New York City in August and September of the same year. There are a number of excellent works throwing light on this Conference, as there are books which have carefully analysed the Cod Wars and the negotiations over the Common Fisheries Policy, and I am deeply indebted to their authors. This thesis cannot hope to match any of this scholarship, but it hopes to make a contribution to the understanding of the relationships between UK activity at these different fora. If it has succeeded even to a degree I shall be content. Published books and articles on the policy-making aspects of the subject under review are rare, and much of the printed matter from which I have gleaned my information has consisted of position papers, draft articles, statements, and other unpublished materials. Much use has been made of interviews and correspondence with representatives of industry, with politicians and with civil servants. Except in a few cases I have not formally acknowledged the source of verbal information, some of which was told to me in confidence.

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The position or place of employment of the persons listed above reflects, except where otherwise stated, that at the time of contact.

PART I

THE BACKGROUND

CHAPTER 1

INTRODUCTION

The purpose of this study is to document and analyse the transformation of UK fisheries policy between 1967 and 1983. This transformation encompassed changes in the administrative arrangements made for the conduct of fisheries policy, and to some extent in the tools used in fisheries management, but centred principally around the shift from narrow limits to UK fisheries jurisdiction (twelve miles - see page 81) to wide ones (two hundred miles). In the process the fishery regime over the principal grounds fished by UK vessels moved from a High Seas regime to an appropriated one. A regime is defined in the sense that it is used by Mason, as "a set of rules together with the administrative arrangements for their implementation and enforcement which, it is hoped and intended, will have an important, if not a determining, effect on the allocation of resources" [1]. Such a definition seems more appropriate to fisheries issues than that of Keohane and Nye [2], since the nature of the administrative arrangements adopted seems largely to be a direct consequence of the exclusivity of state authority over a fishery. This determines entry to a fishery (the number of vessels attracted), the success and nature of the regulation of fishing capacity and effort, and the identity of the authority making and enforcing conservation regulations.

Since fisheries is a resource, one might expect the central assumptions of fisheries policy to be concerned with the allocation of that resource. In practice that is not so. The natural habitat of human beings is terrestial, and the state system has developed with reference to authority over land territory. Hence, marine fisheries, except close to shores, exist in an area which is potentially international in that it is not so open to seizure and to human settlement as the land. Inter-state relations on fisheries policy have not centred on the nature of the resource, but upon the rights and duties of states, and as such upon their rights in relation to a wide variety of marine activities, rights largely defined in relation to areas of ocean rather than in relation to an individual resource or activity.

A High Seas regime is predicated upon a theoretical freedom of fishing enjoyed by all states (and thus incidentally by their citizens). An appropriated regime, on the other hand, confers the right of fishing only upon citizens of particular states, specified by intergovernmental or international arrangements entered into by the state to which the law of the sea, by custom or convention, accords jurisdiction over the fishery. Under such a regime, rights may be conferred upon individuals or firms rather than upon states.

In the case of the UK, the move to an appropriated fishery has been complicated by membership of the EEC. The arrangements for the continuation of the Common Fisheries Policy of the European Economic Community, agreed by the Council of Ministers in January 1983, accorded the right of fishing within the UK fisheries zone to citizens of all state members of that Community, and entrusted the European Commission with the task of monitoring stock levels and

making recommendations about catches. It is possible that the Commission might in the future strengthen its authority, and extend its dealings with individual fishermen through the issue of licences, and that the intermediate role of states might decline: but this is probably a function more of the general level of success of the Community in harmonising the policies and aspirations of its member states than of anything specific to fisheries.

Since the emphasis of this study is upon the move from narrow to wide limits of fisheries jurisdiction, it addresses the factors underlying and contributing to that move. Regimes are the product of power relationships between states, and of the relative costs and benefits, for the powerful states within a system, of regime stability and of regime change. Therefore, in attempting to ascertain the reasons for the UK's moving from enthusiastic support of narrow limits to coastal state fisheries jurisdiction to strong advocacy, at least within the EEC, of the treatment of fishery resources as part of the natural endowment of the coastal state, this study examines the increasing costs imposed upon the UK by the narrow limits regime.

It is perhaps self-evident that states' support for or opposition to a regime is primarily determined by strategic factors, but there can be few issue areas where this tautology is better illustrated than that of fisheries, since it was Britain's traditional concern for "the freedom of the seas", primarily for the freedom of navigation of merchant and naval vessels, which determined HMG's support for the narrow limits policy. Lowi [3] distinguishes between high, low and sectoral policy, whereby the fundamental strategic concerns of a state (high policy) take precedence over other areas of policy. These other areas are either general but less crucial to the survival

of the state (low policy) or of a technical nature and of interest primarily to a specialist sector of society (sectoral policy). The technical rationale of sectoral issues may be ignored in the creation of a regime because of the apparent requirements of high policy. Thus the specific needs of the fisheries resource were ignored by the narrow limits regime, because it was thought that extended coastal state competences were interlinked and could not be distinguished from one another.

To the outsider, the assessment and identification of policy can prevent some problems. Firstly, for short periods at least, two government Departments may advocate differing solutions to a problem. Within UK government this is not such a problem, as it is in a state without a career civil service, such as the United States of America, where there may be prolonged disagreement between various government departments. Within the UK there is no discontinuity of administrative personnel associated with a change of government, and some movement of civil servants takes place between Departments. Therefore while there may be temporary divergence of views between two government Departments, the caste ethos of higher civil servants and a network of methods, formal and informal, for the exchange of views between Departments ensure that consistency is quickly restored. Secondly the various government Departments do not carry equal weight in relation to each other. The Foreign and Commonwealth Office [4] enjoys the position of lead Department on foreign policy. It identifies the policy linkages, and thus had long been obsessed with the ideas that any extensions of state jurisdiction at sea constituted a step towards restrictions on navigation and a threat to all High Seas freedoms, and that extended jurisdiction over fisheries could not occur without implications of

territoriality. Otherwise there is no formal hierarchy of Departments, but their relative influence in determining policy outcomes is determined by the degree of alignment between their concerns and those of the Foreign and Commonwealth Office. In practice, therefore, during most of the period studied the government Department concerned with the administration of the UK merchant fleet (the Board of Trade [5]) and that concerned with North Sea oil (the Department of Trade and Industry from 1970, Department of Energy from 1974) have been more successful than the Ministry of Agriculture, Fisheries and Food in influencing policy outcomes. Several hundred years of maritime history had diffused widely through Whitehall the feeling that the maintenance of a strong, healthy and mobile merchant navy was fundamental to the UK national interest. The relative cheapness and convenience of oil had led the UK economy to become dependent upon imports of that commodity, and the OPEC price rises from 1973 raised the strategic importance of the UK's continental shelf oil reserves.

A third problem lies in the nature of negotiation. Even if one assumes that a state involved in international negotiations has a clearly unified and well-thought out set of objectives, which is by no means always so, it will have an optimal position and a fall-back position. I have tried where outcomes are concerned to equate "policy" to a fall-back position, as this represents HMG's required outcome. In practice most international negotiations bearing on fisheries either possess terms of reference which permit only a limited range of outcomes, like the Fisheries Commissions, or concern a wider range of policy issues than merely those concerned with fisheries, such as the Third United Nations Conference on the Law of the Sea, and the negotiations for the accession of the UK to the EEC.

These provisos apart, it is fairly simple to identify clear policy positions for each of the date parameters of this study, 1967 and the end of January, 1983. In a sense any chronological boundaries are a little artificial. The fishing industry has long suffered from recurrent crises requiring government action (witness the 'fish days' or 'Political Lent' of 1547 onwards, by which people were forbidden to eat meat on certain days in order to encourage maritime pursuits)[6]. In addition there are time-lags between a policy-decision and the appearance of change in the fishing industry or in the characteristics of fish stocks which can confidently be ascribed to that policy decision. This means that the overwhelming majority of new policy decisions are incremental, emerge rather than being made, and can have few clearly discernible results. The international dimension further reduces the efficacy of ascribing motivation and results to government decisions, since it increases the range of issues and concerns bearing upon fisheries policy.

Nevertheless, a study of policy change has to identify a starting point where policy was relatively stable. 1967 has been chosen as a starting-point, not because it marks the clear beginning of a new era in fisheries policy, but because it was the year of some significant milestones in the relationship between the UK and its international environment. Several developments in that year symbolise the decline of the UK's global interests and the rise of her regional concerns. The later shift of policy from a maritime to a coastal state orientation can in retrospect be regarded as heralded. The UK had always been primarily concerned to maintain global freedoms of navigation in order to protect the movement of trade by sea, but was in succeeding years gradually to acquire a policy equally concerned with resources close to her own shores. 1967 saw a Cabinet decision

to withdraw UK military forces from East of Suez, while in the same year a renewed application was made to join the European Economic Community. These two moves constituted part of a gradual change of posture from that of a global power to that of a regional one. For the first time in over two centuries the UK was overtaken as the state with the largest registered merchant tonnage, while that year also saw a rapid unfolding of knowledge about the probable extent of oil and gas reserves beneath the North Sea. The 'Torrey Canyon' disaster occurred off Cornwall and the Isles of Scilly in March 1967, the first of a series of 'supertanker' accidents causing damage to coastal environments. Gradually, therefore, the traditional UK view of the sea as a medium for free and unrestricted navigation was, over a period of years, to be augmented by a realisation of its importance as a source of raw materials and as a fragile ecosystem. These latter considerations would argue for some limitations on navigation.

The most compelling reason for the choice of 1967, however, is that in that year Arvid Pardo, Malta's Ambassador to the United Nations, introduced into the General Assembly, predominantly on his own initiative, a resolution proclaiming the seabed beyond the limits of national jurisdiction to be the 'Common Heritage of Mankind' [7]. The gradual repercussions of this resolution were to lead to a fresh re-opening of international negotiations on the law of the sea, and ultimately to a major change in maritime regimes, including those concerned with fisheries.

The choice of the beginning of 1983 lies in the fact that by that time the UK's international fisheries relationships were moving to a new position of relative stability, a process culminating in the establishment of a new agreement on the Common Fisheries Policy of

the European Economic Community, among whose members the UK was now to be counted. The overwhelming concern for freedoms of navigation had given way to a desire for adequate safeguards against the possibly harmful consequences of navigation, and the obsession with long supply lines had vanished as Western Europe replaced the British Commonwealth as the UK's major trading partner. In addition, the North Sea oil and gas fields had become so productive that the country now had a diminished, though not negligible, reliance upon imported oil. The UK's merchant fleet had shrunk, and its position in the world league table had fallen to eighth. The Pardo initiative had finally, in December 1982 after the lengthiest international conference in history, borne fruit in a new Law of the Sea Convention, although the UK had not signed it.

These broad shifts of the UK position were reflected in a number of concomitant changes in fisheries policy. There are four main international aspects to fisheries policy; these being (i) limits to coastal state jurisdiction over fisheries, (ii) vesting of authority on the High Seas beyond the limits of coastal state fisheries jurisdiction, (iii) the type of regulations introduced in order to conserve fish stocks, and (iv) the approach adopted for the enforcement of these regulations.

(i) On the issue of fisheries limits, the UK in 1967 strongly favoured narrow limits to coastal state jurisdiction, and endorsed a six-mile limit exclusive to UK fishermen and an additional six miles under UK jurisdiction where fishing was reserved to states whose nationals had habitually fished there (historic rights). By 1983 the UK claimed fisheries jurisdiction over all waters out to 200 miles from baselines, although it had vested some of its competences

over this area in the European Economic Community.

(ii) On the vesting of authority on the High Seas, the UK in 1967 favoured flag state jurisdiction tempered by consultative arrangements between the states fishing a geographical area. By 1983 the position was much the same, although the only consultative arrangements of importance to the UK operated within the EEC system. The demand for free access to distant waters had been replaced by one for quotas negotiated by the European Commission.

(iii) As for the issue of conservation regulations, in 1967 the UK placed great faith in the establishment of minimum mesh sizes for nets directed at particular species, with certain areas closed to particular types of fishing or in particular seasons. By 1983 a whole battery of methods had been added: the banning of particular methods of fishing, national quotas within Total Allowable Catches determined within the EEC framework, and the restriction of effort (catching capacity times days spent fishing) by a number of means including licensing, closed seasons and closed areas. The relative implications of the alternative conservation methods for the economic viability of the fishing industry was now better understood by government, and there was general confidence that by means of licensing and scientifically-determined Total Allowable Catches the constant cycle of economic and stock crises could now be combatted. Although the full implications of the appropriated fishery had not yet been carried through, fisheries issues had become the concern of a much larger public than in 1967, which raised the political cost to the governing party of enforced reductions in capacity. However, I hold that the beginning of 1983 is significant, despite the fact that rational licensing systems for most stocks were still to be

developed, since the philosophy of licensing was now universally accepted within fisheries administration, and given that national proportions of the total catch in most of the areas fished by UK citizens had been clearly established.

(iv) In relation to the enforcement of conservation regulations, the UK approach over these fifteen years had shifted from one appropriate to a High Seas regime, with vessels of the Royal Navy deployed largely in order to enforce the "right" to fish, to one appropriate to a regime of wide coastal state jurisdiction. The latter involved the deployment of vessels specifically designed to carry out 'police' functions and intended to prevent illegal fishing. An integrated protective policing system, also involving the use of aircraft patrols and special arrangements for the protection of offshore oilfields, emphasised the growth of the UK's interests as a coastal state. The system of 1967 emphasised flag state enforcement of intergovernmentally-formulated regulations, while that prevailing in 1983 included a joint enforcement scheme between EEC member states. However, in addition to this joint enforcement scheme there was the certainty that the UK would and could take national action against anyone fishing within the UK 200-mile limit in contravention of international or national regulations.

It is therefore the purpose of this study to document the process of so complete a policy shift. This process was long-winded, tortuous and disjointed. Although a bald comparison of the UK's positions on international fisheries questions in 1967 and 1983 quite properly yields the contrasts revealed above, the actual processes by which the policy shift occurred were often indirect and piecemeal. Most key decisions were made on grounds unrelated to fisheries, while the

division of responsibility between government departments, and the power relationships between them, contributed to the raggedness of policy change. Change in policy on one issue gradually permeated other areas of policy through the search for consistency so beloved by civil servants. Since there was no unified mechanism to impose a discipline upon fisheries policy, change resulted incrementally. This phenomenon of minimal change has been cited by Vital, and by Wallace [8]. This incremental nature of change and the determination of bureaucratic organisations to survive [9], has meant that change has been largely accomodated within existing institutions.

The Study

This thesis is divided into four parts. Part I gives the background, with the scope of the study laid out in this Chapter while Chapter 2 contends that fisheries possess specific biological and hence economic attributes which determine the elements of a successful conservation and management regime. In the absence of a system of authoritative control of effort in response to fluctuations in stock levels, a fishery will decline. Part II of the thesis attempts to document fisheries policy in 1967, and specifically to explain the UK's strong devotion to narrow limits to fisheries jurisdiction. To this end Chapter 3 demonstrates the relative weakness of fisheries compared to the UK's other marine interests (specifically her maritime pursuits), and Chapter 4 shows how this weakness was woven into inter-departmental consultations on the fisheries regime. The organisational fragmentation of the fishing industry, the greater influence with MAFF enjoyed by the deep sea section of the fleet, and the paucity of political interest in or concern about fisheries issues are also considered. Chapter 5

emphasises the UK's role as the principal architect of the narrow-limits regime, examines the impetus towards wider coastal state limits provided by the Truman Proclamation (see page 104), identifies the law of the sea as defined by the Geneva Conventions of 1958, and considers the arrangements for consultations between states fishing the North Atlantic.

Against this background, a number of factors from 1967 created challenges for existing policy: Part III examines the ways in which these challenges were dealt with by means of attempts to maintain the regime but to adjust the administrative arrangements. In this vein Chapter 6 documents the rise in the relative importance to the UK of coastal state factors, while Chapter 7 looks at the long-term implications for fishery limits policy of the re-opening of the law of the sea consequent upon the Pardo initiative, together with the strategy adopted by the UK to prevent massive extensions of coastal state jurisdiction. Chapter 8 describes the overall effect on fisheries policy of UK entry to the EEC. Chapter 9 deals with a number of systemic problems which occurred within the fisheries, and examines the way in which the free-for-all nature of the high seas regime, together with the high incidence of industrial fishing and the weakness of the NEAFC, led to the collapse of certain fisheries. These problems led certain states with a high relative dependence on fisheries to attempt to extend their fisheries limits, a problem examined in Chapter 10. Chapter 11 examines the crisis in anadromous fisheries occasioned partly by the reluctance of successive governments to create an appropriate legislative climate for increased investment in stocking and partly by High Seas salmon fishing; while Chapter 12 documents the rise in the political profile and effectiveness of the inshore industry relative to the

distant-water industry, as the former found a new level of organisation and new allies at the same time as the latter lost the support of the Labour Party and its Trade Unions.

In the face of the number and variety of these challenges, it was inevitable that UK policy towards the fisheries regime should change from a maritime to a coastal state orientation. Part IV of this thesis looks at the stages in which these changes took place and identifies four principal milestones in this reorientation. The first was HMG's offer, conveyed by Minister of State David Ennals to the Caracas Session of the Third United Nations Conference on the Law of the Sea, that the UK would accept the concept of an Exclusive Economic Zone for coastal states, an offer explored in Chapter 13. The second was the decision, taken in conjunction with the other EEC member states, not to wait for the outcome of the conference but to extend fisheries jurisdiction to 200 miles (see Chapter 14), while the third was HMG's decision vigorously to pursue, within negotiations on the CFP, preferential arrangements for the UK and to back up demands with the unilateral application of conservation regulations. The fourth milestone was the acceptance of the new CFP in January 1983. These last two decisions are dealt with in Chapter 15. From being perhaps the state most strongly supportive of the "freedom of fishing", within a loose framework of international consultation, the UK had moved to a vigorous advocacy of coastal state rights over fisheries and tight intergovernmental arrangements for the extremely detailed monitoring and control of fishing activities.

Summary

It is the contention of this study that the nature of fisheries imposes specific biological and economic imperatives on any system of fisheries management, and that unless these imperatives are heeded in formulating such a system fisheries will decline and fishing industries collapse. Throughout the period under review the rationale behind UK policy on limits lay outside the fisheries sector, and a structurally-imposed subordination to policy considerations external to fisheries resulted in somewhat inappropriate arrangements in fisheries management. The principal determinant of the UK position on limits policy was the preoccupation at the Foreign and Commonwealth Office with the view that extensions of coastal state jurisdiction threatened navigational rights.

This inappropriateness resulted from the weakness of the fisheries constituency, both absolutely and relative to other lobbies with conflicting interests and needs. In addition, on many issues, opinion within the fishing industry was divided, and the signals conveyed to government were conflicting or misleading. Moreover, political debate on fisheries questions was inappropriate and ill-informed. Positions adopted, whether by political parties or individual MPs, were largely defined by considerations external to fisheries: these were generally either related to maintenance of employment, or were the direct consequences of MPs' attitudes to NATO or to the European Economic Community (EEC).

The inappropriateness of the fisheries regime led to the decline and collapse of many fish stocks and to recurrent economic crises within the fishing industries of many states. These fisheries crises

combined with other factors to make the seaward extension of their jurisdiction appear more attractive to many governments. This process took place in the United Kingdom also, since during the period the nature of UK government interests in relation to marine policy changed: the merchant navy declined, marine pollution aroused public concern and the offshore oil-fields were developed. The Royal Navy retreated to a regional posture, and so freedoms of navigation declined in importance. The actions of OPEC and OAPEC over oil supplies raised the importance to the government of maximising the extent of the continental shelf under UK control.

In addition, major changes took place in the nature of the fisheries constituency. It rose from operating at a low level, and fairly ineffectively to operating at a high level and effectively. There are two main reasons for this. The first is that the fishing industry was able to gain a unity of purpose on fisheries limits (though on little else) because its principal actor, the "deep sea" fleet, declined in importance, and its remnant was forced to seek fishing grounds nearer home. Fluctuations in the market for fish and a quadrupling of oil prices led to severe financial losses, and in addition the "deep sea" fleet's habitual grounds disappeared as other states extended their fisheries jurisdiction to include them. A second and much more telling reason for the rise in the industry's effectiveness, was that two high policy issues arose on which the interests of the fishing industry accorded neatly with that of two powerful political coalitions: those who wished at all costs to prevent the SNP's capturing more than half of the Scottish parliamentary seats, and those who opposed either the principle of or the arrangements for UK membership of the EEC.

Whitehall's initial reaction to such changes was to make adjustments within the framework of existing high policy, and where possible with a minimum of institutional innovation, with the result that new fisheries policies, although more appropriate to the specific imperatives of fisheries than were the old policies, were maintained and contained within administrative arrangements which had been formulated for reasons other than fisheries. Several years of instability and decline resulted, until finally at the beginning of 1983 the rudiments of a new equilibrium were established, one which attempted at least to take cognizance of fisheries biology and economics.

Notes

1. C.M. Mason, International Politics and the Management of North Sea Resources. Paper presented to the Annual Conference of the British International Studies Association at the University of Keele, December 1979, p.5.

2. R.O. Keohane and J.S. Nye, Power and Interdependence: World Politics in Transition, (Toronto: Little Brown, 1977), pp.18-20.

3. T. Lowi, "Making democracy safe for the world", In J.N. Rosenau, Domestic Sources of Foreign Policy, (New York: Free Press, 1967), pp.295-331.

4. Until 1968 the Foreign Office and the Commonwealth Office were separate institutions. For simplicity I shall use the term Foreign and Commonwealth Office (FCO) throughout, even when the Foreign Office is properly referred to.

5. This was successively subsumed into the Department of Trade and Industry in 1970, and the Department of Trade in 1974, but the Board remained an essentially autonomous division within both Departments.

6. S.T. Bindoff, Tudor England, (Harmondsworth: Penguin, 1971), p.200.

7. "Examination of the question of the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind". General Assembly Resolution 2340 (XXII). GAOR 22nd Session Supplement 16, A6716, p.14.

8. D. Vital, The Making of British Foreign Policy, (London: George Allen and Unwin, 1980), pp.109-110, says 'the long established tradition of the pragmatic approach is the natural posture of British foreign-policy makers: "the adoption of the line of least intellectual resistance... geared, essentially, to the handling of problems as they arise, rather than to the definition of goals and objectives in terms of which such problems as arise are to be dealt with"'. W. Wallace, The Foreign Policy Process in Britain, (London: Royal Institute of International Affairs, 1975), p.78 claims that it is hard even for innovators to build into a structure mechanisms which will in the future promote the re-examination of accepted concepts and assured objectives.

9. A useful concept in this connection is Downs' one of "Bureau Territoriality", in which institutions occupy policy space in the same way as a pair of birds occupies an area of habitat, and struggle to maintain it by various means. See A. Downs, Inside Bureaucracy, (Boston: Little Brown, 1967), pp.211-6.

CHAPTER 2

BIOLOGICAL AND ECONOMIC REQUIREMENTS FOR THE EFFECTIVE MANAGEMENT OF FISHERIES

In order to understand why the period under review has seen such changes in UK fisheries policy it is necessary to examine the biological and economic aspects of fisheries. Fisheries possess particular biological attributes which distinguish them from the exploitation of many other resources. Some of fisheries' peculiar attributes are the inability of fishermen effectively to target what species they are catching, the extremely variable recruitment and the problem that there is a negative marginal rate of return (in biomass terms) to extra inputs beyond a certain catch level. Fishing is a hunting activity, and, as such, data on stock levels are incomplete, being largely deduced from catch levels rather than escapement. In addition, most marine and all anadromous fish stocks partly depend upon an international or a transnational environment, whereby co-operation between more than one state is necessary for their survival. These factors present national policy makers with immense problems: to be effective in conserving stocks any system of fisheries management must provide for repeated and immediate adjustments of aggregate fishing effort - fishing capacity (a combination of vessel size, net size and fish-finding technology) multiplied by time spent fishing -, in response to the opinions of scientists involved in the constant monitoring of stock levels. Fisheries biology has clear and destabilising economic consequences. Some species shoal seasonally and disperse for the rest of the year, so that the catch is not even throughout the year. Since fresh fish is perishable, and must be sold quickly, the months of relative

abundance can see very low quayside prices.

These problems emanating from the nature of the resource are compounded by such economic factors as cost and price changes and exchange rate shifts. Relative prices of various species change with fashion and scarcity. Fishermen's costs shift with new regulations, technological developments and changes in energy prices. Cost structure, exchange rates and proximity to fish stocks vary between states, resulting in differences in the costs (in pounds) of fish production between the UK and other states producing fish for the UK market. For species where demand is very firm, overfishing can induce scarcity: raising the price and encouraging still further overfishing.

The policy implications for government are considerable. Fisheries has its own rationale of which government action should take note if it is to be successful. A fishery cannot remain productive without authoritative intervention to regulate catches and to steady the market. Governments also need to take action to support the collection of scientific data on fisheries, which is unlikely to be pursued if left to the individual fishermen. These problems, acute even in a national fishery, are increased in a High Seas fishery, where management requires voluntary co-operation between a number of states if fishing effort or catch levels are to be optimised. In addition, the goals of biologists and economists as to the optimal yield are not entirely congruent, a fact which moves fisheries issues from the technical to the political arena in times of crisis.

Biological aspects

The very nature of fish and their environment tends to divisions between groups of fishermen and to the eventual decline of an insufficiently-controlled fishery. Marine species of commercial value to the United Kingdom are divided by virtue of their habits into four categories. Demersal fish feed at or near the sea floor, and can be taken by nets dragged close to the sea-bottom. Demersal fish include 'gadoid' fish, such as cod and whiting, as well as flatfish such as plaice, sole and flounder. Pelagic fish shoal mainly in midwater or near the surface of the sea, and are taken by a net dragged or suspended well clear of the bottom. The principal food fish in this category are herring and mackerel [1].

In practice the distinction between pelagic and demersal fish is not always useful, for at certain times of day cod and haddock may be taken with midwater trawls and mackerel may be taken in a bottom trawl. Similarly, blue whiting, related to demersal species, shoal between demersal and pelagic levels. Partly as a result, any net catch will include a by-catch of species other then the target species. A third category, anadromous fish, spawn in fresh water but spend part of their lives in the sea. They can be taken in the rivers by rod or net, by coastal nets or traps, or in the ocean by midwater drifting. Those of commercial interest to the UK are the Atlantic Salmon (Salmo salar) and the Sea Trout (Salmo trutta). The fourth category, shellfish, embraces all molluscs and crustaceans, some of which spend their lives in contact with the sea-floor and some of which swim or float in midwater. They are taken by a wide variety of methods, ranging from baited traps to lines, as well as midwater and bottom-nets.

This diversity of the resource has had a number of implications for policy. Firstly it has resulted in a divided fishing industry, whose conflicting demands make it difficult for government to articulate clear policy options, with the result that a principal role of the UK fisheries administration has been that of adjudicating between conflicting interests. The interests of demersal fishermen and shellfishermen, for instance, are often mutually opposed, because of the damage which bottom trawls can do to shellfish beds. Similarly by-catches of juveniles of species larger than the target fish can be so sizeable as to threaten the livelihood of those fishing for the larger species. While in general government might wish to remain neutral, damage to stocks can be so severe as to require government to intervene in order to ensure that so far as possible returns should be available to those making investments in increasing fish stocks. This is principally important in relation to anadromous fish and to shellfish, where the location of breeding grounds is well known. The government responsibility in this matter extends to ensuring an adequate supply of clear water, and to ensuring that the owners of breeding grounds obtain a good proportion of the catch.

The prizes to be won are considerable. Since the United Kingdom is situated on the broad shallow continental shelf of North-West Europe, it is well-placed to exploit some of the densest fish stocks in the world. The waters above Temperate Zone continental shelves are the marine areas most favourable for the production of the phytoplankton which forms the basis of marine food chains. Although the surface layers of the entire ocean are penetrated to a similar extent by sunlight, the quantity of nitrates and phosphates in the

light-suffused surface waters largely determines phytoplankton production, and this varies considerably. Under normal circumstances these salts are concentrated near the sea-floor, where the amount of light decreases with depth. Those areas richest in phytoplankton are those where upwelling of water brings these materials to the surface [2].

A number of its attributes combine to make the North-Eastern Atlantic shelf ideal for vertical water-mixing. Shallow water, the prevalence of storms, the Gulf Stream, and the low thermocline (temperature gradient) because of the low surface temperature, all help to bring the necessary salts to the surface. The high production of primary food has resulted in dense concentrations of fish above the shelf. Furthermore the rigours of Arctic and sub-Arctic life mean that those relatively few fish species which have adapted to life in cold seas usually occur in large numbers, because of the lack of intense competition for primary food from other species. Further North, where the water is colder, there are even fewer species, and so for many years British fishermen have travelled to the Icelandic continental shelf and the Norwegian coasts to take cod. The concentrations of relatively few species, together with the tendency for many species to shoal for at least part of the year, and with the development of freezing techniques to preserve the catch, have made it possible for directed fishing for a particular species to provide the raw material for continuous-flow processing industries on shore or aboard. Fishing a stock can, however, endanger its future productivity, and for a variety of reasons the fishing itself cannot always be operated as a continuous-flow process. One species of fish may occur in several geographically close but biologically distinct stocks, with little interchange of

members between them. At least ten biologically distinct stocks of herring have been identified as spending at least part of their lives within fifty miles of UK shores. Overfishing of any one stock can cause its collapse, as has happened to several of the stocks of herring. Many species migrate each year, occurring seasonally in different areas. Large numbers of mackerel, for instance, which overwinter off the UK's South-Western coasts, spend the summer widely dispersed throughout the Northern North Sea and the North-Eastern Atlantic. Such a stock can thus be the basis for an intense seasonal fishery but cannot support a sustained year-round processing or catching industry. Similarly there is a Spring concentration of blue whiting in the waters between Rockall and the Faroes, which, after spawning, disperses to a low density over a wide area. To prevent overfishing of the mackerel and blue whiting stocks is primarily a question of controlling the number and size of fish taken at the points of seasonal concentration. When a migratory stock shoals throughout its adult life, as does the herring, it is even more difficult to prevent overfishing, and in some cases such a stock can be profitably exploited within the fisheries limits of more than one state, as well as on the High Seas. The North Sea herring stock, for instance, spawns off Shetland, and adults usually spend the winter near the Western edge of the Norwegian trench, while larvae concentrate at a number of nurseries, some of them close to the Danish coast. Excessive fishing pressure in any one of these three locations can threaten the stock. To make matters worse such a constantly shoaling species makes an ideal target to act as the basis of a continuous-flow processing industry, which makes it still more vulnerable to overfishing.

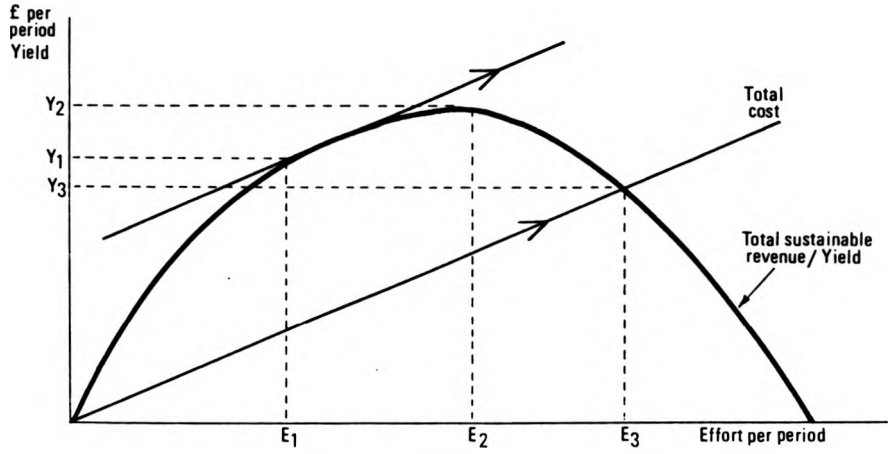
If fisheries biology requires constant and authoritative monitoring

of stocks and fishing effort, it is legitimate to ask the goal of this activity. The preference of fishery biologists is to view the purpose behind the conservation of marine fisheries as the maximisation of the long-term catch, and thus to extract from each stock its Optimum Sustainable Yield (OSY) [3] (Y2,E2 on Figure 2.1). This is approximately the largest average catch a stock can bear over a period of years without causing a reduction in the biomass (the total weight of the entire stock). The biomass is a function of recruitment (the number of new young fish joining the adult stock) and of growth and mortality, both natural and as a result of fishing. Below the level of OSY any fish left uncaught may not necessarily be harvestable in the future, and represent a permanent loss.

While OSY sounds a biologically-appropriate goal, it is impossible to identify until it has been passed, because the characteristics of an individual stock cannot be known with certainty. When a stock of fish is being exploited by a growing number of fishermen, the weight of the catch will at first increase. This will result in a fall in the total number and weight of fish in the stock and in the average age of its members. These trends will continue until OSY has been exceeded, and the yield of the fishery is declining.

Although OSY is impossible to locate precisely, the relationship between fishery mortality (the percentage of a stock killed by fishing) and stock size has been the subject of increasingly sophisticated study by fishery biologists since the end of the nineteenth century. Scientists distinguish (after Peterson, 1894 [4]) between 'growth overfishing' and 'recruitment overfishing'. Peterson formulated growth overfishing as occurring when fish are caught while still juveniles, depressing the total catch weight.

Figure 2.1: The relationship between optimum sustainable and maximum economic yields [5].



Y_1, E_1 - MEY
Y_2, E_2 - MSY = OSY
Y_3, E_3 - TC = TR

The diagram shows a typical yield curve. It is assumed that costs are proportional to effort (TC is a linear function) and that revenue is proportional to yield (TR is identical to the yield curve).

Recruitment overfishing is a reduction in overall stock caused by the failure of sufficient numbers of new young fish to recruit, due to the intensity of fishing of adults before spawning. The composition of catches forms the principal source of information on stock levels and there is a time lag of one to three years (depending on the duration of the larval stage of the species) between the appearance of evidence of growth overfishing and of recruitment overfishing. This stems from the fact that most fish larvae have different locational and feeding habits from adults of the same species, and are also too small to fall prey to nets. By the time there is evidence that recruitment overfishing is occurring, up to three years of damage may have been done [6].

Even when recruitment falls it may not mean that recruitment overfishing is taking place. Fisheries management must also take into account the extreme variability in survival rates of fish larvae from year to year, owing to the effect of climatic conditions on phytoplankton production. The rate of larval survival in a particular year is traditionally ascertained by 'cohort analysis', which entails examining catches of adult fish two or three years later and classifying the fish of which they are composed, according to year of hatching. This method has shown that recruitment to the North Sea sole stock varies from year to year by a factor as large as sixty, while the 1962 Year Class of North Sea haddock was twenty-five times as large as any recorded predecessor [7]. Figure 2.2 illustrates over a period of time the fluctuations of year-class strengths in the Irish Sea for four species of white fish. Heavy fishing increases the instability of recruitment which is more variable at low stock levels [8]. This variability in recruitment makes the problem of maintaining catch levels at OSY almost

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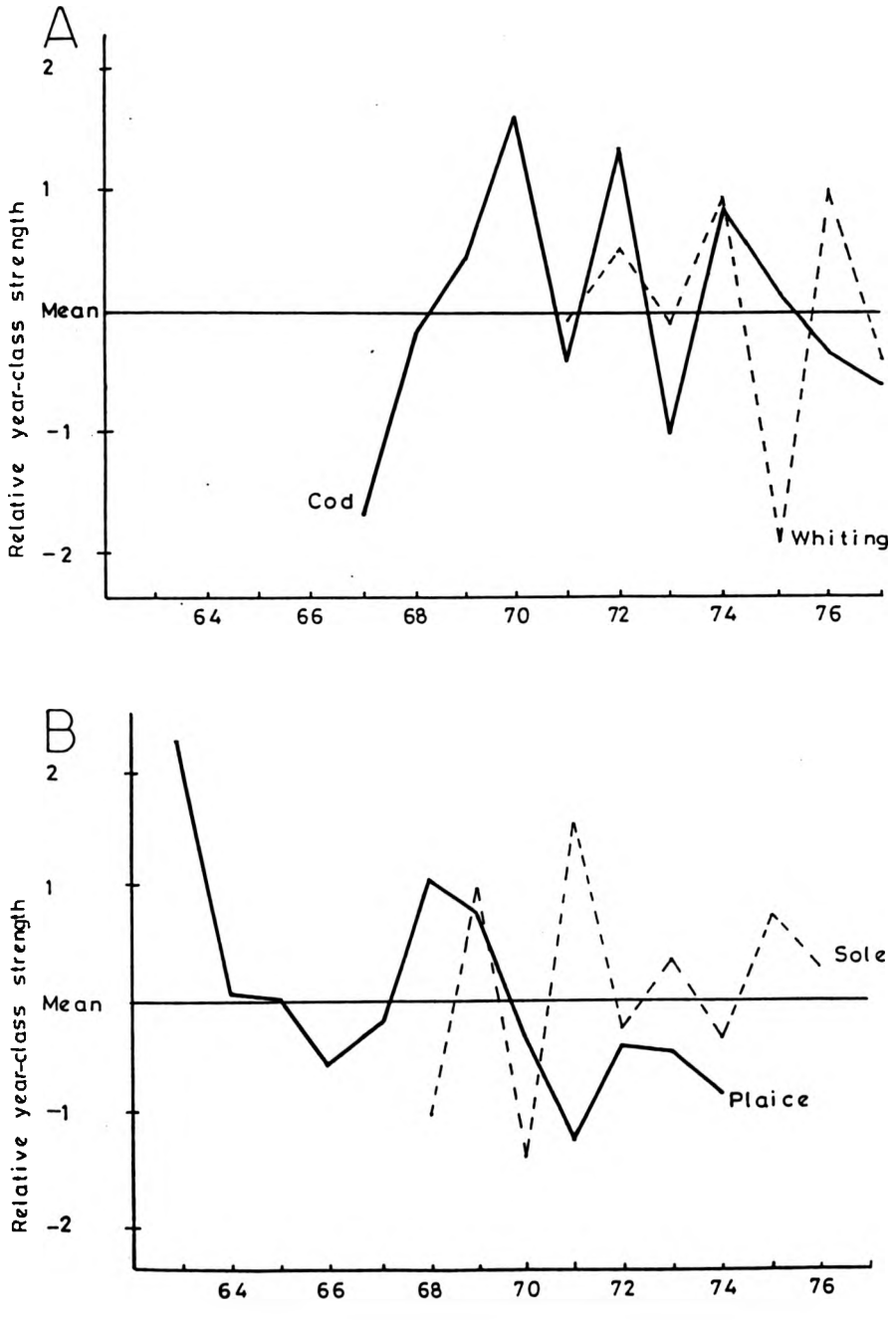
Figure 2.2: Variation of year-class strength in the Irish Sea of:

(A) cod, 1967-77 and whiting, 1971-77,

(B) plaice, 1963-74 and sole, 1968-76. [9]



Relative year-class strength is shown by means of an exponential scale. The difference between two consecutive integers implies the doubling or halving of the numbers of fish in a cohort. -1 thus represents half the mean stock, while +1 represents double the mean stock.

insurmountable. A catch which may be acceptable for one year may seriously deplete the stock if it is repeated in the following year. Growth overfishing is much easier to combat. Beverton and Holt (1957) [10] advocated maximising the yield per recruit by reducing the mortality of young fish with prescribed minimum mesh sizes.

In general these aspects of fisheries biology are the subject of broad agreement between the fishery scientists of states fishing the North Atlantic. The transnational consensus has, since 1902, been created and maintained within the International Council for the Exploration of the Sea (ICES), a forum of European fisheries scientists. Fisheries research is usually government-funded, because of the individualistic nature of the fishing industry and the prevalence of small proprietors. Such a long history of international co-operation in the collection and interpretation of data might be expected to form an effective bulwark against politicisation of international fisheries questions, but there are areas of uncertainty, and in these areas states can harness the opinions of scientists as mere ammunition in their struggle with other states for scarce resources. Little is known, for instance, about the effect of fishing directed at one species upon other commercially-valuable species. It is possible that the removal by fishing of the adults of a species high up the food chain may stimulate the survival, both of its prey species and of juveniles of the target species, whose biomass conversion rate will be greater than the older adult fish taken. On the other hand, fishing directed at prey species will yield a greater weight of smaller and therefore less easily-processed fish, but will depress the stocks of predator species. It is difficult to understand the precise relationship between species, since some change their target food as

they grow, and some are cannibalistic. Moreover, directed fishing for one species can yield a by-catch of other species, and where the adult of a target fish is small, like sandeels or Norway pout, the mesh size necessary to ensnare its adult will catch undersized specimens of most of the other species of commercial value.

Economic aspects

There are special attributes of fishery economics which stem partly from these biological factors. Classical economics assumes that the application of additional resources to the production of a good will necessarily increase aggregate production. In a fishery increased effort does not add to the size of the resource. Thus new entrants to the market will raise costs for all producers, because of the decline in catch per unit of fishing effort. In a High Seas fishery the fact that most fisheries are appropriated neither by states nor by individuals means that while there still appear to be profits to be made further entry will occur. In addition differences in fishermen's costs between states and the fact that some governments subsidise their fishing industries mean that some entry may occur even when some fishermen are making losses. Successful vessel owners may invest in better catching technology, which by increasing fishing capacity has the same effect as new entry. Thus economic rent will disappear from an uncontrolled fishery.

Classical economics also assumes that, in the event of a rise in costs, inefficient producers will drop out of the market. In practice, even if sustained losses are being made, it is difficult to persuade fishermen to leave a fishery, since the adjustment costs involved in leaving the industry may be still higher, owing to the

need to amortise a sophisticated vessel and/or processing plant and to find alternative employment. This constitutes a problem in the model shown in Figure 2.1, which assumes that costs are proportionate to effort, whereas there are high fixed costs such as debt servicing which bear no relation to effort. Regions where fishing is important are often areas with few other employment opportunities. The vagaries of year-class recruitment, as well as hope for a change in the political regime governing the fishery, may also deter fishermen from leaving the industry. The number of boats primarily directed at fishing a particular stock is thus much less variable than recruitment to that stock. When a fishery has been built up over a succession of above-average recruitment years, returns per unit will fall dramatically as poorer cohorts recruit, and yet individual fishermen may be reluctant to leave the fishery [11].

If fishermen's costs are unrelated to the biological yield curve, so are fish prices, which are determined partly by supply and partly by consumer preferences. Scarcity induces high prices which further exacerbate biological overfishing. As an example, the UK landed price per tonne of sole in 1967 was sixteen times as high as that for herring, with the result that sole were highly prized and heavily fished. Fish prices vary between states, partly as a function of distance from fishing grounds, but also because of differences in national taste. According to a paper prepared for the White Fish Authority, "the Germans generally prefer redfish and saithe, the Dutch plaice, the French whiting, the Scottish haddock whilst the English would choose cod" [12]. Whilst this is obviously a simplification, these general preferences mean that price ratios between species vary considerably between states, and fishermen of all North-West European littoral states indulge in exporting some

fish, sometimes merely by landing wet (unfrozen and unprocessed) fish directly at a foreign port. In a situation where domestic fishermen are suffering losses, such clearly visible imports can be the cause of deep resentment, with the accusation of "dumping" on the assumption that the foreigners are also making operational losses.

Some fish of low commercial value may be found in sufficient concentrations to allow their economic exploitation for "industrial purposes", usually processing into fishmeal for cattle food. The costs of this industrial fishing are lower per unit weight than those of fishing for human consumption, due to part-processing at sea and the absence of need for sorting, gutting, or handling. The British industrial fishery has been small, but causes of unrest among UK fishermen have been losses to the food fishery from the success of the Danes and the Norwegians in industrial fishing, taking large numbers of undersized individuals of "protected" species (see pages 237-240).

Unlike the biologists, fisheries economists favour Maximum Economic Yield (MEY) (Y1,E1 on Figure 2.1) rather than OSY as the goal of fisheries management. This occurs at the point where the difference between total revenue and total cost is greatest. As Figure 2.1 illustrates, Maximum Economic Yield occurs at a lower catch level than does Optimum Sustainable Yield. In practice, fishermen cannot hold catch at that level, because the number of producers is too large for one or two to control the market. Where there is no regulation, additional entrants to a fishery can be expected until total costs equal total revenue (Y3,E3). In addition, states will often subsidise fish production or export, in order to maintain employment, to gain foreign exchange or to maximise food supplies.

These subsidies encourage a continuation of overfishing even beyond Y3,E3, tending towards the economic and ultimately the biological collapse of the fishery. The profitability of fishing can be increased by raising the catch per unit of fishing capacity, thus reducing unit costs.

Although MEY is a perfectly legitimate goal of fisheries management, even had the political obstacles been surmountable it would have been difficult to achieve MEY in practice. A number of problems appear in the application of the model presented in Figure 2.1 in the operational conext of fishing activity. For one thing, Maximum Economic Yield is difficult to determine in an international fishery across the exchanges. More seriously, given the differing goals of economists and biologists, fisheries management becomes more susceptible to political manipulation. This is worsened by the fact that, as De Meza has pointed out, even for the economist MEY is the correct management objective only if the social discount rate is zero [13]. Figure 2.1 deals with sustained yields, and does not address a dynamic situation so well. A cut in effort will cause the biomass to regenerate, and is therefore an investment strategy, with current income being foregone in exchange for future income. The higher the social discount rate (i.e. the less value society places on future income rather than current income) the higher is the optimal level of effort and the lower the biomass. If the discount rate is sufficiently high effort could even be in excess of the OSY level.

In addition the price-taking assumptions of Figure 2.1 are wrong. Fish is an extremely perishable commodity, and landed prices for wet fish, at least, react violently to the changes in supply caused by weather conditions and seasonal changes in fish stock location and

concentration. It is therefore common for governments to raise the economic return to fisheries by intervening in the market for newly-landed fish. Fishing is an industry in which a large number of competing undertakings, with an imperfect knowledge of each others' activities, attempt to sell a highly perishable resource to a smaller number of fish merchants, although freezing facilities, where possessed by fishermen, can prevent some fish from reaching the market at a disadvantageous time. The largest firms in 1967 were expanding their fleets of freezer trawlers, capable of freezing the catch at sea, but the vast majority of fishermen were dependent on the wet fish market. In such a situation the fish merchants possess advantages over the fishermen because of the latter's greater numbers, and the 'landed price' (that received by the fishermen) can plummet violently in reaction to a slight oversupply. Seasonal factors like weather conditions and piscine breeding habits mean that there are great underlying fluctuations in the fish market. State or intergovernmental agencies can intervene by imposing a minimum price on fish sold for human consumption, and fish which cannot command this may be dumped or reduced to fishmeal. Such minimum (withdrawal) price schemes reduce the cost to fishermen of oversupply, working against the interests of stock conservation by increasing yield and effort beyond where they would otherwise be.

The management of a fishery

Whether the regime operating over a fishing ground is a territorial or a High Seas one, most sizeable fisheries, other than shellfish, are essentially transnational. The lifecycle of most fish includes migration, which with the dispersal of pollutants means that even a fishing ground wholly within a state's Territorial or Internal Waters

is not immune from the activities of the nationals of other states. Viewed in this light, regional fishery organisations are essential for a sustainable fishery, and the distinction between the areas landward and seaward of a state's fisheries limits should only be whether regionally-agreed regulations are enforced by coastal states or flag states. In practice, of course, flag states vary in the zeal with which they ensure that their fishermen comply with such regulations.

The tools available for fisheries management fall broadly into two types. Firstly there are tools which are aimed at eliminating growth overfishing, in other words those which attempt to maximise the yield per recruit by preventing the taking of undersized fish. Secondly there are tools intended to prevent recruitment overfishing, authoritative actions constantly to adjust fishing effort to a level appropriate to yield either OSY or MEY, whichever fishery managers are aiming at. The choice of goal depends on whether a state's principal concern about fisheries is their role in regional economic development, in which case MEY, which aims at maximising producer's surplus, is appropriate, or whether strategic issues like food supply or the creation of the largest possible pool of trained mariners and of vessels are central to state strategy, in which case OSY is appropriate. Either way, since a fish stock fluctuates, fisheries management tools are aiming at a moving target.

The first category of management tools is generally easier to implement than the second, since such tools are necessarily non-discriminatory, and involve an equality of treatment between vessels of all states. In addition the prevention of growth overfishing tends to increase aggregate catches, and thus involves no

individual sacrifices. The principal tool in this category is the prescription, after Beverton-Holt, of minimum mesh sizes for "protected" species, e.g. those of commercial value. There is a much greater variety of tools for depressing fishing effort, but they are harder to introduce since they usually impose restraints on fishing, and therefore require close intergovernmental co-operation.

There are a number of alternative means of increasing yield per unit effort, of which the significance was well understood in 1967, but in spite of their availabilty to the Atlantic Fisheries Commissions (see pages 125-131), they had not been used. One is to reduce the number of vessels as catching technology, and hence fishing capacity, improves and to limit entrants to a fishery by the use of licences. Such a method had been used by the International Halibut Commission in the Pacific during the 1930s, and had successfully rehabilitated a declining fishery, guaranteed the earnings of those engaged in it, prevented overcapitalisation and provided a rent for management. Although this would have had adverse effects upon employment numbers, it would have secured the livelihood of those remaining in the fishery. Since it could be interpreted as a limitation of High Seas freedoms, however, the states constituting the Commissions did not see this as an option. A more politically acceptable yet economically wasteful means of increasing yield per unit effort is to reduce the number of days available for fishing. Closed seasons, and the limitation of fishing to certain days of the week, have been used by a number of fisheries authorities. Economically these limitations are wasteful, and their only saving is in operating costs. By curtailing available fishing time, they reward vessels which can take a large catch speedily and can therefore cause overcapacity, leaving vessels and men idle when not permitted to

fish. The resultant overcapitalisation makes it hard for the industry to cover costs. Moreover if closed seasons fail to coincide with an open season for the same species elsewhere, they can prevent the steady flow of fish required by processing operations. A system untried on a large scale was that of limiting catches by imposing national quotas within a scientifically-determined Total Allowable Catch. This approach presented both legal and political difficulties. Firstly it would amount to a limitation of state freedoms on the High Seas. Secondly, a political consensus would be required sufficient for agreement on unevenly distributed sacrifices based upon estimated stock sizes, with further disagreement on the optimum size of TACs.

Notes

1. Both pelagic and demersal fish may be taken by line, although by the 1960's the only sizeable commercial line fishery was for mackerel off the South-West coast. "Long liners" play out long lines with several hundred baited hooks. Although labour intensive, this obsolescent method is ideal for conservation purposes, since the size of the hooks and the bait ensure that few undersized fish are taken.

2. J.R. Coull, The Fisheries of Europe: an Economic Geography (London: Bell and Hyman, 1972), pp.5-8.

3. The phrase 'Optimum Sustainable Yield' was first introduced in P.M. Roedel (Ed.), "Optimum Sustainable Yield as a concept in Fisheries Management", Special Publication No. 9 of the American Fisheries Society, Washington D.C., 1975. It refers to the point on the yield curve F[0.1] (fishing mortality), identified by Gullard and Boerama in 1972, at the point where the slope is one-tenth of that at the origin.

   From 1975 OSY supplanted among fisheries scientists an earlier concept for the point of maximum yield, Maximum Sustainable Yield (after Ricker, 1946) because it is mathematically definable. Ricker's Concept was rendered more practically applicable by the Graham-Schaefer model, which was the first identification of MSY by means of applying a logistics curve to biomass and fishing effort (as per Figure 2.1). This is formulated in M.B. Schaefer, "A study of the dynamics of the fishery for yellowfin tuna in the Eastern tropical Pacific Ocean", Bulletin of the Inter-American Tropical Tuna Commission, (Vol. 12), 1954, pp.247-85. OSY is very marginally less than MSY, but for all practical purposes they can be treated as identical.

4. C.G.J. Peterson, "On the Biology of our flat-fishes and on the decrease of our flat-fisheries", Report of the Danish Biological Station, (Vol. 4), 1894, pp.1-147.

5. D. de Meza, "More on fish and ships", Economics, (Vol. 11, Part 1), Spring 1983, p.13. De Meza draws on work on the dynamic analysis of living resources of P. Dasgupta and G. Heal, Theory and Exhaustible Resources, (Cambridge: University Press, 1979), especially Chapter 6.

6. The delay may be reduced by specific surveys of larvae, but this approach was not routinely used in the UK until the mid-1970's, when the damage to many stocks had already become acute.

7. D.H. Cushing, Science and the Fisheries (London: Edward Arnold, 1977), p.24.

8. D.H. Cushing, "The impact of climatic change on fish stocks in the North Atlantic", Geographical Journal, (Vol. 142, No. 2), 1976, p.224.

9. Fishing Prospects 1979-80, p.18.

10. R.J.H. Beverton and S.J. Holt, "On the dynamics of exploited fish populations", Fishery Investment, (Series 2), 1957, p.19.

11. Such a problem occurred in the UK flat-fisheries during the early 1970s. Fishing Prospects 1974-5, p.10. These problems of exploiting a common property resource with variable recruitment had been identified by a number of fishery economists as early as the 1950s.

Particularly important was the work of: H.H. Martin, "Fisheries for the Future", in G.H. Smith (Ed.), The Conservation of Natural Resources (London: Chapman and Hall, 1950), and H.S. Gordon, "The Economic Theory of a Common Property Resource: The Fishery", Journal of Political Economy (Vol. 63), 1955, pp.116-124. Their common conclusion was that all unregulated fisheries ultimately became unprofitable, and that resources will be misallocated, with over-investment in catching (excess capacity and effort).

12. I. Scott, "The importance of the fishery resources of the North Sea", Fishery Economics Research Unit Occasional Paper No.2 (Edinburgh: White Fish Authority, 1979), p.4.

13. D. de Meza, op. cit., p.14.

PART II - THE NATURE AND DETERMINANTS OF UNITED KINGDOM FISHERIES POLICY IN 1967

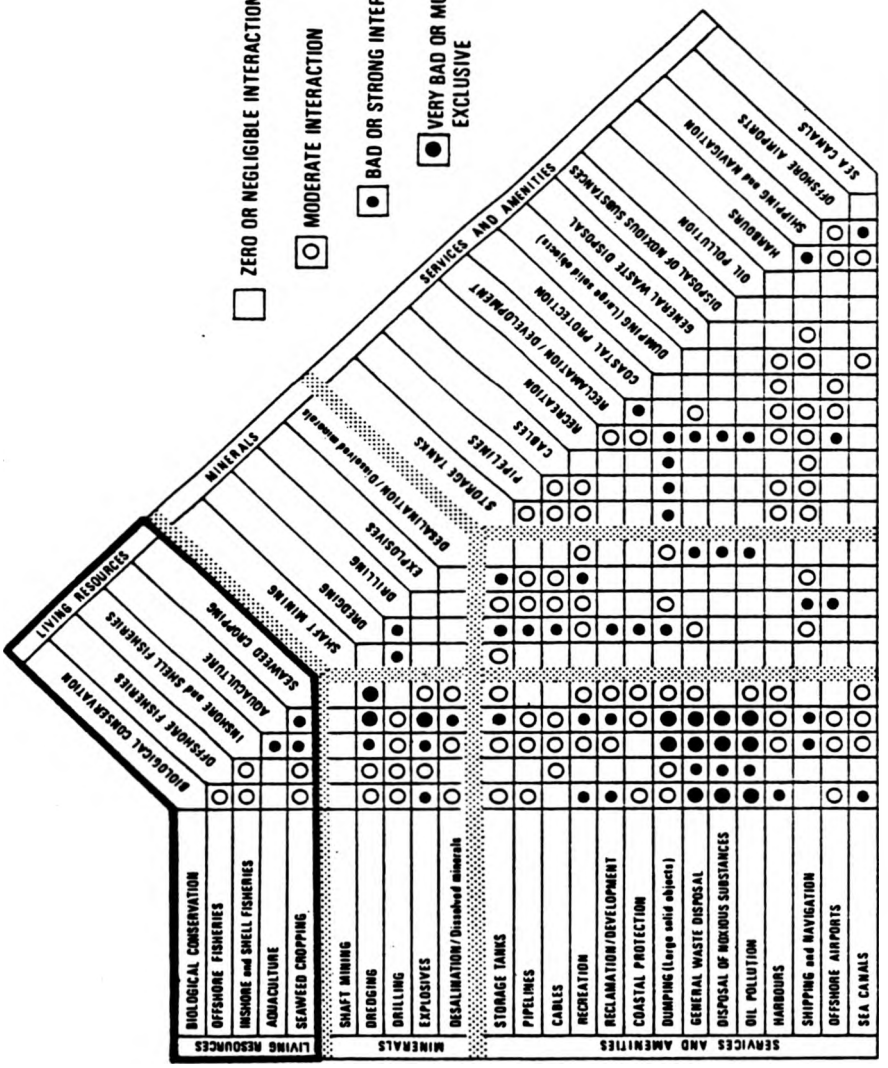
United Kingdom fisheries policy in 1967 was to a considerable extent determined by HMG's devotion, for strategic and economic reasons, to narrow limits to national jurisdiction. Fisheries was dwarfed by other marine-related industries in its economic and strategic importance to the UK (see Chapter 3), a subordination which was reflected in the institutional arrangements for the government of fisheries (see Chapter 4). HMG's conviction that the UK's national interest lay in narrow limits to national jurisdiction was reflected in the attention successive UK governments in the past had paid to the creation of such a regime (see Chapter 5).

CHAPTER 3

THE RELATIVE IMPORTANCE TO UK POLICY IN 1967 OF THE PRINCIPAL MARINE-RELATED INDUSTRIES

However pressing the biological and economic rationale of fisheries may appear, in the formulation of UK marine policy fisheries interests have to share influence with a variety of other maritime interests. There are two main types of interaction between pairs of marine interests with a significant bearing upon the formulation or maintenance of government policy. Firstly, the activities of one marine interest can directly affect the activities of another. From Figure 3.1, for example, it can clearly be seen that most polluting activities can be damaging to fisheries. Other pairs of interests may have little direct effect upon each other, but mutually reinforce or challenge HMG's preference for a particular regime or element in

Figure 3.1: Potential Interactions of Marine Activities in Close Proximity [1]



the law of the sea.

It is among the tasks of government to resolve conflicts of interest by encouraging an appropriate legal regime. These conflicts may involve persons of the same nationality, or they may involve citizens of more than one state. In the former case successive UK governments have seen their role as the encouragement of accommodation between diverse interests, rather than the imposition of centrally-determined policy. This is the realm of Vital's "line of least intellectual resistance" [2]. Where citizens of more than one state are concerned HMG may have to negotiate with other governments, and to assess UK marine interests in terms of its own high policy concerns. Where possible Whitehall attempts to extend its functional, accommodating approach to such contacts, by the institution of permanent intergovernmental arrangements reflecting HMG's priorities. The attempts to resolve potential conflicts between users of ocean space and to create an integrated marine policy have often led to fisheries being accorded a fairly low priority by UK policy-makers, and the interests of the inshore fleet (for an explanation of the divisions within the UK fishing industry see page 59) particularly so. The principal reason for this has been the low economic and strategic importance of the fishing industry relative to other UK marine activities.

Where a government department is forced to choose between the interests of two marine-related activities it makes its decisions upon a combination of economic, strategic and political factors. While it is difficult for the outsider to evaluate with certainty the relative importance in determining policy of these different types of factor it is fairly clear that in 1967 fisheries was significantly

outstripped by other marine-related industries in both economic and strategic importance to HMG. Domestic political importance is harder to gauge, because the potential electoral unfavourable impact of an action generally perceived as unhelpful to a particular interest depends not only upon that interest but also upon the extent to which that interest is able to co-opt other national or regional interests which will perceive the concerns of the former interest as vital to the national interest or to the economic and social health of their region. Other issues complicate the question still further, such as the balance of support between political parties in the regions most reliant upon the interest under consideration.

With these caveats, it is clear that in 1967 not only were other industries of greater economic and strategic importance to HMG than fisheries, but in relation to the law of the sea the balance of industrial interests, especially in the light of these economic and strategic factors, was heavily behind narrow limits to coastal state jurisdiction and maximisation of High Seas freedoms.

The well-being of the shipping industry was generally regarded as being Britain's fundamental marine concern. For perhaps 250 years the UK had been pre-eminent in world shipping, with the largest registered tonnage [3]. This concern was both economic and strategic. The shipping industry made a larger contribution to GNP than did fisheries, around £1500m in 1967 [4]. In addition the UK shipping industry was an important prop for a sizeable shipbuilding industry, which contributed £69m to the balance of payments (£47m net) in 1967[5]. The shipping industry made a contribution to the balance of payments of £792m in 1967 [6]. When purchases by UK shipowners of new vessels from foreign yards are taken into account, this contribution

shrinks to £770m [7]. To these figures probably needs to be added at least part of the several hundred million pounds per annum earned from the insurance of vessels and cargoes through Lloyd's. It is important, however, not to exaggerate the importance to the insurance business of the maintenance of a strong UK-based shipping industry, since Lloyd's has largely maintained its global pre-eminence throughout a very long period of decline in the proportion of the world's shipping flying the British flag. There are also important policy implications for government stemming from the threat to Lloyd's contribution to the balance of payments from large insurance payouts to foreign shipowners. Since most successful insurance claims result in payouts by the City, it was important that the Board of Trade encourage, through IMCO, the development of internationally-agreed ceilings for the financial liability of shipowners.

Strategically the UK was heavily dependent upon overseas trade, and upon imports of raw materials and foodstuffs. In two world wars the destruction of British merchant vessels by enemy action had brought the UK close to defeat, and HMG was anxious to ensure the continued prosperity of UK shipowners in preparation for future national emergencies. In addition the industry was well-organised to influence government. The shipping companies were organised as the General Chamber of Shipping (GCS). Consultation under the auspices of the Chamber meant that the Board of Trade, the government department mainly responsible for shipping policy, was presented with clear and unambiguous statements of the interests and policy of the UK shipping industry. This was in marked contrast to the conflicting signals emanating from the fishing industry (see Chapter 4). Consultation across state boundaries, both between shipowners

and between shipping states, produced the same unanimity of purpose. The larger shipowners were organised in the International Chamber of Shipping (ICS), and in addition many tanker-owners belonged to the Oil Companies' International Marine Forum (OCIMF). Shipowning states discussed their mutual interests within the Intergovernmental Maritime Consultative Organisation (IMCO). IMCO was based in London, staffed entirely by Board of Trade civil servants, and voting in its Council was on the basis of registered tonnage, rather than by sovereign equality. This made it a very suitable body as far as the shipowners and the Board of Trade were concerned, since up until 1967 the UK had the largest vote of any state. IMCO helped to maintain common international standards for the construction, use and navigation of vessels, thus simplifying seaborne trade.

The Board of Trade's traditional international duty as a sponsoring department was simple: it was to resist attempts by states, other than flag states, to erode freedoms of navigation or to appropriate parts of the High Seas. Such a role was not obstructionist; the Board's counterparts in other shipowning states had long been in agreement. They were willing to tighten and to refine construction and use regulations, provided that the new rules were global and that sufficient time was allowed for their implementation, in order to avoid imposing undue hardship on owners of existing vessels. In this vein IMCO had met with considerable success in combatting pollution, principally in reducing the incidence of the intentional discharge of oily water at sea [8]. IMCO was thus in no way a bar to the constructive development of international maritime law, even at the expense of derogations from the absolute freedom of navigation. However, it was not an authority vested with executive power but a consultative body which could formulate Conventions for ratifying

states to implement. The latter role was the prerogative of states, and the implementation of IMCO Conventions was slow. Policing was dependent upon flag states, many of which showed little willingness to enforce regulations against their own citizens. Theoretically a signatory state could denounce an IMCO Convention in the same way as any other international Convention. Despite these faults, the UK was strongly committed to IMCO, with its headquarters in London, its empnasis on technical rather than diplomatic consultation, and its built-in majority for important shipowning states [9].

Also ranged behind narrow limits to coastal state jurisdiction was a variety of public and private authorities engaged in the disposal of wastes at sea. Marine waste disposal was not a unified industry with a sponsoring department convinced of its value; it stemmed largely from piecemeal neglect and cost-cutting by local authorities, firms and consumers. There was thus no strong, unified waste disposal lobby pressing government for the maintenance of High Seas freedoms, but the philosophy underlying waste disposal at sea was a laissez-faire one, with a High Seas flavour, associated with the medieval idea of the common, the inexhaustible resource. Essentially, waste disposal at sea fell into three broad categories: the dumping of noxious wastes, dredgings and sludge; the runoff and direct discharge of chemicals and sewage from the land; and the jettisoning of routine waste from vessels in transit. It may seem improper to think of marine waste disposal as an industry with an economic value, but by preventing expenditure on more expensive forms of waste disposal it reduced costs for government, industry and consumers alike. Some indication of the value for the year 1967 of this function to the UK can be gauged from the cost later incurred by private companies and public authorities in making alternative

arrangements. This figure can be regarded, especially under the system of fixed exchange rates, as equivalent to the amount by which the costs of UK industry were lowered by the disposal of wastes at sea. A substantial effort to reduce the quantity of pollutants entering the sea later took place during the years 1970-75, but no comprehensive work has been done on the costs or benefits of this effort.

The contribution of marine waste disposal to both GNP and the balance of payments is impossible to quantify. Although presumably it had an effect in producing lower comparative costs for UK products than would have been the case had more sophisticated methods of effluent treatment been adopted, low water quality and dirty beaches probably drove away tourist revenue. Measures to combat pollution, although expensive, might well have increased GNP. In addition to the philosophical underpinning which the use of the sea as a means of waste disposal provided to the High Seas view, it also dramatically illustrates the weakness of fisheries interests within policy-making. As Figure 3.1 shows, the use of the sea as a means of waste disposal encompasses the marine activities most inimical to fisheries. Polluted water inhibits the growth of many species of fish, while waste objects on the seabed can damage fishing gear. Dumping of noxious waste and sludge took place outside the territorial sea and largely in either 'deeps' (small hollows in the seabed), or on the edge of the continental shelf. Provided that the waste was securely packaged, it was rarely a hazard to fishermen for a few years after deposit. There was, however, an ever-present possibility of accident, either <u>en route</u> to the dumping ground or by leakage resulting from deterioration over time of the containers in which waste was stored. Moreover, in North-Eastern England, colliery

dumping introduced loose mineral debris into the sea, which clouded the water and reduced the growth rate of fish. Sewage was discharged directly into the sea from more than 200 pipes, and in addition many rivers were badly polluted by sewage, industrial and household effluent. The waste discharged by vessels in transit was of varied types, some of which could be dangerous to fisheries. The gravest problem, that of oil discharge, was in decline thanks to the IMCO Conventions, but a considerable variety of substances, solid and liquid, were thrown into the sea from the many ships passing through the Straits of Dover. Despite these problems, there was no national lobby of fishermen to reduce water pollution.

In addition to these industries arguing for the maintenance of the High Seas regime HMG had to consider a small but promising continental shelf mining industry. It appeared to be neutral on the issue of High Seas or coastal state limits, since its basic needs were ensured by the Geneva Convention on the Continental Shelf. In 1958 a gas field had been located between layers of Rotliegendes sandstone near Groningen in the Netherlands. The knowledge that this rock underlaid much of the Southern North Sea had led to a rush by littoral states to delineate their shares of the continental shelf. The International Court of Justice (ICJ) had been asked to identify relevant principles for this division, while the UK and Norway had agreed to ignore a mid-shelf trench and to abide by the principle of equidistance [10]. Had the trench formed the boundary the UK share of the shelf between the UK and Norway would have been substantially larger, but the desire for the swift onset of exploration led the Foreign Office to make this concession. It was not thought at the time that the UK was conceding any mineral wealth, as the sandstone did not extend sufficiently far North for the

Anglo-Norwegian shelf to be thought to contain gasfields. Exploitation followed rapidly on delineation. The Continental Shelf Act 1964 [11] had divided the UK shelf into blocks, each measuring 250 square kilometres, which could be leased for a period of up to six years with an option to renew for a further forty-six years. By October 1966 twenty-six wells had been sunk, and seven of these, only one of which lay outside the Rotliegendes sandstone, had located gas. In that month Burmah Oil had announced a find of indeterminate size, of oil similar to the light Libyan crude variety [12]. Whether or not oil was present in considerable quantities was thus a very tantalising question, but a Shell/Esso gas field at Leman Bank was thought to contain recoverable reserves of pure methane equivalent to fifteen times UK annual consumption of gas [13].

The evidence of the quantity of gas did not make the continental shelf a vital UK interest. There was already a worrying possibility of over-capacity in the government-owned energy industries because of ambitious forward programmes for new plants to produce gas and electricity [14]. There was also a danger that a sudden flood of cheap North Sea gas might cause many consumers to undertake a costly conversion of facilities to burn gas rather than coal, electricity or oil. This would threaten many coal-pits and power stations with closure, while in perhaps fifteen years thence the gas would be exhausted, leaving the UK with a serious undercapacity in coal and electricity. The ruling Labour Party, for reasons of history, mythology, and structure, relied heavily upon coal miners, a group to whom declining demand for coal gas would be economically damaging [15]. On the other hand a market had to be found for the newly-discovered gas, because the government wanted the continuation of exploration for oil, and so drilling companies had to be seen to secure an early

return on their efforts.

Some of the gas could be absorbed as a feedstock for the production of chemicals. The substantial price advantages which North Sea gas would enjoy over coal gas could provide the UK chemical industry with substantial cost advantages over its competitors. The potential demand of the chemical industry for North Sea gas was, however, limited by its chemical composition. Methane, though excellent as a fuel, is inferior to coal gas as a chemical feedstock. While some basic chemicals, including ammonia, alcohol and acetylene, can be extracted from it, the olefines necessary for the production of plastics and heavy organics are absent. Over the winter of 1966-7 it rapidly became apparent that there would be too high an annual gas production from existing wells for the chemical industry to absorb, especially when in February 1967 Philips Petroleum made a huge find of methane [16]. The state monopoly in gas supply required that if the gas were to be used as fuel the government would have to buy it at a price low enough to prevent lessees from gaining excessive profits, but high enough to make continued exploration an attractive proposition. This option had a drawback; the combustive properties of methane differ considerably from those of coal gas, and its use would require extensive modifications to much capital equipment. After a delay of several months the gas industry agreed to buy methane at a low price, two and one half old pence per therm [17].

By mid-1967, therefore, the potential wealth which the UK could derive from beneath the continental shelf had imprinted itself upon the public mind as a vital UK interest, although estimates of the contribution which it could make to the UK economy varied widely [18]. This uncertainty was exacerbated by the vagueness of the outer limit

of the state-managed continental shelf as defined by the 1958 Geneva Convention on the Continental Shelf (see pages 117-118). Although the first major oilfield was not to be discovered until 1970, the gas industry was committed to buying large quantities of North Sea gas, and had staked extensive investment plans on this commitment. The competitive price implied that coal gas production would decline, and that UK energy users would be heavily dependent upon a favourable regime on the continental shelf. While the contribution to GNP, the balance of payments and employment of continental shelf exploitation was meagre in 1967, it was the object of extensive hopes among UK citizens.

If other UK marine interests largely favoured HMG's maximising the High Seas, such a policy did not necessarily appear to be against the interests of the fishing industry. The well-being of that industry in 1967 did not obviously cry out for either the maintenance or the revision of the High Seas regime, since the specific biological and economic rationale of fisheries appeared to be identical whatever the regime. Moreover, the UK fishing industry embraced vessels designed to fish close to the shores of other states as well as vessels suitable for fishing in UK coastal waters (see page 76), and so the fishing industry had no decisive and united objective interest in relation to the regime. Compared with shipping, fisheries could wield very little political or economic influence. In terms of its contribution to Gross National Product, the fishing industry was dwarfed by shipping. The total first sale price of fish landed by UK vessels contributed 0.18% of GDP in 1967 [19]. Fish processing and distribution trebled this contribution, but it must be remembered tnat these latter industries might well have been almost as big even if totally dependent on imported fish.

The balance of payments savings attributable to fishing by UK vessels cannot be precisely quantified. Firstly it is difficult to calculate what UK price and demand levels would be if there were no domestic production, and also any fisheries regime is subject to possible alteration which may affect the likelihood of future savings. In addition, the very nature of fisheries creates wide fluctuations in imports and exports. Apart from the seasonal nature of some fisheries, many fishermen will choose where to land their catches by looking for advantageous price levels, taking exchange rates into account. Foreign landings of fresh fish at UK ports count as imports, while landings by British fishermen at foreign ports count as exports. It is possible to make an estimate, however. Consumption of fish and fish products in the UK consistently exceeded domestic production. A rough estimate of the adverse effect on the balance of payments of a cessation of fishing by UK residents can be made by subtracting net imports from the total value of UK consumption and adjusting for the fact that part of the value added even to imported processed fish occurs within the United Kingdom.

On this basis fishing contributed around £70m at current prices to a favourable balance of payments in 1967 [20]. Such low figures for the relative economic contribution of the fishing industry mask, however, its true strength. It had a most significant economic role in its contribution to employment. As can be deduced from Figure 3.2, fishing constitutes a very small proportion of total national employment, a miniscule 0.1% in 1967 [21]. By that year total employment in fishing was less than half of what it had been following the re-establishment of peacetime fishing after the Second

World War. Where fisheries did score was in their contribution to regional employment, and thus their importance to regional policy. Despite the low number of fishermen, fishing is locally a very important source of employment. Many towns and villages around the coast are heavily dependent upon it, and certain regions, such as the North of Scotland and South-West England, offer few alternative opportunities for work.

Figure 3.2: Number of fishermen as at 31st December of each year [22].

YEAR	ENGLAND & WALES		SCOTLAND		NORTHERN IRELAND		UNITED KINGDOM	
	Reg. Employed	Part. Employed	Reg. Employed	Part. Employed	Reg. Employed	Part. Employed	Reg. Employed	Part. Employed
1938	26,062	2,949+	12,976*	4,939*	342	556	39,380	8,444
1948	25,946	3,373+	12,080*	5,148*	800	300	38,826	8,821
1960	12,712	3,646+	8,795*	2,451*	500	150	22,007	6,247
1967	10,110	3,076	8,057	1,847	508	184	18,675	5,107
1970	9,424	2,382	7,656	1,441	548	200	17,628	4,023
1973	10,199	2,830	8,311	1,336	600	200	19,110	4,366
1974	9,799	3,636	8,172	1,399	600	200	18,571	5,235
1975	9,016	3,917	7,507	1,341	538	285	17,061	5,543
1976	8,730	4,149	7,560	1,306	540	285	16,830	5,740
1977	8,172	4,498	7,625	1,360	540	285	16,337	6,143
1978	8,064	4,755	7,843	1,378	540	285	16,467	6,418
1979	8,377	4,558	7,613	1,211	600	300	16,590	6,069
1980	8,455	5,135	7,561	1,138	700	300	16,716	6,573
1981	8,450	5,992	7,376	1,085	783	241	16,609	7,318
1982	8,258	5,465	7,247	937	841	263	16,346	6,665

+Includes 'hobby' fishermen.
*As at 30 November

A decline in direct employment in fishing can therefore be extremely serious for these regions. The Scottish economy is relatively more dependent on the fishing industry than the UK as a whole; 0.43% of those at work in Scotland in 1967 were directly engaged in fishing[23]. For many years the Scottish unemployment rate had rarely fallen below 125% of the rate for the UK as a whole [24] and so the maintenance of employment in fishing and its ancillary industries was of paramount importance to government regional policy.

In addition to the number directly employed in fishing, a considerable number of people worked in processing or transporting the catch. Fishing, like all primary industries, has a multiplier effect on employment, partly due to the spending power of the fishermen and partly because of ancillary jobs in processing, handling and transportation. The proportion of fishermen to ancillary workers in Scotland has been calculated at 1:1.79 for 1967[25], which means that approximately 25000 jobs there were dependent on fishing, over half of them concentrated in what is now the Grampian Region. The aggregate income and employment multiplier effect of fishing was thus substantial, but the effect was felt, not at the port of landing, but at the towns where processing plants were located. They were concentrated in only a few locations, and fish were extensively transported long distances in order to be processed. For instance, for every £10,000 worth of fish landed in Fraserburgh there were 6.7 process workers whilst in Mallaig there was but 0.1 [26]. For this reason, landings in some less-favoured localities generated very little ancillary local employment, and the political importance of fisheries was concentrated upon a few towns where a large number of votes might be swayed by fisheries-related issues. Since the processors were much more numerous in these towns than the producers, the fundamental political concern became access to fish stocks rather than any issue concerned with the well-being of fishermen. Moreover, although partisans of the fishing industry generally imply otherwise, a decline in landings by UK fishing vessels by no means implies a proportional dwindling of the processing industry. Ancillary jobs can be safeguarded by increased imports of unprocessed or part-processed fish, although this will tend to concentrate processing activities at still fewer locations.

Imports can also serve to provide a smooth flow of raw material when the indigenous fishery is seasonal. Thus the Iceatlantic factory in Scalloway, Shetland was to be kept open by supplies of Canadian herring in the face of stringent catch limitations and closed seasons in the local herring fishery during the lean years of the late 1970s.

For these and other reasons, the precise employment multiplier of fishing is uncertain. That of the "deep sea" fleet was probably greater than that of the inshore fleet, because the former achieved a greater catch per man. In addition the popularity and diversification of convenience foods based on white fish caught by the larger trawlers allowed a greater value to be added by processing. The Yorkshire and Humberside Economic Planning Board claimed an employment multiplier of 5.04 for Hull [27]. The true multiplier of the distant-water fleet was probably considerably less than this, because Hull was the principal port of entry for fish imports and also processed some fish landed by UK fishermen at other ports. Whatever the true contribution of UK fisheries to employment, it was this issue, rather than substantial added value, which gave fisheries political significance. At least for England and Wales, however, the concentration of these processing jobs in the distant-water ports tended to exaggerate the political importance of the distant-water catch. For Northern Scotland fisheries was an extremely significant source of employment.

This combination of the relative unimportance of fisheries to overall UK policy, with the result that the marine regime was unlikely to be tailored to its biological and economic rationale, and a determination to maintain employment levels for regional purposes meant that HMG was happy to provide subsidies to the industry, where

necessary, rather than contemplate regime change.

Summary

It can thus be expected that the interests of the fishing industry were of little importance in the determination of policy outcomes both in 1967 and for much of the period under review. Fisheries were of little economic or strategic value compared with other marine industries, and had a smaller constituency than shipping or continental shelf mining. Marine waste disposal was of greater value, but had no great constituency. However, this does not imply that policy was invariably opposed to the interests of fisheries. Policy made for reasons external to fisheries may favour certain sections of the fishing industry and act to the detriment of others. The best example of this is the question of the extent of state jurisdiction. Narrow limits to state jurisdiction increase the mobility of shipping, and make it harder for a state to control the dumping of waste materials at sea. Therefore while the UK shipping industry and the Royal Navy were pre-eminent and while the problem of the dumping of materials from passing vessels was not great the UK could be expected to favour narrow limits to state jurisdiction. Such a policy incidentally favoured the interests of British distant-water fishermen operating close to the shores of other states. The economic and strategic importance of the various marine interests is reflected in the inter-departmental relationships between their sponsoring departments upon which policy-making depends, relationships which are dealt with in Chapter 4.

Notes

1. UNITAR News. (Vol. 6, No. 1), 1974, p.21.

2. Vital, D., The Making of British Foreign Policy (London: George Allen and Unwin, 1980), p.109.

3. In 1967 1,545 merchant vessels over 500 tonnes were registered with the Board of Trade, with an aggregate GRT of 20,375,000. Annual Abstract of Statistics 1967, Table 10.71, p.292.

4. Source: General Council of British Shipping.

5. Central Statistical Office, Overseas Trade Accounts of the United Kingdom, December 1967 (London: HMSO, 1967), p.248.

6. Central Statistical Office, United Kingdom Balance of Payments, 1968 (London: HMSO, 1968), p.14. This shrunk to £1m net in 1967, but this was an atypically bad year, and the net contribution recovered after a currency devaluation to several hundred million pounds annually for the rest of the period. I have chosen to include the gross figure rather than the net because it illustrates the extra drain on the balance of payments which would have resulted from the demise of the UK shipping industry.

7. Source: General Council of British Shipping.

8. For instance The International Convention for the Prevention of Pollution of the Sea by Oil, formulated in 1954 and amended in 1962. Ratified by Oil in Navigable Waters Act 1955, 3 and 4 Eliz. 2 c25, and Oil in Navigable Waters Act 1963, 1963 c28.

9. There was a further reason for the UK's powerful position within IMCO, in addition to the organisation's location and the fact that the UK was a powerful shipping state. The Deputy Secretary-General since 1963, Sir Colin Goad, had previously served as an Under-Secretary in the Department of Trade, and was to be IMCO's Secretary-General from 1968-73. He also served as Secretary of the organisation's Marine Services Committee.

10. Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Norway relating to the Delimitation of the Continental Shelf between the two Countries. London, 10th March 1965. Ratified by UK 29th June 1965. Entered into force 29th June 1965. Treaty Series 71 (1965). Command 2757. (London: HMSO, 1965), Article 1.

11. Continental Shelf Act 1964, 1964 c29.

12. "North Sea Gas. New finds in unexpected places", Statist, 23rd October 1966, pp.988-9.

13. "North Sea Gas. "Canadian share in Burmah's oil", Statist, 28th October 1966.

14. "North Sea Gas. The £1500 million question.", Statist, 2nd December 1966.

15. The coal industry was in 1966 suffering a labour drift away from its most profitable pits, and efforts to stem this by pay increases would

have proved difficult in the face of declining demand for coal. "North Sea - How much?" Statist, 4th November 1966, p.1090.

16. "North Sea Gas. Summit at last." Statist, 3rd February 1967.

17. "North Sea Gas. Sensible Compromise." Statist, 14th April 1967. Compromise was facilitated by the fact that neither Government nor mining companies wished to show Arab oil-producing countries that prolonged intransigence by a government could produce financial concessions by companies.

18. Even when the location of all oil reservoirs is known, which was by no means the case in 1967, it is impossible to value reserves with any certainty. Advances in the technology of oil extraction, and increases in the price of oil will increase the quantity of economically recoverable reserves. In addition, with hindsight and floating exchange rates it is possible to view growth in the oil sector as being partially offset by declines in other sectors. What is important, and incontrovertible, was that in 1967 the discovery of oil was viewed both by government and media as being of tremendous future benefit to the UK economy.

19. Calculated from Annual Abstract of Statistics, 1970, Table 225, and Economic Trends (No. 174), April 1978, Table A.

20. Calculated by means of Sea Fisheries Statistical Tables 1967, p.35, Table 17 and p.41, Table 21; and Annual Abstract of Statistics 1970, Tables 225 and 267, pp.211, 244-5.

21. Includes those partially employed. Calculated from Annual Abstract of Statistics and Sea Fisheries Statistical Tables, 1968 and 1978.

22. Sea Fisheries Statistical Tables 1967 and 1982, Table 13, pp.28-9.

23. Calculated from Scottish Abstract of Statistics, (No. 9), 1980, p.85 and Scottish Sea Fisheries Statistical Tables, 1967, p.3.

24. Scottish Economic Bulletin (No. 12), Summer 1977, p.32.

25. D.I.A. Steel, Employment in the British fishing industry with particular reference to its regional and local significances 1977. Fishery Economics Research Unit Occasional Paper No. 4 (Edinburgh: White Fish Authority, 1977), p.XVIII.

26. These figures are for 1975, but it unlikely that they were substantially different in 1967. Ibid., Table 13, p.XXII.

27. Ibid, p.VII.

CHAPTER 4

BRITISH POLICY TOWARDS THE ORGANISATION AND GOVERNMENT OF THE FISHING INDUSTRY, 1967

The position of fisheries within the UK administrative structure

If fisheries were of lesser importance to the UK economy than other marine-based industries with which they had to compete, this subordination was reinforced by the manner in which fisheries administration related to the overall structure of government decision-making. Fisheries was essentially a sectoral policy area, with its own semi-autonomous branches of government, an arrangement which allowed great flexibility within the confines of existing high policy but which prevented fisheries having any meaningful input to that high policy. Fisheries administration represented a minor part of the work of ministries devoted primarily to agriculture and to food supply: in England and Wales the Ministry of Agriculture, Fisheries and Food (MAFF), and in Scotland the Scottish Office's Department of Agriculture and Fisheries for Scotland (DAFS). In relations with other governments these departments were unable to operate independently, since the Foreign and Commonwealth Office (FCO) was the lead department on international questions [1]. The international role of MAFF and DAFS was confined to operating inter-governmental arrangements previously approved by the FCO. Questions of exclusive limits to fisheries jurisdiction, and of which states' vessels should enjoy a right to fish in which waters, were therefore settled in terms of FCO concerns. These concerns, because of an FCO perception of the UK's long-term economic and military survival as attributable to the health and mobility of the Royal Navy

(RN) and the shipping industry, were for narrow limits to state jurisdiction over the water column, and for the maximisation of navigational freedoms, that is flag-state rather than coastal-state regimes. For this reason the FCO enjoyed close and routine co-operation with the Board of Trade (the 'sponsoring department' of the shipping industry) and with the Ministry of Defence.

The overall subordination of fisheries to other interests was complemented by a number of factors which strengthened the political power of those sections of the fishing industry sharing the FCO's narrow-limit views, and weakening those sections of the industry which might have fared better under a more rigorously coastal-state policy. The owners of trawlers working close to the shores of other states were richer and more effectively organised to affect policy outcomes than the owners of vessels working close to UK coasts. The commonly-styled "deep sea" (more properly distant-, middle-, and near-water) fleet [2] had effective campaigning organisations, could call on the support of sizeable trades unions for its opposition to extensions of coastal state jurisdiction, and because of its concentration on a few ports represented a vital constituency interest for MPs of both Conservative and Labour Parties. On the other hand, the so-called 'inshore' fleet had no effective campaigning organisation, had little connection with the trades unions, and was distributed across a large number of ports, forming an important interest in only a few constituencies, mainly in Scotland.

The sectoral operation of fisheries policy

The classic sectoral process of policy formation as delineated by such writers as Wallace [3] and Barber [4] involves the negotiation or exchange of views between Government Departments and between a variety of actors, inside and outside the government. The task of government is not to achieve an objective "common good" but to find a compromise among diverse and conflicting interests and views. Any groups and individuals outside the Executive with relevant interests or knowledge of a matter under review may be consulted. Pressure groups, especially established "protective" ones and MPs with special concerns, are involved, but political parties do not participate as such. The task of co-ordination is carried out by a small specialist division of a Government Department or Ministry which acts as the sector's sponsoring department, and which has a degree of autonomy in representing the perceived interests of the sector in relation to other institutions of the civil service and to other governments.

Fisheries administration fits the classic sectoral model well, involving issues of great technicality vital to those economically dependent on fisheries but of only marginal interest to the bulk of the UK population. The need for rapid and sympathetic responses to economic and biological fluctuations, combined with a requirement for inter-state co-operation in fisheries management, had to a considerable extent detached day-to-day government relations with the fishing industry from the wider political concerns of the party in power. The position of the responsible Civil Service divisions was that of "sponsoring departments": maintaining good relations with all sections of the industry and issuing regulations according to

their perception of its best interests.

For England and Wales the principal sponsoring department for fisheries was MAFF's "Fisheries department", and for Scotland, DAFS' "Fisheries department" (the "Fisheries departments") [5]. The leading civil servants in the two Fisheries departments of MAFF and DAFS were styled "Fisheries Secretaries". Formal Ministerial responsibility lay with the Minister for Agriculture, Fisheries and Food and the Secretary of State for Scotland, but they usually delegated responsibility for most aspects of fisheries to Junior Ministers (see Figure 4.2).

The sectoral approach to fisheries administration gave the departments considerable autonomy in relation to their statutory functions. In order to permit swift responses to Fisheries Commissions and to fluctuations in the level of fish stocks, the Minister for AFF and the Secretary of State for Scotland were empowered to ban landings of, or to prescribe minimum landed sizes for, certain 'protected' species. Political confidence in this use of Statutory Instruments was strong in 1967, and the power of ministers to make them was to be extended under the Sea Fisheries Act 1968 [6].

This sectoral approach to fisheries was very successful in the absence of systemic crises or pressure from the international environment, both of which could result in the needs of fisheries being subordinated to high policy considerations. The fisheries departments provided a number of financial, technical and economic services to the industry. They maintained laboratories devoted to fisheries research at Lowestoft, Port Erin, Conway and

Burnham-on-Crouch, and made regulations and provided information to fishermen on the basis of their findings. The success of the North East Atlantic Fisheries Commission (NEAFC) in increasing total yield by the progressive application of minimum mesh sizes, and the wide dissemination of the findings of the research laboratories had welded fishing industry opinion solidly behind the scientific approach. While fishermen often complained that nationals of other states were contravening the regulations, and sometimes broke these themselves, they generally approved of such regulations [7].

In addition to research, the Fisheries departments provided financial and market control assistance. The two principal channels of government aid to the industry were the Herring Industry Board and the White Fish Authority ('The Statutory Bodies') [8]. They were semi-independent of the fisheries departments, but their part-time membership was appointed by the minister and the Secretary of State. Financed primarily by a levy on the point of first sale, the Herring Industry Board had been extremely active in market intervention throughout its life. It had introduced a register of herring fishermen, pioneered quick freezing of the catch, and operated a number of fish-meal factories whose raw material was herring which had failed to command the Board's minimum prices for fish for human consumption. It also licensed all involved in all aspects of the herring trade, and regulated their activities. The White Fish Authority (WFA) had not made such extensive use of its powers, generally confining its activities to financial and scientific assistance. It had been fairly active in modernising the processing industry by example, but otherwise had kept out of downstream operations. The powers accorded the Authority by legislation were as wide as those possessed by the Board, and the infrequency of their

use was due to the fact that white-fishermen were cushioned against the biologically-induced supply fluctuations which affected the herring industry since a number of different target species can be taken with the same gear. Herring fishermen, on the other hand, had no other pelagic species close to their main ports which could be exploited with the same equipment. Like the Board, the Authority was financed from a levy on firsthand sales of white fish, and from grant aid from the Treasury for research and development.

Both Statutory Bodies provided grants and loans for the construction and improvement of vessels, financed directly by the Exchequer. The construction of inshore vessels had first been subsidised as a spur to domestic food production during the Second World War, and the Sea Fish Industry Act 1962 [9] had extended construction and improvement grants to the "deep sea" fleet. A complicated system of operating subsidies also existed, with their progressive withdrawal as profitability increased.

While fisheries administration fits the sectoral model well, there were a few functions of importance to fisheries which were exercised by other government departments. The Board of Trade's Marine Division was responsible for all matters concerned with the construction and seaworthiness of fishing vessels, safety regulations, weather forecasts and navigational services, and its Registrar-General of Shipping and Seamen maintained a register of vessels and seafarers and supervised training and certification. Since the fishing fleet comprised only a small proportion of the commercial tonnage, the Board's positions and procedures tended to reflect the interests of the merchant navy.

The Board also maintained a laboratory at Torry in Aberdeenshire to study the food applications of fish, and a number of other government departments exercised some functions relevant to the fleet. The Ministry of Social Security was responsible for the welfare of those employed in the industry and for relevant transfer payments, playing an important role in view of the casual nature of much fisheries employment. A large number of fishermen were either self-employed or remunerated by a share in either net proceeds (officers) or gross earnings (crew) and special conditions attached to transfer payments, and liaison between MAFF and Social Security officials took place at port level. The Department of Health maintained regular contact with the fisheries departments over matters of food fish hygiene, while the Department of Education and Science provided, through the Natural Environment Research Council, facilities for hydrographic and oceanographic research. It also substantially financed the Marine Biological Association and the Scottish Marine Biological Association. More than two hundred harbours, docks and piers were used for the landing of fish at some time of the year, and these were the responsibility of a bewildering variety of institutions of local and national government, although MAFF and DAFS operated the most important ('scheduled') fishery harbours. The Treasury was concerned in budgetary questions and in the regulation of fish imports. The Ministry of Defence provided a search and rescue service and, through the Hydrographer of the Navy, charts and tables.

Although the sectoral approach to fisheries policy meant that government was responsive to fishermen's needs within the boundaries of overall government policy, the Fisheries departments were poorly positioned to make effective representations as to major policy or regime change. They were very weak within their own departments,

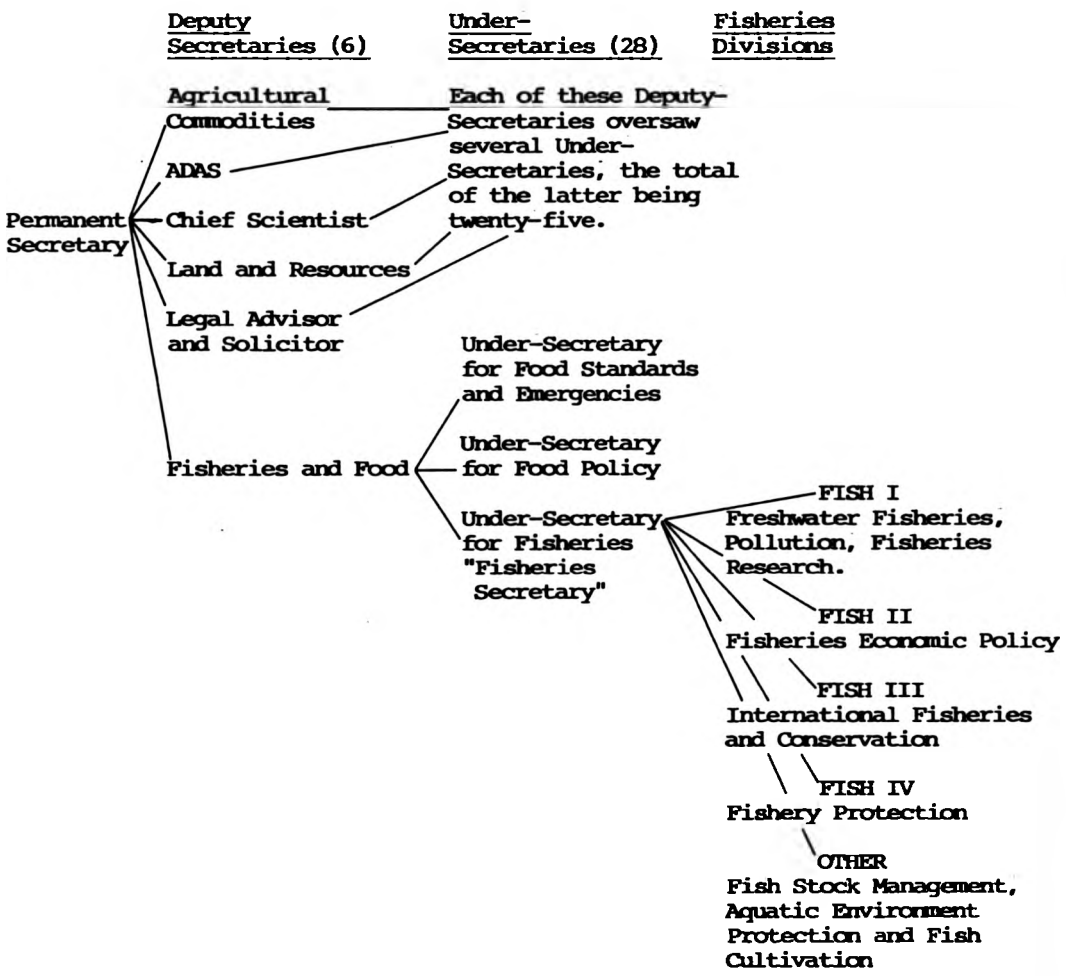
MAFF and the Scottish Office.

The operation of the Fisheries departments

Among the lower administrative grades, civil servants moved fairly frequently between posts, so that they tended to develop a Departmental view (one related to the wider concerns of MAFF and the Scottish Office), in addition to a "departmental" view (one related to the specific concerns of the Fisheries departments). These rapid changes of post among lower grades contrasted with great longevity of tenure in higher posts, because of the pyramidal structure of Government Departments. By 1967, Sir John Winnifrith had been Permanent Secretary at MAFF for eight years, while Sir Anthony Aglen had been Scottish Fisheries Secretary for an astonishing twenty-one years. The vertical structure of MAFF and the Scottish Office meant that on the rare occasions when fisheries policy obtruded into the higher levels of government structures it had to compete with other policy concerns of its parent Departments. Taking MAFF as an example, the problem was not usually that the concerns of other divisions of the Ministry conflicted with those of the Fisheries department, but that they crowded them out. MAFF was overwhelmingly concerned with agriculture. Two Royal Commissions on the organisation of the Ministry, reporting in 1951 and 1956, had ignored fisheries altogether as only a minor part of the Ministry's work [10]. Within MAFF's internal structure, the Fisheries department was extremely ineffectual (see Figure 4.1).

The Fisheries Secretary had to compete for the Ministerial ear with twenty-seven other civil servants of his grade (Under-Secretary), most of whom were concerned with agriculture. Under routine

Figure 4.1: The position of fisheries within the organisational structure of the Ministry of Agriculture, Fisheries and Food, 1967 [11]

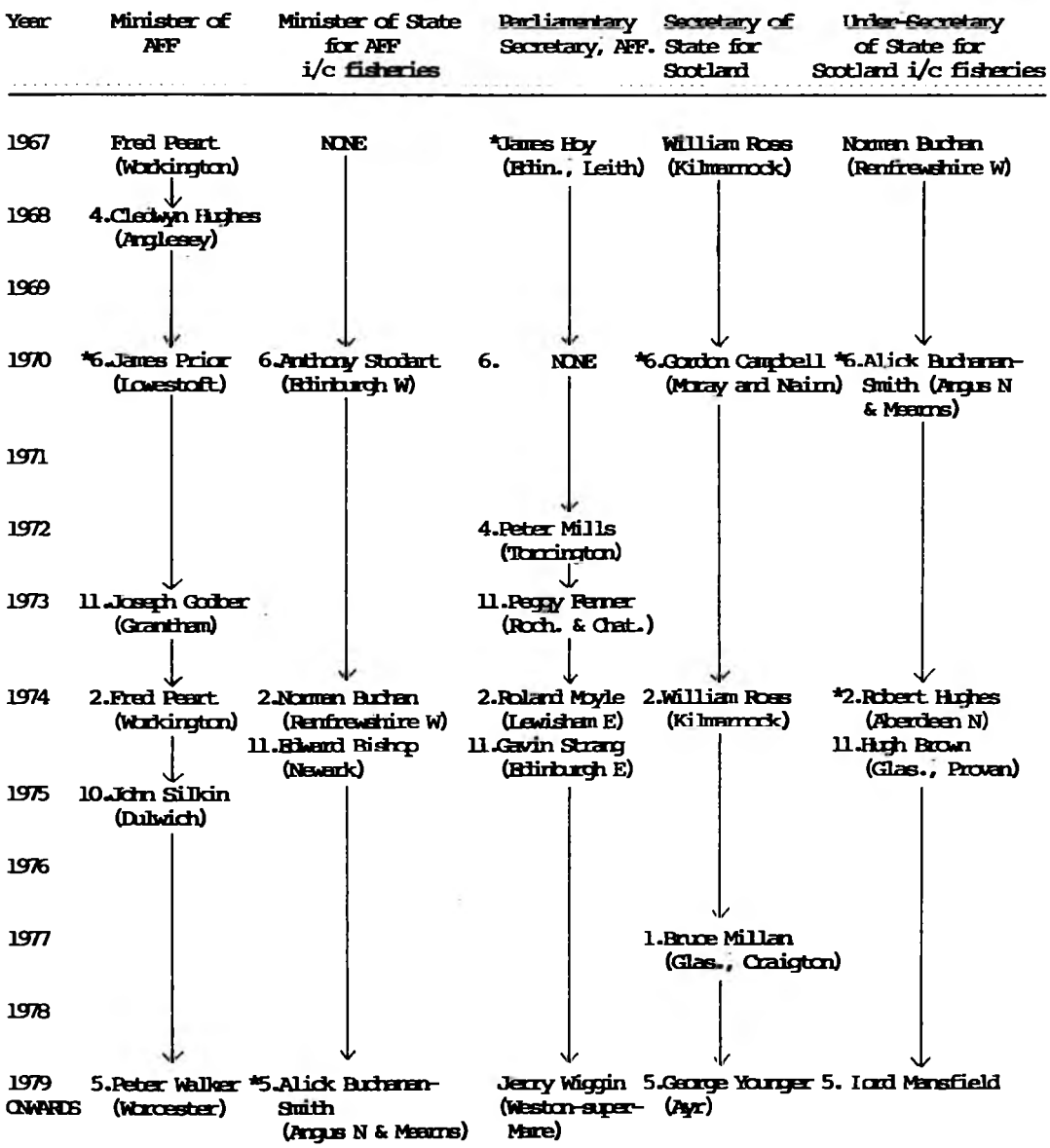


circumstances he was subject to a Deputy Secretary in charge of 'Fisheries and Food', one of six Deputy Secretaries in the Ministry. The bracketing together of fisheries and food was partly the product of administrative convenience at the time of the amalgamation of the Ministry of Agriculture and Fisheries and the supply-orientated Ministry of Food in 1955. The arrangement also demonstrates that fisheries was seen by the bulk of the Ministry as largely a source of 'free' protein for a food-importing country. In this way, food supply and price considerations might at times have overridden the interests of fishermen. The 'Food' concern with strategic food imports reinforced the Fisheries department's suspicion of coastal states' extensions of jurisdiction in creating a MAFF Departmental view. The bulk of the Ministry's higher civil servants regarded fisheries as a very minor part of its work [12]. This institutional subordination of fisheries sometimes yielded criticism from fisheries interests angered by a lack of decisive action. As one MP put it:

> "Having had ten years' experience of trying to help the fishing industry in my constituency I know of no more feeble department in Whitehall than the fisheries side of the Ministry of Agriculture, Fisheries and Food. However hard one tries, one experiences difficulty in getting positive and constructive action out of that department." [13]

The weakness of fisheries was also demonstrated by the Ministers appointed to oversee the sector. Few Ministers appointed during the period under review represented fisheries constituencies (see Figure 4.2), and even fewer knew anything about fishing.

Figure 4.2: Ministers concerned with fisheries [14].



Numbers indicate month of appointment.
*Ministers with a substantial fishing port in their constituency.

This combination of autonomy in policy execution and powerlessness in policy-making was repeated on international questions. MAFF's Fisheries Division III provided UK representation to all the major inter-governmental organisations concerned with fisheries, including the FAO and the OECD Fisheries Committees as well as the two Fisheries Commissions [15], despite the fact that MAFF had a specialist External Relations Division. This autonomy, however, did not extend to issues of regime change. The Foreign and Commonwealth Office (FCO) occupied the position of 'lead Department' in foreign policy, with formal overall control. Although day-to-day conduct of many aspects of foreign economic policy had been relinquished to sectoral control, the FCO maintained routine observation of sectoral developments. Its Marine and Transport department maintained a watching brief over international fisheries, largely because of their implications for the freedom of navigation. Relations with Canada, Norway and Iceland, off whose coasts most of the UK distant-water catch was taken, were also of concern to the FCO's Western Organisations department because of these states' membership of NATO. A number of the FCO's geographical departments were also marginally involved, receiving regular reports from British embassies in states near to whose shores UK vessels engaged in fishing.

All departments of the FCO were prodigious information-gatherers, and often the FCO spoke directly to concerned organisations and individuals within the fisheries sector, undermining the departments' position as sectoral coordinators [16]. The FCO also possessed a number of specialist divisions to provide legal, economic, historical or information retrieval services to its geographical and functional departments [17]. The services of these departments and of the FCO's prestigious libraries provided an impressive consistency and

continuity to FCO policy. This emphasis on continuity lent a historical bias to FCO strategy, leading the FCO to pursue established goals without any procedure for evaluation. The tremendous flows of information into the Foreign Office were sifted and organised according to existing policy assumptions. Similarly, new recruits to the higher echelons of the FCO were socialised into prevailing views. As Larner has put it:

> "There is too much work for there to be time to question the value of the work." [18]

This historical bias included an obsession with maximising the extent of the High Seas. During three centuries of British naval superiority and a shorter period of British industrial supremacy British foreign policy interests had lain in the "freedom of the seas". It was therefore an article of faith for the Foreign and Commonwealth Office that such arrangements were still in the UK's interests.

The FCO's concern for high seas freedoms and the safeguarding of navigation was reinforced by its links with other government bodies which thought likewise. There was a close relationship between the FCO and the Ministry of Defence, partly through formal bodies such as the Cabinet's Defence and Overseas Policy Committee, but largely of an informal nature, through long usage and constant mutual consultation. If 'high' policy is that which concerns the security of the state this consultation is to be expected. The habitual association among politicians of defence and foreign policy is well illustrated by an extract from the memoirs of Lord Avon, who had served both as Prime Minister and as Foreign Secretary:

"Defence and foreign policy had to be considered together and they formed the chief topic of conversation between Sir Winston Churchill and myself in sixteen years." [19]

The FCO's narrow limit views were also shared by the Board of Trade, which included a predictable political and legal environment for merchant vessels, with flag state discipline applied for breaches of regulations and a clear right of passage through straits, even those wholly encompassed by territorial seas.

The power of the FCO in relation to the fisheries regime was demonstrated in two ways. The Foreign Office had in the past shown a consistent determination to intervene in fisheries questions when narrow limits to coastal state jurisdiction were threatened. Disputes with Norway in the 1940s and with Iceland from 1958-61 had provided evidence of this determination.

Up until 1962 the distant-water fleet had routinely been accompanied by frigates of the Royal Navy's Arctic Squadron. Although this was no longer the case, fisheries protection duties, except within the Scottish twelve-mile limit where DAFS operated its own six 'fishery cruisers', were carried out by the Royal Navy [20]. The FCO view was that to carry out policing functions on the High Seas with civilian vessels would imply a civil claim beyond fisheries limits, and an inevitable result of this policy was inappropriate vessels. The Royal Navy ensured that their fishery protection vessels also possessed a military capability, and the eight-vessel Fisheries Protection Squadron doubled as the Mine Countermeasures Squadron.

The second area in which the FCO's power clearly impinged upon fisheries was in the monopolisation of British representation at discussions on the Law of the Sea and the creation of the kind of intergovernmental fishery arrangements that posed no threat to the High Sea regime. The Fisheries Commissions owed their existence in large part to deliberate FCO activity in producing a workable institution for functional cooperation in the management of a common property resource, one which reconciled the biological imperatives of fisheries with the FCO's own preferences for maximal High Seas regimes. These Commissions were only two examples of a number of international economic organisations in whose establishment the Foreign Office had cooperated with foreign governments because it considered them appropriate to the conduct of the UK's foreign economic policy [21]. That the structure of apparently purely functional intergovernmental organisations may be more determined by state diplomacy rather than by functional requirements has been claimed out by R.E. Jones:

> "By definition, intergovernmental transnational organisations can only be established by governments. In embarking on such enterprises governments may be moved far more by traditional diplomatic interests than by notions of systemic control." [22]

If FCO diplomacy in pursuit of 'high policy' goals supplanted functional fisheries goals, the relationship between the FCO and the fisheries departments was not overtly one of power. Regular low-level exchanges of views took place between officials, so that inter-Departmental decision-making was not a process of negotiation between prepared positions in which the FCO could use its position of

'lead' Department to impose its views on other Departments. By the time that formal inter-Departmental consultations took place, many of the potential disagreements had already been settled between officials at a low level. Consensus views emerged, rather than being negotiated. In the words of a Scottish Fisheries Secretary:

> "The build-up of advice is constant and continuous. Some of it is written, some of it is not written...In my view the exchange of views between it [the Foreign Office] and the Fisheries Departments are [sic] complete and effective." [23]

Often, as Wallace has pointed out, the relevant officials in different departments share each others' views and a common outlook, so formal consultation is often superfluous [24]. This was largely the case in relation to international fisheries in 1967. The FCO usually deferred to the fisheries departments in the setting of policy, except during periods of direct intergovernmental disputes in matters related to fisheries limits [25]. Even on this issue there had been no real conflict. The FCO and the fisheries departments in 1967 both strongly supported, for their own reasons, the negotiation of High Seas fisheries questions within Fisheries Commissions (see pages 125-6), and generally opposed coastal state extensions of fisheries jurisdiction. The significant aspect of the relationship was not that the FCO overtly exercised permanent dominance, but that in rare cases of disagreement on international questions the FCO was able to establish UK policy. An example was the decision to establish a European Free Trade Association (EFTA) as a counterweight to the European Economic Community in 1960. All sections of the fishing industry and the Fisheries departments were opposed to EFTA

because of fears of competition from Norwegian fish exports, but the Foreign Office had insisted because the institution was important to its high policy concerns [26].

The willingness of MAFF officials to acquiesce so readily in the FCO's narrow-limit desires stemmed from the fact that the Fisheries departments in 1967 were certain that the High Seas regime was in the interests of the fishing industry. Over half the UK catch by value was taken from areas classified by MAFF as "distant-water" or "middle-water", (see Figure 4.3), and a regime of narrow limits served to protect some of these areas from expropriation. There was sustantial foreign fishing effort close to UK coasts, but the fisheries departments had by 1967 made little attempt systematically to evaluate it. Figures 4.4 and 12.2, although based upon later data, may give an approximation.

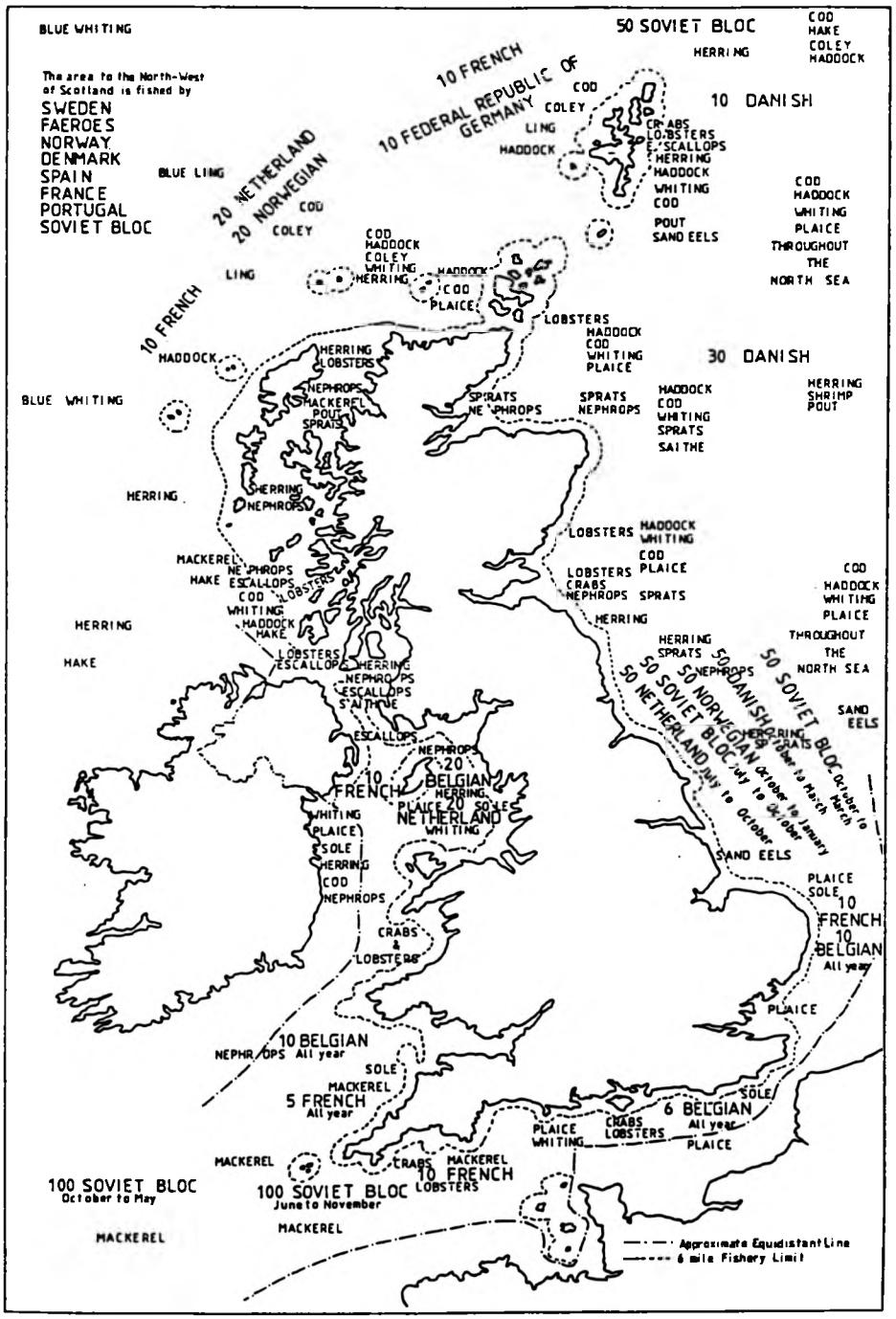
In addition to its greater apparent importance in catch terms, the "deep sea" industry was far better organised to influence MAFF than was its inshore counterpart. The owners of most of the larger trawlers were members of either the British Trawlers Federation (BTF) or the Scottish Trawlers Federation (STF). Although the larger trawler firms did not hold a monopoly of membership, they wielded a disproportionate influence within the Federations. A requirement that any fisherman wishing to obtain White Fish Authority assistance for the purchase of a new vessel must provide a substantial deposit had led to deposits being advanced by large firms on behalf of the smaller operators. In this way these firms had become share-owners of a number of near-water and middle-water trawlers operated by small or family firms. By including as members the owners of many smaller trawlers the Federations blurred any division of interest among

Figure 4.3: British wet fish landings in 1967 by region of capture,[27] excluding shellfish. ICES and ICNAF areas appear in brackets.

		Tonnes	£000s	% of total catch by value
Distant water (NEAFC)	Iceland (Va)	152372	11595	20.4
	Barents Sea (I)	50282	3582	6.3
	East coast of Greenland (XIV)	1180	84	0.1
	Bear Island and Spitzbergen (IIb)	9446	527	0.9
	TOTALS	213270	15788	27.9
Distant water (ICNAF)	West coast of Greenland (1B-F)	16826	1007	1.8
	Gulf of St. Lawrence (4S-V)	4428	295	0.5
	Labrador (2G-J)	7380	498	0.9
	Gulf of Main and Georges Bank	49	2	—
	Grand Banks of Newfoundland (3L-P)	37392	2561	4.5
	TOTALS	66075	4363	7.7
	TOTAL DISTANT WATER	279345	20151	35.6
Middle water (NEAFC)	Faroes (Vb)	29421	2562	4.5
	West of Scotland (VIa)	127702	6553	11.5
	Rockall (VIb)	295	27	—
	Norwegian Coast (IIa)	43935	3289	5.8
	Skagerrak (IIIa)	98	8	—
	TOTALS	201451	12439	21.9
Near water and inshore	West of Ireland and Porcupine Bank (VIIb-c)	296	26	—
	Irish Sea (VIIa)	21497	1413	2.5
	North Sea (IV)	298840	21402	37.7
	South of Ireland and Sole Banks (VIIg-k)	738	55	0.1
	English Channel (VIId-e)	10332	794	1.4
	Bristol Channel (VIIf)	4379	420	0.7
	TOTALS	336082	24110	42.5
	TOTAL CATCH	816888	56700	100.0

Figures for "near water and inshore" are not further subdivided because MAFF fishery statistics are not presented in a form which identifies the size of vessel used or distance taken from shore.

Figure 4.4: Location of fish stocks and the main areas of foreign fishing effort. [28]



trawlermen about fisheries limits. Distant water activities did not compete with the inshore fishermen of the UK, and so the Federations were able to present a clear and unequivocal view to MAFF. These Federations had been able to adjust the market to increase the return to their members: a BTF minimum landing price was found to be legal by the Restrictive Practices Court in 1966. Owing to objections, the WFA had found itself unable to implement a minimum landed price of its own. The wealth, small numbers and geographical concentration of the Federations' membership enabled them to employ specialised and permanent officials, skilled in public relations. The Federations thus enjoyed a close relationship with the Fisheries departments which the inshore men could not match; for instance, regular weekly meetings were held between the BTF's Director General and MAFF's Fisheries Secretary.

The deep sea industry had other political advantages. The concentration of its activities on a few ports and the size and processibility of cod had created local concentrations of persons whose employment depended upon the health of the distant-water industry [29]. In addition its views were shared by organised groups of retailers, such as the National Federation of Fish Friers, whose members depended most heavily on cod, which comprised 70.9% of the middle and distant water catch in 1967 [30].

The influence of the Trawlers Federations in relation to limits was bolstered by the power of trade unions with members dependent upon the "deep sea" industry. The Transport and General Workers' Union (TGWU) aspired to represent trawler crews and the dockers, lumpers, bobbers and truck drivers upon whom the distribution of all fish, whether imported or caught by UK-registered boats, depended. This

union sponsored approximately twenty MPs in each of the Parliaments during the period 1967-79. The Secretary of the TGWU Parliamentary Group was a Hull MP, McNamara (Lab - Kingston-upon-Hull N). The General and Municipal Workers' Union (GMWU), the principal union among fish processors, sponsored about twelve, including Johnson (Lab - Kingston-upon-Hull W). USDAW, the normal Trade Union for fish processing workers in North-Eastern Scotland, did not sponsor any MPs.

The TGWU and GMWU MPs were, in fact, better organised to represent the interests of fish processors than of trawler crews. The TGWU was a large union representing a range of trades and each local official could spend only a small proportion of his time in dealing with fishermen. Very few of the Union's full-time officials had any fishing experience, and the post of "National Fishing Officer", which had only been established in 1966, was merely an additional responsibility for the Regional Secretary of the Hull Branch. Moreover, union membership was much more general among processors than among crewmen. Trawler crews were sharply divided in their conceptions of their interests, both between different ranks and between different ports. Three of the biggest ports - Aberdeen, Hull and Grimsby - had separate and mutually independent Trawler Officers' Guilds, whereas in Fleetwood the officers were usually members of the TGWU. Nor was there a clear unity of interest among the non-officers on board a trawler. All save freezer trawlers operated a system of bonus payments for crew members, based upon the landed price of catches, a system borrowed from the share-fishing system common among inshore vessels. The proportion accorded to each member of the crew varied according to rank and duty, so that there was little solidarity on issues of pay. In addition, there

was no clear common interest between fishermen based in different ports. In ports such as Aberdeen, with a high flat wage rate and a low bonus, TGWU membership was more normal than in ports like Lowestoft where the bonus constituted a large proportion of earnings[31]. Aboard the freezer trawlers the bonus was more predictable, consisting of a flat rate per tonne of the catch rather than being open to the vagaries of the market, but the strength of TGWU membership was reduced because about forty per cent of crewmen were process-workers and if unionised they tended to be members of the GMWU.

As distance from markets, average value of species taken and modernity of equipment varied considerably between ports, the concept of a national basic wage did not appear very practicable, and fishermen commonly negotiated with the local Fishing Vessel Owners' Association on a port-to-port basis. The casual nature of employment as a deckhand also contributed to the fact that union membership was the exception rather than the rule. In the main trawler ports men would sign on ("take articles") for one voyage, sailing at twenty-four hours' notice. There was no register of fishermen and the trawler owners could employ men as and when they wished. On completion of a voyage the deckhand would be discharged and would register as unemployed.

The low proportion of crews and the high proportion of processors who were unionised led trade unions and their sponsored MPs to concentrate on the issue of access to distant waters rather than the improvement in shipboard working conditions. The concentration of the "deep sea" industry upon a few ports (see Figure 4.5) and the number of jobs involved in processing made their interests of

tremendous importance to the MPs representing a few ports.

Figure 4.5: The concentration of the distant- and middle-water fleet at 31st December 1967: Home ports of trawlers over 110'. Figures in brackets represent 31st December 1982. [32]

	110'-139.9'	140'+	Total
Aberdeen	61 (4)	2 (0)	63 (4)
Fleetwood	36 (3)	10 (0)	46 (3)
Grimsby	57 (13)	60 (4)	117 (17)
Hull	0 (7)	104 (21)	104 (28)
Leith	8 (0)	-----	8 (0)
Lowestoft	15 (16)	1 (3)	16 (19)
Milford Haven	0 (5)	-----	0 (5)
North Shields	4 (1)	3 (0)	7 (1)
Other England and Wales	0 (18)	1 (1)	1 (24)
Other Scotland	-----	-----	-----
TOTAL	181 (57)	181 (29)	362 (86)
England and Wales	112 (53)	179 (29)	291 (82)
Scotland	69 (4)	2 (0)	71 (4)

Parliamentary inputs

Parliamentary inputs in 1967 were provided by a small number of very active MPs representing the home ports of the distant- and middle-water fleets and a much larger number of MPs less active on fisheries questions with some near-water and inshore interest [33]. Many of the latter were to become more active during the mid-1970s, providing significant strength for one or other aspect of an inshore view which was not articulated in 1967.

A remarkable degree of bi-partisan agreement reigned among the distant-water cognoscenti. It was accepted by both Labour and Conservative MPs among them that the common interest of owners, trawler crews and processors lay in maximising British access to

fishing grounds and in trying to restrict fish imports: such divisive issues as trawlermen's working conditions had not yet reached the Parliamentary arena. Distant- and middle-water fisheries appeared to be predominantly the constituency interest of a few backbench Labour MPs. As Figure 4.6 demonstrates, of the ten Parliamentary seats covering the trawler ports of Aberdeen, Fleetwood, Grimsby, Hull, Leith, Lowestoft and North Shields, six had returned Labour MPs at every post-War General Election, while two, Fylde North and Tynemouth, had consistently returned a Conservative. Only two, Aberdeen South and Lowestoft, had changed hands at any time. The fact that most deep sea ports were in safe seats had probably prevented the development of differing partisan views within each constituency, because all sections of the industry knew that they had to deal with their MP.

Figure 4.6: Parliamentary representation of the deep sea fishing ports: General Elections 1945-1979.

	1945	1950	1951	1955	1959	1964	1966	1970	1974	1974	1979
Aberdeen N	Lab	Lab	Lab	Lab	Lab	Lab	Lab	Lab	Lab	Lab	Lab
Aberdeen S	C	C	C	C	C	C	Lab	C	C	C	C
Edinburgh, Leith	Lab	Lab	Lab	Lab	Lab	Lab	Lab	Lab	Lab	Lab	Lab
Fylde N	C	C	C	C	C	C	C	C	C	C	C
Grimsby	Lab	Lab	Lab	Lab	Lab	Lab	Lab	Lab	Lab	Lab	Lab
Kingston-u-Hull C	Lab	Lab	Lab	Lab	Lab	Lab	Lab	Lab	Lab	Lab	Lab
Kingston-u-Hull N	Lab	Lab	Lab	Lab	Lab	Lab	Lab	Lab	Lab	Lab	Lab
Kingston-u-Hull S	Lab	Lab	Lab	Lab	Lab	Lab	Lab	Lab	Lab	Lab	Lab
Lowestoft	Lab	Lab	Lab	Lab	C	C	C	C	C	C	C
Tynemouth	C	C	C	C	C	C	C	C	C	C	C

Key: C Conservative
Lab Labour

In practice, Conservative MPs for the rural Humberside constituencies of Haltemprice and Louth were usually also active in the interest of the trawler fleet, so backbench support for the distant- and middle-water fleet was fairly well-balanced between the two main parties. There were semi-regular meetings between middle- and

distant-water MPs, especially Clegg (C - Fylde N), H. Hughes (Lab - Aberdeen N), Johnson (Lab - Kingston-upon-Hull W), McNamara (Lab - Kingston-upon-Hull N), and Wall (C - Haltemprice). They referred to themselves as the "All-Party Fisheries Committee" and Johnson acted as their chairman. On many occasions both Johnson and Wall would ask a similar question of a MAFF Minister demonstrating both non-partisanship and co-ordination. In 1967, activity in support of the fishermen consisted primarily in taking constituents' problems to the Fisheries departments, or of questioning Fisheries Ministers about their duties. Prime areas of concern were safety, equipment and manning regulations, and the levels of subsidy to the industry. There was also a variety of complaints about the White Fish Authority, either on the grounds that it did too much or that it did not do enough.

In contrast to the political strength of the distant-water fleet the inshore fleet was unable to articulate to MAFF any distinctive policy of its own. Several factors contributed to the lack of a single representative organisation for inshore fishermen. Firstly, the boundaries between different categories of fishermen are blurred. There is no statutory definition of an inshore fisherman, although two components of such a definition would include single-vessel firms, often based on families or friends, and fishing close to UK shores. Obviously these two components are associated with small vessels, and MAFF defined inshore vessels as being under eighty feet in length. There was no inshore equivalent of the Trawlers Federations; when MAFF wanted a specifically inshore view, it consulted the Fisheries Organisation Society, established in 1915 in response to recommendations from government that there should be a united voice for inshore fishermen. During the late 1960s and early

1970s two-thirds (about 6,000) of all inshore fishermen were members of one or more of the over 100 societies affiliated to the Society, but direct membership numbered less than a thousand. The Society was very strong in South West England and fairly strong in most of England and Wales, becoming progressively weaker to the North. It was almost non-existent in Scotland [34]. For most indirect members their local representative body was of prime importance, while the Fisheries Organisation Society was regarded as a distant body. The Society enjoyed a close relationship with MAFF; the Chief Inspector of Fisheries served on its Board of Governors, while much of its financial support came from government. Although MAFF's Fisheries department found the Society extremely convenient to deal with, most small self-employed and share-fishermen owed their principal allegiance to one of a considerable number of local bodies (see Figure 4.7).

Figure 4.7: Some of the organisations representing the inshore fishing fleet in 1967. [35]

Scottish Inshore White Fish Producers' Association Ltd.
Scottish Herring Producers' Association Ltd.
Clyde Fishermen's Association.
Firth of Forth Fishermen's Association Ltd.
Shetland Fishermen's Association Ltd.
Orkney Fishermen's Association Ltd.
Mallaig and North West Fishermen's Association Ltd.
North Scottish Light Trawl Fishermen's Association Ltd.
Ulster Sea Fishermen's Association.
Derry and Antrim Sea Coastal Fishermen's Association.
Fisheries Organisation Society.

Secondly, there was a conflict of interest between inshore fishermen as individuals and as persons sharing a port or a fishing ground. New entrants to a fishery, however localised, could raise the costs for all, but once established in that fishery they could provide additional political strength for the local fishermen. Different methods of fishing could also interfere with each other.

Crustaceans and molluscs are usually caught from small boats, as are the high value flatfish, such as plaice and sole. It has been claimed that the gear and stocks on which these fishermen depend can be damaged by some types of bottom-trawling. Foremost among the types of trawling accused of damage to bottom-living fish was the recently-developed practice of beam-trawling, whereby a heavy beam on the leading edge of the trawl served both to keep the net open and to keep it close to the sea-floor. This system had developed in the Netherlands for flat-fishing, and had begun to spread to the UK. Brixham, in particular, had by the late 1960s built up a considerable fleet of near-water beam trawlers, which were accused by other South-coast flat-fishermen of causing damage to their livelihoods. Similarly the traditional herring drifting industry, most of whose catch was taken within thirty miles of UK shores, had been hard hit by competition from the more efficient purse-seiners, operating from Grimsby and from ports in North-East Scotland. They were fast, radar-equipped, and capable of capturing an entire shoal of herring at one cast of a bag-shaped net. The Herring Industry Board's system of minimum prices guaranteed herring fishermen a market and therefore encouraged investment in such sophisticated vessels and hence overfishing. Some of these purse-seiners were operated by large firms and some of them were family-owned boats.

Thirdly, the local government of the area within the UK fisheries limits contributed to the organisational fragmentation of the inshore industry. Fishermen had to relate to local Sea Fisheries Committees in England and Wales, and to District Offices in Scotland, making it advantageous to maintain fishermen's organisations with boundaries corresponding to the governmental ones. There were also organisations based upon particular ports, to enable fishermen to

negotiate with local merchants and with harbour authorities, such as the Mallaig and North-West Fishermen's Association and some based upon the use of a particular fishing method, such as the Grimsby Seiners' Association, or fishing ground, for example the Clyde Fishermen's Association. There were interlocking relationships between many of these associations, with many fishermen belonging to more than one, but in general the fragmentation prevented the expression to the fisheries departments of a strong and unified inshore view.

There are other considerations which contributed to the relative political insignificance of the inshore industry. Small fishermen tend to be individualists [36], and their hours of work and their geographical dispersal militate against their developing an esprit-de-corps. Political lobbying can be expensive because of the loss of earnings which it entails, especially for fishermen from peripheral areas such as the Scillies or the Shetlands.

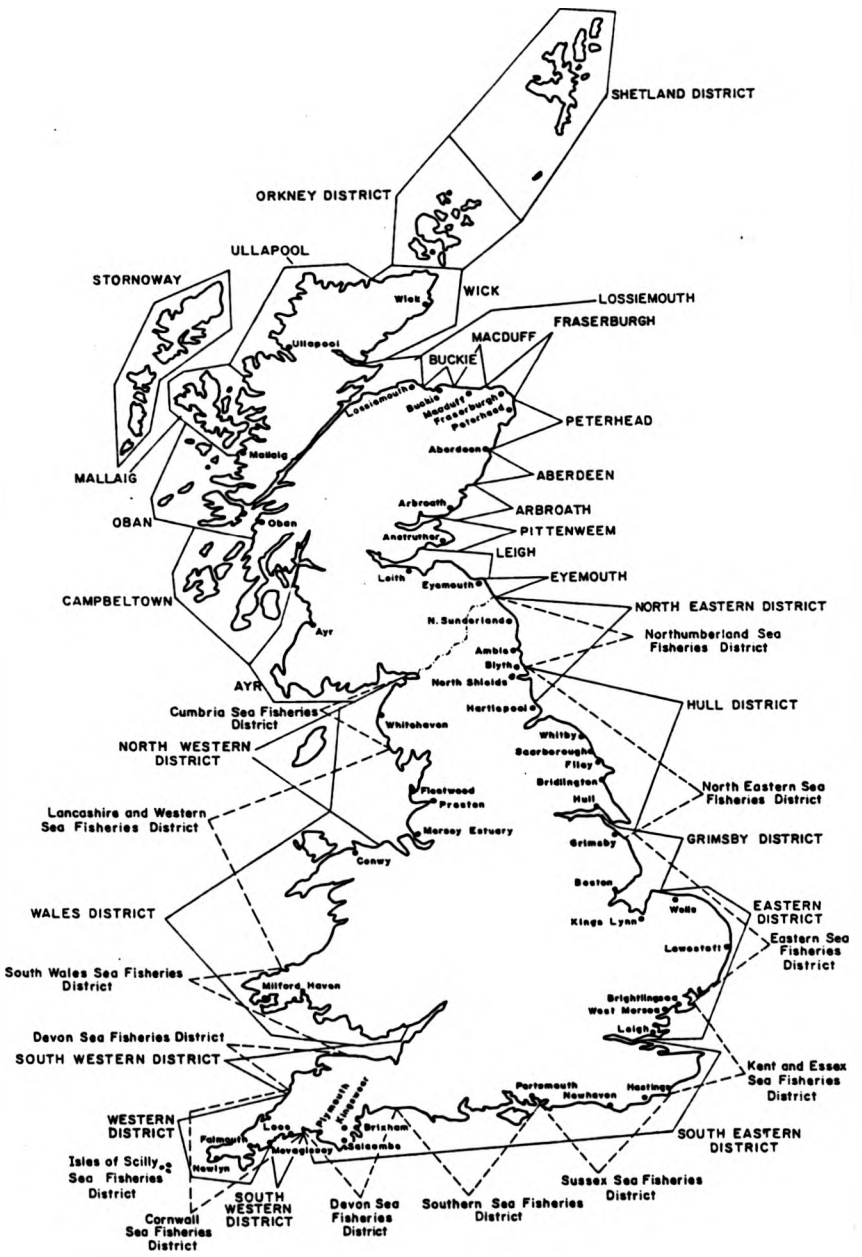
Since there was no strong representative body for the inshore industry, MAFF was thrown back upon its own system of information gathering to deduce the industry's needs. MAFF's fishery department maintained "District Inspectors" and "Fishery Officers" at all principal fishing ports, in order to enforce the national regulations and the local by-laws made by Sea Fisheries Committees. Sea Fisheries Committees had been established by the Sea Fisheries Regulation Act 1966, and they consisted of representatives of one or more coastal County Councils. They were empowered to prescribe by-laws relating to types of fishing gear and their stowage, penalties for the contravention of these regulations, and area restrictions [37]. They could also set local limits to mesh sizes and

landed fish. The Committees held sway out to three miles and MAFF was responsible for the three- to twelve-mile zone. The boundaries of MAFF districts and those of Sea Fisheries Committees did not coincide (see Figure 4.8), which further hampered the organisation of inshore fishermen. Moreover, the location of MAFF inspectors in ports tended to concentrate their attention on issues of resource management dependent upon a common property regime, such as size limits for landed fish, rather than upon the condition of stocks and the fundamental questions of whether regime change was necessary.

The inshore industry's lack of a distinct and powerful representative organisation was compounded by its lack of a voice within any sizeable trade union. Very few inshore fishermen belonged to trade unions, because most vessels were either family-owned or operated by partnerships. Employees on these were usually paid a share of the value of the catch after appropriations had been made for the upkeep of the vessel.

The processors of the inshore catch were similarly weak. Within England and Wales most of the inshore catch was processed away from its port of landing, and only in North East Scotland were there large processing industries dependent on fish caught inshore. Labour here was unionised, although the principal union, USDAW, lacked political muscle and had no sponsored MPs. The dispersal of the inshore industry meant that its votes were nowhere very important except in North East Scotland, but even here most parliamentary seats seemed impregnably safe: Banff, Moray and Nairn, Aberdeenshire East and West all seemed very safe Conservative seats, with only Caithness and Sutherland in any sense marginal. The net effect was that no MPs worked steadily for the inshore interest. There had been no

Figure 4.8: The overlapping areas of jurisdiction of the Fisheries Districts of the Ministry of Agriculture, Fisheries and Food and the Department of Agriculture and Fisheries for Scotland, and of Sea Fisheries Districts.[38]



---- boundaries of Sea Fisheries Districts
——— boundaries of Fisheries Districts

There is no significance in the size of the area apparently enclosed by each set of boundaries, which merely indicate the length of coast under each jurisdiction.

detailed Parliamentary consideration of the relationship between inshore and deep-sea needs and few, if any, MPs would have seen their interests as diametrically opposed. MPs lacked easy access to much of the necessary information. Parliamentary Select Committees were but in their infancy, and although English and Welsh fisheries lay technically within the purview of the House Select Committee on Agriculture which had been established the previous year, the Committee was never in its three-year life to find time to discuss fisheries.

The net political effect of all this was that MAFF viewed the needs and wants of the "deep sea" industry as being those of the active fishing industry. Had the inshore seats been political marginals, or had there been a specialist select Committee on Fisheries, more parliamentary expertise could have been built up as to the complexities of the issue, and a more distinct inshore view might have been articulated at a national level. In practice, there was little antagonism between the "deep sea" and the inshore industry in 1967, largely because the latter was doing well: catches were high and increasing. The inshore industry's comparative prosperity was due partly to better-than-average meteorological conditions for fish recruitment in the mid-1960s, but largely to the fact that by the Fishery Limits Act 1964 [39], UK fisheries limits had been extended from six miles to twelve miles. This step had been taken reluctantly by the FCC following a three-year confrontation on the Icelandic continental shelf between RN frigates and the Icelandic coastguard, 1958-1961 [40].

The Act did not phase out the historic rights of other states between six and twelve miles, and so the principal beneficiaries had been

Scottish inshore fishermen, since the Act made extensive use of fisheries closing lines to seal off the Minches and some of the Firths as internal waters. Scottish fishing capacity was steadily increasing, and had not yet reached a level of overcapacity. A united stance in favour of an extension of Scottish fisheries limits which had existed among Scottish inshore proprietors in 1962-3 was being eroded as many fishermen in North East Scotland used finance provided by government and larger firms to replace a drifter with a purse seiner or mid-water trawler. Thus political conflict between fishermen plying different grounds was replaced by conflict based upon fishing methods. The Scottish industry, being with the exception of Aberdeen overwhelmingly an inshore one and therefore a possible source of threat to the regime, was also kept quiet by a number of advantages which it enjoyed over the English and Welsh inshore industry. For a century trawling and seining had been banned from within three miles of the Scottish coast, with a few areas excepted. This advantage to the Scottish inshore industry had resulted from the need to protect salmon stocks and to avoid damage to 'fixed engines' set on the seabed by small coastal fishermen.

In addition DAFS was better placed than MAFF to receive the views of inshore fishermen. Neither Sea Fisheries Committees nor by-laws existed, and DAFS "Inspectors in charge of Areas" enforced the department's own regulations. These officers also served to transmit the views of the fishermen to the department. Moreover, the White Fish Authority had a separate Committee for Scotland and Northern Ireland, and the Herring Industry Board was principally concerned with Scotland, so the Scottish inshore industry obtained a reasonable service from government within the confines of overall government policy. So long as that policy did not appear to be a

barrier to the prosperity of the Scottish inshore industry the system worked well, but the autonomy of Scottish fisheries administration and Scotland's unbalanced interest in inshore fisheries held potential for a future challenge to the narrow-limits policy.

Since the inshore industry was doing well thanks to the twelve-mile limit, the danger that another extension of UK limits might invite retaliation from other states, displacing large British trawlers from their traditional grounds into UK waters, seemed greater than the benefits of such an extension. This further moderated any potential conflict between the sections of the industry. The distant-water fleet did not appear at that time to be in conflict with the inshore industry in relation to the market. The fact that UK demand for fish had steadily exceeded UK landings meant that in no way could distant-water competition be said to be depressing the market, even for white fish, and the target species of the distant-water fleet, cod and haddock, did not form a very substantial proportion of the inshore catch.

Furthermore, this difference between the target species of the two sections of the industry made the distant-water industry look more vulnerable and more in need of specific government assistance. The market for cod and haddock caught off Norway or Iceland by UK trawlers could be filled equally well by similar fish caught on the same grounds by Norwegians and Icelanders, whereas the markets for the inshore industry's plaice, sole, herring and shellfish were not threatened to the same extent by potential imports. Potential conflict between the two sections of the industry was also defused by the fact that many deckhands worked sometimes on deep sea vessels and sometimes on inshore boats.

These unifying factors were reinforced by the fact that the statistical data necessary to examine the relative costs and benefits to the UK fishing industry of the common property regime or a wider coastal state regime did not exist. MAFF and DAFS catch statistics were reported by ICES region rather than by distance taken from shore, while the departments' system of classifying vessels was based on vessel length rather than type of proprietorship, capacity, or fishing ground. Nor did the Statutory Bodies, close as they were to the fishermen, provide any forum for the evaluation of policy. Statutory Advisory Councils existed to give them advice on the exercise of their functions. The Councils' membership consisted of persons considered to be representative of all interests affected by the operations of the Herring Industry Board and the White Fish Authority. These Advisory Councils had proved rather too large and met too infrequently to have a significant effect on policy. In the words of the Fleck Committee of 1961:

> "The representation of the various sections and Trade Unions and of consumers, with some weight given to different parts of the United Kingdom and to port interests, has resulted inevitably in the creation of two rather unwieldy organisations. While they provide a forum for general discussion of principles and policy, they are less useful for obtaining constructive advice and guidance on particular matters than smaller meetings with representatives of individual associations. The Advisory Councils meet only once a year." [41]

If the Councils were too unwieldy to give coherent advice to their

Statutory Bodies, the division of functions between the Board and the Authority had also impeded the formation of a coherent policy relevant to the resource. The Fleck Report had recommended that the Statutory Bodies be merged to form a "Sea Fisheries Authority", with Ministers taking more power [42]. Fleck argued that in order that a realistic national policy could emerge, all the diverse interests in fish-catching and distribution had to be considered in relation to each other. This recommendation had not been implemented, and the division of functions between the two bodies had survived, to be a significant factor in the tardiness of policy-change in the 1970s. The one body which could have extracted these data from MAFF was Parliament, and there were no MPs articulating a specifically inshore perspective.

In effect, therefore, the organisation of government and industry alike combined to maintain a strong commitment to a narrow limits policy. The role of the FCO as lead department in foreign affairs, the influence of the Board of Trade [43] and the Ministry of Defence, combined with the effectiveness of the deep sea industry in influencing MAFF and the lack of political organisation and relative prosperity of the inshore industry to maintain this commitment. In 1967 the sectoral approach to fisheries was operating well. The Scottish industry had a more distinctly inshore flavour than the English and Welsh industry, a difference which was to lead to a split in the face of the systemic crises and coastal state threats to the High Seas regime which were to accelerate over the next few years.

The condition of UK policy on anadromous fisheries

Anadromous fisheries constituted an autonomous issue area on which a derogation from the High Seas regime had already proved necessary. Like inshore fisheries, anadromous fisheries were of greater relative importance to Scotland than to the UK as a whole.

The term 'anadromous' is used for migratory species of fish which, while spending most of their life-cycle in the sea, spawn in fresh water. Of the UK's two significant species the Atlantic Salmon was far more important, both economically and politically, than the Sea Trout because of its greater size, and consequently its greater attraction as a sporting fish. The problem of applying the sectoral policy-making approach to anadromous fisheries lay in the great variety of interests competing for a share of the catch, and the difficulty of finding a mutually acceptable compromise. Freed of the implications of territoriality so implicit in activity on questions of fisheries limits, UK external policy on the matter was relatively straightforward, namely to maximise the number of fish returning to UK rivers. While the coordination of government policy on fisheries limits involved the Foreign Office, the Board of Trade and the Ministry of Defence as well as MAFF, anadromous fish had by 1967 been the concern only of MAFF's Fisheries I Division. They had never been an issue in international negotiations, since there had been no serious attempts to harvest Atlantic salmon in their areas of adult concentration off the Greenland coast.

A number of public and semi-public bodies had an interest in salmon fishing. By 1967 MAFF and DAFS, in their capacity as overseers of UK marine fishermen, had prevented all but the Northumbrian drifters

from taking salmon from a boat. Governmental power to regulate fishing for anadromous fish beyond the UK territorial sea had been asserted in the Sea Fish Industry Act 1962 and reasserted (with 'fishery limits' replacing 'territorial sea') in the Sea Fish (Conservation) Act, 1967 [44]. A bewildering variety of River Boards and District Fishery Boards, all of which exercised some statutory powers in relation to freshwater fisheries, had been reduced in number by 1967. The Water (Scotland) Act 1967 [45] had consolidated a large number of water authorities into thirteen regional water boards and the Central Scotland Water Development Board. The Water Resources Act 1963 [46], the first stage of a rationalisation of inland water administration in England and Wales, had established twenty-nine river boards.

Although a few coastal drifters had an interest in both marine and anadromous fish, in general the conservation and exploitation of the latter attracted a distinct set of domestic actors, many of whom, unlike marine fishermen, did not need to involve the general public in order to influence government policy. Among the comparatively small number of UK residents who took an active interest in salmon and trout, many occupied positions of considerable authority within UK society, which raised the political status of the issue above its expected relative economic value.

Although all interested domestic actors were united in their desire to prevent foreign harvesting of the fish at sea, there was a considerable conflict of interests stemming from the competition for adult fish returning from the High Seas to UK coastal and inland waters. Some branches of the concerned public wanted anadromous fish only to be taken within rivers and lakes and for fishing

opportunities to be rationed by applying high licence fees. These groups included the owners of fishing rights (the riparian owners), the hoteliers and shopkeepers who depended upon the spending power of wealthy visiting fishermen, and the latter themselves, many of whom occupied key posts in UK political, economic and cultural structures, and thus had considerable potential to influence policy outcomes. They were keen to preserve the image of the salmon as a near-magical fish which fights honourably and cleverly against its would-be captors. In 1967, riparian owners could command fees of several hundred pounds per rod per week from wealthy salmon fishermen, and so consequently colluded with the Scottish Office to keep secret the precise disposition of salmon catches. Those groups were also opposed to salmon-netting, which both diminishes the stock available for angling and degrades the image of the fish, but were in favour of legislation designed to improve water quality, and to prevent obstructions to the fishes' progress upriver. Riparian owners were organised as the Salmon and Trout Association, which had a Scottish Committee to deal with purely Scottish affairs.

Ranged wholly or partly against these interests were the interests of all who, while wishing to harvest the stock, were unwilling to pay large rentals. Apart from those of diverse nationalities who might have wished to take salmon on the High Seas or within the fishery limits of other states, the bulk of the UK 'sports' angling community and some commercial marine fishermen fell into this category. The situation in Scotland was somewhat different from the rest of the UK, because of the greater prevalence of herring drifting north of the border (drift nets are suitable for taking salmon at sea), and also because much of the Highland area consisted of a small number of large estates, limiting public access to the salmon waters. Many

keen anglers, especially in the urban areas of the Central Lowlands, regarded cheaper access to the salmon rivers as a right, resenting the concept of salmon-fishing as a preserve of the rich. The principal body representing their interests in 1967 was the Scottish Salmon Angling Federation. In the Highlands, many crofters enjoyed the right to take salmon from their landlords' waters, and were concerned to prevent legislation encouraging investment in salmon stocking by extinguishing these rights. Particularly active during the 1960s had been the Shetland Crofters' Fishing Rights Protection Society.

There were also in 1967 a number of fishermen either engaged in, or wishing to commence, the taking of salmon at sea. The Salmon Acts (Scotland) of 1862-8 had legalised the estuarine and coastal netting of salmon in order to alleviate coastal poverty, and by 1962 the industry provided employment for about 1,700 men in Scotland alone[47]. Coastal fishermen used "fixed engine" traps, set from the shore, or a small boat and a long net (a system called "net and coble" fishing), to catch salmon entering the river mouths [48]. To further their interests ,coastal netsmen were organised as the National Council of Salmon Netsmen of England and Wales and the Salmon Net Fishery Association of Scotland. The maintenance of Scottish coastal netting was important to the Scottish Office. Apart from the employment provided, many of the fisheries were owned by the Crown. To the chagrin of the Scots drifters, salmon drifting was practised off Northumberland where it was a long-established industry. From 1960 onwards a new and highly efficient method of salmon drifting had been developed and by 1962 a fleet of 139 boats, mostly under fifty feet in length, was operating from a number of Berwickshire and Northumbrian ports and drifting for salmon between three and twelve

miles from shore. This was considered so potentially ruinous to stocks that salmon drifting in Scottish waters had been prohibited by Statutory Instrument [49]. A deep resentment therefore existed, especially in the ports of Lossiemouth, Buckie, Peterhead and Fraserburgh, where the highly lucrative salmon catches might have more than offset the decline in the profitability of herring drifting. Northumbrian drifters now took salmon bound largely for the Tweed, since North-Eastern England's own two great salmon rivers, the Tees and Tyne, had become too polluted to support fish, and this fact further embittered the Scottish fishermen.

Within this context, the fisheries departments were in a difficult position. They were broadly sympathetic to the views of the riparian owners, but mindful of the importance of coastal netting in augmenting crofters' incomes. Two Royal Commissions, the Bledisloe Commission, dealing with England and Wales, and the Hunter Commission for Scotland , had recommended the cessation of salmon fishing seaward of river mouths. There were three reasons for this. The first was that the maximum economic rent could be obtained from the resource by high rod fees. The North of Scotland was relatively poor, and the multiplier effect of these fees could be extremely valuable. In 1967 the Highlands and Islands Development board was established, and the maximisation of economic rent from local resources was one of its aims [50]. Secondly, since all parties wanted to maximise the UK catch, there was a need to ensure returns to riparian owners for any investments made to increase or improve stocks. This could only be done by keeping firm control over the number of salmon harvested without any return to the owners. The third reason was that catch figures were the only means of judging stock size, so that there was no way to set catch quotas or to decide

upon how many licences to issue, and to aim at OSY, unless some method was developed of measuring escapement as well as catch. While this was becoming technically feasible with the use of underwater sonar, it could only be done in a narrow passage, i.e. inside a river mouth. Such accurate counts would be useless in the event of large scale poaching, less easy to prevent at sea than in inland waters.

The Bledisloe Commission submitted its report in 1961 [51]. It identified twenty-eight rivers with a significant salmon run and recommended a co-ordinated approach to an increase in anadromous stocks by increasing returns to investment in stocking. Fishing seasons out to the three-mile limit, for both rods and nets, should be set by the River Boards, whose membership should include representation from Sea Fisheries Committees. One-third of licence revenues should go to a National Fishery Improvement Fund. Pollution and obstructions should be reduced. No legislation had resulted pending the report of the Hunter Commission, working with a similar brief on Scottish anadromous fisneries.

The Hunter Commission submitted two reports. The first, published in 1963 [52], had defined the state of the industry and recommended an immediate ban on drifting in Scottish waters, a ban which HMG had already imposed during the previous year in response to the Commission's emphasis upon the urgency of the situation (see page 96). The second Report [53], published in 1965, recommended a policy of managing anadromous stocks so that maximum revenue could be obtained therefrom. This policy was in part influenced by the Committee on Land Use in the Highlands and Islands, which submitted evidence to the Commission. The Commission had recommended an

expansion of trout fishing in lochs, and maintained that, in order to encourage stocking, the statutory protection enjoyed by salmon owners should be extended to the owners of trout waters. The Hunter Commission also argued that the maximisation of the marginal return to investment in stocking, together with the need for accurate counts for individual rivers, called for stronger penalties for poaching and for the prohibition of sea-fishing for salmon. Coastal netters could be compensated by being given the right to buy licences to set fixed traps in the rivers:

> "The full implementation of the management policy recommended would require that salmon fishing in the sea should be prohibited. This would entail the running down of all coastal netting and its eventual replacement by new methods of fishing." [54]

However, the Commission recognised the unfairness of a situation in which only English and not Scottish fishermen were able to drift for the Tweed-bound salmon. It recommended that pending the prohibition of marine netting in Northumberland, Scottish drifting be permitted in the area immediately South of the Tweed. The Hunter Commission also applauded the conclusions of the Committee on Land Use in the Highlands and Islands that tourism could be encouraged by the compulsory public acquisition of fishing rights where deemed necessary, and that Forestry Commission fishing rights could also be commercially exploited [55].

Unfortunately, the delicate balance of Scottish interests did not make such a clear policy easy for any government to implement. To make disagreements between interested parties more bitter, very

little was known about salmon numbers, the only evidence of stock size being catch figures, as the report noted. An increase in effort or an improvement in efficiency would result in a higher catch, yet this obviously would not imply that stocks were increasing. Hunter recommended the development of methods of counting escapement as well as catch.

In addition to the possible effect on Scottish political opinion of the government's apparently favouring the wealthy riparian owners, tax concessions to them implied a substantial loss to the Exchequer, and the recommendations of Hunter and Bledisloe had still not been implemented by 1967.

These recommendations which had been implemented were those which did not clearly oppose the interests of any of the long-established groups competing for the catch. The banning of drifting in Scottish waters (see pages 96 to 93) had been possible because the drifters threatened both netsmen and riparian owners. Similarly the rationalisation of the water industry (see page 94) had been possible because cleaner water, and a reduction in the number of physical and administrative obstructions, were in the interests of everyone involved. Similarly, certain rationalisations proposed by Bledisloe had been instituted for England and Wales, such as introducing overlapping membership of river authorities and sea fisheries authorities and establishing seasons out to the three-mile limit.

Unfortunately these improvements could not secure an increased salmon run without reference to the salmon's life on the High Seas. Claiming jurisdiction over an extended area of the High Seas was not only anathema to the most central tenets of HMG's marine policy, it

was also useless, since the salmon's area of High Seas concentration was close to the Greenland Coast. However, it had been decided to adopt a 'species' approach, asserting UK jurisdiction over the fish rather than over the water column. Accordingly, at the same time as drifting had been banned in Scottish waters, legislation (the Sea Fish Industry Act 1962) had been introduced giving the fisheries departments the right to regulate fishing anywhere for migratory salmon and trout spawned in the UK. That this represented a long term commitment was demonstrated by the incorporation of the principle into overall fisheries legislation in the Sea Fisheries (Conservation) Act 1967.

On a number of issues, mostly in relation to Scotland, the government had taken no action by 1967, paralysed by the fear of offending one or more of the plethora of interests involved. As a result policy on anadromous fisheries was in a state of crisis, with constant catch levels but extreme disagreement between concerned actors. The Hunter Report had recommended extending statutory protection to the owners of loch fisheries, and a tax regime to encourage them to stock with trout, with the intention of giving the Central Lowland angling clubs the opportunity to take non-coarse fish without any threat to the exclusivity of salmon. Similarly the Bledisloe Report had recommended a National Fisheries Improvement Fund to improve inland waters for a similar reason. By 1967 no action had been taken, perhaps because of Treasury opposition to the £90 million in necessary expenditure (1967 prices) [56].

Nor had action been taken on Hunter's recommendation that coastal netting be banned seaward of river mouths, and that those with a historic right to coastal netting be empowered to swap this right for

the opportunity to put fixed traps in the rivers. Given the resentment of crofters towards the riparian owners, to have given the latter jurisdiction over the actions of the former would have caused a political furore. Nor could it be done without a similar development in England and Wales, including removing the ancient Northumberland right of salmon drifting.

A substantial proportion of Scottish opinion in 1967 was therefore aroused in relation to anadromous fisheries, and no clear policy on the distribution of the catch had emerged. Coastal MPs like Wolridge-Gordon (C - Aberdeenshire E) and Campbell (C - Moray and Nairn) argued the netsmen's case in Parliament, since all were aware that Fisheries department opinion favoured the introduction of the Hunter recommendations.

Conclusion

The detailed administration of fisheries policy in 1967 was carried out by the fisheries departments of MAFF and DAFS, and involved extensive use of delegated legislation in order to react to seasonal and other changes in fish stocks or types of gear employed. This worked very well within the context of overall government policy on law of the sea, but the Fisheries departments were extremely weak relative both to their own parent bodies, MAFF and the Scottish Office, where they were subordinated to considerations of food supply, and to other government Departments which worked to uphold the narrow limits policy, the Foreign and Commonwealth Office and the Board of Trade. The Fisheries departments were themselves organised in such a way as to represent distant-water interests most effectively, since they held weekly consultations with the British

and Scottish Trawlers Federations. These Federations were able to co-opt the support for a distant-water position, by membership and by part ownership, of the owners of the near- and middle-water fleet, and could also count upon the support of a number of MPs of both Conservative and Labour Parties and of two powerful trade unions, the TGWU and the GMWU.

In contrast, the inshore fleet had no strong representative body, and was divided both according to interests and according to ports. Shellfishermen and flatfishermen, for instance, probably felt no great community of interest with the trawlermen who scraped their seabed, while drifters resented seiners. Their MPs took little action in support of their interests, and indeed the inshore men did little lobbying. They were generally happy with their position, since the government had only adopted twelve-mile limits three years previously, together with straight baselines to enclose some Scottish waters, gains which had not yet been digested. On anadromous fisheries there were disagreements between conflicting interests, and indeed HMG was seeking international sanction for its control over salmon and trout spawned in the UK anywhere in their range, but it was not an urgent policy matter, merely a logical result of a wish to use anadromous fisheries in the development of the Highlands and Islands.

Notes

1. Until 1968 the Foreign Office was distinct from the Commonwealth Office. I have chosen to use the title Foreign and Commonwealth Office throughout in the interests of clarity.

2. Much confusion is caused by MAFF's nomenclature. The words "deep sea", "near water", and "middle water" are all used to define vessels by size, as well as to refer to geographical areas. The UK fishing industry was extremely varied in size of firms, in length and type of vessel employed, and in grounds exploited. Collectively, British vessels plied almost every fishing ground in the North Atlantic North of Finistere (see Figure 4.5). In general, larger vessels and larger firms exploited the more distant fishing grounds. This had given rise to a simplified system of classifying vessels by size into two divisions: "inshore" (up to eighty feet in length) and "deep sea" (eighty feet and over). The "deep sea" fleet is sub-divided into "near-water" (80-110 feet), "middle-water" (110-140 feet) and "distant-water" (over 140 feet). Most vessels over eighty feet were trawlers, as were many of the smaller vessels, but there were also a few purse-seiners exceeding that length. This classification is extremely imprecise, especially since very little fishing takes place in deep water, most habitually-exploited fish stocks lying above the continental shelf. In addition, there is no precise correlation between vessel length and distance travelled, nor are there rigid size boundaries which divide vessels by type of ownership.

3. W. Wallace, The Foreign Policy Process in Britain (London: Royal Institute of International Affairs, 1975), pp.11-13.

4. J. Barber, Who makes British foreign policy? (Milton Keynes: Open University Press, 1976), pp.123-4.

5. From 1969 as a concession to Welsh sensibilities the Secretary of State for Wales was, by the Transfer of Functions (Wales) Order 1969, given shared responsibility with MAFF for many aspects of fisheries, but the Welsh Office has never had any civil servants of administrative grade specialising in fisheries and the Office's Fisheries section has been largely involved as a transmitter of views between MAFF and Welsh fishermen. Fisheries in Northern Ireland were the responsibility of the "Fisheries Section" of the Northern Ireland Ministry of Agriculture (NIMA), which, with the advent of widespread civil disorder in the province in 1969, was to be subordinated to the Home Office, and from 1974 to the Northern Ireland Office. I shall refer to these specialist fisheries sections collectively as "Fisheries departments" (the structural nomenclature of Whitehall is confusing, because each Ministry or Department has its own name for its sub-divisions: when in this work the word "department" is used with a small "d" it refers to a sub-division of a Ministry or Department).

6. Sea Fisheries Act 1968, 1968 c77.

7. H. Clayton, "Stormy journey towards adoption of EEC fisheries policy", The Times, 6th March 1981, p.7.

8. Both had their origin in the 1930s when the National Government wished to establish marketing boards for each individual commodity, with wide powers of discretion to stabilise the market and to maintain the earnings of primary producers.

9. Sea Fish Industry Act 1962, 10 & 11 Eliz. 2 c31.

10. Ministry of Agriculture and Fisheries, Report of the Committee appointed to review the organisation of the Ministry of Agriculture and Fisheries (London: HMSO, 1951), and Ministry of Agriculture, Fisheries and Food, Report of the Committee appointed to review the provincial and local organisation and procedures of the Ministry of Agriculture, Fisheries and Food, April 1956. (London: HMSO, 1956).

11. Source: Ministry of Agriculture, Fisheries and Food.

12. For example, less than five per cent of the Ministry's publications between 1960 and 1974 concerned either fisheries or fish as a food. Source: Examination of MAFF catalogues.

13. Nott (C - St. Ives), Hansard, Vol. 905, Or. 1572, 19th February 1976.

14. Compiled from Hansard.

15. The North-East Atlantic Fisheries Commission and the International Commission for North-West Atlantic Fisheries (see pages 123-131).

16. This problem was not confined to fisheries. Many civil servants in the Department of Industry apparently felt that the FCO bypassed its expertise by speaking directly to companies with overseas interests. Personal interview with P.A. Diston, Department of Industry, 5th May 1978.

17. See Foreign and Commonwealth Office, Research in the Foreign and Commonwealth Office. FCO Information Department, December 1979, passim.

18. C. Larner, "The Foreign and Commonwealth Office: Organisation, Planning and Personnel" In Boardman and Groom, op.cit., p.70.

19. R.A. Eden, First Earl of Avon, The Eden Memoirs: Full Circle, (London: Cassell, 1960), p.369.

20. Sea Fish Industry Act 1962, Sections 1 & 2.

21. The post-war faith placed by the Foreign Office in functional international economic organisations is discussed at length in W. Wallace, "The Management of Foreign Economic Affairs in Britain" International Affairs (Vol. 50, No. 2), April 1974: pp.251-267.

22. R.E. Jones, The changing structure of British Foreign Policy, (London: Longman, 1974), p.62.

23. Evidence of E.L. Gillett, 27th October 1976. House of Commons, The Fishing Industry, Fifth Report from the Expenditure Committee, Session 1977-78, together with the Minutes of Evidence taken before the Trade and Industry Sub-Committee in Sessions 1976-78 and Appendices. (HC286), Q67.

24. Wallace, 1975 op. cit., p.15.

25. Ibid., p.163.

26. See House of Commons, Assistance to the Fishing Industry, Sixth

Report from the Estimates Committee, Session 1966-67, (London, HMSO, 1966), (HC277), especially the Memorandum submitted on behalf of the Secretary of State for Foreign Affairs, pp.202-4.

27. Sea Fisheries Statistical Tables, 1967, Table 6, p.16.

28. This figure is illustrative rather than definitive, and is based upon Charts 212a and 216 prepared by the Survey Section of the Ministry of Agriculture, Fisheries and Food, May 1976. They appear in House of Commons, The Fishing Industry, Vol. II, facing pp.102-3.

29. 88% of demersal landings in England and Wales in 1975 were made at Hull (39%), Grimsby (33%), Fleetwood (10%), or Lowestoft (6%). Fishing and related activities provided 19% of employment in Fleetwood, 17% in Grimsby, 13% in Lowestoft and 5% in Hull. Grimsby and Lowestoft were less wholly dependent than the other two ports on distant-water catches, Grimsby maintaining a large North Sea seining fleet and Lowestoft concentrating upon North Sea white fisheries.

    Source: Steel, op.cit., p.v.

30. Sea Fisheries Statistical Tables 1967, Table 6, pp.16-19.

31. Even as late as 1977 only one-eighth of Lowestoft crew members were TGWU members, whereas almost all of the process workers were unionised (Personal Interview).

32. Sea Fisheries Statistical Tables 1967 and 1982, Table 14, pp.30-32.

33. Very rarely had fisheries been treated seriously by the major political parties as a subject worthy of consideration in itself. No party published a policy pamphlet dealing wholly with fishing, or even including fishing in its title, at any time between 1967 and 1979, except for an SNP pamphlet issued in 1978. (Source: Indexes of Conservative, Liberal, Labour, Communist, Co-operative, Scottish National Party and Plaid Cymru publications).

34. Joint memorandum by the Ministry of Agriculture, Fisheries and Food; the Department of Agriculture and Fisheries for Scotland; the Department of Agriculture for Northern Ireland. House of Commons, The Fishing Industry, T21.

35. Memorandum by the Department of Trade. In Ibid., T212.

36. A very useful and fascinating insight into the combination of extreme individuality and community spirit which makes up the social and economic attitudes of inshore fishermen is given in P. R. Thompson, T. Wailey, and T. Lummins, Living the Fishing (London: Routledge and Kegan Paul, 1983), especially Part IV. Similar evidence from Italian inshore fishermen, suggesting that such attitudes stem from inshore fishing rather than some other factor, appears in B. Cattarinussi, "A Sociological Study of an Italian Community of Fishermen". In P.H. Fricke, Seafarer and Community (London: Croom Helm, 1973), pp.30-43.

37. Sea Fisheries Regulation Act 1966, 1966 c38.

38. Source: Ministry of Agriculture, Fisheries and Food, Department of Agriculture and Fisheries for Scotland.

39. Fishery Limits Act 1964, 1964 c72.

40. It is perhaps apposite to ask why in this Cod War few, if any, British inshore fishermen sympathised with the Icelanders. The British inshore industry was at that time hardly threatened by large trawlers from any state - few large vessels pursued the herring on which most East Coast ports, save Hull and Grimsby, depended, - and the inshore white fish fleet had not yet became sufficiently-large or sophistocated to come into competition with the company-owned trawlers operating further out to sea. British inshore fishermen therefore had not yet experienced the frustrations under which their Icelandic counterparts laboured.

41. Ministry of Agriculture, Fisheries and Food. Report of the Committee of Inquiry into the Fishing Industry, January 1961. Command 1266. (London: HMSO, 1961).

42. Ibid., Paragraph 319.

43. The Board of Trade became part of a 'giant' Department of Trade and Industry in 1970 and re-emerged as an independent Department of Trade in 1974. These changes had no significant effect on the operation of the Board of its Marine Division.

44. Sea Fish Industry Act 1962, 10 and 11 Eliz. 2 c31, Para 10. Sea Fish (Conservation) Act 1967, 1967 c84, Para 5.

45. Water (Scotland) Act 1967, 1967 c78.

46. Water Resources Act 1963, 1963 c38.

47. Department of Agriculture and Fisheries for Scotland, Scottish Salmon and Trout Fisheries. First Report of the Committee appointed by the Secretary of State for Scotland, July 1963. Command 2096. (Edinburgh: HMSO, 1963), p.19.

48. 83% of all salmon taken in Scotland between 1952 and 1959 were taken by coastal and estuarial nets, compared with only 17% by rod and line, Ibid., pp.13-14.

49. Salmon and Migratory Trout (Drift-Net Fishing), Restrictions on Landing Order 1962, S.I. 1962/1394, and Salmon and Migratory Trout (Drift-Net Fishing), Licensing Order 1962, S.I. 1962/1393. 47. Sea Fish (Conservation) Act 1967, 1967 c84. Para. 84/5.

50. The Board's precursor, the Committee on Land Use in the Highlands and Islands, gave evidence to this effect to the Hunter Committee.

51. Ministry of Agriculture, Fisheries and Food, Report of the Committee on Salmon and Freshwater Fisheries, May 1961. Command 1350. (London: HMSO, 1964).

52. Department of Agriculture and Fisheries for Scotland, Scottish Salmon and Trout Fisheries, First Report op.cit.

53. Department of Agriculture and Fisheries for Scotland, Scottish Salmon and Trout Fisheries, Second Report of the Committee appointed by the Secretary of State for Scotland, August 1965. Command 2691. (Edinburgh: HMSO, 1965).

54. Ibid., Section 66.

55. Department of Agriculture and Fisheries for Scotland, Land Use in the Highlands and Islands. Report submitted by the Advisory Panel on the Highlands and Islands to the Secretary of State for Scotland on 27th October 1964 (Edinburgh: HMSO, 1964), Paragraphs 99-103.

56. In a personal interview with T. Dalyell MP, 20th November 1979, the author was told that the plan had failed principally because of Treasury opposition.

CHAPTER 5

UNITED KINGDOM POLICY ON FISHERIES AND THE LAW OF THE SEA, 1967

The UK role in the historical development of the law of the sea

The domination of the narrow-limit view in British policy had a long history, and while this study treats 1967 as a milestone, the Marine and Transport department of the FCO saw the year as a point on a continuum in the clarification of a well-established law of the sea. In this narrow limit view the bulk of the ocean consisted of High Seas, an area of free movement and free activity not open to seizure. Two elements in this simplified FCO view stand out. The first is that fisheries cannot easily be separated from other uses of the sea for the purposes of international law. Freedom of fishing was inextricably linked with freedom of navigation. The second is that maritime law was the object of clarification, of successive unfolding, in which the UK had played the leading part, rather than a set of political arrangements open to extensive changes.

In reality the international fisheries regime in 1967, like all international legal arrangements, was a reflection of historical power relationships between states within a fragmented state system. Viewed in this light, the development of maritime law over the previous three hundred years had basically consisted of a struggle between "maritime" states, that is states with the technology and wherewithal to exploit marine resources far from their own shores, and states lacking such long-distance potential, especially those with valuable coastal resources which they wished to protect, by expanding their internal and territorial waters.

During medieval times states had often tried to lay claim to large tracts of sea off their coasts, but with the expansion of trade and the development of larger and more mobile navies maritime states had begun to challenge "closed seas". During the fifteenth and sixteenth centuries the galley-owning states of the Mediterranean littoral had argued that, since a coastal state could only impose its sovereignty over the strip of sea lying within cannon-shot of the shore, the logical extent of the territorial sea was the range of cannon. The maritime lead had passed to North-Western Europe during the seventeenth century, and such maritime powers as France and Holland adopted the cannon-shot rule. Such an ill-defined width proved inadequate for the narrow entrance to the Baltic, and the Danes adopted a distance definition of four miles. The work of the Italian jurist Galiani in the 1780s led to the widespread adoption of three miles, a Southern European league and approximately the range of the larger shore-mounted guns then in use [1].

By the mid nineteenth century this standard was almost universally recognised, but it was pressure from maritime powers, rather than conviction, which ensured that few states claimed more. A number of economically-disadvantaged European states such as Italy, Russia, Portugal and Spain opposed the general rule of three miles because they wished to reserve the coastal living resources to their own nationals, in the face of fishing and hunting by better-equipped foreigners [2], and some Scandinavian countries clung to four miles. They were, however, unable effectively to extend their control beyond three miles because of the power of the maritime states, notably Britain. In 1900, for instance, Britain had forced Denmark to accept a treaty reducing Iceland's territorial waters from four to

three miles, a source of long-term resentment among Icelanders.

With no possibility of an increase in the width of territorial waters above three miles, the coastal states had increasingly resorted to subterfuges to maximise their internal waters, that is the waters landward of the territorial sea. This was done by pushing out to sea the baselines from which the latter was measured. Offshore islands, coastal standing ice, estuaries, bays and low tide elevations combined with shifting coastlines, meandering rivers and seasonal variations in tides to compound the problem. Many states laid claim to estuaries and bays as historic waters, holding that their control of them had never been successfully challenged. In 1869, Norway began to measure its territorial sea from a series of straight baselines linking points on the outer line of the skaergaard, the line of about 120,000 islands fringing the Norwegian coast, and thus enclosed as internal waters areas of sea more than twelve miles from land. In 1911 the Russian government claimed that the territorial waters were measured from "the lowest ebb-tide, or from the extremity of the coastal standing ice" [3].

The possibility that such nibbling at the High Seas might continue had led Britain to co-sponsor conventions on the law of the sea. It was willing to concede a little to coastal states in return for consistent delimitations of baselines. Thus a convention of 1882 provided that a state could incorporate as internal waters any bay with a distance between headlands of less than ten miles.

In the same vein the UK co-sponsored in 1930 a League of Nations Conference on the Progressive Codification of International Law at The Hague. This made considerable progress on baselines. On

coasts with a simple plan and profile the baseline should be measured from the low-water mark shown on official charts used or issued by the coastal state, with the proviso that the baseline should not 'depart appreciably from the line of the main low-water spring tide' [4]. Outermost permanent harbour structures should be considered as land for the purpose of drawing baselines, and where rivers, whatever their width, flowed directly into the sea, the baseline should be drawn across the mouth of the river. Where, however, a river flowed into an estuary, the latter should be treated according to the rules for bays. Similarly offshore islands and low-tide elevations generated territorial waters.

The Hague Conference also made some progress in delimiting the territorial sea within narrow straits. Nevertheless, it left a number of important issues unresolved. It failed adequately to define a bay, formulated no definition of estuaries, and developed no principles to govern the delimitation of territorial seas between adjacent states. The most serious omission of the Conference was, however, its failure to formulate a standard breadth for the territorial sea. It proved impossible to obtain sufficient support from the states attending the Conference to turn the three-mile territorial sea from an item of customary law into one of convention law. States identified positions on the breadth of the territorial sea ranging from three to twelve miles. Eleven states wanted a contiguous zone beyond the territorial sea, some merely for customs and sanitation functions, and some for security and for fisheries jurisdiction as well [5].

The Conference had thus failed to fulfil the UK's hopes that the law of the sea would be sufficiently tight to prevent coastal states

extending their jurisdiction. During the period between the 1930s and 1940s, an increasing number of states had begun to claim a territorial sea in excess of three miles. Having been unable to achieve its aims through the Conference, the UK had taken recourse to the International Court of Justice, and had unsuccessfully challenged the legality of the Norwegian practice of measuring its territorial sea from straight baselines across the skaergaard [6]. In response to a British submission that certain sections of the baseline did not respect the general direction of the coast, the judges stated that "however justified the rule in question may be, it is devoid of any mathematical precision" [7]. This judgement, therefore, effectively gave a carte-blanche for states to draw straight baselines between islands or across estuaries, a right to which a number of states had had recourse by 1967. The UK itself, while in general opposed to coastal state extensions of jurisdiction, had employed straight baselines in 1964 to close the Minches to foreign vessels.

More serious a challenge to UK policy than the uncertainty about baselines, however, were claims to extended jurisdiction in the water column justified by reference to the resources of the continental shelf. As a result of the heavy depletion of terrestrial oil reserves during the Second World War, states had begun to look with covetous eyes upon the oilfields lying below the seabed. The urgency of the situation led even Britain to suppress its worries about coastal state extensions, and in 1942 to negotiate with Venezuela a boundary dividing the "sea-bed and sub-soil outside of the territorial waters" [8] between Trinidad and Venezuela. This was followed in 1944 by a declaration by the government of Argentina deeming the epicontinental sea to be a temporary zone of mineral reserves, and then in September 1945, by the so-called 'Truman

Declaration':

> "Having concern for the urgency of conserving and prudently utilising its natural resources, the Government of the United States regards the natural resources of the subsoil and seabed of the continental shelf beneath the high seas but contiguous to the coasts of the United States as appertaining to the United States, subject to its jurisdiction and control."[9]

This claim had produced little dissension among maritime states, since it emphasised that the waters above the continental shelf beyond the territorial sea remained High Seas. However, Peru and Chile, for whom, because of the narrowness of the continental shelf off the West coast of South America, emulating Truman would have produced scant prizes, responded in 1947 with a claim to two hundred miles of sea floor and water column. This began a movement among South American countries for laying claim to a 200-mile "patrimonial sea", incorporating water column as well as seabed. The "Santiago Declaration" of 1952 saw Ecuador, Peru and Chile uniting to lay claim to marine space 200 miles from baselines.

This stance had found sympathy with other groups of developing countries, often for reasons of regional antagonism rather than principle. For instance, "Arab" states tended to favour extensions of coastal state jurisdiction in order to control the Gulf of Aqaba, and thus regulate the movement of shipping into the Israeli port of Eilat. Especially after 1957, the 'international community' grew as post-colonial states obtained independence. Being predominantly poor, or at least politically committed to preventing developed

states from exploiting their resources, these states tended to favour wide territorial seas, and some extravagant claims were made. New states could also argue convincingly that they had played no part in formulating the law of the sea, and were therefore not bound by it.

With the prospect of many more states' attaining independence during the late 1950s and early 1960s, leading maritime states (including Britain) saw it as imperative to settle the remaining law of the sea issues, notably that of the breadth of the territorial sea. The year 1958, therefore, saw the First United Nations Conference on the Law of the Sea, which succeeded in codifying and consolidating marine law into four 'Geneva Conventions' [10]. As had the Hague Conference it relied heavily upon technical and legal experts, although more inputs were overtly 'political', that is, expressions of state interests, than had been the case in 1930.

Some concepts which had not been included in the report of the Hague Conference were incorporated in the Geneva Conventions. Technical agreement was reached on the treatment of bays which have coasts belonging to a single state, and the existence of 'historic' bays was confirmed, although they were not identified [11]. Coastal state sovereignty over continental shelf mineral resources and sedentary species was confirmed [12], as was the use of straight baselines for indented coastlines and fringing islands, largely incorporating the wording of the ICJ decision. The median line was adopted for the delimitation of territorial seas between adjacent states [13]. The 'contiguous zone' was also incorporated into convention law, and in this zone a state would be able to exercise the necessary controls to a distance of twelve miles from baselines to:

"(a) Prevent infringement of its customs, fiscal, immigration or sanitary regulations within its territory or territorial sea; (and)

(b) Punish infringement of the above regulations committed within its territory or territorial sea." [14]

The zone was intended by its original sponsor, Canada, as a compromise which would enable coastal states to exercise some special powers beyond their existing territorial sea without extending their sovereignty.

Despite its obvious success, the 1958 Conference failed to make headway on a number of issues. No progress was made in determining the status of the waters between the islands of an archipelago, in defining estuaries, or in identifying historic bays. Above all, no firm agreement was made on a standard width for the territorial sea, a compromise of a territorial sea of six miles and a contiguous zone of six miles narrowly failed to command the necessary two-thirds majority of the Conference's eighty-six participant states. A further attempt to solve these remaining problems led to a Second United Nations Conference on the Law of the Sea in 1960, which broke up without making any significant contribution.

The situation in 1967

International marine law in 1967 thus rested upon an uneasy mixture of unilateral assertions, customary practice, and convention law, principally based on the Geneva Conventions of 1958. The Conventions represented a triumph for the maritime states, especially with regard to navigation. On the High Seas, defined as "all parts

of the sea that are not included in the territorial sea or in the internal waters of a state" [15], a regime of flag state jurisdiction was to hold sway. The Conventions were thus very satisfactory for the FCO position. The Geneva Convention on the territorial sea and the contiguous zone provided for a clear right of innocent passage through the territorial sea:

> "There shall be no suspension of the innocent passage of foreign ships through straits which are used for international navigation between one part of the High Seas and another part of the High Seas or the territorial sea of a foreign state" [16].

A coastal state could take "the necessary steps" to prevent passage which is not innocent [17], but this did not amount to much. The criminal jurisdiction of the coastal state applied to a foreign commercial ship passing through the territorial sea only in specified limited circumstances, and the only power which could be applied against a warship was to require it to leave the territorial sea [18]. The Geneva Convention on the High Seas placed no limitation on navigational freedoms.

The Geneva Convention on the Continental Shelf confirmed the sovereignty of coastal states to the resources of the shelf in as deep water as could technically be explored. This exploitability criterion effectively laid the seabed open to progressive annexation by coastal states as the technology of exploitation improved.

> "the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a

> depth of 200 metres or, beyond that limit, to where the depth of the superadjacent waters admits of the exploitation of the natural resources of the said areas."[19]

The only limit to navigation would be a 500-metre safety zone around each installation related to the exploitation of these resources. The UK had accordingly taken steps to divide the continental shelf between itself and other states of the North Sea littoral, using the ICJ and the application of the median-line principle. Under a section of the Convention on the Territorial Sea and Contiguous Zone, permitting straight across baselines and highly indented coastlines[20], it had been able effectively to shield the important inshore fishing areas of the Minches and the Firths of Forth, Clyde, and Moray, from the High Seas regime. The Bristol Channel was accorded similar protection by having been proclaimed an historic bay.

Despite its willingness to extend internal waters in this fashion, the UK was alarmed at the inability of the 1958 Conference to define a standard width to the territorial sea. In effect this was left open to state interpretation and the UK had therefore set itself firmly against attempts by states to extend their sovereignty in this way. Within the context of this overwhelming concern with navigation, international fisheries law was essentially a by-product. Since the sovereignty of a coastal state extends to the outer limit of the territorial sea [21], no rights of fishing by foreign vessels within the area were provided for in the Convention. However, foreign fishing vessels were guaranteed innocent passage, and in return had to observe the coastal state's fisheries regulations:

> "Passage of foreign fishing vessels shall not be considered innocent if they do not observe such laws and regulations as the coastal state may make and publish in order to prevent these vessels from fishing in the territorial sea."[22]

In fact, the rights of states to protect coastal fisheries specifically from foreigners were very limited. The coastal state possessed no exclusive right to the fisheries resources of the contiguous zone. Even if a North-West European state were to make use of the ill-defined width of the territorial Sea and extend its sovereign jurisdiction, it would have found it impossible unilaterally to extinguish historic rights established by a European Fisheries Convention of 1882, since the Geneva Convention on the Territorial Sea and Contiguous Zone stated:

> "The provisions of this Convention shall not affect Conventions or other international agreements already in force, as between States Parties to them." [23]

These limitations on the effective power of coastal states over coastal fisheries resulted from a general conviction in 1958 that zones of fisheries jurisdiction could not be extended without affecting navigational freedoms. Firstly, fisheries jurisdiction established a claim over a resource in the water column, and was thus a blurring of the distinction between the continental shelf, managed by the coastal state, and the High Seas above it. Coastal state jurisdiction over fisheries beyond the territorial sea was therefore a threat to the unity of the concept of the High Seas. Also, since the exploitability criterion allowed coastal states progressively to

the Convention on Fishing and Conservation of the Living Resources of the High Seas [25], committed states to regulating the activities of their nationals. This provided that states should co-operate for conservation purposes and to obtain MSY from fish stocks [26]. In the pursuit of effective functional co-operation, this Convention partially negated one of the central gains of maritime states from the Convention on the Territorial Sea and Contiguous Zone. It conceded that coastal states had a special interest in conservation, and permitted them non-discriminatory conservation measures, "based on appropriate scientific findings", on the High Seas to an undefined distance: "in any area of the High Seas adjacent to its territorial sea" [27].

It was the reliance placed upon "appropriate scientific findings" which was to prove an area of disagreement. The dispute settlement procedure, with special commissions of five members to hear disputes with advice from the UN Secretary-General, the ICJ, and the FAO [28], was to be little used. An optional protocol, signed by the UK, gave the ICJ jurisdiction over all contracting parties [29]. Iceland refused to sign, leaving its way open to declare an extension of its jurisdiction by reference to conservation and without reference to the ICJ.

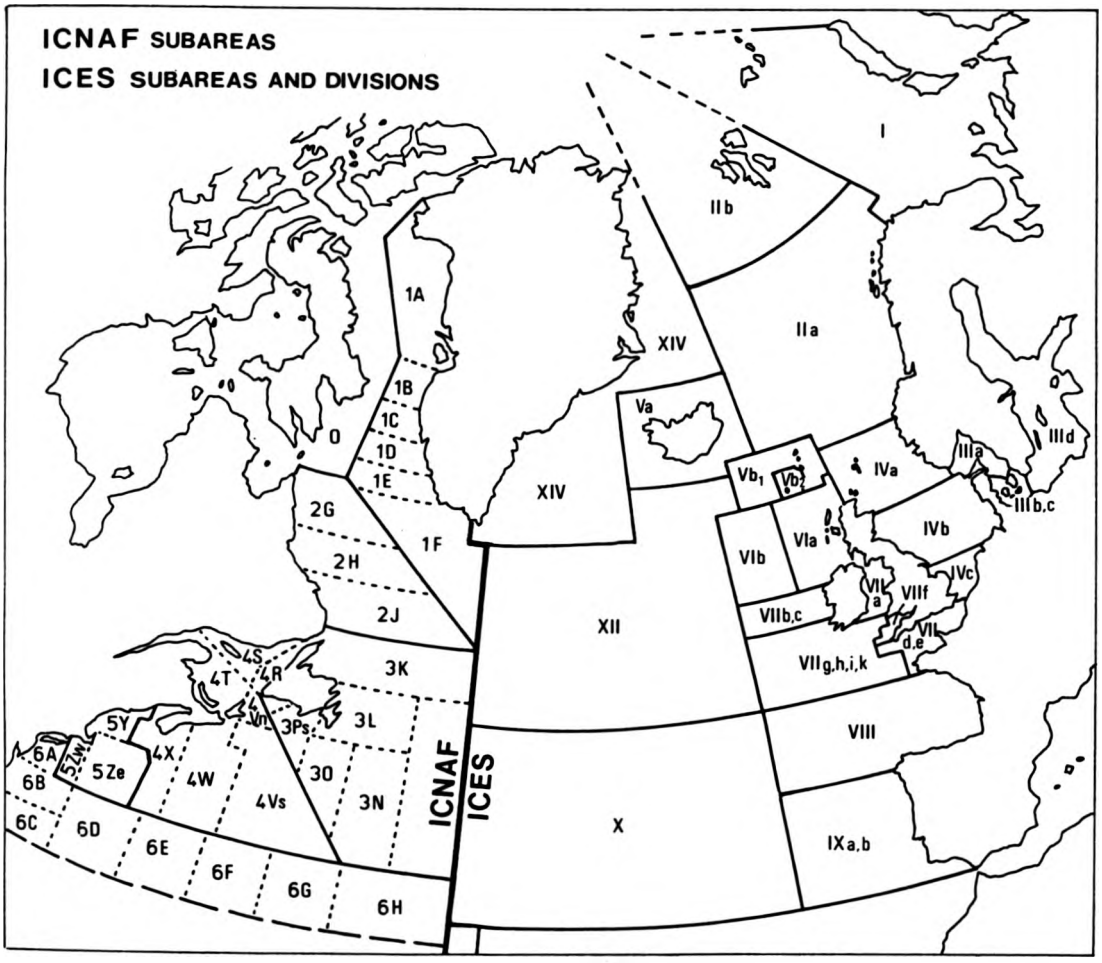
Disappointed by the Conventions' failure clearly to define a territorial sea in excess of three miles, and thus help it to reverse the imposition of three miles earlier in the century, Iceland had almost immediately moved to take advantage of the lack of a clear distance criterion, unilaterally extending its fisheries jurisdiction to twelve miles in 1958. This had met with staunch opposition from the UK, and from 1958-61 RN frigates had patrolled Icelandic waters

to enforce the British 'right' to fish there. Other states had followed Iceland's lead, and it had soon become evident that the UK was out of step with the majority of its neighbours. The move to twelve-mile zones of fisheries jurisdiction had been regionalised by the Fisheries Convention [30] in early 1964, and only then had the UK extended its limits in accordance with this Convention by the Fishery Limits Act of 1964 [31]. This tardiness illustrates the lack of influence of the British inshore fishing industry in government counsels, providing a precursor to FCO handling of later moves to extend fishery limits. The Foreign Office had applied a principle in 1960-4 which it was to apply in the 1970s. This was to oppose coastal state extensions of jurisdiction until they appear inevitable, and then to participate in multilateral negotiations to ensure an orderly transition to the new regime. The Fisheries Convention granted the coastal state exclusive jurisdiction over fish-stocks to a distance of twelve miles from its baselines, with a guaranteed right for the nationals of states whose fishermen had fished between six and twelve miles from a coast between 1st January 1953 and 31st December 1962 to continue to do so. These historic rights constituted a serious limitation upon the powers of the coastal state in its extended zone of jurisdiction. Although the coastal state was empowered to exclude fishermen of new entrant states, and to apply conservation measures equally to fishermen of all states, it had no right to limit the fishing effort or catch of nationals of these states with historic rights. Also, because the rights were enjoyed by states rather than by individual fishermen there was no limit on the intensity of foreign fishing effort.

The Regional Fisheries Commissions

If the global regime was potentially unstable, the UK had had a happy experience of regional co-operation. The UK had worked to encourage inter-governmental co-operation in fisheries management in part in order to prevent any crises of regime which might threaten the High Seas. In addition there was a recognition that effective conservation required due attention to the nature and location of fish stocks, regardless of the boundary between the area of coastal state jurisdiction and the High Seas. This co-operation had gradually established regional regimes covering the whole of the North Atlantic (Figure 5.1). Under these the boundary between fisheries limits and High Seas was one between coastal state enforcement and flag state enforcement of the same international regulations. The Copenhagen-based ICES remained the forum for the interchange of scientific research into fisheries in the North-Eastern Atlantic, providing evidence for governmental and intergovernmental decisions. As might be expected (see Chapter 2), measures designed to prevent growth overfishing had been fairly successful, while recruitment overfishing had been largely ignored. It had been decided at the annual meeting of the ICES in 1939 to establish a commission to make regulations about mesh sizes, but it was not until 1946 that this was achieved, by the "Overfishing Convention", which came into force in 1954 [32]. The form of that Treaty current in 1967 bound fourteen states to co-operate, through a "Permanent Commission", in preventing overfishing in the area North of 48 degrees North and between 42 degrees West and 32 degrees East, excluding the Baltic, and laid down minimum net and landed fish sizes for the principal species [33].

Figure 5.1: Chart of ICNAF and ICES statistical areas [34].



The success of this Commission in preventing growth overfishing and in increasing yield [35] had led the states to establish the North-East Atlantic Fisheries Commission (NEAFC) [36], with a "permanent Secretariat" (actually one official and two typists on part-time secondment from the Ministry of Agriculture, Fisheries and Food) in London. The Commission, which consisted of one voting Commissioner from each member state, met only once per year [37]. Its area of concern was larger than that of the Permanent Commission, in that it covered the whole of the ICES area, that is, the North Atlantic North of 36 degrees North between 42 degrees West and 51 degrees East, excluding the Baltic, the Mediterranean and certain small areas. The Commission incorporated the Permanent Commission, and enjoyed a wider mandate than the latter, being empowered to recommend closed seasons, closed areas and the prescription or proscription of fishing gear, all measures tackling growth rather than recruitment overfishing. Provision was also made for any other non-discriminatory conservation measures agreed upon and ratified by two-thirds of the states [38]. The area was to be divided into three regions, each with a Regional Committee.

The FCO placed great faith in the NEAFC regime, both because it had presided over a considerable increase in aggregate catch and because it involved functional co-operation between government departments directly concerned with fisheries, thus safeguarding the High Seas from coastal state extensions without the excessive interference by diplomats which might bring wider foreign or economic policy considerations into play. Since the narrow limits regime was to the FCO's preference, this functional co-operation accorded special advantages to the UK. In addition to providing the Secretariat, the UK acted as repository for all treaties relevant to the Commission.

The British government, therefore, responded warmly to NEAFC initiatives, and the UK was the first state to ratify the NEAFC Convention, as it had been for the Treaty on Overfishing which preceded it.

By 1967, despite the NEAFC's spectacular success in expanding the catch, certain deficiencies were becoming apparent in its operation. Mesh size regulations had not prevented large by-catches of undersized fish of species other than the target species, and had been shown to benefit the smallest species available for capture, since only its juveniles ran no risk of entrapment in a net intended for another species. The larger the adult form of a species, the greater the number of nets of which its juveniles could fall foul. The young of the largest food fish, like cod and haddock, ran the risk of capture in every net save those actually set for their parents. Mesh size regulations thus contributed to a decline in food fish stocks and a rise of stocks of species too small for useful exploitation for human consumption ("trash species"), like sandeels and sprats. This in turn provided the stimulus for a rapid expansion of "industrial" fishing, especially from the mid-1960s onwards (see Figure 9.2), with new, smaller meshes and even worse by-catches. Also, the growth in catches in the 1950s and 1960s encouraged fishermen from Spain, Portugal, the USSR and Bulgaria, who had not previously fished in the NE Atlantic, to begin doing so. These damaging effects were not obvious in 1967, because the limits of annual yield for many species had not yet been reached, and because a succession of mild Springs in the 1960s favoured larval survival.

The Commission had thus proved a useful body in expanding catches

while stocks were plentiful, but could not be so when catch reductions were required to save threatened stocks. There was no incentive for any signatory state unilaterally to stop its nationals from fishing such a stock, while other states might permit their nationals to continue. The Commission could do little to prevent non-signatory states from fishing in its area, because the bulk of it was High Seas. The only way to bring these newly-entrant states under the Convention was to recognise their right to a share of the catch. This had the effect of making reductions in effort still more difficult to achieve. Also, any NEAFC initiative could be sabotaged by the objections of any three member states, a provision which discouraged radical new initiatives [39].

This inability to protect stocks was beginning to point to impending disaster in herring, although few other stocks appeared to be in danger. Two extremely valuable stocks of herring, which might in their prime have yielded a sustainable annual catch of two million tonnes, were on the point of collapse. Fishing the East Anglian stock ceased in 1967, to be followed by the Atlanto-Scandian the following year. In addition, the Arcto-Scandian cod stocks had narrowly escaped collapse during the late 1950s and early 1960s, because fishing was not reduced in the face of poor recruitment [40]. As the Commission's decision-making body consisted of state representatives rather than scientists, there was no means of translating ICES evidence on recruitment into changes in catch levels. Even had there been such a system, the NEAFC would have been faced with two difficult problems: that of distributing the allowable catch between states, and that of ensuring that fishermen complied with undertakings made in the NEAFC. Policing was solely in the hands of flag states, the only international limitation upon

state independence being a clause in the 1882 Fisheries Convention requiring vessels on fishery protection duties to fly a blue and yellow pennant [41]. Most member states showed little enthusiasm for a system which would permit states to search each others' fishing vessels, and although states were begining to denounce the Fisheries Convention there was no rush to embrace a system of joint enforcement. The Commission was thus wholly dependent upon flag-state policing [42]. The framework for joint enforcement was agreed upon in the NEAFC in 1967, but ratification was long denied by states for whom the general principle of freedom of navigation was more important than effective conservation of fish stocks.

Fisheries in the North-Western Atlantic were regulated by the International Commission for the North-West Atlantic Fisheries (ICNAF). This Commission had been established in 1949 by a meeting of representatives of the principal states fishing the area [43]. The North-West Atlantic's most important coastal states, the USA and Canada, were enthusiastic supporters, having co-operated extremely successfully in the regulation of Pacific halibut before the War. As originally constituted, ICNAF's area of operations was divided into five sub-areas. Subsequent reorganisation had increased this number to six by 1967 (see figure 5.1). Each sub-area had a panel representing those states whose nationals habitually fished there, the UK being represented on the panels for sub-areas One (West Coast of Greenland) and Three (Grand Banks). Each sub-area was further sub-divided because of the localised nature of stocks. ICNAF enjoyed the following advantages which the NEAFC lacked, and by the mid-1960s was a much more experienced and effective body than its counterpart. Firstly the Commission was responsible for obtaining and collating its own scientific information [44]: this strengthened

the power of scientists to influence decisions. Secondly ICNAF had begun work with a fairly ambitious programme, whereas the NEAFC had slowly evolved from the Permanent Commission. Thirdly although both Commissions were empowered to establish overall catch limits on the approval of two-thirds of member states [45], in the case of the NEAFC any member state could refuse to abide by agreed catch limits [46]. Neither Treaty had, however, foreseen a necessity for this overall catch to be allocated as quotas between states.

ICNAF also took a broader view of its task than the NEAFC, and the Convention had been extended to molluscs in 1961 [47] and to hood and harp seals in 1963 [48]. By January 1967 the Commission's membership consisted of thirteen states, ten of them also being members of the NEAFC (see Figure 5.2). Policing had been internationalised, a protocol of 1965 permitting the Commission on its own initiative to make proposals for national and international measures of control on the High Seas. It had been agreed that from 1969 onwards states would be able to inspect each others' vessels [49].

Figure 5.2: Membership of the North Atlantic Fisheries Commissions, 1st January 1967 [50].

NEAFC only	Both Commissions	ICNAF only
Belgium	Denmark	Canada
Ireland	France	Italy
Netherlands	Federal Republic of Germany	USA
Sweden	Iceland	
	Norway	
	Poland	
	Portugal	
	Spain	
	USSR	
	UK	

Britain was also represented on the General Fisheries Council for the Mediterranean, which since 1952 had been involved in the interchange of biological and oceanographic information [51]. The Council was of

no importance to the British fishing industry, membership being exercised on behalf of UK colonies in the Mediterranean. After the independence of Malta in 1964, membership served no purpose and the UK withdrew from the Council in 1968 [52].

In 1967 there was little dissatisfaction with either the NEAFC or ICNAF except among some marine biologists. With the benefit of hindsight, however, it is difficult to see why the experience of the International Whaling Commission (IWC) was not seen as a portent for that of the NEAFC. The establishment of the IWC in 1946 had been prompted by the same motives and scientific work which inspired the Fisheries Commissions. The avowed purpose of the Whaling Commission was to ensure a whale catch at MSY [53], and its membership consisted of all states engaged in whaling at the time of its establishment. By 1967 the Commission had shown itself to be totally ineffective in preventing a continuous decline of stocks for almost every species. Whaling by UK citizens had ceased; British membership had been primarily maintained in order to reduce the allowable catch, a goal shared by the majority of the members. However, decisions had to obtain agreement of three-quarters of the members present and voting. Thus the minority of members still engaged in whaling, and hoping at least to amortise the capital invested in their fleets, were able to set catch levels substantially above those recommended by the scientists. In the absence of agreement at an annual meeting there was an ever-present danger that whaling countries would denounce the Convention, so even in a situation of declining stocks it was the majority who wished to lower allowable catches greatly, rather than the still-whaling minority, who were under greater pressure to come to terms. This situation was to be mirrored in the NEAFC in the early 1970s, and the power of a minority of IWC-member states

determined to protect the investments of their nationals was a precursor of wrangles in the NEAFC about industrial fishing for herring and about High Seas salmon-fishing. The NEAFC was also to experience another IWC problem, that of its own enlargement. As more states joined the Commissions they had to be allocated shares of the catch and the problem of obtaining agreement became compounded by the growing number of states involved. Moreover the new members had only recently attained the capacity to exploit the stocks in question and therefore were not keen to reduce their catch. This problem was an extremely grave one for the IWC, to the extent that the proportion of members voting for a complete ban on whaling was to decline during the 1970s, despite an unmitigated decline in whale stocks.

A summary of UK policy on international fisheries questions in 1967

The fishing industry performed three main roles for British government. Two of these were economic: to supply food to a state heavily dependent upon food imports, and to provide work in some regions which offered few alternative sources of employment. These two roles were primarily the concern of MAFF and the Ministry of Labour respectively. The industry's third role was performed by the distant-water industry alone. By asserting the right of UK citizens to fish close to the shores of other states, it strengthened the hand of the Ministry of Defence and the Foreign Office in their high policy concern that a maximal interpretation of High Seas freedoms should be maintained in international law.

The question of fisheries limits was regarded by the Foreign Office as too vital for UK policy as a whole to allow any other government Department a share in international negotiations on the issue. In

1967 this fact was not important in determining policy outcomes, since the interpretation of the national interest held by the Foreign Office was also endorsed by the Ministry of Defence, MAFF, and the Board of Trade. There was common agreement between them that the United Kingdom should endeavour to maintain the narrowest possible limits to national jurisdiction. If extensions had to be conceded, then this should be done simultaneously by as many states as possible, in order to minimise international disputes and to ensure a predictable international environment.

In keeping with the concept of maximum state freedoms on the High Seas, all policing of fishing and related activities beyond fisheries limits should be undertaken at the behest of flag states. Inter-state co-operation should take the form of intergovernmental contacts between specialised government agencies bound by mutual undertakings to constrain their nationals according to agreements formulated. The only exception was the ICNAF Joint Enforcement Scheme, whereby, under circumstances of complete reciprocity and non-discrimination, the UK had relaxed its preference for flag-state enforcement. The maintenance of fish stocks was to be ensured by this intergovernmental activity, bolstered by scientific advice, and the Fisheries Commissions were the appropriate decision-making bodies. Rights and duties appertained to states, international persons, rather than to individuals. For this reason foreign access to fish stocks within national fisheries limits was to be determined by reference to historic rights, that is, whether or not any citizens of another state had habitually fished in an area. This implied that states could not limit the aggregate fishing effort of other states enjoying historic rights within their fisheries limits but beyond the territorial sea, although they could prevent encroachment

by newly-entrant states. For the UK this zone lay between the three and twelve-mile limits.

The Foreign Office did not concern itself with the economics of the fishing fleet. The common view of the Board of Trade, MAFF and the Ministry of Labour was that government subsidies were proper and necessary. One type of subsidy was the shouldering by government of some responsibilities for research, and was regarded as permanent. The perishable nature of the catch and uncertain fishing prospects had forced such a development in the early 1930s, and proper scientific information about fish stocks was vital if the free seas policy was to be reconciled with the biological realities of fish populations. Postwar economic losses had added another type of subsidy, refined by the Fleck Committee, which was meant to improve the efficiency of fish catching and processing. The prevailing opinion in Whitehall was that when the fleet was "modern" and "competitive" this subsidy would no longer be necessary.

On the question of anadromous fish, there was general agreement that government policy should seek to maximise the run of fish, and there was a clear determination in the Foreign Office and MAFF that the key to the protection of British salmon outside British fisheries limits lay with ICNAF and NEAFC. The distribution of the anadromous catch among UK domestic interests was to be in accordance with internal economic and political pressures, and in 1967 there was no clear government policy as to the action which should be taken.

Summary of Part II

Fisheries is an issue area with specific biological and economic

imperatives. In 1967 the fisheries regimes holding sway over the fishing grounds of interest to the UK were not primarily designed with these imperatives in mind, but were formulated in order to minimise state interference with High Seas freedoms. That is not to say that the regimes were wholly inappropriate for the management of fisheries. HMG had played a leading part in the institution of functional intergovernmental Fisheries Commissions. However, these Commissions were hampered by the flag state authority central to the concept of the High Seas, and were therefore insufficiently authoritative to ensure the adjustments necessary in fishing effort in response to stock changes.

The structure of Whitehall ensured that the UK did not use its authority to help create a strong and authoritative system of fisheries management. Fisheries was a relatively low economic and strategic priority when compared to other principal uses of the sea, and policy on issues of relevance to fisheries questions were subordinated to other interests, notably that of freedom of navigation. The principal domestic importance of fisheries was its contribution to employment, and the latter could more easily be maintained by subsidies than by a new maritime regime predicated on the nature of fisheries and inimical to more vital UK marine interests.

The fisheries "sponsoring departments" occupied a weak position within the Whitehall structure. This problem was compounded by the fact that the message which the fishing industry conveyed to them was confused by the organisational fragmentation of the industry and by the lack of congruence of the interests of the inshore and the "deep sea" sections of the industry. Parliamentary activity on fisheries

questions was often inappropriate and ill thought out, with no partisan differences. While several MPs were dependent upon the votes of fish-processing workers there were few constituencies where fishermen constituted a sizable proportion of the electorate. These constituencies mostly centred around the home ports of the deep sea fleet, with the votes dependent upon the inshore fleet being distributed between many more ports.

The international regime rested largely upon the Geneva Conventions of 1958, and was based upon a maximal area of High Seas and a narrow band of coastal state control. The fisheries commissions were attempts to reconcile the legal regime for the freedom of fishing and the biological imperative for catch limitations, and had met with considerable success in times of expanding catches, following the stock gains of the Second World War, but promised to be less successful in times of falling stocks. No mechanisms existed to limit fishing effort or capacity, and thus the scene was set for economic losses and stock decline. These problems were exacerbated by the willingness of governments, including that of the UK, to use subsidies to render their fishing industries' economics less shaky, thus building in overcapacity.

These uncertainties were intensified by a mounting tendency for states to claim enlarged territorial or patrimonial seas and by a number of gaps in the Geneva Conventions. These included the lack of a distance criterion for the seaward boundary of the territorial sea and the contiguous zone, and the absence of an effective boundary to the continental shelf because of the exploitability criterion. While these issues did not directly concern fisheries, they had two main implications for fisheries law. Secondly, although the

Convention on the Continental Shelf clearly defined the sedentary species appurtaining to the coastal state, claims to the shelf bore upon claims to the water column. Apart from the explicit link between shelf and water column asserted in the Santiago Declaration, there was the more pedestrian problem that bottom trawling for demersal fish beyond fisheries limits, the right of any state, could damage sedentary stocks, which were solely the property of the coastal state. In the face of these challenges the UK had an extremely long-term maritime policy of refining the law of the sea to perfect the freedom of the seas, and HMG, especially the FCO, was structurally unprepared for a re-examination of that policy, which was regarded as fundamental.

Notes

1. F. Galiani, De Doveri de' principi neutrali verso i principi guerregianti, e di questi verso I neutrali, (Naples, 1782).

2. J.V.R. Prescott, The political geography of the oceans, (Newton Abbot: David and Charles,1975), p.43.

3. P.C. Jessup, The law of territorial waters and maritime jurisdiction (New York: Jennings, 1927), p.28.

4. "Report of the Second Committee on the Territorial Sea", American Journal of International Law, (Supplement to Vol. 24), 1930, pp.247-8.

5. B. Buzan, Seabed Politics, (New York: Praeger, 1976), pp.4-5.

6. International Court of Justice, "Fisheries Case - Judgement of 18 December 1951", Reports of Judgements, Advisory Opinions and Orders (Leyden: Sjitoff, 1951), pp129-142. A useful summary and analysis appears in T. Kobayashi, The Anglo-Norwegian Fisheries Case of 1951 and the Changing Law of the Territorial Sea, (Gainesville: University of Florida Press, 1965).

7. Ibid., pp.141-2.

8. Prescott, op. cit., p.144.

9. "Declaration concerning the Continental Shelf". Reproduced in American Journal of International Law, (Vol. 40), 1946. Supplement of Official Documents, pp.45-6.

10. "Convention on the Territorial Sea and Contiguous Zone", Geneva, 29th April 1958. Ratified by UK 14th March 1960. Entered into force 10th September 1964. Treaty Series 3 (1965). Command 2511. (London: HMSO, 1965).
"Convention on the Continental Shelf", Geneva 29th April 1958. Ratified by UK 11th May 1964. Entered into force 10th June 1964. Treaty Series 39 (1964). Command 2422. (London: HMSO, 1964).
"Convention on the High Seas", Geneva 31st October 1958. Ratified by UK 14th March 1960. Entered into force 30th September 1962. Treaty Series 5 (1963). Command 1929 (London: HMSO, 1971).
"Convention on Fishing and Conservation of the Living Resources of the High Seas", Geneva 29th April 1958. Ratified by UK 14th March 1960. Entered into force 20th March 1966. Treaty Series 39 (1966). Command 3028. (London: HMSO, 1966)

11. "Convention on the Territorial Sea and Contiguous Zone", Article 7.

12. "Sedentary species" were defined as "organisms, which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil". "Convention on the Continental Shelf", Article 2.

13. "Convention on the Territorial Sea and Contiguous Zone" , Article 12.

14. Ibid., Article 24.

15. "Convention on the High Seas", Article 1.

16. "Convention on the Territorial Sea and Contiguous Zone", Article 16/4.

17. Ibid., Articles 14 and 16.

18. Ibid., Article 23.

19. "Convention on the Continental Shelf", Article 1. An interesting discussion of the implications of Article 1 appears in J. Grolin, The future of the law of the sea: Consequences of a non-Treaty or non-universal-Treaty situation. Unpublished paper, University of Aarhus, September 1982.

20. "Convention on the Territorial Sea and Contiguous Zone", Articles 4 and 7.

21. Ibid., Article 1.

22. Ibid., Article 14.

23. Ibid., Article 25.

24. "Convention on the High Seas", Article 2.

25. See Note 10.

26. "Convention on Fishing and Conservation of the Living Resources of the High Seas", Articles 1 and 2.

27. Ibid., Articles 6 and 7.

28. Ibid., Article 9.

29. "Optional Protocol of signature concerning the compulsory settlement of disputes arising from the Law of the Sea Conventions", Geneva 29th April 1958. Treaty Series 60 (1963). Command 2112. (London: HMSO, 1963).

30. "Fisheries Convention", London 10th April 1964. Ratified by UK 11th September 1964. Entered into force 15th March 1966. Treaty Series 35 (1966). Command 3011. (London: HMSO, 1966)

31. Fishery Limits Act 1964, 1964 c72.

32. "Convention for the Regulation of the Meshes of Fishing Nets and the Size Limits of Fish", London 5th April 1946. Treaty Series 8 (1956). Command 9704. (London: HMSO, 1956).

33. "Convention for the Regulation of the Meshes of Fishing Nets and the size limits of fish", London February 1963. Treaty Series 11 (1963). Command 1942 (London: HMSO, 1963).

34. Source: Ministry of Agriculture, Fisheries and Food.

35. The aggregate annual catch in the NEAFC area increased from 6 million tonnes in 1953 to 9 million in 1966. UN Document A/AC.138/SCII/SR14. Summary Record of the Fourteenth Plenary meeting of Sub-Committee II of the UN "Seabed Committee", 17th August 1971. In UN Committee on the Peaceful Uses of the Seabed and the Ocean Floor beyond the limits of National Jurisdiction, Sub-Committee II, Summary Record of the 4th to the 23rd meetings held at the Palais des Nations, Geneva from 22nd July to 26th August 1971, (New York: United Nations, 1971), p.140.

36. "North-East Atlantic Fisheries Convention", London 24th January 1959. Ratified by UK 27th August 1959. Entered into force 27th June 1963. Treaty Series 68 (1963). Command 2190. (London: HMSO, 1963).

37. Ibid., Article 3.

38. "North-East Atlantic Fisheries Convention", Article 7.

39. Ibid., Article 8.

40. D.H. Cushing, Science and the Fisheries (London: Edward Arnold, 1977). p.42.

41. "International Convention for regulating the policing of the North Sea Fisheries", The Hague 6th May 1882. Commercial Series 11 (1884). Command 3928. (London: HMSO, 1882).

42. A policing convention, the "Convention on conduct of fishing operations in North Atlantic", to permit contracting states to board each others' vessels in the NEAFC area was drawn up in 1967 but failed to enter into force until 1975. The UK was in favour and provided for enabling legislation in Section 9 of the Sea Fisheries Act 1968, 1968 c77.

43. "International Convention for the North West Atlantic Fisheries", Washington 8th February 1949. Ratified by UK 15th December 1949. Treaty Series 62 (1950). Command 8071. (London: HMSO, 1950).

44. Ibid., Article VI.

45. Ibid., Article VIII.

46. "North-East Atlantic Fisheries Convention", Articles 7 and 8.

47. "Declaration of understanding regarding the International Convention for the North West Atlantic Fisheries, concerning mollusks [sic]", Washington 24th April 1961. Treaty Series 71 (1963). Command 2140 (London: HMSO, 1963).

48. "Protocol to extend the provisions of the International Convention for the North West Atlantic Fisheries signed at Washington in February 1949 to harp and hood seals", Washington 15th July 1963. Treaty Series 40 (1966). Command 3044. (London: HMSO, 1966)

49. "Protocol to the International Convention for the North West Atlantic Fisheries signed at Washington on 8th February 1949 relating to measures of control", Washington 29th November 1965. Ratified by UK 16th August 1966. Entered into force 19th December 1969. Treaty Series 74 (1970). Command 4436. (London: HMSO, 1970). Operationalised by the Foreign Sea Fishery Officers (International Commission for the Northwest Atlantic Fisheries Scheme) Order 1971, SI 1971 No. 1103.

50. "Second Supplementary List of Ratifications, Accessions, Withdrawals, etc. for 1968". Treaty Series 85 (1968). Command 3808. (London: HMSO, 1966).

51. "Agreement for the establishment of a General Fisheries Council for the Mediterranean as amended on May 22th 1963 by the first special session of the General Fisheries Council for the Mediterranean", Rome 24th September 1949. Ratified by UK 20th November 1950. Entered into force

20th February 1952. Treaty Series 40 (1964). Command 2437. (London: HMSO, 1964).

52. "Second Supplementary List of Ratifications. Accessions, Withdrawals, etc. for 1968", op. cit.

53. "International Convention for the regulation of whaling", Washington 2nd December 1946. Entered into force 17th June 1947. Treaty Series 5 (1949). Command 7604. (London: HMSO, 1949).

PART III

CHALLENGES TO THE SHAPE OF THE POLICY AFTER 1967

If the UK's devotion to a narrow limits policy had a long history and appeared to be effectively underpinned by the coincidence of a number of factors, many of these factors entered a period of rapid change from 1967, presenting repeated challenges to the maintenance of policy. Although the underlying rationale of HMG's devotion to the freedom of navigation and the High Seas was one of FCO 'high' policy, the operation of most arrangements dependent upon it was devolved to sponsoring departments such as the Fisheries departments and the Board of Trade. These departments therefore bore the brunt of attempts to maintain policy in the face of challenges to it, and where policy change took place it was incremental, limited and subordinate to the overall 'high' policy.

The number and variety of the challenges presented to the policy are remarkable. Firstly the period after 1967 saw a rapid growth in the relative importance to the UK of coastal state factors. In part this involved the decline in the strength of maritime factors. The number of vessels in the merchant navy and the shipbuilding industry both continued to shrink as they had done almost continuously since the First World War, and UK-registered merchant tonnage was gradually surpassed by that of several other states. The Royal Navy's dependence upon narrow straits close to the shores of developing countries also declined, with a withdrawal of all British forces stationed East of Suez by 1971. The UK dependence upon seaborne trade remained undiminished, but after British accession to the European Economic Community there was a gradual reorientation of UK

trade relationships from distant Commonwealth countries to European ones.

The decline in the strength of these maritime factors was accompanied by a rise in the importance to the UK of coastal state factors. Some of these involved the exercise of High Seas freedoms close to UK shores. The number of collisions and founderings in the Channel and the Dover Strait increased rapidly, arguing for greater coastal state control over traffic routeing. A growing public awareness of the pollutive potential of waste materials dumped on the continental shelf also led HMG to seek stronger powers over what was dumped and where. In both cases the initial governmental reaction was to seek a flag state solution. Another coastal state factor rapidly growing in importance was the rise of the continental shelf oil industry. It promised to make extremely large contributions to employment and to GNP (the balance of payments issue vanished with the floating of most major currencies in 1971). Most telling however was the manner in which oil became almost the principal strategic concern of the West as a result of the OPEC oil price rise and the OAPEC oil boycott of 1973-4. The rise in the number and technological sophistication of terrorist groups made the task of protecting oil-related installations on the shelf more difficult and argued for stronger controls upon navigation through the oilfields.

Secondly a Resolution of the UN General Assembly in 1967 led to the reopening of international dicussions of the law of the sea, and to negotiations very different from the Conferences at the Hague and Geneva. In these former Conferences states with traditional maritime interests constituted a larger proportion of the states involved, and non-political institutions like the International Law

Commission had been employed to find technical solutions to problems. In the renewed negotiations issues were much more political, with the UK and other maritime states initially threatened by a majority of developed countries politicised by the Group of 77 into supporting drastic increases in coastal state powers. This, coupled with linkings between particular marine issues defined by the committee structure adopted in 1970 by the UN Seabed Committee (SBC) and the Third United Nations Conference on the Law of the Sea (UNCLOS 3), meant that the UK had to make concessions on some issues in order to attain its goals on other issues. The conduct of the Seabed Committee and the Conference provided a backcloth for almost fifteen years of international relations on marine issues, and also intensified the importance of bilateral relations on fisheries such as those between the United Kingdom and Iceland.

A third development which posed problems for the existing policy was UK accession to the European Economic Community. Apart from the long-term reorientation of UK trade relationships mentioned earlier, it was a major factor in effecting a rise in the political profile of the inshore section of the fishing industry, whose interests were given little attention by HMG in the Accession negotiations. The Common Fisheries Policy, to which the UK was forced to accede, weakened HMG's rights over fish stocks by generalising historic rights of access beyond a narrow strip, and also forced the fishermen to improve their organisation in order to fulfil the CFP's marketing provisions. The inshore industry's resentment brought them new political allies, such as the Scottish National Party and a strong anti-Common Market element in the Labour Party, which raised the saliency of inshore interests to basic 'high' policy questions like the integrity of the United Kingdom and its commitment to Western

European co-operation.

Fourthly, there were challenges presented to policy by the shortcomings of the fisheries regime. The lack of authoritative control of fishing effort meant over-capacity, which yielded financial losses to fishermen, a decline of fish stocks, and international competition by differential rates of fuel and operating subsidies. The lack of controls over industrial fishing resulted in the economic extinction of herring stocks in the North-Eastern Atlantic and heavy demands from Scottish fishermen for food fisheries to be given priority.

Fifthly, these systematic problems increased pressure on coastal states and territories with few maritime concerns to extend their jurisdiction over coastal fish stocks. The most important of these extensions, and the one couched in legal terms least acceptable to the FCO, was that by Iceland, but there were others. Such extensions had the advantage for the coastal state that they could influence events at the Third United Nations Conference on the Law of the Sea. The pressure was on the FCO to make catch concessions to riparian states in exchange for legal formulae which did not prejudice the UK position at that Conference. These catch concessions diverted parts of the UK deep sea fleet into uncontrolled waters, increasing aggregate fishing effort in those waters. This increased effort often led fishermen who had traditionally fished in uncontrolled waters to press for limitations of catch or effort to be applied there. Catch concessions to coastal states also undermined the deep sea industry devotion to the narrow limits policy, reduced its size and therefore influence, and brought resentments between it and the UK inshore industry into the open as its trawlers began to

ply UK coastal waters.

A sixth issue with long-term implications of a possible change in UK fisheries policy was organisational change within the fishing industry. The loss of access to distant and middle waters, together with financial losses and the increase in vertical integration in frozen food companies, resulted in a rapid reduction in the number of trawler firms. The rise of oligopoly was mirrored by a TGWU drive to unionise trawler crews, and a growth in Trade Union concern for shipboard working conditions and for industrial safety. These twin developments helped to undermine the bipartisan consensus behind the access rights of the trawler fleet, and a number of Labour MPs began openly to criticise the trawler firms. The deep sea section of the industry also lost influence with government as it lost access to its traditional fishing grounds and thus became proportionately less important than the inshore section as a provider of food supplies and of employment. Where large trawlers could be redeployed closer to home, notably in the winter mackerel fishery off Cornwall, they engendered Parliamentary opposition from local Conservative and Liberal MPs, vying to be thought the more effective in the protection of Cornish rights. There were also changes in the organisation of the inshore industry. The marketing provisions of the CFP required fishermen to set up Producer Organisations, and the resultant experience, resentment at the access provisions of the CFP, and a lack of confidence in the Fisheries Organisation Society, together with some very high-handed Board of Trade actions with regard to vessel safety surveys led to the foundation of two new campaigning bodies, the Scottish Fishermens' Federation (SFF) and the National Federation of Fishermen's Organisations (NFFO). Some inshore fishermen resorted to direct action like blockades, and several

parliamentary seats with inshore fishing ports passed to third parties, notably to the Scottish National Party, in 1973-74. This fact, together with the fear that the SNP might declare Scottish independence if it won more than half Scotland's seats, lent an urgency to government sympathy with inshore concerns.

A final, and seventh concern was the growth of a large High Seas fishery for salmon spawned in the UK. A number of domestic pressures operated to make it imperative that the government should effectively strengthen its claim to anadromous fish spawned in the UK. Without this sanction, no domestic investment to improve or safeguard salmon stocks was likely to be forthcoming. This issue did not per se argue against the narrow limit views, but it did produce another goal for which HMG needed a sanction from UNCLOS 3, and which might possibly require UK concessions on other issues.

Taken collectively, these developments weakened the narrow limit consensus in UK government, and partially isolated the FCO's strategic concerns. Policy change is not mechanistic, however, and the key elements in determining the time and nature of change were developments at UNCLOS 3.

CHAPTER 6

THE RISE IN THE RELATIVE IMPORTANCE TO THE UK OF COASTAL STATE FACTORS

The exercise of high seas freedoms close to UK shores

One of Grotius' principal arguments in favour of relatively unfettered navigation was that it was not dangerous. Increasingly this assumption was demonstrated not to be invariably the case in UK waters. UK shores and waters suffered shipborne pollution, both accidental and deliberate; lives were wasted through the careless conduct of vessels, especially in the Channel, and dangerous cargoes found their way into British coastal waters. In addition vessels continued to dump unstable waste on the UK continental shelf. The thrust of these developments, coupled with an increasing public concern about safety and environmental pollution, was to raise the relative importance of coastal concerns in UK policy making. Although fish stocks have been shown to be adversely affected by water quality [1], the complaints of fishermen about pollution were not specificially responsible for this change in governmental attitude, because of fishermen's relative lack of organization and political influence. Fisheries policy was affected because the government position on fisheries limits was largely a spinoff from its view on navigational issues. A change in the relative importance to the UK of coastal and maritime factors had considerable implications for UK policy on navigation, and thus incidentally on fisheries limits.

The paradox of the UK's situation was that as well as having a very large merchant fleet, she had off her shores one of the world's busiest straits - the Dover Strait. In addition to the hundreds of

vessels each week plying the Strait, there was a considerable traffic between the opposite shores, with a constant possibility of collision. With both the UK and France claiming only a three-mile territorial sea, the bulk of the strait lay within the High Seas. The vagueness of the extent and nature of the Contiguous Zone meant that it was difficult to institute any permanent traffic-separation schemes in the Dover Strait without giving other states spanning straits a precedent for expanding their own maritime jurisdiction.

Despite the success of IMCO in combating pollution, there remained a number of problems which had not been solved by 1967 and which argued either for tighter arrangements to enforce regulations or for limiting the freedom of navigation. One of these was the problem of mariners and states who flouted IMCO procedures. A small number of vessels continued to discharge oily water into the sea. Where this took place outside the territorial sea and contiguous zone, there was nothing which a state suffering pollution as a result of such discharge could do except notify the flag state of the offending vessel, and some states had very bad records in punishing their vessels for breaches of IMCO regulations [2].

Another problem lay in the sheer size of supertankers, and the increased pollution which a single collision or foundering could cause. From the mid-1960s onwards there was a very rapid increase in the size of new individual tankers as it became obvious that there were economies of scale in transporting oil in large vessels. It also became obvious that the foundering of a giant tanker could produce oil pollution on an immense scale and that if an accident should occur on the High Seas effective measures by the coastal state could be delayed. In March 1967 such fears became a reality when

the Liberian-registered supertanker Torrey Canyon was wrecked beyond the territorial sea off Cornwall, gradually releasing a cargo of crude oil which coated holiday beaches as far East as the Channel Islands and killed over 50,000 seabirds.

The disaster presented three important challenges for policy. It showed that three miles was now inadequate to safeguard UK shores from the effects of activities on the High Seas. It also emphasised the limitations of the sectoral approach to marine issues, especially in relation to an emergency. Since oil leaked slowly from the damaged vessel, BP experts suggested that the government should bomb the wreck and destroy the oil remaining aboard. The extra-territorial location of the wreck and its Liberian registration meant that there was a reluctance to take such action. The duty officer in the Ministry of Defence was from the earliest stages of the disaster in regular receipt of Coastguard reports concerning the potential size of the pollution problem, but although he telephoned a succession of government departments he was unable to obtain a directive. This was partly because the wreck occurred late on a Friday, and only when he contacted the Cabinet Office on the Sunday morning was some relevant action initiated. Attempts to contain the oil were hampered by the fact that the necessary detergents and booms did not exist in sufficient quantities, and valuable time was lost in making new manufacturing arrangements. After a week in which the oil continued to spread, the Cabinet reluctantly decided to bomb the vessel in order to destroy the small amount of oil remaining aboard.

The Torrey Canyon affair also highlighted another problem. A supertanker had foundered with disastrous consequences in the relatively-uncluttered Western approaches, it was perhaps quite

likely that a similar accident might occur in the crowded and shallow Dover Strait. Compulsory pilotage or traffic routeing would reduce the probability of such an accident, and yet the narrowness of the strip of coastal state jurisdiction prevented such schemes. The disaster provided a clear indication to public opinion and civil servants alike that the freedom of navigation cherished by UK shipowners for the Straits of Gibraltar, Malacca and Hormuz might contain disadvantages when exercised in the Channel. This sentiment was subsequently reinforced by a growing number of vessel casualties in the Dover Strait, as Figure 6.1 shows. Concern mounted not only about these accidents, but about the lack of an authoritative means of directing traffic in the aftermath of a shipwreck. For instance a period of several months in the Winter of 1970-1 saw a succession of four vessels collide with the wreckage of a single ship in the Strait, with the loss of sixty-four lives. The position of the wrecks was clearly marked with lights, but many captains apparently chose to ignore the voluntary routeing system around the area.

Figure 6.1: Collisions in the Straits of Dover, 1966-71 [3].

June-May	
1966-67	3
1967-68	5
1968-69	13
1969-70	9
1970-71	14

To the problems of oil pollution resulting from founderings beyond the territorial sea and of collisions due to the lack of authoritative traffic control schemes was added the problem of vessels carrying hazardous cargoes in transit close to UK shores. The Geneva Convention accorded the coastal state no control over, or even right to be notified about, the cargoes passing through its territorial sea. Two serious incidents occurred in December 1971:

the Somali motorship "Atlantic Ocean" lost drums of dimethylene from her deck and the "Germania" went down off Cornwall with a cargo of chemicals. MAFF had to warn fishermen to examine their hauls for drums before taking them aboard. The foreign registration of the ships, together with the use of trade names in the Germania's cargo manifest, meant that it was 14th January before the Department of the Environment was made aware that her cargo was dangerous [4]. Two years later thousands of rounds of ammunition were washed into the Western Channel from the decks of the Israeli ship "Galila" [5]. Such developments tended to develop within the Board of Trade support for greater coastal state control over routeing, and to clarify the legitimate concern of maritime states as being for swift and expeditious transit rather than unrestricted navigation.

Another problem was the dumping of waste material at sea. Dumping fell largely into three categories: the discharge of routine (catering, sewage, etc.) waste from vessels in transit; the disposal of obsolete equipment by persons involved in the continental shelf oil industry; and the deliberate placing of toxic waste onto the sea floor. Jettisoning waste from passing ships, although unsightly, posed no serious threat either to marine life or to holiday beaches, while abandoned industrial equipment was a problem which inflicted itself almost solely on fishermen, who suffered snagged nets. It was the deliberate disposal of toxic waste at sea which presented the most complete threat to the ecosystem, and it was accordingly this type of dumping which created the most intense parliamentary and media pressure for reducing the freedom of waste disposal. There was no system of recording which pollutants had been dumped, or their location.

Great public concern about dumping developed in the late 1960s, largely a spinoff from a wave of environmental concern in that period[6], together with the work of Agencies of the UK Government and of the House of Commons Sub-Committee on Science and Technology, which took up marine pollution following the wreck of the Torrey Canyon[7]. As the vast majority of dumped wastes resulted from the Second World War or later, there was as yet little evidence of leakage on a sufficient scale to alarm fishermen, who were in general far angrier about discarded oil-related equipment.

The government's solution to all these problems was to contain change within existing institutions. The fact that the marine environment was becoming a matter of concern to other states raised the possibility of new local and regional arrangements which did not accord with either the existing law of the sea or the UK's perceived marine interests. Even some of the UK's maritime IMCO partners were beginning to look for alternative arrangements to flag state controls[8]. The FCO was anxious to prevent the emergence of a new and inexperienced international organisation to control marine pollution, or even worse to hand powers to coastal states in such a way as to provide for differential regimes off different coasts, and lobbied hard for the establishment of international rules on marine pollution to remain the preserve of IMCO[9].

Thus the problem of vessel-source pollution was faced by tightening IMCO rules. Aware of the implications for increased coastal state discretion of its own bombing of a foreign-registered vessel beyond its territorial sea HMG moved swiftly to limit the circumstances in which a coastal state might take action against a foreign vessel on the High Seas. The result was the International Convention Relating

to Intervention on the High Seas in Cases of Oil Pollution Casualties, signed in 1969 [10]. With no limitations as to distance it provided for the right of a coastal state to take on the High Seas such measures as might be necessary to protect its coastline and related interests from pollution of the sea by oil, but only following upon a maritime casualty which might reasonably be expected to result in major harmful consequences to its coastal population. This Convention was designed to permit remedial but not preventative action by the coastal state. The Board of Trade also moved towards a position of IMCO-backed compulsory traffic separation schemes in narrow straits and sensitive areas. In March 1971 the UK proposed to IMCO's Maritime Safety Committee that flag states should agree to compel their vessels to obey a traffic separation scheme in the Dover Strait. This move was followed by a meeting on May 12th between Board of Trade representatives and their counterparts from Belgium, France and the Netherlands to formulate the details of the scheme. Aware of the possible precedent effects of the UK's involving itself in such a coastal state arrangement the government was anxious to make it clear that "none of the delegates was prepared to take action on a unilateral or even multilateral basis outside the framework of a properly ratified IMCO agreement" [11]. The following October the UK played a major part in drafting the International Regulations for Preventing Collisions at Sea, designed to speed up entry into force of IMCO regulations by requiring states to object within a specified time rather than positively to ratify. The Board's shift to favouring compulsory traffic separation schemes was not an immediate result of the Torrey Canyon affair, but occurred over the four years of mounting accidents between 1967 and 1971. It was not a radical change in policy. The UK policy was to favour the maximum freedom of navigation commensurate with safety, and there had been a change

in what policy appeared most appropriate to this end. Moreover flag state control remained firm UK policy, with IMCO to be strengthened as the forum in which states decided which particular international standards they would apply to their own vessels. The UK also relied on IMCO to deal with the problem of dangerous cargoes; in September 1971 the UK asked the Organisation's Maritime Safety Committee to empower its Dangerous Goods Sub-Committee to study the packaging, labelling and storage of hazardous cargoes with a view to minimising pollution risks.

Dumping was until 1970 a matter of little public concern, but in that year three things considerably raised its status in public opinion[12]. The first was the Report, in August, of the Technical Committee on the Disposal of Solid Toxic Wastes, one of a range of specialist bodies on marine issues established by the House of Commons Select Committee on Science and Technology. The Report provided opponents of dumping with scientific information as to its incidence and on the technical limitations of packaging materials. Secondly, in December, the Council on Environmental Quality recommended the cessation of ocean dumping in British coastal waters [13]. The third cause was that over the winter of 1970-71 a large number of canisters containing ferric chloride were washed up on the Isle of Wight. They were traced to a consignment dumped by the Royal Navy into one of six 'deeps', used for this purpose since the Second World War, and thought to be safe, in that the waste was effectively contained by the rock structure [14].

The fact that much of the dumped waste was military in origin, together with the connection between dumping and other forms of land-source pollution, led HMG to seek a flag state solution outside

the IMCO framework [15]. MAFF, whose Fisheries Division IC oversaw marine pollution, took a lead in relation to its counterparts in other North Sea littoral states. It convened two regional conferences; one in London in June 1971 was followed by another in Oslo in October, which resulted in the signing in February 1972 of the "Oslo Convention", the "Convention for the Prevention of Marine Pollution by Dumping from ships and aircraft" [16]. States bound themselves to monitor and control, by the issuance of licences, dumping from vessels registered in their states. The disposal at sea of a substance could be prohibited provided all national authorities in the N.E. Atlantic area were to approve. The Convention also established a Commission to co-ordinate the work of signatory states in monitoring the marine environment. Having obtained a regional agreement, the FCO moved swiftly to safeguard the flag state control by globalising the agreement. In June 1972 the United Nations Conference on the Environment convened at Stockholm. The British delegation (consisting of representation from the FCO, the Department of the Environment and MAFF), fired both by a genuine concern about dumping and by the FCO's desire to seek globally-consistent legal regimes, urged that an international instrument be formulated, with provisions similar to those of the Oslo Convention. The Stockholm Conference duly requested HMG to convene a global Conference on dumping before November 1972. At this Conference, which took place in October at Lancaster House, one hundred states agreed upon the London Dumping Convention, a global version of the Oslo Convention [17].

HMG thus managed to deal with these issues in ways which presented no threat to flag state jurisdiction. That is not to say that the problems, particularly those of jettisoning of waste from passing

vessels, were solved. The principal effects of these developments, however, were the strengthening of coastal state factors in UK policy-making and some breaking down of the sectoral barriers dividing marine issue areas, which eased the path of policy change. The Torrey Canyon affair encouraged those sections of society concerned with tourism and amenities to take an interest in marine policy. Better co-ordination between sectors was also encouraged by a number of administrative reorganisations which took place during this period [18]. The Ministries of Housing and Local Government, of Works and of Transport were amalgamated to form the Department of the Environment in 1970, and the number of Local Authorities was lessened by the Local Government Act 1972 [19]. The Water Act 1973 [20] created a small number of Water Authorities, which replaced a multiplicity of local authorities and "quangos" previously responsible for the treatment of sewage. The Department of Industry and the Board of Trade were amalgamated to form the Department of Trade and Industry in 1970.

The rise in the importance of North Sea oil and gas production

Another development raising the significance to the UK of coastal factors was a growth in the apparent economic potential of the continental shelf. The opposition to, and uncertainty about, natural gas, diminished as the Labour government concentrated public attention upon the balance of payments. The importance to the latter of reducing industrial costs, coupled with the low price of methane, totally undermined domestic opposition [21]. The nationalised gas supply industry began a programme of conversion of gas-burning facilities to methane.

It also rapidly became clear that the UK sector of the North Sea shelf contained vast reservoirs of oil. This commodity was widely regarded as the cheap, clean and mobile fuel of the future [22], and by 1969-70 it was fairly clear that UK production would be able to equal domestic consumption by the mid-1980s. The value of the oil to the UK economy would be augmented by a possible boost to the engineering and shipbuilding industries should they involve themselves in developing oil-related technology. Since North Sea waters were colder and rougher than any others where continental shelf mining was already taking place, the experience gained by British firms on the continental shelf might be valuable in gaining them further business as oil exploration elsewhere in the world moved into deeper waters. Government was heavily involved; from December 1967 the Natural Environment Research Council undertook a review of the potential of the continental shelf [23], investigating ocean circulation, tides, biology and pollution, which led to a new hydrographic survey in November 1970. The National Research and Development Corporation also oversaw a number of projects relevant to the exploitation of the shelf, and in 1972 the Marine Technology Requirements Board was created to identify research and development requirements and to put customers in touch with researchers and the Department of Trade and Industry.

Economically, therefore, the oilfields promised to be of immense though indeterminate importance, and ensuring that the North Sea regime was appropriate for their development was an important task for government. Since the oilfields were so important, ensuring their security also became vital. The 500 metre safety zone laid down by the Continental Shelf Convention was probably sufficient to prevent collisions between vessels and oil rigs, but it did not

answer the problem of terrorism. This issue was considered by the Central Policy Review Staff after a submission in 1973 to Lord Rothschild, its Secretary, by L. Reed (C - Bolton E) [24]. This problem, together with a massive oil price increase agreed by the Organisation of Petroleum Countries and the imposition in the Autumn of 1973 of a ban on oil exports to states deemed friendly to Israel by the Organisation of Arab Petroleum Exporting Countries, moved the importance of the continental shelf mining industry from the economic to the strategic realm [25]. Protection of the oil installations from terrorism might be achieved by clinging to the existing law of the sea but also by developing regular patrol procedures and quick reaction schemes for emergency action, and possibly by building a few patrol vessels. Protection from enemy action in the event of a full-scale war, however, presented a direct challenge to the FCO and Ministry of Defence preference for the freedom of navigation. By the existing law of the sea a war might begin with Soviet vessels poised 500 metres from oil installations. In this light, the opportunity to loiter over other states' continental shelves looked less attractive.

Apart from raising problems for existing policy, the growth of the importance of the shelf also appeared to present considerable opportunities to the UK. If there was oil in the North Sea there might well also be oil in the Celtic Sea, and no other state barred the way between Scotland and the edge of the continental shelf. In order to ensure that this remained the case the small island of Rockall was incorporated into the territorial limits of the UK. The island lies some 220 miles to the West of St. Kilda, being the highest point on the Rockall Bank, an area of shallow water rich in fish stocks. The UK had claimed the island as its territory in

1955, but in 1972, motivated by the wish to expand the UK continental shelf, the government rushed a seven-line Bill through all its Parliamentary stages in a few days, incorporating the island into Scotland [26]. While Ireland and the Faroes were just as distant from Rockall as was Great Britain, the seizure provided the UK with potential for substantial territorial gains of continental shelf. While these gains would be largest if territorial criteria were decided upon, even a depth formula would be of great value because of the extent of the Rockall Bank. The incorporation also generated a twelve-mile fisheries zone of over 450 square miles and in the event of a general extension of fisheries zones would generate a lot more. This fact was hardly a consideration, since at the time there was no market for, or machinery to exploit, its main fish species, the blue whiting. The principal motivating factor was the continental shelf oil, and from 1975 the Department of Energy's annual "brown books" showed Rockall as generating a shelf for the UK [27]. Although the shelf was the motivating factor, the seizure of Rockall was subsequently to have great significance in other ways, both in that it was to be single-handedly responsible for generating more than a fifth of the total EEC fisheries zone (and potentially Exclusive Economic Zone), and that it was to contribute to the UK decision not to sign the Law of the Sea Treaty after 1982, for fear that the island might be deemed insufficiently habitable to generate its own Exclusive Economic Zone or Continental Shelf. The renewed interest in, and commitment to, the exploitation of the shelf was magnified by the 1974-9 Labour government's policy of public involvement in the continental mining industry, with the establishment of the British National Oil Corporation. For both Conservative and Labour governments in the 1970s and 1980s, it became a principal policy objective to maximise the extent of the shelf in the Celtic Sea

coming under UK control. Given that there is a variety of geographical formulae for establishing the extent of the shelf, this meant that the UK entered the Third United Nations Conference on the Law of the Sea with a policy goal which had not been important in 1958 and 1960, a fact which effectively weakened the UK's bargaining position in relation to other issues, including fisheries.

The decine in importance to the UK of shipping and shipbuilding

Rising coastal state interests corresponded to the continuation of a very long decline in the UK's maritime interests. A number of props shoring up the supremacy of shipping as the UK's foremost marine interest began to weaken in 1967. In that year, for the first time in several centuries the total UK registered tonnage was surpassed by that of another state. Although the Liberian flag, which supplanted the Red Ensign, was for most of its users one of convenience rather than one of primary allegiance, to be pushed into second place was a disastrous psychological blow. The benefit accruing the UK shipbuilding industry from the UK fleet was declining even faster than the size of that fleet as new Far Eastern suppliers stepped up production, and as early as March 1968 only 29% of tonnage on order for UK shipping companies was to be built in British yards. This decline in both industries was to continue throughout the period, and thus became a further element in reducing the maritime preponderence of British interests.

Summary

One of the elements arguing for shifts in policy on the fisheries regime has been change during the period in the relative importance

of Britain's marine interests. In part this change, especially in relation to strategic matters, has been a question of perception, both in Whitehall and among the UK public. For instance, access to continental shelf energy supplies seemed more vital after 1973-4, when OPEC quadrupled the posted price of oil and OAPEC cut off supplies to states thought to have aided Israel in the Yom Kippur War. Similarly the well-being of the shipping industry gradually began to appear less of a high policy issue in the face of a continuous decline in the proportions of UK trade being conducted further afield than Western Europe. Apart from perceived strategic factors, there are also objective measures of economic importance which indicate that during the period major changes took place in the UK orientation towards marine-related industries. The most noteworthy elements of this were the decline in the UK merchant fleet, which was the principal imputed beneficiary of a High Seas policy, a considerable increase in concern about marine pollution among both government and public, and the growth of continental shelf mining. The latter two considerations argued for more centralised government direction, and for extended UK competences over ocean space beyond, in order to minimise future pollution and to encourage the construction of an infrastructure appropriate to the mining of the continental shelf.

Notes

1. See, for instance: F.W. Bell, "Fisheries Economics". In R.T. Lackey and L.A. Nielsen (Eds.), Fisheries Management (Oxford: Blackwell, 1980), pp.197-218, particularly pp.212-213.

2. Among the most notable offenders were the so-called "flag of convenience" states, such as Panama and Liberia.

3. Hansard Vol. 818, Wr. 329-330, 8th June 1971.

4. Hansard Vol. 829, Or. 988-993, 24th January 1972.

5. Hansard Vol. 851, Wr. 284-5, 21th February 1973.

6. For instance, in May 1971 Friends of the Earth was first established, and by December was a registered company with six full-time staff, its own newsletter and 1000 registered supporters. One year after its foundation it had 2500 registered supporters and forty local groups. History, (London: Friends of the Earth, 1980).

7. This Committee deliberated at length on coastal pollution following the Torrey Canyon disaster. Its members most active in this connection were Dalyell (Lab - West Lothian) and Legge-Bourke (C - Isle of Ely). The Committee, in its 1968 report, advocated the formation of a system of unified responsibility for coastal pollution, to replace the patchwork of local authorities and the division of functions between branches of central government. It also urged that greater attention be paid to hydrography and fisheries science and to the study of the effects of pollution upon marine organisms. It found that, although major disasters such as the wreck of the Torrey Canyon might have a spectacular ecological effect, the cumulative results of land-source pollution had been much more serious.

   The Committee was disbanded in 1970, but its work played a major part in providing British data which served as a focus for environmental concern. Sixteen of its twenty-one recommendations were accepted by HMG in a White Paper issued the following year (Coastal Pollution: Observations on the Report of the Select Committee on Science and Technology. Session 1968-9. Command 3880. (London: HMSO, 1969)), and the Committee's work laid the foundation of the next four years of government action on marine pollution. A number of bodies were instituted to examine aspects of the problem. A Commission of Enquiry on Pollution in certain Estuarial and Coastal Waters, under the Chairmanship of Sir Eric Ashby, was instituted in 1968, to be followed the next year by a Working Party on Sewage Disposal (the Jeger Commission) and a Royal Commission on Environmental Pollution. In response to the Select Committee's concern about the dumping of solid toxic wastes, a Technical Committee was established.

8. For instance, the Italian Merchant Marine, with the full approval of the Italian government, organised an international conference with the intention of creating a new standing international organisation on marine pollution, opening on 7th October 1968. The Times, 18th September 1968.

9. UN Document A/AC.138/SCII/SR27. Summary record of the Twenty-Seventh plenary meeting of Sub-Committee II of the UN "Seabed Committee", 22nd March 1972. In UN Committee on the Peaceful uses of the Seabed and the Ocean Floor beyond the Limits of National Jurisdiction, Sub-Committee

II. Summary Records of the 24th to the 32nd meetings (New York: United Nations, 1972), pp.29-30.

10. Ratified in 1969 as the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, Command 4403. (London: HMSO, 1970). The processes by which this Convention was adopted, and its legal and political implications, are examined at length in E.L. McDorman and E. Gold, "Intervention at Sea: The International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties". In S. Manakabody (Ed.), The International Maritime Organisation, (London: Croom Helm, 1984), pp.280-299.

11. Hansard Vol. 822, Or. 742-752, 28th July 1971.

12. Consistent parliamentary pressure on the dumping issue was brought by Reed (C - Bolton E), an expert on marine sciences elected for the first time at the General Election of 1970. E.g. Hansard Vol. 820, Or. 1675-86, 8th July 1971, Hansard Vol. 797, Wr. 397, 4th November 1970, Hansard Vol. 808, Wr. 456, 18th December 1970.

13. Hansard Vol. 808, Wr. 456, 18th December 1970.

14. In response to a Parliamentary and media outcry, the Ministry of Defence announced that no naval stores except ammunition would in future be dumped. Hansard Vol. 810, Wr. 274, 1st February 1971.

15. In July 1971 HMG's devotion to this principle was tested to the utmost when it was announced that the Dutch vessel "Stella Maris" was preparing to sail to the West of Ireland in order to dump 600 tons of waste chemicals. The Danish and Norwegian governments had persuaded the Dutch government to prevent the vessel from dumping in the Northern North Sea, but the FCO refused to apply similar pressure, steadfastly maintaining that the UK could exercise no jurisdiction whatsoever over a Dutch vessel on the High Seas. Hansard Vol. 821, Or. 144, 21st July 1971.

16. See "Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft", Oslo, 15th February 1972, Miscellaneous No. 21 (1972), Command 4984. (London: HMSO, 1972).

17. See "Convention on the Dumping of Wastes at Sea", London, 13th November 1972. Entered into force 27th january 1974. Command 5169. (London: HMSO, 1972). Ratified by the UK in the Dumping at Sea Act 1974, 1974 c20.

18. These reorganisations largely had their roots in 'Management by Objectives' thinking. See Lewis A. Gunn, The reorganisation of central government. An analysis of the White Paper of October 1970 (Command 4506). Course notes. (Glasgow: University of Glasgow, 1971).

19. Local Government Act 1972, 1972 c5.

20. Water Act 1973, 1973 c37. The reorganisation of water services had its roots in the inability of small institutions to organise large new projects for the supply of water to consumers. The recommendation that new authorities should be created to administer water services over a large area had been made for Scotland as early as October 1966 in the Mitchell Report ("The Water Service in Scotland", Final Report of the Scottish Water Advisory Committee, 10th October 1966. Command 3116.),

before public concern surfaced about marine pollution. Similar recommendations were made for England and Wales by the Central Advisory Water Committee in the Wilson Report of April 1971 (Department of the Environment, "The future management of water in England and Wales", Report of the Central Advisory Water Committee, April 1971.

21. The turning point was the unanimous rejection of nationalisation by the Labour Party's North Sea Study Group, established in 1966 to consider taking continental shelf operations into public ownership. Labour Party, North Sea Gas, (Report of the North Sea Study Group), August 1967.

22. See, for instance, P. Odell, Oil: the new commanding height, (Fabian Research Series), December 1965.

23. Hansard, Vol. 756, Or. 158-173, 11th December 1967.

24. The submission was based on a paper Reed had delivered to the United Services Institute. Reed was a key figure in Parliamentary activity on marine policy change. Viewing the North Sea as a possible source of raw materials to give Europe a comparative advantage, he moved to the opinion by 1965 that these same shallow seas could no longer be 'free'. If the sea was to be developed, then rules to balance different interests, limit conflict and pollution and prevent accidents would be required. Furthermore, marine pollution would have to be curbed in order to safeguard living resources. These themes were developed in a number of publications (For instance, Europe in a shrinking world, (London: Oldbourne Press, 1967), Ocean Space: Europe's new frontier: Towards a long-range, concerted programme for exploiting the resources of the sea, (London: Bow Group, 1969), and Fish and Ships: Why Britain should support Iceland's 50-mile claim (London: Bow Group, 1973).

    During the late 1960's he corresponded with Legge-Bourke, a member of the Parliamentary Select Committee on Science and Technology. Following his election as an MP in June 1970, Reed went on a one-man campaign to raise governmental awareness of marine issues. He tried, without success, to persuade Minister for Industrial Development Chataway (C - Chichester) that the UK would soon be self-sufficient in oil and that the tanker routes to the Gulf were no longer vital to the UK. He bombarded Ministers with questions about marine subjects that must have seemed of little relevance to the bulk of MPs and to his constituents. When in Bolton he defended his actions by stressing the engineering opportunities for that town which the new marine technology might create. Often he was working in the dark, and his only intention in formulating parliamentary questions was to force government ministers and officials to consider an issue while marshalling a parliamentary answer. Some of his information came from scientific contacts which Reed had made as a result of his membership of the Parliamentary and Scientific Committee, a joint committee for scientists and MPs which had existed since the 1920s, or from his position as Director of L'Association Européene Océanique, an association of firms interested in marine technology.

    Although Reed's contribution to the process of reviewing the long-held assumption that the UK's interests lie with a free seas regime is probably unequalled by any other MP, his Bolton constituents did not reward him for this achievement with re-election.

25. In all probability there had been for many years an awareness among senior politicians and civil servants of the strategic value of the

UK's developing its own oil supplies. Supplies from the Middle East had been reduced by a third while the Suez Canal was closed between December 1956 and April 1957. There had also been discussion at the time of the Six-Day War of June 1967 that in a future Middle East War the Arab states might cut their oil supplies to the West. See for instance: "What happens next time?", The Economist, 10th June 1967, pp.1133-4.

26. Island of Rockall Act 1972, 1972 c2.
The very fact that the Act referred to Rockall as an "island" was significant since it was usually called "Rockall", "Rockall islet" or "the sea rock of Roaring". As L. Reed MP put it during the Bill's second reading: "By calling it an island and by attaching it firmly to the UK, the Government hope to put beyond dispute our claim to the seabed in the area". Hansard, Vol. 828, Or. 192, 13th December 1971.

27. House of Commons, The Fishing Industry, Fifth Report from the Expenditure Committee. Session 1977-78. Together with the Minutes of the Evidence taken before the Trade and Industry Sub-Committee in Sessions 1976-78 and Appendices, 13th April 1978 (HC356), Q647.

CHAPTER 7

THE RE-OPENING OF INTERNATIONAL NEGOTIATIONS ON THE LAW OF THE SEA

The rise in the relative importance to the UK of the coastal state factors was gradual, and many of the UK's new requirements could be met by activity within existing functional intergovernmental organisations. In contrast, the reopening of international interest in the law of the sea which took place from 1967 threatened the very ground rules of these functional organisations, and required HMG to adopt a complex stategy involving some concessions to change. The resultant negotiations extended, in the forms of the United Nations Seabed Committee and of the Third United Nations Conference on the Law of the Sea, until the end of 1982, and thus constituted the principal motivating factor behind FCO bilateral contacts on law of the sea issues. For UK fisheries policy this pre-eminence of UNCLOS 3 was only eclipsed by the EEC in October 1976 after the decision of Community states to make a concerted extension by EEC member states of their fisheries limits to two hundred miles on 1st January 1977.

Unlike the previous Conferences on the Law of the Sea it appeared evident from the first that maritime states would be on the defensive. Paradoxically, although the number of coastal states claiming wider zones of jurisdiction in the water column had continued to increase [1], the initial threat to maritime states came from an attempt to forestall their own possible claims to extended jurisdiction. It is self-evident that maritime states are also coastal states, in the sense that they have coastlines, though not in the political sense of wishing to extend their jurisdiction over the

water column off their shores. It is also self-evident that most maritime states are also developed ones, since a merchant marine is both a determinant and a reflection of a country's wealth. The possible delinking of the continental shelf and the water column was very much in the interests of the developed maritime states. Under the exploitability criterion they might make use of seabed resources to any depth at which exploitation was technically feasible, and developed states alone could hope to possess the required technology. Whichever developed states could acquire the capacity to mine the deep seabed could take advantage of the High Seas and Continental Shelf regimes to exploit the mineral wealth of the deep seabed, notably polymetallic nodules, aggregations of metals covering much of the ocean floor.

The process by which international discussion on the law of the sea was re-opened centred around the 'Pardo proposal' of 1967. Pardo, the Maltese ambassador to the UNO, introduced into the General Assembly Resolution 2340 (see Figure 7.1) that the seabed beyond the limits of national jurisdiction constituted "the common heritage of mankind" [2]. Pardo was alarmed by informed Press reports that companies from the developed world were poised to mine manganese nodules from the deep seabed, and wished to establish that they were res communis rather than res nullius. The General Assembly responded by establishing an Ad-Hoc Seabed Committee of thirty-five states to consider the question of promoting international co-operation in exploiting the resource. The UK was appointed as one of the Committee's Vice Presidents, and remained so after the Ad-Hoc Committeee was given a more formal existence the following year by Resolution 2467A [3].

Figure 7.1: Principal Stages in the Development of the UN Seabed Committee.

GA RESOLUTION UK VOTE	DATES	NAME	TASK	MEMBERSHIP (UK always a member)	UK SUBMISSIONS	UK GROUP MEMBERSHIP
2340 UK Yes	Dec 1967–Dec 1968	Ad-Hoc Committee on the Peaceful Uses of the Seabed and the Ocean Floor beyond the Limits of National Jurisdiction.	"To consider the question of promoting international co-operation in mining the seabed".	35		Western European and Others
2467A UK Yes	Dec 1968–Dec 1969	Committee on the Peaceful Uses of the Seabed and the Ocean Floor beyond the limits of national jurisdiction	"To elaborate legal principles and norms for international co-operation in the exploration and use of the seabed and ocean floor".	42		Western European and Others
2574A UK Abstained	Dec 1969–Dec 1970	As Above	As Above The Secretary-General had been asked to ascertain the views of member states as to the holding of an UNCLOS.	44	A/AC.138/26 (Re: Int'l Regime)	Western European and Others
2750C UK Yes	Dec 1970–Dec 1971	As Above	"To prepare for an UNCLOS in 1973, including agenda and draft treaties".	91	A/AC.138/46 (Draft elements for a Convention on the Int'l Seabed Regime)	Group of 5 Western European and Others
2881 UK Yes	Dec 1971–Dec 1972	As Above	As Above	96	A/AC.138/SCII/144 (Re: Arch. States)	Group of 5 Evensen UK-Fiji
3029A UK Yes	Dec 1972–Dec 1973	As Above	As Above	96		Group of 5 Evensen UK-Fiji

Extremely optimistic estimates of the reserves of copper, cobalt, manganese and nickel in the nodules, and the concept that they constituted a "common heritage", attracted the attention of the Group of 77, the organisation of developing countries which had evolved in connection with the UNCTAD negotiations. With the enlargement of the international community, as colonial territories became independent, the Group's membership had swelled to around one hundred, and, whereas at UNCLOS 1 and 2 the developing countries had been in a minority, they now constituted a considerable majority of the participant states, and had recent favourable experience of concerted action to achieve common objectives. The Group was united in its opposition to any regime by which individual companies or states could mine the deep seabed.

Although the terms of reference of the Seabed Committee only required it to look at the deep seabed, it soon began to discuss other aspects of the law of the sea. This was possible because many states did not at first have a coherent strategy, merely falling behind regional or power bloc positions on matters of low importance to them [4]. Initially the Latin Americans, the only regional group of developing countries with a clearly-established position on law of the sea matters, were able to use the resentment against developed states over the deep seabed issue and to characterise themselves as developing coastal states with resources threatened by developed maritime states. They were thus able to take advantage of the Group of 77's opposition to maritime states' perceived desires to exploit the common heritage. They characterised this rapacity as similar to the threat posed by the distant-water fishing fleets and oil-discharging merchant vessels of the maritime states to the coastal environments and resources of developing coastal states.

The Latin American strategy succeeded in obtaining Group of 77 backing for extended coastal state jurisdiction over the water column, and the maritime states found themselves on the defensive. The strategy was aided by the paucity of land-locked states, to whom extensions of coastal state jurisdiction offered little, in the Seabed Committee. Buzan puts it thus: "By linking the overall coastal state position to the image of developed states plundering the resources off the coasts of developing countries, the developing coastal states were able to achieve a substantial measure of support for their position within the Group of 77 despite the fact that coastal state policy held no direct advantage for many developing countries" [5].

Not all the Group of 77 states in the SBC argued for a drastic enlargement of the territorial sea per se, but the majority wanted coastal state control over vessel-source pollution. To compensate for the fact that many developing countries had older vessels more prone to leak oil than the more modern vessels of developed states, there was pressure for stricter rules on construction and use to be applied to the latter than to the former. In addition scientific research off the coasts of developing states was characterised by some of their spokesmen as intended to obtain unfair information about coastal resources.

With the maritime states on the defensive, the Group of 77 moved closer to a full-blown Conference on the Law of the Sea with General Assembly resolution 2574A [6] of December 1969, which asked the Secretary-General to ascertain the feelings of member states towards such a Conference. Aware that a Conference was likely to prove unsympathetic to its narrow-limit views, HMG abstained on the vote.

The Latin Americans continued to give firm leadership to the Group of 77. The high water mark of their strategy came with the Declarations of Montevideo and Lima in the summer of 1970. In the Declaration of Montevideo, the nine Latin American states claiming 200-mile zones or territorial seas asserted that coastal states had the right to determine the limits of their own jurisdiction over both the seabed and the water column. The Declaration of Lima, which came three months later, was similar in content, but also enjoyed the support of five other Latin American states [7]. As a result of all this activity the Committee's mandate was extended to cover all areas of the law of the sea, and the UN Seabed Committee (SBC) became a preparatory body for the Third United Nations Conference on the Law of the Sea (UNCLOS 3).

To some extent this strategy was self-defeating. After the Committee's mandate was widened to include the preparation for a new comprehensive Conference on the Law of the Sea by General Assembly Resolution 2750C of December 1970 [8], the membership of the Seabed Committee almost doubled, and states without access to the open sea unimpeded by the zones of maritime jurisdiction, continental shelves or territory of other states (variously 'zone-locked', 'shelf-locked' and 'land-locked' states) joined the Committee. After three years of the issue being aired, this gave states a better opportunity to assess their own best interests, and weakened the relative position of the territorialists a little.

Be that as it may, the prospects for the FCO position looked bleak in 1970. The UK was already developing new interests for which she would require sanction from UNCLOS 3, specifically the maximisation

of the coastal state-managed continental shelf, and the strengthening of the control of the state of origin over anadromous fish stocks on the High Seas (see Chapter 11). The growing range of her concerns meant that the UK would have fewer issues on which she could potentially make concessions. On the other hand, the prospect of an UNCLOS 3, with perhaps a negotiated extension of coastal state control under fixed conditions, was greatly preferable to a host of unilateral and regional extensions of coastal state jurisdiction without an international convention.

The FCO stategy, after its initial reluctance on 2574A, was therefore to go along with the preparations for UNCLOS 3, and the UK voted in favour of Resolution 2750C. Within this context of co-operating with preparations for UNCLOS 3 there were four main strands to UK strategy. The first was to prevent options being closed by the work of the SBC. HMG feared attempts by coastal states to draw up the Conference agenda in such a way as to make a reduction in High Seas freedoms a fait accompli. It held that General Assembly resolution 2750C had given the role of formulating the Conference agenda to the General Assembly rather than to the SBC, and that the latter was not expected to draw up draft Treaties on every issue [9]. In practice, since the SBC had adopted a consensus mode of procedure, the UK could probably have blocked any agenda items which it found objectionable. To have done so might, however, have united a number of states behind the position to which the UK objected, thus ossifying the Conference. Rather the task of the Committee, according to the UK delegation, was to adopt a flexible attitude, and to allow any state or states to propose additional items for inclusion in the "list of subjects" [10]. The acceptance for inclusion in the list of any item did not prejudice the position of any delegation with regard to the inclusion

of any item in the Conference agenda. Even after the expiration of the Committee's deadline for the submission of new proposals, the UK held that amendments to existing proposals should be accepted [11]. The UK adopted this "wait for the Conference" stance from a knowledge that most of the participating states in the SBC would support extended coastal state jurisdiction, which could potentially threaten navigational freedoms. Hoping for the development of package deals at the Conference, the FCO did not wish to give away any options in advance.

Secondly, the UK tried to show developing countries that developed states had to be given incentives to participate in the SBC and UNCLOS 3, because they were content with the existing law of the sea, which in the UK view empowered developed states to mine the seabed. The common heritage resolutions had shown the FCO an example of an issue whose symbolic importance to the developing countries far exceeded its short-term economic potential for the UK, the mining of seabed minerals. In order to instil a sense of urgency into the proceedings so as to encourage concessions on navigation and on the extent of coastal state jurisdiction over the continental shelf, the UK opposed General Assembly resolution 2467C, acceptance of which would have implied UK support for a limitation on the range of possible international regimes for the deep seabed which might emerge[12]. It also voted against the 'moratorium resolution', 2574D, of 15th December 1969, which treated the matter of seabed mining as sub judice, and which warned:

> "Pending the establishment of the aforementioned international regime:

> A. States and persons, physical or juridical, are bound to refrain from all activities of exploitation of the resources of the area of the seabed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction. B. No claim to any part of that area or its resources shall be recognized." [13]

Thirdly the UK hoped that it could in some measure negate the Group of 77 majority at the Conference because of the diversity of the geopolitical needs of the Group's membership and through manipulation of the rules of procedure. The FCO played for time, hoping that the unity which the Group of 77 had so far demonstrated, largely because of the deep seabed issue, would crack when all aspects of maritime policy were open for discussion, especially since landlocked states were still under-represented at the SBC. To an extent this was so. From 1970 onwards, developing-country support for the territorialist position weakened, as alternative formulae for extended economic jurisdiction were gradually formulated. Land-locked and geographically-disadvantaged states began to express concern about the erosion of the international area, and specialist groups of coastal states emerged. A Straits States Group, for instance, consisting of states spanning straits, wanted more control over the routeing, construction, and demeanour of vessels passing through straits, and were less concerned about wholesale extensions of jurisdiction.

Two members of this group, Indonesia and the Philippines, along with Fiji and Mauritius, advocated the concept of an "archipelagic state", whose territory encompassed the sea between its islands even where the distance between those islands exceeded twice the width of the

territorial sea. Differences of position also arose between states in relation to the breadth of their continental margins. The wider the margin, the more advantageous was a geological formulation of the extent of the coastal state-managed sea floor, while narrow margins made a distance criterion more attractive.

The UK used the difference of emphases between coastal states to detach archipelagic states from the rest. At first UK representatives attempted to prevent any pre-Conference concession to the concept of an archipelagic state, urging that a draft item heading "Archipelagoes" should be replaced by "Straits between the islands of an archipelago" [14]. Then, after overtures to Fiji, which were to lead to the foundation of a contact group between maritime states and archipelagoes (styled the "UK-Fiji Group on Straits") she offered to concede the concept of an archipelagic state, providing that innocent passage could be safeguarded. The decision as to which states would constitute archipelagic states was to be made by examining the ratio between the areas of land and water in each state [15].

Partly this concession was intended to divide states consisting of archipelagoes from other supporters of strong coastal state jurisdiction. This strategy was fairly successful, as indicated by a defection of Philippines and Indonesia from the Straits States Group [16]. In return Fiji sponsored a proposal that a regime of innocent passage should apply through and over the islands of an archipelago [17]. Similarly the UK joined with the USSR, the USA, France and Japan (the Group of Five) in an attempt to detach the Straits States Group from the wider coalition of coastal states. The Group suggested a general extension of territorial seas to twelve

miles, with the provisions of the 1958 Convention for innocent passage through it being retained. A new regime of transit passage (quick and expeditious transit) would be applied in straits under coastal state jurisdiction [18]. The extension to twelve miles was little more than had been offered in 1960, but implied a big increase in the number of straits which could not be traversed without entering the territorial sea of a riparian state. In this context, the package represented a downgrading of international rights in straits and effectively a concession. In another sense, however, the regime of transit passage represented for UK interests an advance over the old regime of innocent passage through the territorial sea. From the maritime point of view it was less open to coastal state definitions of "innocence", and from the riparian point of view it gave support to authoritative traffic control in the Dover Strait.

The fourth strand in UK strategy was to participate in the informal "Committee of Jurors" (also called the "Evensen Group" after its convenor, Evensen of Norway). With a membership which altered according to the issue under discussion, this group proved invaluable in circumventing impasses in the plenaries, and successively turned its attention to a number of issues. The group operated both in the SBC and in UNCLOS 3, which convened in December 1973. At the SBC it concentrated upon traditional law of the sea issues, that is those dealt with by Sub-Committee II. The Sub-Committee structure of the SBC helped to define issue linkages, and also served as a model for the Committee structure of the Third United Nations Conference on the Law of the Sea [19]:

> "Sub-Committee I - to prepare draft treaty articles embodying the international regime, including an

international machinery, for the area and resources of the seabed beyond the limits of national jurisdiction.

Sub-Committee II - to prepare a comprehensive list of subjects and issues relating to the law of the sea and to prepare draft treaty articles thereon.

Sub-Committee III - to deal with the preservation of the marine environment (including the prevention of pollution) and scientific research, and to prepare draft treaty articles thereon".

The strategy of waiting and making piecemeal concessions paid off, and weakened support for the territorialist position. Between 1971 and 1973 a compromise was formulated within regional groups, capable of attracting support from the majority of developing countries. This compromise combined a zone of coastal state jurisdiction over the resources of both the shelf and the water column with residual rights of navigation and overflight. The Asian-African Legal Consultative Committee (AALCC) discussed the Law of the Sea at the request of Indonesia in the Summer of 1971. In June, resolutions of the Organisation of African Unity's Council of Ministers linked the extent of fisheries jurisdiction and the width of the continental shelf [20]. In November the second ministerial meeting of the Group of 77 affirmed coastal states' rights to the resources off their coasts, which marked a subtle shift away from the bald territorialist position. In January of the following year a paper presented to the AALCC by Kenya advocated an "Exclusive Economic Zone" (EEZ), and this received majority support. In the light of these developments a number of Central American and Caribbean states introduced, by the Declaration of Santo Domingo in June 1972 [21], the concept of the "patrimonial sea". This would extend from the outer limit of a

12-mile territorial sea to a limit not exceeding 200 miles from baselines. The patrimonial sea differed from the territorial sea in that the freedom of navigation and the freedom to lay cables and pipelines would be maintained with some restrictions. Where the margin extended beyond 200 miles the coastal state would maintain the right to exploit the resources of the whole of it. The development of the concept of a patrimonial sea, although it was intended to unify all Latin American states, merely served to weaken the territorialists still further, with six states who had voted for the Declaration of Lima signing that of Santo Domingo, but with the eight hardest-line territorialists standing aloof [22]. The same month saw a seminar of OAU members at Yaounde in Cameroon recommending an outer limit of 200 miles for the state continental shelf and proposing that "the exploitation of the living resources within the economic zone should be open to all African states, both landlocked and near landlocked" [23]. Perhaps this formulation was aided by the fact that a much larger proportion of Africa's states is landlocked than is the case for Latin America. As a result of this seminar Kenya submitted to the Summer 1972 session of the SBC draft articles on the exclusive economic zone [24], embodying the Yaounde conclusions.

With the Kenyan proposals the Exclusive Economic Zone was given a clear definition. The zone was limited on the shelf as well as on the water column to 200 miles from baselines, and extensive powers were accorded to the coastal state to control marine pollution and scientific research. Discussion was largely thrust away from regional groups and back into the SBC, with the battle shifting to the precise arrangements for the EEZ. The latter was ensured a future by a Declaration on the Issues of the Law of the Sea made by a meeting of the OAU heads of state in June 1973 [25]. Forty-one

African countries thus lined up behind the EEZ, although they were unable to agree upon the width of the Territorial Sea [26]. The period 1968 to 1973 thus saw a shift in emphasis from the "common heritage" to coastal states' rights, and by the latter year the bulk of the Group of 77 had united behind the concept of the EEZ. This proposal was also favoured by most developed states which advocated the extension of coastal state competences, such as Norway, Iceland, Australia, New Zealand and Canada [27], because they feared the effect on trade of unilateral coastal state rules on navigation.

The EEZ, thus formulated, offered an alternative to the territorialist position, and held out to maritime states the offer of freedom of navigation and overflight (except insofar as pollution threatened). It also offered to landlocked states access to the resources of neighbouring coastal waters, although it did not make clear how this could be given while providing the coastal state with significant economic gains from extension. As might be expected, the issues on which the UK strove to prevent a Seabed Committee prejudgement were largely those concerned with traditional High Seas freedoms. The debate became most strident towards the end of the Committee's work, after the EEZ had been clearly formulated and had received Group of 77 support. UK delegates spoke against the inclusion on the agenda of the "Exclusive Economic Zone" as a separate item from "High Seas". Such a separation would have implied that the regime of the High Seas would not automatically apply, and that residual rights would rest with the coastal state [28].

The attempt to treat the EEZ as a <u>fait accompli</u> received strong support, however, especially from developing countries. Fifty-five members of the Group of 77 presented a draft agenda which included an

EEZ in which coastal states exercised full control over scientific research, and in which rights of navigation would be confined to "straits used for international navigation", effectively a limited right of transit passage [29]. The UK responded, jointly with France and the Netherlands, with a list of amendments to this draft agenda [30]. They suggested replacing the title in 138/66, "6. Exclusive Economic Zone" with "6. Exclusive economic zone or other coastal state economic jurisdiction or rights beyond the territorial sea". There was also an attempt to add to the list a sub-item implying that scientific research was a legitimate freedom, as well as an activity to be regulated.

The UK had very little success in changing the wording of the list of subjects and issues. The list, as passed by the Seabed Committee to the General Assembly, presented the issues of "High Seas" and "Exclusive Economic Zone" as separate items and the item on "Archipelagoes" was unchanged. In its plea for flexibility the UK achieved more success, as the Seabed Committee provided the General Assembly with several alternative draft articles on most issues [31]. The General Assembly did not debate the list or the agenda, but merely passed them on to the Conference. The Assembly convened the Conference with the challenge to "adopt a Convention dealing with all matters relating to the law of the sea." The Conference was left to create its own procedure, with the addendum "that the problems of ocean space are closely interrelated and need to be considered as a whole" [32].

The division of maritime issues into the three areas defined by the Seabed Committee's Sub-Committees was confirmed by the first session of the Conference in December 1973 in New York City (see Appendix I),

which initially carried on its work with three Committees patterned on the Sub-Committees of the Seabed Committee. This was inevitable, in that the Seabed Committee's report consisted of a large number of alternative draft Treaty articles whose order was largely determined by the Sub-Committee structure. The First Committee was to consider the seabed regime and machinery, while the Second Committee was to discuss general aspects of maritime law and the Third Committee the marine environment, research, and the transfer of technology. The problems of issue-linking across Committee boundaries were thus identical to those of the Seabed Committee.

The UK and its partners in the 'Group of Five', in which the EEC 'Six' was now taking an active part in place of France, now adopted a new strategy. At the first two sessions of the Conference they launched a revolt over the normal General Assembly rules of conference procedure [33], especially rules 37, 39 and 40, taking as a springboard a "gentlemen's agreement" adopted by the General Assembly[34]. They demanded that decisions should be made by 'consensus' rather than by voting. It is not difficult to understand why this was so. The 'Group of Five' had encountered the superior voting power of the Group of 77 at UNCTAD, and were in favour of the status quo on most marine issues. Whereas in the mid stages of the Seabed Committee the Group of 77 was divided, it was now united in favour of the EEZ, which also enjoyed the support of some developed coastal states. A procedure which nullified numerical voting power and gave to any state a veto against any nascent provision of the new Convention would strengthen their position by preserving the status quo on contentious issues. The matter was resolved at the Conference's second session at Caracas by the acceptance by Conference of a set of compromise proposals

suggested by the President, Mr H.S. Amerasinghe of Sri Lanka [35]. In the case of prolonged disagreement over a substantive matter, the President would, on the request of fifteen representatives, be able to defer a vote for ten days. During this 'cooling-off period' the President or the Chairman of the Conference body concerned would seek "to facilitate the achievement of a general agreement" on the point or points at issue. If no further agreement were reached and unless a further deferment were decided upon, there would first have to be a determination, by the same majority as required for substantive decisions, "that all efforts at reaching general agreement have been exhausted." Only then could a vote on the substantive issue take place. The majority required by the rules for the adoption of a substantive decision would be two-thirds of those present and voting "yes" and "no" in Plenary, and a simple majority of those voting in Committee, provided that the majority in Plenary included at least a majority of the states participating in the Conference [36]. In essence, then, the UK, along with its partners in the Group of Five, was successful over the Conference rules of procedure, because it managed to alter the traditional General Assembly rules and substantially to nullify the superior voting power of the Group of 77. The United Kingdom was elected as one of the thirty-one Vice-Presidents of the Conference, thus gaining a seat on the Conference's forty-eight member General Committee, and therefore a seat at the future debates on Conference procedure [37].

The variety and complexity of the issues under discussion, and the number of states represented (over 150) made decision-making very difficult, and the consensus mode of procedure increased the problem. There was no incentive, under the new rules, for compromise, because agreement required that no delegation strongly object to any draft

article. The Conference therefore became a marathon, and was to provide a back-cloth to maritime activities until it finally reached a Convention in December 1982. By the end of the first session of the Conference what had looked like a major threat to the UK's maritime position had not proved fatal, and yet the overwhelming majority of states favoured an Exclusive Economic Zone. Consensus removed the urgency for the UK to come to terms, but on the other hand for her to fail to do so might result in a large number of unilateral extensions outside the framework of UNCLOS 3. It was therefore important that the UK should show flexibility in UNCLOS 3, and despite the Conference's longevity, events there became the real engine behind pressure on the FCO to rethink law of the sea policy. The number of states, and the range and variety of issues involved led to the proceeding of negotiations by means of a cosmetic plenary, with real progress being made in groups of smaller states, some of them formal or of long duration, and some of them informal or short-lived. Buzan [38] and Miles [39] have analysed in detail the process of decision-making in UNCLOS 3. Buzan has classified the formal groups into 'external' and 'internal' groups. The former are those whose raison d'etre lay outside the Conference, for example the Group of 77, whereas internal groups were formed to deal with issues specific to the Conference. He has further subdivided 'internal' groups into 'Sectional Interest Groups', those formed to pursue a particular interest, such as the Land-locked and Geographically-disadvantaged State Group, and 'Compromise Groups', which exist to formulate compromise on particular issues. There were a number of Compromise Groups, most of which ceased to function after they had produced a text acceptable to the states concerned with their particular issue. By far the most successful of the Compromise Groups was the "Evensen Group". Appendix I indicates the

groups of states in which the UK participated; I have attempted to apply Buzan's classification to them.

Summary

The Pardo Resolution, although concerned with the deep seabed, led to the reopening of international discussions on all aspects of the law of the sea, and, after a process of several years, to the convening of the Third United Nations Conference on the Law of the Sea. The Seabed Committee and the Conference were to provide a backcloth to UK marine policy over the whole of the decade, a backcloth which ensured that the FCO remained intimately aware of law of the sea issues and attempted to ensure that events in any sector of marine policy did not have implications detrimental to the UK's negotiating position. This vigilance was to contribute to the longevity of two disputes with Iceland during the period 1972-6, disputes which centred around legal questions on which both states were trying to strengthen their position in customary law so as to improve the chances of their wishes being adopted in a future law of the sea convention.

The Conference was to become from 1967, until a widespread round of extensions of fisheries zones in 1976, the determining factor in UK activities on marine policy issues. For the fisheries sector, apart from the Cod Wars, it may have had a settling effect, in that the renegotiation process may have restrained unilateral activities by other states. In relation to navigation close to the shores of UK states, an activity the legality of which, it had always been assumed, was strengthened by the existence of distant-water fishing, the negotiations led the FCO and the Board of Trade (in all its manifestations) to analyse what precisely were the UK's specific

needs, and to re-examine the assumption that any extension of coastal state competences could not be contained from spreading to other competences. Since it was obvious that some extensions would be difficult to prevent, the FCO had resolved to make them less territorial. To some extent this policy had been successful by the end of the Seabed Committee's work, through the use of concessions to states consisting of archipelagoes, and through the tactic of delaying decisions until a Conference should mobilise as negotiators landlocked and other geographically-disadvantaged states with no interest in coastal state extensions. By 1972-3 it was obvious that the most likely outcome was an Exclusive Economic Zone, and this was to lead the FCO into a realisation that perhaps competences in the water column could be effectively delinked.

Notes

1. A survey of eighty-five coastal states in 1967 found that only 32 accepted three miles from baselines as the outer limit of the territorial sea, while 53 had adopted a wider limit. E. Miles, "The structure and effects of the decision process in the Seabed Committee and the Third United Nations Conference on the Law of the Sea", International Organisation, (Vol. 31, No. 2) ,1977, p.152. Moreover, the trend for wider limits was growing swiftly, and four years later only 24 out of 103 coastal states maintained a three-mile territorial sea. Hansard, Vol. 825, Wr. 142, 9th November 1971.

2. "Examination of the question of the reservation exclusively for peaceful purposes of the seabed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind". G.A. Resolution 2340(XXII). GAOR 22nd Session Supplement 16, A/6716, p.14.

3. "Examination of the question," etc. G.A. Resolution 2467A(XXIII). GAOR 23rd Session Supplement 18, A/7218, p.16.

4. "In the early stages of negotiations on the seabed between 1968 and 1970, the most visible alignments were external". B. Buzan, Seabed Politics, (New York: Praeger, 1976), p.128.

5. Ibid., p.186.

6. "Examination of the question," etc. G.A. Resolution 2574A(XXIV). GAOR 24th Session Supplement 30, A/7630, p.11.

7. The texts of both declarations are reprinted in S. Oda, The International Law of the Ocean Development: Basic Documents, (Leiden: Sijthoff, 1972), pp.347-355. The precise origin of the figure of 200 miles for fisheries claims is not clear. Mangone suggests that the figure originated in the US neutrality legislation of September 1939, by which the US forbade foreign warships within 200 miles of US baselines. Gerald Mangone, The United Nations, International Law and the Bed of the Seas (Newark: University of Delaware Press, 1972), p.11. The first claims to peace-time maritime jurisdiction to 200 miles were the Latin American reactions to the Truman proclamation. A number of states, therefore, claimed 200 miles of sea floor, beginning with El Salvador in 1950 (Buzan, 1976 op. cit., p.9), some linking this claim to jurisdiction over aspects of the water column. In 1952 Chile, Peru and Ecuador made the Santiago Declaration, by which they mutually recognised 200-mile zones of 'protection and control', including fisheries jurisdiction.

8. "Examination of the question,"etc. G.A. Resolution 2750C(XXV). GAOR 25th Session Supplement 28, A/8028, p.25.

9. UN Document A/AC.138/SCII/SR17. Summary Record of the Seventeenth Plenary meeting of Sub-Committee II of the UN "Seabed Committee", 19th August 1971. In UN Committee on the Peaceful Uses of the Seabed and the ocean floor beyond the limits of national jurisdiction, Sub-Committee II. Summary Records of the 4th to the 23rd meetings. (New York: United Nations, 1971), p.194.

10. UN Document A/AC.138/57. United Kingdom: "Suggested explanatory statement to accompany the adoption of the Comprehensive List of

Subjects and Issues", 20th August 1971. In UN Committee on the Peaceful, etc. Report. GAOR 26th Session Supplement No 21, A/8421 p.201. UK representative Simpson's introduction of the document is in UN Document A/AC.138/SCII/SR19. Summary Record of the Nineteenth Plenary meeting of Sub-Committee II of the UN "Seabed Committee" , 23rd August 1971. In UN Committee on the Peaceful, etc. Sub-Committee II. Summary Records of the 4th to the 23rd meetings, (New York: United Nations, 1971), pp.223-4.

11. UN Document A/AC.138/SCII/SR34. Summary Record of the Thirty-Fourth Plenary meeting of Sub-Committee II of the UN "Seabed Committee", 18th July 1972. In UN Committee on the Peaceful, etc. Sub-Committee II Summary Records of the 33rd to the 47th meetings (New York: United Nations, 1972), pp.9-12.

12. "Examination of the question," etc. G.A. Resolution 2467C(XXIII). GAOR 23rd Session Supplement 18, A/7218, p.16.
The resolution tried to establish that the seabed would be exploited by an international organisation, and in the interests of developing countries. Part 1 reads: "(The General Assembly) requests the Secretary-General to undertake a study on the question of establishing in due time appropriate international machinery for the promotion of the exploration and exploitation of the resources of this area, and the use of these resources in the interests of mankind, irrespective of the geographical location of States, and taking into special consideration the interests and needs of the developing countries, and to submit a report thereon to the Committee on the Peaceful Uses of the Seabed and the Ocean Floor beyond the limits of National Jurisdiction for consideration during one of its sessions in 1969".

13. "Examination of the question,"etc. G.A. Resolution 2574D(XXIV). GAOR 24th Session Supplement 30, A/7630, p.11.

14. UN Document A/AC.138/SCII/SR44. Summary Record of the Forty-Fourth Plenary meeting of Sub-Committee II of the UN "Seabed Committee", 16th August 1972. In UN Committee on the Peaceful, etc. Summary Records of the 33rd to the 47th meetings, pp.69-73.

15. UN Document A/AC.138/SCII/L44. United Kingdom of Great Britain and Northern Ireland. "Draft Article on the rights and duties of archipelagic states", 2nd August 1973. In UN Committee on the Peaceful, etc. Report. GAOR 28th Session Supplement 21, A/9021, pp.99-100.

16. Buzan, Seabed Politics, pp.236-7.

17. UN Document A/AC.138/SCII/L42. Fiji. "Draft Articles relating to passage through the territorial sea", 19th July 1973. In UN Committee on the Peaceful, etc. Report. GAOR 28th Session Supplement 21, A/9021, pp.91-8.

18. UN Document A/AC.138/SCII/SR27. Summary Record of the Twenty-Seventh Plenary meeting of Sub-Committee II of the UN "Seabed Committee", 22nd March 1972. In UN Committee on the Peaceful, etc. Sub-Committee II. Summary Records of the 24th to the 32nd Meetings (New York: United Nations, 1972), pp.29-30. For a background to the strategy see Miles, op. cit., pp.180-181.

19. UN Press Release BR/74/18(London), "Third United Nations Conference on Law of Sea to meet at Caracas, 20 June-29 August," 28th May 1974, p.3.

20. The resolution is reprinted in Oda, op. cit., pp.362-4.

21. UN Document A/AC.138/80. Declaration of Santo Domingo approved by ministers of the specialised conference of the Caribbean countries on the Law of the Sea, held 7th June 1972. In UN Committee on the Peaceful, etc. Report. GAOR 27th Session Supplement 21, A/8721, pp.70-3.

22. Buzan, 1976 op. cit., p.189.

23. Ibid., p.190.

24. UN Document A/AC.138/SCII/L10, Kenya, "Draft Articles on the Exclusive Economic Zone", 7th August 1972. In UN Committee on the Peaceful, etc. Report. GAOR 27th Session Supplement 21, A/8721, Vol. II, pp.4-8. The processes by which the concept of the EEZ was formulated before this submission have been examined in detail by N.S. Rembe, Africa and the Law of the Sea, (Alphen van den Ryn: Sijthoff and Noordhoff, 1980). Rembe sees the 1971 meeting in Colombo of the Asian-African Legal Consultative Committee as having been extremely significant (p.118).

25. UN Document A/AC.138/89. Organisation of African Unity, "Declaration on the Issues of the Law of the Sea, 2nd July 1973. In UN Committee on the Peaceful, etc. Report. GAOR 28th Session Supplement No. 21, A/9021, Vol. II, pp.4-8.

26. Buzan, 1976 op. cit., p.191.

27. Canada's position has been more thoroughly analysed than that of these developed states taking a coastal state position. See B. Johnson and M.W. Zacher, (Eds.) Canadian Foreign Policy and the Law of the Sea, (Vancouver: University of British Columbia Press).

28. UN Document A/AC.138/SCII/SR44 op. cit.

29. UN Document A/AC.138/66 and Corr. 2. "List of subjects and issues relating to the law of the sea to be submitted to the Conference on the law of the sea sponsored by Algeria, Argentina, Brazil, Cameroon, Chile, China, Columbia, Congo, Cyprus, Ecuador, Egypt, El Salvador, Ethiopia, Fiji, Gabon, Ghana, Guatemala, Guyana, Iceland, India, Indonesia, Iran, Iraq, the Ivory Coast, Jamaica, Kenya, Kuwait, Liberia, the Libyan Arab Republic, Madagascar, Malaysia, Mauritania, Mauritius, Morocco, Nicaragua, Nigeria, Pakistan, Panama, Peru, the Philippines, Romania, Senegal, Sierra Leone, Somalia, Spain, Sri Lanka, the Sudan, Trinidad and Tobago, Tunisia, the United Republic of Tanzania, Uruguay, Venezuala, Yemen, Yugoslavia and Zaire." In UN Committee on the Peaceful, etc. Report. GAOR 27th Session No. 21, A/8721, pp.142-146.

30. UN Document A/AC.138/76. "Amendments to Document A/AC.138/66 and Corr. 2 submitted by France, Netherlands and United Kingdom of Great Britain and Northern Ireland." In Ibid., pp.153-4.

31. These are reproduced as UN Committee on the Peaceful, etc. Report. GAOR 28th Session Supplement No. 21, A/9021.

32. "Reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction and use of their resources

in the interests of mankind, and convening of the Third United Nations Conference on the Law of the Sea". GA Resolution 3067 (XXVIII) Part 3. GAOR 28th Session Supplement No. 30, A/9030, p.13.

33. Buzan, 1976 op. cit., pp.216-218.

34. The 'gentlemen's agreement' was an agreement made by the General Assembly's First Committee and approved by the Assembly at its 2169th meeting on November 16th, 1973. It stated that "the Conference should make every effort to reach agreement on substantive matters by way of consensus and there should be no voting on such matters until all efforts at consensus have been exhausted". Decision-making by consensus is not unique to UNCLOS III, being regularly used in a number of UNCTAD committees on commodities. Buzan identifies two innovations made by UNCLOS 3 in the application of consensus procedures. One is the formalisation of consensus procedure in the Conference rules (see next note), and the second is the set of techniques evolved in order to speed the formation of consensus, which he calls "active consensus procedure". An example is the latitude given to Committee Chairmen in updating their draft texts. B. Buzan, "Negotiating by Consensus: Developments in Technique at the United Nations Conference on the Law of the Sea", American Journal of International Law, (Vol. 75, No. 2), April 1981, pp.328-9.

35. The revised rules of procedure appear as UN Document A/CONF.62/30/Rev 2, at 8-10, 17. That they were favourably received by the UK can be deduced from the remarks on the subject of D. Ennals, Minister of State for Foreign and Commonwealth Affairs to Amerasinghe: "The fact that the Conference was able to adopt its rules of procedure without recourse to voting was the best possible augury for the conduct of its substantive work. We are indeed deeply in your debt." "Statement to the Plenary Session on 4th July 1974 by the Rt. Hon. David Ennals MP". Document issued at the Third United Nations Conference on the Law of the Law of the Sea, paragraph 3, page 1.

36. UN Press Release (New York) SEA 278. 17th March 1978, p.18.

37. UN Press Release (London) BR/74/18, 28th May 1974, p.11.

38. B. Buzan, "United we stand... Informal negotiating groups at UNCLOS III", Marine Policy, July 1980, pp.183-204, passim.

39. Miles, op. cit., pp.159-234.

CHAPTER 8

UK ACCESSION TO THE EUROPEAN ECONOMIC COMMUNITY

UK accession to the European Economic Community, which took effect from 1st January 1973, had considerable long-term repercussions in reshaping UK fisheries policy and determining the principal issues with which it is concerned and the fora in which it is expressed. In the short term, it raised the rancour of inshore fishermen, and of Scottish herring fishermen, for whom it coincided with a rapid decline in herring stocks because of overfishing; it was a contributory factor in creating a level of militant solidarity previously unknown in such an individualist industry. It has thus been significant in improving the level of political organisation among inshore fishermen, more so north of the Wash and Liverpool Bay than elsewhere in the UK. Its effects in relation to conservation methods, and in relation to the size, structure and deployment of the UK industry, have also been profound. Accession permanently altered the fish marketing system in relation to the point of first sale, by replacing some of the roles of merchants, the HIB and the WFA with Producers' Organisations. It also reorientated the UK's trade relations away from distant dominions and towards Western Europe, and began to downgrade the obsession with access to distant straits. In the longer term, accession led to the co-ordination of foreign policy on many issues with other member states. This reduced the UK's freedom of action somewhat, but increased the likelihood of a UK policy being successful, provided the other EEC member states could be persuaded to adopt it. Thus EEC member states jointly extended their fishery limits on 1st January 1977 to 200 miles and accession was eventually to bring the Community into the NEAFC as a partner,

imposing a more stringent and potentially more authoritative regional regime over much of the North-East Atlantic. In the short term, however, it weakened conservation, by weakening state powers in this area without imposing a tight EEC system. The contrast between the competences which the UK would enjoy within its new 200-mile zone were it not a member of the EEC and those accorded by the Community's Common Fisheries Policy (CFP) also provided the basis for a long-term rift between member-states over fisheries.

Membership of the Community has had considerable implications for the process of policy-making, as well as for its content, blurring an already tenuous distinction between foreign and domestic policy where fisheries are concerned, and altering the range of institutions bearing upon policy outcomes. It was also to result in a growing co-ordination between the policy positions of member states in relation to external negotiations, though the UK was to dissent from EEC submissions on fisheries to UNCLOS 3 for cosmetic reasons. Perhaps its greatest significance in relation to fisheries, however, was its role in closing to the UK the option of widening its own exclusive fisheries limits, an option which in 1971 appeared to be unthinkable, but which within three years had become quite attractive to many in the fishing industry.

The UK applied to join the Community in conjunction with three of its EFTA partners, Ireland, Denmark, and Norway. The same four states had sought to join the Community from 1961-3, but had been rebuffed primarily as a result of Gaullist suspicions of the UK's ability to be 'a good European'. The successful application formally began in 1970. Concurrent with negotiations, the existing six member states ("the Six") formulated a Common Fisheries Policy (CFP), to create a

strong position from which the would-be entrant states would have to negotiate concessions. This, therefore, put the entrant states at a disadvantage through their being unable to play a part in the initial formulation of the CFP. The fact that the essential elements of the CFP were precipitously pushed through EEC institutions immediately prior to UK entry has created a deep and lasting resentment among many sections of the fishing industry. They feel that the prime purpose of the policy was to steal fishing grounds which would otherwise have been wholly under UK control. As WFA chairman Charles Meek put it in 1976:

> "I cannot believe that if we were starting from scratch... anybody would have had the impertinence to suggest that hands should be laid by others on this British resource... We have a common agricultural policy but we do not share land and we do not share crops and we do not share our beef, and why should we share the fish?... Those of us concerned with British fisheries, of course, find it very odd that the Common Fisheries Policy should eventually be put together just in time for our entry" [1].

Undeniably the entry application was responsible for the accelerated formulation of a CFP by the Six, but to think of this as a malignant conspiracy to lay hands upon British fish appears to be an exaggeration. In 1970, when the formal membership application was lodged, there was little reason to believe that the global move to wide fishery limits favoured by the coastal state coalition in the SBC would actually occur. Moreover the FCO, as a steadfast opponent of such extensions, might have been expected to welcome the narrow limits in the CFP as additional support for its position, as in the

event it did in 1976-7. If the Common Fisheries Policy were specifically designed to poach fish, the future EEZs of the UK and Norway contained the bulk of the fish stocks within 200 miles of the baselines of the four applicant states. However, the economy of the UK was much less dependent on fishing than those of any of the other three applicant states (see Figure 8.1).

Figure 8.1: The importance of the fishing industry within the national economies of the Ten during the Accession negotiations [2].

	Exports of fish and fish products 1971		Fishermen (excluding workers employed in ancillary industries) 1970	
	Total value ($ '000)	As percentage of value of total exports	Numbers	Percentage of labour force
Belgium and Luxembourg	20,461	0.2	1,264	0.03
Denmark	194,473	5.5	15,457	0.67
France	48,982	0.2	37,000	0.18
West Germany	77,534	0.2	6,669	0.03
Ireland	13,988	1.1	5,861	0.53
Italy	16,432	0.1	115,281	0.59
Netherlands	129,405	1.0	4,030	0.09
United Kingdom	69,623	0.3	21,651	0.09
Norway	300,483	11.7	44,972	3.00

While the timing of the introduction of a CFP resulted from the membership application, its seeds are contained in the Treaty of Rome. That Treaty, however, makes no concession to detail. To understand the widespread resentment of the CFP held by many British fishermen, and of the multi-partisan opposition to it which prevailed among most MPs from 1976, it is vital to appreciate that the form which the CFP has taken is in no way inherent in the aims and basic philosophy of the EEC. The Treaty's relevant paragraph states:

> "The common market shall extend to agriculture and trade in agricultural products. 'Agricultural products' means the

> products of the soil, of stock farming and of fisheries and products of first-stage processing directly related to these products" [3].

The passing reference to fish as 'agricultural products' helps to explain the production and marketing system adopted in the CFP. The successful creation of common markets for agricultural staples during the 1960s, with guaranteed minimum prices to the producer, led the European Commission to treat fish in a similar fashion. However, the structural arrangements which it proposed, involving free access for vessels from all Community states up to the baselines of the territorial sea, had no precedent in agriculture, and bore more resemblance to the 'free competition' in manufactures which the Commission wished to encourage. A German farmer could by 'right of establishment' (local residence) farm land in France. Similarly it might have been expected that the area within the existing twelve-mile limit, or at least the territorial sea, would be treated as 'national soil', as a finite resource in which only residents of the coastal state could fish [4]. Instead the regulations on the structure of the industry eventually put forward by the Commission relied on the operation of free competition:

> "In respect of fishing in the maritime waters coming under its sovereignty or within its jurisdiction shall not lead to differences in treatment of other member states ... equal conditions of access to and use of the fishing grounds ... for all fishing vessels flying the flag of a member state and registered in Community territory". [5]

Its solution was to attempt to treat a finite resource as infinitely

exploitable, and failed to take account of either biological limitations upon wild fish production or the extreme natural fluctuations in recruitment. The Commission may have believed that free competition in fisheries, as in manufacturing industry, would itself produce a 'rationalisation' of the fishing industry, creating a tendency to fewer and larger industrial units. If so, there was no recognition of any social value in the maintenance of small self-employed fishermen, and the proposals offered little to the Scottish or Norwegian inshore fishermen, for whom alternative employment was scarce. This was in sharp contrast to an agricultural policy which encouraged the small producer to remain in business. To be fair, the Six had no comparably dependent regions, and Commissioners and their staffs may not have understood the overwhelming importance of fishing to Northern Norway and Scotland. Small French and Italian fishermen in the Mediterranean had less to fear from competition from trawlers because the more complex species mix in warmer waters and the lower primary food productivity of the Mediterranean mean that few larger vessels fish there, and, moreover, the Mediterranean was specifically excluded from the CFP. There was no mention of conservation of stocks, nor of the effect on fisheries of marine pollution, although these were issues of mounting concern to the fishing industry at the time. Such omissions were not coincidental; they merely reflected the industrial and agricultural orientation and experience of the Community [6].

Given the EEC's successful experience of rapid industrial and agricultural growth during the 1960s and an almost continual rise in aggregate fish production since the War, it is reasonable to infer that the proposals were not specifically designed to endanger the fishing industries of the applicant states. Indeed, since 1961, a

'Eurocrat' had been formulating proposals, and those actually adopted had first been submitted to the Council of Ministers in 1968 [7]. The change in tempo which coincided with the accession negotiations did however result largely from a policy reversal by the French Government which was designed to maintain French access to stocks close to UK coasts. From 1961 France had attempted to obtain special privileges for coastal fishermen and suggested the application of the principle of the 'right of establishment'. The rapid conclusion of an agreement on the CFP during 1970 was possible because France dropped her opposition after the Hague Summit of November 1969, at which enlargement of the Community was agreed upon in principle.

This French volte-face resulted partly from the disposition of the French catch and partly from a Quai d'Orsay assessment of overall French interests in relation to the accession negotiations. Like the UK, France possesses both a 'deep-sea' fleet (la pêche industrielle) and an 'inshore' fleet (la pêche artisanale), although as in the UK the principal distinction is in terms of proprietorship rather than fishing grounds. La pêche artisanale was much more important to France (12,396 vessels in 1970) than was la pêche industrielle (922 vessels). For this reason France was concerned to protect the grounds habitually fished by her coastal fishermen from encroachment by German, Dutch and Belgian trawlers. Furthermore, there are political reasons why the French should have been so insistent on guarantees for her coastal fishermen. Nearly half of France's fishing boats, and half of her catch, both by weight and value, were concentrated in the Direction de Nantes and the Direction de Saint-Servan, the two of France's five fisheries administrative districts covering the régions of Bretagne and Pays de la Loire [8].

The Directions relied heavily on shellfish, most of which are sedentary species found close to the coasts, and these formed the most important part of the French catch by value. Unrestricted trawling by large German and Belgian vessels in the area could have damaged shellfish beds very severely. The départements comprising the Directions had been an important Gaullist bastion throughout the life of the Fifth Republic, and any hint of Government insensitivity to the fishermen's needs might have combined with strained centro-Breton relations over agriculture to undermine this Gaullist support [9].

The applications to join the EEC by the four EFTA countries reversed the significance of the CFP for the French government. While in relation to the rest of the 'Six' the French fishing interest was a coastal state one, in relation to the UK the French interest was 'distant-water'. Much of Direction Nantes' demersal and pelagic catch, even though taken by pêcheurs artisanales, was taken North of the Channel median line. Furthermore, la pêche industrielle, based mainly in Boulogne, comprised, inter alia, freezer trawlers operating off Norway and the Faroes and freshers working the Channel, the Southern North Sea and the Irish Sea. French access to the applicant countries' waters needed to be maintained, and so the French Government's position shifted to support of a five-year delay in the full implementation of a policy allowing free access for all member countries. The shellfishermen could be protected by gear restrictions in the name of conservation, and thus the French Government was quick to ban double-beam trawling, a form of fishing practised predominantly by Dutch and Belgian vessels.

A more telling reason for the French policy-change was the desire of

the French Foreign Ministry to build up strong negotiating positions in relation to the applicants. Although the potential political strength of the British inshore interest was not obvious at the time, it was evident that the other three applicant states, Norway, Ireland and Denmark, would each require guarantees for their own inshore fishermen, the last more concerned for the Faroese and Greenlanders rather than for metropolitan Danes. If they could be made to bargain for these guarantees, France might gain concessions.

As might be expected, the applicant states tried to prevent the formulation of a Common Fisheries Policy by the Six. The UK asked in Autumn 1970 for a deferment on the final details until after accession, but to no avail. In general the UK had too many other areas of interest to enable the negotiators to concentrate upon fisheries. Nor was there a MAFF departmental view which stressed the rights of inshore fishermen. Apart from the more effective access of the Trawlers Federations to the Fisheries Secretary, the Ministry had a number of more vital interests to safeguard. Sir John Winnifrith, whose post as Permanent Secretary at MAFF from 1959-68 had straddled the 1961-63 and 1967 talks, had argued consistently against UK membership of the Community [10] even before the proposals on a CFP were published. Continued access to cheap food from Australia and New Zealand and sugar from the Caribbean were vital MAFF concerns, threatened by membership of the EEC. There was also the possibility of a Conservative backbench revolt, not by fishing constituency MPs, but by a hard core of Commonwealth loyalists and members worried about the possible loss of sovereignty which EEC membership might entail. Some of the latter might never be placated, but long-term guarantees for Commonwealth trade might reconcile the former to membership. The Common Agricultural Policy

also raised some Conservative Party hackles: and farmers and consumers obviously constituted a much more powerful coalition than fishermen [11]. In the event, therefore, UK negotiatiors left discussion on fisheries until the arrangements for accession were close to completion [12]. The Norwegians likewise delayed discussion of fisheries. The issue was of vital importance to them, and they wished to be able to deal with it specifically, rather than to accept conditions as part of an overall package deal involving other issue areas.

The CFP, therefore, unfolded with no substantive UK input. This strategy of delaying discussion of the fisheries issue was at the time accepted by both front benches. In February 1970 the Commission submitted draft regulations to the Council of Ministers. On 30th June, the same day that the UK opened negotiations, the European Parliament accepted the plan submitted by the Commission. The UK immediately "reserved" its position on the Plan. In Autumn the UK asked the EEC for a deferment on the final details of the Common Fisheries Policy until after UK accession, but on 20th October the EEC Council passed two regulations, one on the structure of the fishing industry and one on the marketing of fish and fish products, [13] to come into effect on 1st February 1971. Article 2, Section 1 of the regulation on structure stated that:

> "Rules applied by each Member State in respect of fishing in the maritime waters coming under its jurisdiction shall not lead to differences in treatment of other Member States. Member States shall ensure in particular equal conditions of access to and use of the fishing grounds situated in the waters referred to in the previous

subparagraph for all fishing vessels flying the flag of a member state and registered in Community territory."

A breathing space, albeit a brief one, was to be allowed for specified regions particularly dependent on fishing. Article 4 of Regulation 2141/70 allowed that:

"By way of derogation from the provisions of Article 2, access to certain fishing grounds situated within a limit of three nautical miles calculated from the base lines of the Member State bordering on the areas concerned may be limited, for certain types of fishing and for a period not exceeding five years from the time of entry into force of this Regulation, to the local population of the coastal regions concerned if that population depends primarily on inshore fishing."

These provisions caused extreme disquiet among organisations representing inshore fishermen. Five years after entry into force of the regulation, vessels of all EEC member states would be able to fish up to the baselines. The UK, moreover, had few areas primarily dependent on fishing. The fears of small UK inshore fishermen were further aroused by provisions for the coordination of the structural policies of the member states to obtain "increased productivity through restructuring of fishing fleets" [14]. After some of the stocks which the inshore men had, since 1964, regarded as their property had been shared with rapacious aliens, the UK Government, in co-ordination with the parent governments of those aliens, would enforce a programme of fleet reduction on its fishermen.

The marketing regulations were far more detailed and complex than those on the structure of the industry and were obviously heavily influenced by the marketing regulations which had been introduced for agricultural produce. Common marketing standards on quality, size, weight, packing and labelling would be established (Article 2), together with a system of inspection at all stages of distribution. Supply would be concentrated by means of networks of "Producers' (fishermen's) Organisations", the members of each Organisation disposing of their products in a common way (Article 5). These Organisations, which would be eligible for state aid during their first three years of existence, would each fix a withdrawal price below which they would not sell products supplied by their members (Article 7). For some fresh or chilled fish a guide price would be established for the whole European Community each year. These species were to include, inter alia, herring, cod, haddock, whiting, mackerel and plaice (Article 8), most of the species most important to the UK. Compensation for the withdrawal of products from the market would only apply to those not used for human consumption (Article 10). An intergovernmental "Management Committee for Fishery Products" would be established to deal with details and conditions unforeseen in the Regulations (Article 28). By the activities of these Producer Organisations the market mechanism was intended to help in inducing structural changes, encouraging the smaller fishermen to group together in order to weather competition from the larger firms. The marketing provisions presented problems for inshore organisations, especially Scottish ones. Small ports might be rendered unviable by the need for expensive packaging and labelling equipment, and the Community-wide guide prices would place Scottish fishermen at a disadvantage compared with fishermen closer to large markets.

Both Labour (October 1964 - June 1970) and Conservative (June 1970 - February 1974) Governments which sponsored the negotiations took the view that the UK's inshore fishing interest was small compared with other concerns. Attempts to bring the CFP into the parliamentary arena were rebuffed. Soon after the February 1970 draft regulations were published, Grimond (L - Orkney and Shetland) suggested that MAFF cooperate with other applicant countries in forming a common policy on 'stock conservation' and on coastal state jurisdiction [15]. Hoy, Parliamentary Secretary for Agriculture, Fisheries and Food dismissed the suggestion, labelling such action premature. The FCO also hoped that Norwegian insistence would result in adequate protection for coastal fishermen without British concessions. However, the concern of inshore men was instantly aroused, and at a meeting with representatives of Scottish inshore fishermen's associations on December 15th 1970 Rippon, the UK Chief Negotiator and Chancellor of the Duchy of Lancaster, and Campbell, the Secretary of State for Scotland, were told of inshore dislike of the proposals [16]. Nevertheless, HMG did not wish to jeopardise the negotiations by being too insistent on inshore rights. The Government knew that it would have difficulty in gaining acceptance from anti-Market Conservative MPs of the cost of aligning to the EEC farm policy and of the eventual phasing out of tariff preferences for vulnerable Commonwealth producers. There was a possibility that the revolt would spread to MPs with constituents engaged in inshore fishing at the same time, imperilling HMG's Parliamentary majority. MAFF's External Affairs Division, which provided most of the Ministry's negotiators, had little knowledge of fish since the Fisheries departments usually provided their own external representation, and consequently the fisheries case was not stressed as strongly as were

other agricultural and food supply concerns. Speaking in Brussels in March 1971, Rippon announced that there were three areas of critical interest to the UK as yet unsolved: New Zealand, sugar, and the financial contribution [17]. When pressed in Parliament as to why HMG had been so much less forceful than the Norwegians in opposing the CFP, Buchanan-Smith (C - Angus N and Mearns), Under-Secretary of State for Home Affairs and Agriculture at the Scottish Office, and a member of the negotiating team, replied:

> "Every Government applying for membership of the Community must make their own tactical assessment of the situation. The Norwegians have approached the matter in their way. They are perfectly entitled to approach it in their way, if they wish to do so" [18].

This statement tacitly admitted that HMG's 'tactical assessment' had not found the interests of the inshore fishermen to be as crucial to the UK as other concerns. Indeed, the Norwegian single-minded concentration upon the fisheries issue gained without UK concessions terms more favourable to inshore men than those in the CFP as formulated in 1970. An impressive coalition had been forged, which consisted of urban leftists and fishermen and foresters from Northern Norway, and the Norwegian parliament had resolved that Norway would not enter the Community unless the CFP was altered. In May 1971 the applicants were offered a six-mile limit for a transitional period in the place of the three-mile one envisaged by Regulation 2141/70. Ministers reacted favourably, and gave the impression that they genuinely expected inshore fishermen to be satisfied. Royle (C - Richmond), the Under-Secretary of State for Foreign and Commonwealth Affairs, argued that since Cardigan Bay and the Minches were safe

behind baselines, and since a number of EEC member states already enjoyed historic rights to fish between six and twelve miles from parts of the UK coasts, the proposed six-mile exclusive zone would entail little hardship for the industry [19]. A similar argument was advanced by Prior (C - Lowestoft) the Minister of Agriculture, Fisheries and Food, who told the House of Commons:

> "If we opened our waters in the six to twelve-mile belt to other EEC countries which at present do not have traditional rights in that belt, there would be some, but a relatively small, additional weight of fishing carried out in that area. The total catch which comes from the six to twelve-mile belt is a comparatively small proportion of the total British catch." [20]

Reaction from MPs was mixed, but from those who expressed an interest in fishing, the general attitude was one of criticism. Even MPs representing the home ports of the deepsea fleet, who may have seen in the CFP long-term guaranteed access to the shores of other states, like Faroe, Greenland and Norway, were cautious in expressing this sentiment. Questions from Johnson (Lab - Kingston-upon-Hull W), Wall (C - Haltemprice), McNamara (Lab - Kingston-upon-Hull N) and Sproat (C - Aberdeen S, from 1970) were phrased as requests for information rather than as statements of support [21].

The most vociferous Parliamentary opponents of the CFP during the negotiation period were Scottish MPs with an inshore interest. Active in criticism were Gilmour (C - Fife E), Stewart (SNP - Western Isles), Sillars (Lab - Ayrshire S to 1974, S L - Ayrshire S 1974-79), Maclennan (Lab - Caithness and Sutherland, to 1981, SD Caithness and

Sutherland from 1981), Grimond (L - Orkney and Shetland), Gray (C - Ross and Cromarty, from 1970), Baker(C - Banff to 1974), Hutchinson (C - Edinburgh S) and Mitchell (C - Aberdeenshire W, 1970-74). By far the most active opponent, however, was Wolrige-Gordon (C - Aberdeenshire E to 1974). Having already violently attacked a decision of his own government to cut on economic grounds the rate of grant for vessel construction, he foretold 'new Highland clearances' resulting from the CFP. He foretold that the marketing system would damage small and distant harbours, because the grading system would require "an army of inspectors", while the common price system would give an advantage to the harbours closest to markets [22].

Parliamentary pressure from Scottish MPs inter-reacted with pressure from fishermen's organisations and from the Herring Industry Board. During the first three weeks of June 1971 six Scottish inshore organisations wrote to Prior arguing that the twelve-mile limit should be retained [23]. The Chairman of the HIB, observing the decline in herring stocks, claimed the following month that 100,000 Scottish jobs were jeopardised by the CFP as it then stood [24]. This was manifestly an overestimate, given the possibility of processing imported fish and the large proportion of the UK herring catch coming from within the six-mile limit, but it helped to increase the already considerable inshore alarm.

There is no evidence that the pressure from the Government's own backbenchers, to whose sense of conviction and constituency duty was added a resurgence of the Scottish National Party, led the UK negotiators at Brussels to pay more attention to fisheries [25]. The Government left the fisheries issue until last, as it had intended, taking the crucial parliamentary vote on entry on 28th October 1971,

before the negotiations on fisheries were complete.

In order to calm Scottish Conservative backbenchers, and to prevent the revolt from spreading to South Coast MPs, some Cabinet Ministers hinted privately that carefully-phrased gear restrictions introduced in the name of conservation could exclude the larger foreign vessels from within twelve miles of UK baselines, even in the absence of exclusive UK rights of access. There were already precedents for such a course. Apart from the French ban on double-beam trawling within the twelve-mile limit, the West Germans had barred vessels of more than 200 horsepower from operating close inshore. These regulations, though supposedly non-discriminatory in form, predominantly adversely affected Dutch flatfishermen [26]. Large and powerful domestic vessels do not operate close inshore, while small foreign vessels are not economic at long distances from port, because of their low capacity relative to travelling time. Therefore any restriction on vessel size, such as the German one, inordinately affects foreigners. Plaice, moreover, the food fish most favoured in the Netherlands, lie in shallow waters at the harvestable stage. That the UK could openly emulate the French and Germans was suggested in Parliament by Buchanan-Smith (C - Angus S to 1974), a Fisheries Minister with a strong inshore fishing interest in his own constituency. As a Minister and a member of the negotiating team he was committed to the successful conclusion of negotiations, while as a constituency MP he was worried about inshore restiveness [27].

The other applicant countries also wanted better guarantees in the CFP for inshore fishermen. In addition to Norwegian fears, the Danes were concerned that the special dependence of the Faroese and Greenlanders on fishing should be recognized and their interests

protected. The Irish also accorded a high priority to fishing. The French government, though it viewed open access as in the overall French interest, was anxious not to anger the Bretons by being seen to grant other fishing-dependent regions of the EEC special privileges denied to Brittany. The stage was therefore set, once fishing remained one of the few outstanding and unresolved issues, for derogation from the CFP in favour of the applicants. First the UK established a common position with Ireland and Denmark, isolating the Norwegians, who continued to insist upon a permanent twelve-mile zone reserved exclusively for their own fishermen. These three states then negotiated with the Six from this common position of acceptance of the concept of a CFP, but demanding a generous and gradual approach to implementation. In order to expedite final agreement, the Britsh tried to persuade Norway to weaken its stance. On the eve of a session at which Rippon was hoping to conclude the talks, Prime Minister Heath sent a telegram to his Norwegian counterpart Bratteli. It put strong pressure on the Norwegian government not to be too unyielding, hinting that delay would be unprofitable for Norway. It failed to cow the Norwegians, who leaked the text of the telegram to the Press.

Final agreement was reached at a Brussels meeting of 11th-12th December 1971, attended for the UK by Prior, Rippon and Buchanan-Smith. The negotiations were able to find a solution acceptable to all interested territories except Norway and the Faroes. At least until 1982 each state would retain full jurisdiction out to twelve miles. They would also have power to control, on a non-discriminatory basis, size and types of fishing gear, until, under the provisions of Article 102 of the Treaty, the Community should have developed its own conservation regime, a task

which should have been completed by 1st January 1979. Fishing rights beyond six miles would be generalised to all EEC member states, except for large areas "where the baselines are not in themselves a sufficient safeguard or where the stocks are already fully exploited", where existing rights would remain, ungeneralised, out to twelve miles, again to remain effective until 1982.

The French, in accepting this solution, insisted on re-creating the twelve mile exclusive limit in some of their own most sensitive coastal areas. The Quai d'Orsay's tactical assessment of the situation had been brilliantly conceived. France had gained the protection she sought for some of her coastal waters, and had improved her own access to UK waters. The agreement also included a safeguard against any general extension of fisheries jurisdiction in the future. Such an extension was feared by the distant-water fleets of the UK, Belgium and the Federal Republic of Germany because of internal political developments in Canada and Iceland as well as demands made in the SBC. A formal undertaking was made that in any area beyond twelve miles from baselines where a member state might exercise jurisdiction, no discrimination between member states would exist [28]. The Marine and Transport department of the FCO, preoccupied with pressure at the Seabed Committee for extended coastal state jurisdiction and the consequent threat to existing High Seas freedoms, saw the CFP as a new guarantee of the continued existence of narrow limits. MAFF Ministers also saw it in this way and stressed the opportunities with which the agreement would provide Britain's trawler fleet. Prior told the Commons in June 1971, "we of course want to see fair and equitable arrangements on access to coastal waters throughout the enlarged Community" [29].

Such a desire was understandable, but these arrangements had been made without Norwegian or Faroese concurrence so that Denmark, Ireland and the UK had produced a situation in which UK vessels could be barred from the only coastal waters to which their access could usefully be improved. Norway, as by far the biggest exporter of fish among the Ten, could benefit greatly from tariff-free fish exports to the other members of the Community, but only if she could protect her fish resources from direct exploitation by Community fleets. At the time a continuation of the twelve-mile jurisdiction on the terms accorded to her by the European Fisheries Convention would have suited her well. Norway's negotiators needed an agreement which promised the permanency of the twelve-mile temporary derogation from the CFP which the Six were willing to offer. This region's dependence on fisheries was far greater than anywhere else in the Six, and the extreme depth of Norwegian coastal waters made them more suitable for exploration by very large trawlers than any other coastal waters in the Community.

Afraid of creating a precedent for other issue areas, the Six would not agree to permanent exceptions. In the days following the agreement of 11th-12th December, the Norwegian delegation of four senior Ministers, deserted by the other applicant states, found itself trying to negotiate with a group of officials and diplomats who had no power to strike a political deal. This latter group felt bound by the principle that there should be no permanent exceptions to Community rules. The only concession obtained by Norway was an agreement by which the Council of Ministers would decide, on the basis of proposals from the Commission and according to prevailing circumstances, whether and how the exceptions to the CFP should be prolonged after 1982.

Rippon's agreement satisfied few of the cognoscenti. The Aberdeen Press and Journal carried the following Editorial on 14th December:

> "The fishers themselves will have to live under a suspended death sentence until their fate is decided in Brussels... The member nations of the Six know this full well. They agreed to the continuation of twelve-mile and six-mile limits in the secure knowledge that quite soon they will be able to press for what they believe to be their rights, the opening of all Britain's fishing grounds to foreign trawlers."

The Labour opposition universally vilified the agreement. A leading anti-marketeer, Shore (Lab - Stepney) accused HMG of having betrayed Norway, and suggested, prophetically, that HMG's actions might have prevented Norway from joining the EEC [30]. A considerable number of other Labour MPs, including the Shadow Foreign Secretary, attacked the document as a mere stay of execution. Even distant-water Labour MPs, among them Hughes (Lab - Aberdeen N from 1970), Johnson and McNamara attacked the agreement vehemently. McNamara argued that the isolation of Norway might encourage her unilaterally to extend her fishing zones to fifty miles and that the Faroes and Greenland might follow suit. The threat to "our deepsea fishermen" was greater than that to the inshore fleet [31].

It also failed to satisfy the majority of Conservative MPs active in the inshore interest [32]. While Baker applauded it, Gilmour called it a "disaster". Disaffection involved Conservative MPs from all coastal parts of the UK. Roberts (C - Conway) claimed that the

generalisation of existing rights in Liverpool and Cardigan Bays would reduce fishermen "to poverty". Mills (C - Torrington) suggested that Devon and Cornwall fishermen would use force to exclude foreign fishermen. While many Conservative MPs pointed out the advantages in the agreement, few coastal MPs were among them.

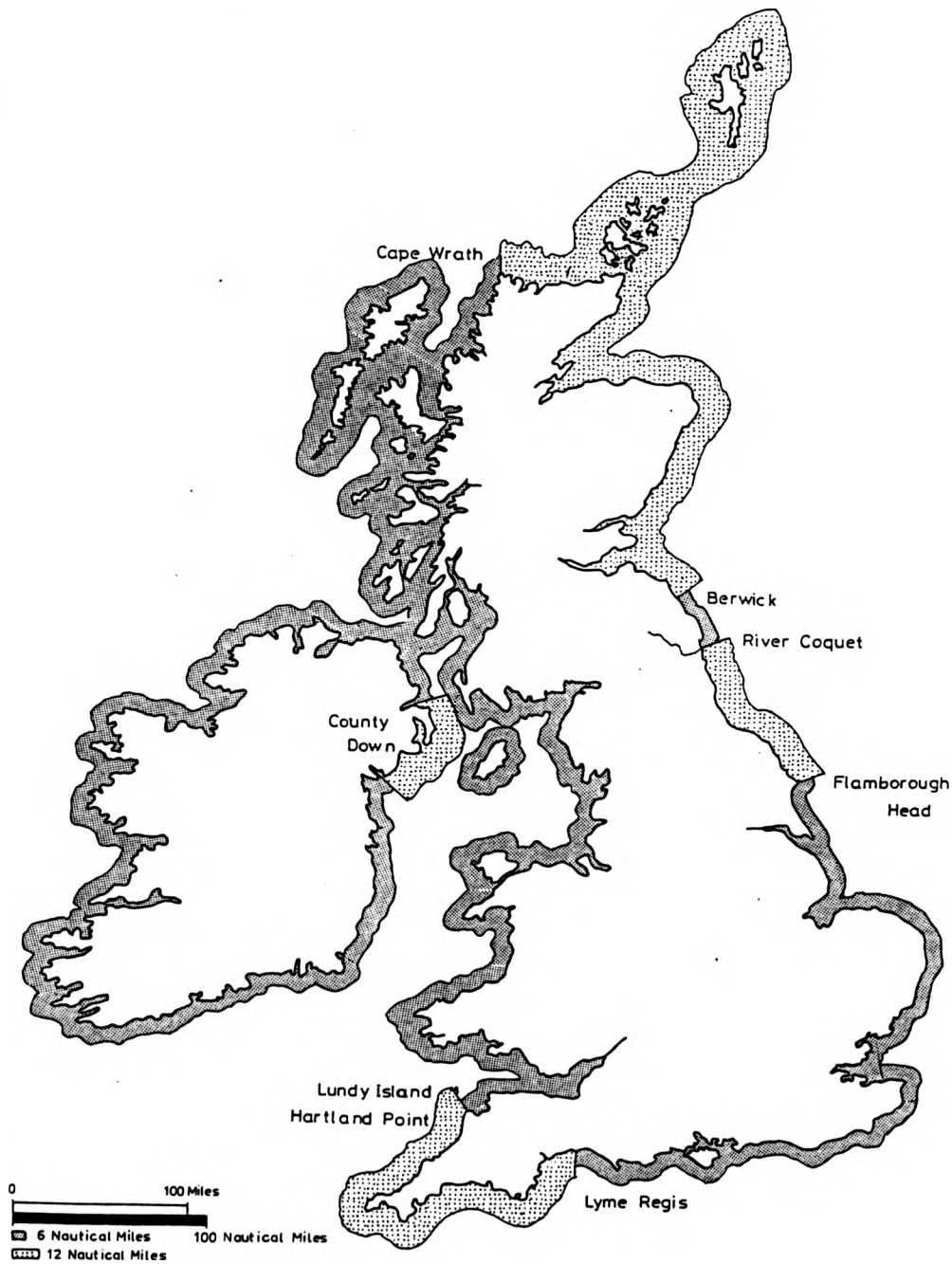
However, the possibility that the Norwegian government might not sign the Treaty of Accession appeared to recede late in December. The Norwegian Government reluctantly accepted a ten-year guarantee of a twelve-mile limit for her northerly regions alone, on the understanding that the Council of Ministers would decide the situation after 1982. Feeling that a mere ten years' reprieve was a betrayal of Norwegian fishermen, Hoem, the Minister of Fisheries, resigned. Nevertheless, Norway signed the Accession Treaty, making ratification dependent on the outcome of a referendum in September 1972. Owing partly to the opposition of the fishermen, this referendum went against Norwegian membership and prevented Norway's ratification of the Treaty. This strenuous parliamentary opposition had a number of lasting effects. Firstly it bound together inshore fishermen of all political persuasions, in the belief that the CFP was opposed to their interests, and that neither Whitehall nor the Conservative leadership regarded their concerns as central to the "national interest". Secondly, it made fishing a live national issue, such as it had not been for many years. Thirdly, it appeared to commit the Labour Party to change the CFP on its return to office. The Labour Party's failure to attempt reform after its return to office in 1974 was to lead to direct political action by inshore fishermen.

On 22nd January 1972 the Treaty of Accession [33] was signed in

Brussels. It contained significant departures from the CFP in the interest of regions especially dependent on fishing. Until 31st December 1982 there was to be a zone of six nautical miles from baselines within which a coastal state could restrict fishing to vessels "which fish traditionally in those waters and which operate from ports in that geographical coastal area" [34]. Also, fishing rights in substantial proportions of the zone between six and twelve miles from the UK coast were to be reserved to the UK and to states enjoying historic rights. Protected areas were to be the Orkneys and Shetlands, the North East of Scotland from Cape Wrath to Berwick, the North East of England from the River Coquet to Flamborough Head, the South-West from Lyme Regis to Hartland Point, and County Down [35] (see Figure 8.2). These were areas in which the retention of the twelve-mile limit was thought by MAFF and the FCO to be most vital. They felt that the Firths, the Minches and Cardigan Bay were well protected by baselines, so the West of Scotland and Mid-Wales were of less concern to the UK negotiators. The other acceding states and France each obtained similar guarantees that existing rights only would operate out to twelve miles in particular areas. In addition it was generally accepted, though unwritten, that Norway would be permitted to maintain a twelve-mile limit in some areas even after 1982 [36]. Largely as a result of Norwegian pressure, the bias of the 2142/70 marketing system against the periphery was alleviated in the Treaty. Member states were to be allowed to give medium-term assistance to Producers' Organisations, and withdrawal prices were to be adjusted by conversion factors based on the cost of transport to market [37].

The provisions of the Treaty of Accession represented a massive advance in the protection of inshore fishermen over the proposals in

Figure 8.2: The Fisheries Limits for Britain and Ireland established by the Treaty of Accession [38].



2141/70 and 2142/70. The sources of 95% of the UK's inshore catch by value were to be safeguarded from foreign incursions for ten years. However, there were two main areas of inshore contention. Firstly there was the resentment of fishermen in those areas where historic rights had to be generalised under the Treaty. The reprieve for other areas made their misfortune all the more galling. Particularly angry were Northumberland fishermen and those working the Irish Sea. A twelve-mile limit from baselines in Galloway, Antrim and the Isle of Man would have made the Northern Irish Sea a UK preserve. The new arrangements threatened not only the Irish Sea herring industry, rapidly deteriorating as a result of overfishing, but a new and expanding queen scallop fishery based on Galloway and operated mostly in the six-to-twelve mile zone. Its products were exported predominantly to continental Europe and the USA. Much recent capital investment now appeared threatened by the possibility that fishermen from France, a principal export market, might themselves catch the scallops [39].

Political pressure brought to bear on HMG about these exclusions created no prospect of renegotiations but other concessions were made to sweeten the pill. In response to requests from Milne (Lab - Blyth to 1970, Ind Lab - Blyth, 1970-74) that the twelve-mile limit for Northumberland should be retained, Prior arranged for improved Fisheries Protection Surveillence in the area. On some occasions in February and March 1972 as many as three of the Royal Navy's six Fisheries Protection Vessels were deployed off Northumberland [40]. In answer to a debate on fishing limits in the Irish Sea raised by Brewis (C - Galloway to October 1974), Prior hinted that a MAFF decision to ban heavy beam trawling, though ostensibly a conservation measure, had been taken because it was a style of fishing used

predominantly by foreigners in the Irish Sea [41].

Another area unprotected by a twelve-mile limit was the South Coast, East of Lyme Regis. A considerable number of ports each supported small numbers of inshore fishermen, their usual catch being high-priced demersal fish such as sole and plaice. During June and July 1972, the Fisheries Organisation Society (see page 75) organised the presentation to Parliament of a series of identical petitions calling for the retention of the Fishery Limits Act 1964 for an indefinite period [42]. The South Coast fishermen were in a much weaker position than their counterparts in Scotland and Northumberland. Their prosperity was not viewed by their neighbours as essential to the well-being of the region, nor did their MPs see fisheries as a burning constituency issue. Thus none of these petitions attracted more than seventy signatures, nor did any of the MPs presenting them take any other anti-CFP action which appears on the Official Record.

After Parliament had ratified the Act of Accession without revision on 18th October 1972, the Society used a different strategy, It organised another petition calling for gear restrictions phrased so as to reserve coastal waters for local fishermen. A series of petitions was presented during November and February 1973, calling for the banning of all beam trawling on the grounds that it was damaging to flatfish and shellfish stocks. The petitions claimed these species for the UK as sedentary species under the Continental Shelf Convention [43]. However, the inconclusive nature of the scientific evidence and the fact that a modern fleet of beam trawlers from Brixham trawled Sussex and Hampshire waters made it difficult for the government to acquiesce.

A more disconcerting aspect of the Treaty for inshore fishermen was the situation which would prevail after 1982. Government spokesmen held that the Treaty implied a fair and open-minded review for the period from 1983 onwards, rather than an automatic reversion to the spirit of 2142/70. Baroness Tweedsmuir, Minister of State at the Scottish Office, told the House of Lords:

> "If unanimity cannot be reached, then each country has the right of veto if they have declared a particular question to be of vital national interest" [44].

Similarly Rippon told the Commons:

> "I must emphasise that these are not just transitional arrangements which will automatically lapse at the end of a fixed period" [45].

This view was not endorsed by Deniau, the EEC Fisheries Commissioner. L'Europe reported [translation]:

> "M.Deniau stressed the distinction which is to be made between the situation of Norway on the one hand and of Great Britain, Ireland and Denmark on the other. The three last-named countries accept the principle that the Community regime of unrestricted fishing must be introduced in the end. The negotiations are to settle the length and nature of the transitional period and exemptions. Norway, on the other hand, is asking for permanent exemption" [46].

The argument that the exemptions were other than transitional is also challenged by the statement in Article 100 of the Treaty of Accession that the special arrangements were derogations from the CFP.

Membership of the EEC, which came into effect on 1st January 1973, had great significance for subsequent UK diplomatic and political activity in relation to fishing. It heralded a weakened role for the NEAFC, which the EEC largely ignored. The Commission took its time in creating its own conservation regime as envisaged by Article 102, and the ICES was not consulted by the EEC until late 1975, despite its unique expertise in relation to stock size and conservation. Membership of the EEC also entailed a harmonisation of policies towards third countries, and therefore at UNCLOS. In general, membership reduced the number of options available to the UK Government in the face of domestic and external developments.

The CFP, as embodied in the Treaty of Accession, appeared to the inshore fishing industry to be detrimental with few compensating advantages. HMG in general, and the Conservative leadership in particular, appeared to have demonstrated the low relative value which it placed upon inshore fishing. The political costs were rapidly apparent. Even if fishermen were of rather insignificant numbers, their plight incurred widespread public sympathy in their areas of strength. In 1973 a Liberal was elected for the previously safe Conservative constituency of Berwick-on-Tweed, corresponding to the part of Northumberland excepted from the twelve-mile limit, and over the two General Elections of 1974 inshore dissatisfaction was a major factor in the capture by the Scottish National Party of six coastal parliamentary seats from the Conservatives [47]. Even the deep sea industry was not pleased. The guaranteed access to

Norwegian coastal waters which they had expected vanished when the Norwegian referendum came out against Community membership.

Accession had two major significant effects on fisheries policy apart from those immediately concerning fisheries. Firstly it vastly increased the saliency of fisheries issues by associating them with an extensive and extra-parliamentary struggle between opponents and supporters of UK membership of the Common Market.

Secondly, accession to the EEC began a longer term revolution in the co-ordination of UK policy, which involved a reduction in the power of the FCO relative to other Departments, transforming its role towards Western Europe from that of lead department to one of co-ordinating positions of other government departments into a UK policy, with the effect of subordinating "high" policy to "low" policy. A small European Secretariat was established within the Cabinet Office.

This corresponds with a Cabinet sub-committee chaired by the Foreign and Commonwealth Secretary. The latter represented the UK on the Council of Ministers which considers Community external policy and topics which do not fit into the separate agendas of a number of Technical Councils - for Agriculture, Transport, Finance, etc. Two European Community Departments were established within the FCO, one dealing with internal Community affairs and the other with external affairs (the coordination of foreign policy between member states). UK representation on each Community institution consisted half of FCO personnel and half of representatives of domestic departments, with the FCO in overall control. This has resulted in a shift from geographical to functional departments within the FCO and, as Wallace

has observed, has weakened the FCO in relation to Western European affairs:

> "The FCO has, unavoidably, become less and less a department dealing with a discrete sector of policy, labelled 'foreign', and more and more a coordinating and monitoring department representing the political dimension of overseas policies which are the primary responsiblity of other ministries . . . the FCO has become a coordinating department without the sanctions over other departments which it would require for effective coordination" [48].

Soon after the Treaty's entry into force, pro-market MPs began to stress the potential value to the fishing industry of grants for vessel construction from FEOGA, the Community's agency for assistance to agriculture. In practice they were little used; by April 1974 grant applications had been approved for only twenty-four vessels for UK fishermen, at a cost to EEC funds of £4.7 million. Pro-Marketeers also stressed that the EEC would give the UK a boost in fisheries disputes with third parties. On the other hand, anti-market MPs found injustice in EEC states being allowed to catch fish which might under other arrangements have been caught by British vessels, and in EEC regulations which would threaten the autonomy of HMG in giving aid to the industry. A Commission restructuring plan of early 1974 which sought to reduce Europe's fleet by limiting to 16-18% the permissible grant by any state for the construction and improvement of fishing vessels from 1975 was regarded with much suspicion. After mid-1974 it became apparent from developments at UNCLOS 3 that an Exclusive Economic Zone would become a general global reality fairly soon (see Chapter 13). As a consequence more

MPs began to oppose the CFP as constituted, because dividing the North-East Atlantic into 200-mile EEZs would give the UK title to the lion's share of the fish in the areas which would come under the jurisdiction of the Community. They argued that the UK's large contribution to EEC fish stocks should be reflected by reserving a large proportion of the catch for UK fishermen.

Notes

1. House of Commons, The Fishing Industry, Fifth Report from the Expenditure Committee. Session 1977-78. Together with the Minutes of the Evidence taken before the Trade and Industry Sub-Committee in Sessions 1976-78 and Appendices. (HC 286), Qs 500-506.

2. J. Lambert, "The Politics of Fisheries in the Community". In The EEC, Economics and Agriculture Open University Coursebook P933. Unit 6, Farming and Fishing (Milton Keynes: Open University Press), p.142.

3. "Treaty establishing the European Economic Community", Rome, 25th March 1957, Article 38. In Treaties establishing the European Communities (Luxembourg: European Communities, 1973), p.209.

4. Such a view was expressed to the Trade and Industry Sub-Committee by Elizabeth Young, Lady Kennet. Distinction should be made between property rights - exclusive to the UK, and exploitation rights - common under the Treaty of Rome. House of Commons, The Fishing Industry, Q660.

5. EEC Regulation 2141/70, "laying down a common structural policy for the fishing industry", 20th October 1970, Official Journal of the European Communities, L236, 27th October 1970, pp.1-4, Articles 2 and 4.

6. This lack of concern about stocks is indicated by the fact that no EEC contact was made with the ICES until Winter 1975. House of Commons, The Fishing Industry, Q657.

7. Lambert, op. cit; p.138.

8. The figures for vessel ownership come from: Statistiques des Peches Maritimes, Annee 1970, (Paris: Imprimerie Nationale, 1971), Chapitre II, p.17. In 1970 the two Directions accounted for 6,089 out of 13,430 vessels. Their total tonnage was 146,885, as opposed to 282,857 for the whole country. Their combined fish catch weighed 247,655 tonnes (value 613,245,000 French francs), as against 650,408 (value FF1,588,259,000) for France as a whole. Ibid., Chapitre I, p17, and Chapitre II, pp.65,77.

9. Together Direction Nantes and the Direction de Saint-Servan consist of the Departements of Finistere, Cotes-du-Nord, Ille et Vilaine, Morbihan, Loire-Atlantique and Vendee. All of these Departements returned a "yes" majority in the referenda of 1958, 1961 and 1962, and only one dissented in the 1969 referendum. Furthermore, in the second round of the Presidential elections, all but one voted for De Gaulle in 1965 and for Pompidou in 1969. All six Departements recorded more votes for 'La Tendance Cinqieme Republique' than for any other political grouping in the first rounds of the 1967 and 1968 legislative elections.

   Source C. Lelan, Geographie des elections francaises depuis 1936, (Paris: Presses Universitaires de France, 1971).

10. P. Byrd, "Trade and Commerce in External Relations". In R. Boardman and J.R. Groom (Eds.), The Management of Britain's External Relations, (London: Macmillan, 1973), p.193.

11. One Minister bluntly told the Secretary of the Fisheries Organisation Society that the fishing industry was of relatively minor importance to

the UK economy. House of Commons, The Fishing Industry, Q1307.

12. Lambert, op. cit., p.145.

13. EEC Regulation 2141/70 op. cit., and EEC Regulation 2142/70, "On the common organisation of the market in fishery products", 20th October 1970, Official Journal of the European Communities, L236, 27th October 1970, p.5.

14. EEC Regulation 2141/70, Article 10.

15. Hansard, Vol. 798, Wr. 303, 23rd March 1970.

16. Hansard, Vol. 828, Or. 727, 15th December 1971.

17. Hansard, Vol. 813, Or. 1659-61, 16th March 1971.

18. Hansard, Vol. 816, Or. 1369, 5th May 1971.

19. Hansard, Vol. 818, Wr. 361, 10th June 1971.

20. Hansard, Vol. 820, Or. 182, 29th June 1971.

21. E.g. Hansard Vol. 820, Wr. 62-4, 29th June 1971.

22. Hansard, Vol. 815, Or. 1142-3, 20th April 1971.

23. Hansard, Vol. 820, Wr. 173, 21st June 1971.

24. Hansard, Vol. 828, Or. 725, 15th December 1971.

25. After twenty years in the wilderness following the Covenant of 1948 the SNP sprang to prominence in 1968 with a by-election victory at Hamilton. This was followed by its obtaining 11% of the Scottish vote in the 1970 General Election, 22% in February 1974 and 30% in October 1974. While much of this support can be attributed to a campaign for the whole of continental shelf oil revenues from the Northern North Sea to be devoted to Scotland, inshore disquiet was undoubtedly a factor (see Note 47).

26. See "Officier van Justitie v (i) Cornelius Kramer (Case 3/76)" European Court of Justice, 14th July 1976, Common Market Law Report, 1976:2, pp.440-473.

27. Hansard, Vol. 815, Or. 1149, 20th April 1971. Buchanan-Smith was not the only Scottish Minister with a strong inshore constituency interest. Apart from Secretary of State for Scotland Campbell (C - Moray and Nairn) there was also Minister for Trade Noble (C - Argyll). All three were to lose their seats to SNP challengers in 1974.

28. The agreement is fully explained in Hansard, Vol. 828, Or. 51-60, 13th December, 1971.

29. Hansard, Vol. 820, Or. 63, 29th June 1971.

30. Hansard, Vol. 828, Or. 724, 15th December 1971.

31. The Labour Party's attack is recorded in Hansard, Vol. 828, Or. 673-737, 15th December 1971.

32. All the speeches in this paragraph appear in Hansard, Vol. 828, Or. 673-737, 15th December 1971.

33. "Treaty concerning the accession of the Kingdom of Denmark, Ireland, the Kingdom of Norway, and the United Kingdom of Great Britain and Northern Ireland to the European Economic Community and the European Atomic Energy Community", Brussels 22nd January 1972. Treaty Series 1 (1973). Command 5179. (London: HMSO, 1973).

34. Ibid., Article 100.

35. Ibid., Article 101.

36. Ibid., "Protocol No. 21 on the fisheries regime for Norway".

37. "Treaty concerning the accession", etc; Annex 1 IIB(1).

38. Lambert, op. cit., p.147.

39. Before 1964 there was a negligible number of scallop boats in Galloway. By May 1972 there were 15 boats and over 70 men engaged in scallop fishing. A processing factory had been built at Kirkcudbright, and there was another factory and more boats at Annan. The value of queen scallops landed at these ports in 1971 was about six times that of 1969. Source: Personal correspondence.

40. Hansard, Vol. 833, Or. 744, 16th March 1972.

41. Hansard, Vol. 832, Or. 1205, 6th March 1972.

42. This petition was submitted to Parliament by:
J Cordle (C - Bournemouth E) Hansard, Vol. 839, Or. 877, 23rd June 1972.
I. Lloyd (C - Portsmouth Langstone) Hansard, Vol. 840, Or. 11, 3rd July 1972.
R. Mawby (C - Totnes), Hansard, Vol. 840, Or. 721, 6th July 1972.
F. Judd (Lab - Portsmouth N), Hansard, Vol. 841, Or. 1-2, 17th July 1972.

43. This petition was submitted to Parliament by:
A. Bowden (C - Brighton Kemptown), Hansard, Vol. 845, Or. 793-4, 7th November 1972.
R. Luce (C - Shoreham), Hansard, Vol. 846, Or. 1059, 21st November 1972.
B. Irvine (C - Rye), Hansard, Vol. 847, Or. 1643, 7th December 1972.
J. Cordle (C - Bournemouth E), Hansard, Vol. 848, Or. 889, 18th December 1972.
F. Judd (Lab - Portsmouth N), Hansard, Vol. 848, Or. 1091-2, 19th December 1972.
P. McNair-Wilson (C - New Forest), Hansard, Vol. 850, Or. 1417-8, 15th February 1973.

44. House of Lords Official Record, Vol. 1326, Or. 1012, 14th December 1971.

45. Hansard, Vol. 828, Or. 65, 13th December 1971.

46. Quoted in Hansard, Vol. 828, Or. 724, 15th December 1971.

47. I characterised each of the Parliamentary constituencies in Scotland as one of the following:
    N. inland constituencies (n = 44),
    C. those bordering a sea or estuary but having no significant fishing industry (n = 9),
    D. those including a home port of the deep-sea fleet (n = 3),
    I. those including one or more home ports of the inshore fleet (n = 15).

    For the General Elections 1970, 1974 (Feb), and 1974 (Oct), the average percentage of the poll obtained by SNP candidates was as follows:

	1970	2/1974	gain 1970-2/74	10/1974	gain 2-10/74	% of non-SNP voters in 1970 won over
Av ALL	11.4	21.9	10.5	30.4	8.5	21.44
Av C	11.1	23.5	12.4	30.8	7.3	22.16
Av (C+D+I)	14.9	27.0	12.1	33.2	6.2	21.50
Av I	18.8	30.7	11.9	36.2	5.5	21.42
Av (C+D+N)	9.9	20.2	10.3	29.1	8.9	21.30
Av N	9.6	19.6	10.0	29.0	9.4	21.46
Av D	6.9	19.4	12.5	25.3	5.9	19.76

    This table shows that the SNP victories of October 1974 cannot be attributed solely to the Accession negotiations. From the results above I infer that the relatively high level of dissatisfaction derived less from the prospect of Accession than from problems prior to 1970. SNP support in inshore areas was in 1970 far stronger than elsewhere, while the Party's support in distant-water ports was exceptionally low. The inshore dissatisfaction with the traditional parties in 1970 may have derived from an inshore cause, perhaps the experience of the First Cod War, anger at fishing close to Scottish shores by vessels of other states or an expectation of what EEC membership might bring, or from some cause external to fishing. The subsequent inroads made by the SNP into those who voted for a traditional party in 1970 was remarkably uniform across all constituencies (see column 6 above), thus the relatively greater initial strength of SNP support in inshore areas was sufficient to provide them with a gain of six inshore seats as compared to four others.

48. W. Wallace, Britain's bilateral links within Western Europe, Chatham House Paper 23 (London: Routledge and Kegan Paul, 1984), pp.47-8.

CHAPTER 9

SYSTEMIC PROBLEMS WITHIN THE FISHERIES.

The challenge to existing fisheries policy presented by the rise in the relative importance to the UK of coastal state factors and by the emergence of new external forums like the EEC and UNCLOS 3 were accompanied by extensive problems within the fisheries regime. As Chapter 2 demonstrates, effective fisheries management requires constant monitoring of stock levels in order to determine what yield can safely be taken without causing a decline in stocks, and authoritative intervention to limit effort to an appropriate level. Even within an appropriated fishery this is difficult, since stocks fluctuate with changes in recruitment and predation, and since there is often a by-catch of a species other than the target one. Moreover effort cannot be limited by temporarily taking vessels out of a fishery without economic losses to their owners, since capital and maintenance costs are incurred even when vessels are laid up. Within a High Seas fishery success is even less likely, since there is no limitation on entry, and fishermen may fish wherever returns seem highest provided that their vessel and gear is capable of exploiting that fishing ground. The limitation of effort by one state or firm will encourage others to increase or maintain effort.

Whereas up to and until the mid-1960s effort and yield had been built up almost constantly since the Second World War, from the mid-1960s onwards catch limits began to be reached, and recruitment overfishing was occurring in almost every stock. The existence of guaranteed floors to landing prices ("minimum landing prices") may have slightly encouraged over-supply even at such a time of recruitment

overfishing[1], while major increases in the costs of fuelling vessels from 1974 contributed to economic losses, which in turn led to political pressure for subsidies. Since for many North-East Atlantic states the fundamental consideration was the maintenance of employment in peripheral areas, subsidies were usually forthcoming, and so over-capacity was maintained. The situation was less severe in the ICNAF area, with fewer states involved and with the USA and Canada having no tradition of routine subsidy in peacetime. For the UK, this fundamental problem of fisheries management was compounded by a rapid build-up of Danish and Norwegian 'industrial' fisheries, directed large scale fishing with small mesh nets for reduction to fish meal. Industrial fishing destroyed stocks, especially the herring at which much of it was directed, angering Scottish fishermen, starving the HIB of funds, and directing the attention of drifters and seiners to other stocks. This increased the pressure on the new target species. The scarcity of stocks undermined the unity of the fishing industry behind a national approach, causing disagreements between UK fishermen using different types of vessel or gear, or from different localities.

Where possible the FCO and MAFF dealt with problems according to habitual operating procedures and standard assessments of UK interests. Where administrative arrangements had to change, this was done as far as possible within the framework of existing institutions rather than by creating new ones. These myriad problems were therefore tackled by strengthening the rules of the NEAFC and ICNAF, an effort which failed since the underlying problems had not yet been addressed: those of over-capacity and lack of effective management mechanisms appropriate to a common property resource of fluctuating size. Fisheries scientists, employees of

the statutory bodies, and many fishermen therefore gradually lost their confidence in the fisheries regime.

Over-capacity

Many of the problems resulted from a serious over-capacity in the combined fishing fleets exploiting the North Atlantic. Reviewing the period since 1945, scientists at the MAFF Fisheries Research Laboratory in Lowestoft have concluded:

> "Worldwide, wherever stocks have collapsed or fisheries have encountered economic difficulty, excess capacity has proved to be either a major cause or a major problem to be dealt with subsequently, once stringent management has been recommended" [2].

The concept of fishing capacity can best be explained as 'catching ability'. It is not a measure of the size of a fleet, but the amount of fish which that fleet can catch in a given time. Improvements in catching technology can therefore increase capacity even if the number and tonnage of a fleet remain constant. A number of reasons why overcapacity is almost inevitable in a High Seas fishery have already been explored in Chapter 2. The fact that the High Seas regime permitted many states to fish a common stock militated against early action by any state to reduce its own capacity to a level concomitant with OSY, since reduction by any one state would raise the yield per unit effort for others [3]. The extreme variation in cohort size for each species of fish requires that fishing effort be varied considerably from year to year, while the large capital investment in modern fishing vessels needs to be

amortised steadily over a number of years. Even for a vessel withheld from fishing, the depreciation and maintenance costs are considerable. Therefore the adjustment costs to an economy of reducing capacity may exceed the amount of subsidy necessary to maintain a fleet at its current size [4]. In addition, domestic political pressure against unemployment may make it difficult for a state to reduce its fleet, an action for which there is no incentive except in concert with other states.

In addition the 1960s had specific problems which contributed to over-capacity. Some states, notably the USSR and Poland, vastly increased their effort in the North Atlantic fisheries. Also in the years 1962-7 climatic conditions had been extremely favourable for larval survival. This raised stock levels and encouraged unrealistic investment in new fishing capacity, either in new vessels or in better catching technology. When recruitment fell again, there was a reluctance to reduce either capacity or effort accordingly. The principal causes of excess capacity, however, were political decisions taken in a number of European states in the early 1960s to place their faith in improved catching technology and more efficient vessels as the antidote to financial losses by fishermen. Such a solution had been embodied in the Fleck Report of 1961. Its philosophy was a recipe for overcapitalisation, and its decisions were not rooted primarily in fisheries science, but in social and strategic policy:

> "The industry does not play a major role in the national economy, for it contributes under 1 per cent to the Gross National Product. It is relatively more important however to the economy of Scotland, and it is of considerable local

importance both at the major fishing ports and at a large number of inshore ports, many of which can offer little alternative employment; and historically at least the fishing fleet has always had a strategic role. Our terms of reference require us to consider the size and pattern of an economic fishing industry; and for social and possibly strategic reasons, as well as for its value as a source of first class protein, we have thought it our first duty to consider whether the industry cannot be made economic at the present or even a higher level, and have been reluctant to believe that it must seek stability at a lower level of production" [5].

The Report's economic recommendations had been implemented by the Sea Fish Industry Act 1962, with construction and improvement grants available for ten years for vessels of all fishing sizes, and with an operating subsidy similarly to be eliminated over ten years. It was considered that after this period the better catch rates and greater fishing/travelling time ratios of the newer vessels together with more imaginative marketing would enable the industry to make profits once more. Had the UK been the only state pursuing such a stategy it might have proved effective, but most of the other states fishing the same grounds pursued similar policies, resulting in excess capacity. The level of subsidy given by centrally-planned states like Poland or the USSR is hard to calculate, but Norway's total aid to her fishing industry in 1968 was £45 million [6], compared with £7-8 million in the UK [7].

The UK contribution to this general over-capacity was maintained by a variety of government subsidies. The rates of the construction and

improvement grants instituted in 1962 were raised in 1968 in the face of deep-sea losses, and lowered again in October 1970 with a return of profitability. The political cost of the complete cutting off of grants and loans seemed to government Ministers to be too great, and by the Sea Fish Industry Act 1973 the ten-year period envisaged by Fleck was extended, even though the industry had experienced four years of good profits. The manner in which these subsidies were totally unrelated to any considerations of fisheries management is illustrated by the fact that in two years the allocated budget ran out several months before the end of the financial year, in October 1970 [8] and in December 1973.

If construction and improvement grants encouraged the development of excess capacity, operating subsidies maintained it. In the face of heavy imports of Scandinavian white fish in 1967-8, the subsidies instituted by the Sea Fish Industry Act 1972 were re-adjusted to a sliding scale related to profitability, according to which they dried up in 1973. There were a number of other minor subsidies to the industry. Among these was naval expenditure on charts, maps, and fisheries protection, but given that the Fisheries Protection Squadron doubled as the Mines Countermeasures Squadron, the full expenditure cannot be attributed to the industry [9]. The cost of the fisheries departments and the DAFS fishery cruisers can also be viewed as a form of subsidy.

An additional problem was the exclusion of UK vessels from the waters off the coasts of other states. This, which is dealt with in detail in Chapters 10 and 14, exacerbated over-capacity by diverting vessels into the remaining uncontrolled fisheries. This provided both vessel owners and HMG with the problem that to permit vessels to be

scrapped would weaken any attempt by the UK to return to the fishing grounds or to find alternatives. This therefore presented HMG with a powerful temptation for yet further subsidies, especially in the light of differences of interpretation as to what would happen to the access provisions of the CFP in 1982. With the intention of maintaining the fleet intact as a bargaining counter pending the revision of the CFP or the formulation of an UNCLOS Convention, the incoming Labour Government instituted on 27th February 1974 a system of daily payments to vessels over forty feet in length. After a delay, it also restarted the system of construction and improvement grants, albeit with only twenty months' assurance [10]. This piecemeal system of operating subsidies became the norm, with small intervals, until the beginning of 1983, when the size of the UK's expected annual catches finally became clear, while construction and improvement grants were continued by the EEC's FEOGA from the end of 1975.

The decline of fish stocks

This over-capacity, repeated in many other states, resulted in the collapse or catastrophic decline of almost every fish stock in the North-Eastern Atlantic. With the fundamental problem not susceptible to solution within a High Seas fishery, MAFF reacted with attempts to strengthen Fisheries Commission regulations. Apart from the proved efficacy of the NEAFC in eradicating growth overfishing in directed fishing, incrementalism and the terms of reference granted to most individual MAFF officials led them to try to improve existing machinery rather than to press for institutional innovation, which anyway might threaten the UK's high policy positions. MAFF opinion considered that extensions of coastal state jurisdiction were

incompatible with regional conservation regimes, and implied single-state regimes. Officials felt strongly that in order to be effective conservation regulations should be scientific and practical, and that fish are no respecters of man-made boundaries, with the result that no single state regime could conserve stocks. The NEAFC appeared to be a rational development from the ICES, and so appeared to be the best basis for effecting conservation in a scientific manner.

The FCO's support of the NEAFC was of course less the result of fisheries issues than of the obsession with the maintenance of the High Seas. Its firm faith in the continuation and strengthening of regional Fisheries Commissions was clearly expressed at the SBC's Sub-Committee 2. In reply to Icelandic statements about forthcoming extensions of jurisdiction to protect fish stocks close to her shores, UK representatives stated that the most sensible mode of effecting conservation was by regional management schemes. Where such schemes appeared to have been ineffective they should be strengthened [11]. The UK expressed its suppport for A/AC.138/SCII/L4, by which regional or international fisheries organisations would determine MSY (equivalent to OSY) and regulate fishing accordingly [12].

The overfishing was largely recruitment overfishing, but despite the fact that the NEAFC's best-developed conservation tool was the increase of permitted mesh sizes there was also a severe problem of growth overfishing resulting from a by-catch of larger species than the target one. A large proportion of ensnared undersized fish die, even if returned to the sea immediately. There was also some evidence that in high-volume pelagic fisheries the mesh size approach

does not prevent small fish being trapped in the cod end by the crush of other fish. Much of the by-catch was as a result of industrial fishing (see below), but small mesh fishing for nephrops (scampi) was also a major problem. Thus the Irish Sea whiting stock came under serious threat, and by the mid-1970s the equivalent of annual recruitment figures was being caught and discarded at sea by Northern Irish nephrops fishermen alone [13].

That recruitment overfishing should occur was inherent in an unmanaged fishery. Years of Fleck-style increases in technology and therefore capacity had been cushioned by the favourable climatic conditions of the mid-1960s; with the return of smaller year classes of cod, haddock and plaice from 1970 onwards it became obvious that the productivity of the North Eastern Atlantic would decline, as was predicted in an OECD report of that year. The fisheries departments reacted to these developments by proposing successfully in May 1970 that the right and duty of the NEAFC to limit effort and catch where appropriate be introduced into the Commission's Treaty. The NEAFC annual meeting was to set a Total Allowable Catch (TAC) according to ICES recommendations. From its inception this innovation appeared unlikely to succeed. The consent of all but three of the members was required for any initiative to be adopted, which put states who were less concerned about overfishing at an advantage, in that their compliance had to be ensured.

Pressure from member states unwilling to write off substantial investment in fishing fleets meant that Total Allowable Catches (TACs) set by NEAFC were substantially higher than those recommended by ICES. Catches were therefore above OSY, and even though ICES recommended lower TACs each year, stocks continued to decline.

These inflated TACs were, in the event, almost invariably exceeded. For those ICES stocks, like North Sea haddock, exploited by a number of states, there occurred in each new season a race between fishermen to catch as large a share of the TAC as possible. The TAC was generally slightly exceeded in the confusion, and during the remainder of each year a by-catch further depleted the stock. A proportion of each TAC had to be allocated to by-catches, and as no TAC was set for some of the smaller 'trash' species, like sprats or sandeels, by-catches remained high.

MAFF therefore favoured reducing the free-for-all by the division of each TAC into state quotas. The UK took the lead in this development, which was easier to obtain in ICNAF than in the NEAFC, given the lower number of states involved and their greater experience of international fisheries management. MAFF had high hopes that quotas would curb overfishing; when ICNAF introduced state quotas for threatened fish stocks with effect from 1st January 1973, Stodart (C - Edinburgh W), Parliamentary Secretary to AFF, told the Commons: "It is the first large-scale use of this highly effective form of conservation, and Her Majesty's Government welcomes it" [14]. By 1974 there were quotas for all stocks in the ICNAF area, which by diverting fishing effort into the North-Eastern Atlantic, increased the pressure on the NEAFC to act likewise.

NEAFC quotas, when they came from November 1974, proved ineffective in halting the decline in stocks. It proved even more difficult to formulate quotas than to agree on TACs, because with declining stocks it had to be agreed on which states the reductions in catch should fall most heavily, and on what criteria such a decision should be made. The criteria eventually decided upon for the allocation of

quotas were recent historical catches: thus those most responsible for overfishing were rewarded, notably the industrial fishing states, which were allocated large herring quotas. Quotas eased the free-for-all pursuit of a share of TAC by replacing competition between fishermen of many states by competition between fishermen of the same state. The helplessness of the Commission in the face of state intransigence remained, and quotas exacerbated the problem of NEAFC TACs' exceeding ICES recommendations. Whereas with a reducing TAC the state with the largest capacity can at least satisfy itself with the knowledge that its vessels are likely to obtain the biggest share of that TAC, with quotas the actual distribution of catch is shifted into the political arena. Thus an extremely acrimonious argument developed between the UK and Denmark over herring, as the UK argued that a catastrophic decline in stocks was principally because of Danish industrial fishing, and that Danish quotas should be slashed much more vigorously than those of other states. MAFF also successfully argued at the 1974 meeting of the NEAFC for another innovation, closed seasons, initially for North Sea herring. Like quotas and TACs, this development encouraged vessel owners both to invest in catching technology which could achieve a high catch over a short period, and to divert their attention to other stocks during the closed seasons.

The NEAFC innovations were insufficient to safeguard stocks. They did nothing to address the problem of over-capacity, and indeed by rewarding those vessels which could catch great numbers of fish in a short time, may have exacerbated it. Also, given that seasons for different stocks differ, vessels were encouraged to exhaust the quota on one stock and then to assault another. Of course not all vessels were sufficiently versatile to do this economically, notably the

larger trawlers, but purse seiners were ideal. TACs invariably exceeded ICES recommendations, and for most stocks catches far exceeded OSY, and most producers suffered economic losses. Another problem lay in the fact that both quotas and TACs referred to landings rather than catch. An honest fisherman, finding in his nets fish of a species for which his country's quota was exhausted, would throw them back, and a large proportion would die from shock or injuries sustained in the net. A less honest fisherman could indulge in 'klondyking', selling them at sea to a vessel from another state, notably Soviet or Bulgarian factory ships, and, if he wished, understate his catch. As a result of all these deficiencies most stocks of fish continued to decline.

One example of how ineffective NEAFC controls were in practice can be observed in the North-East Arctic. Heavy fishing of cod in 1968-70 and a wastefully large codling catch in 1973-4 convinced Norway that mesh sizes must be increased and a quota introduced. In March 1974 the USSR, UK and Norway agreed upon a trilateral catch of 500,000 tonnes [15]. The NEAFC meeting of November endorsed this, adding a quota of 50,000 tonnes for other states, making a TAC of 550,000 tonnes, but ignored mesh size. The USSR became convinced that stocks were more numerous than the NEAFC estimate, and withdrew from the agreement. That year, one million tonnes of cod were taken from the stock. From then on Soviet vessels continued to ignore both quotas and TACs for NE Arctic cod and haddock, and the 1976 haddock catch exceeded TAC by 37 per cent.

The inability of the NEAFC to protect stocks, let alone rebuild them, was clear. The North Sea herring spawning stock declined from two and one half million tonnes in 1953 to 250,000 tonnes in 1975 [16].

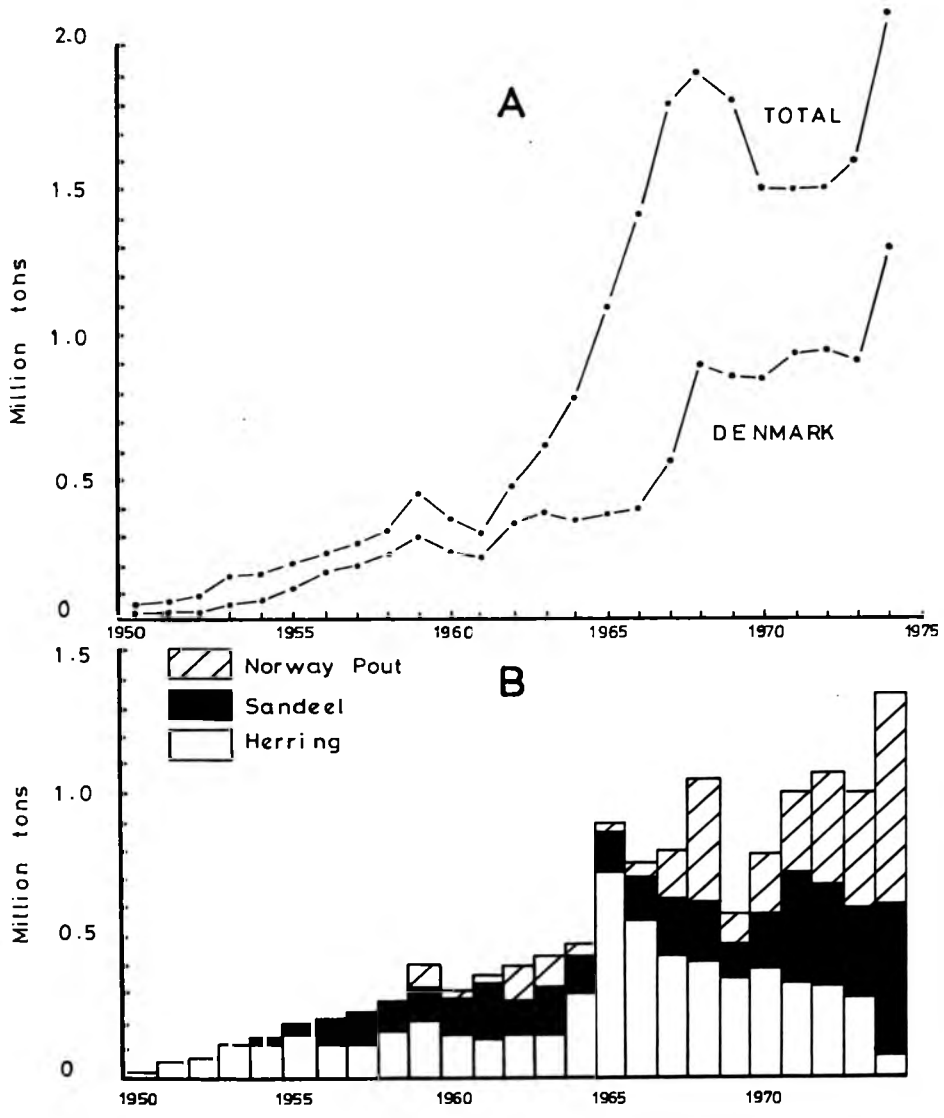
The West of Scotland hake fishery, once Fleetwood's mainstay, had collapsed in the mid-1960s. Some flatfish stocks were also in decline in the face of high catches by Dutch beam trawlers and others; for instance the North Sea sole stock declined almost continuously from 100,000 tonnes in 1966 to 39,700 in 1978 [17]. These failures, and others like them, weakened the faith of both fishermen and fisheries scientists in the NEAFC regime, and led many of them to move towards support for appropriated fisheries [18].

Industrial Fishing

The NEAFC's failure was partly attributable to the massive demands of industrial fisheries. Much of the considerable increase in aggregate catch over which the Commission had presided during the 1950s and 1960s was attributable to 'industrial' fishing directed at shoaling species for reduction to fish meal (see Figure 9.1). In 1950 29,000 tonnes of fish, or two per cent of the total North Sea catch, was taken for industrial purposes. By 1960 industrial landings had grown to 357,000 tonnes and 23 per cent of the total, and by 1974 2.1 million tonnes of fish (66 per cent of North Sea landings) were caught for industrial purposes [19].

Directed industrial fishing in the North Sea has largely been undertaken by the Danes and Norwegians. The Mourne herring stock, West of the Isle of Man and supporting an expanding food fishery based on County Down, was subjected to directed industrial fishing by vessels from Ireland. Directed industrial fishing by UK fishermen was miniscule, although damaged fish, and herring failing to attain the minimum landed price had since the 1950s been reduced by the Herring Industry Board. There were a few in the UK who saw

Figure 9.1: Industrial fisheries in the North Sea [20].
A. Total catch and the Danish catch, 1950–74.
B. The quantities of herring, sandeel, and Norway pout in the catch.



industrial fishing for Norway pout by British vessels as a means of alleviating the plight of herring fishermen whose catches were declining. DAFS undertook a study to this effect in late 1970, but, finding that such a fishery would involve a high and unavoidable by-catch of the juvenile haddock and whiting located on the same grounds as the adult pout, gave no support to the idea. A White Fish Authority experiment on directed pout fishing produced a catch of which only 44 per cent was pout. Industrial landings in the UK in 1973 thus totalled only 36,000 tonnes valued at £1,082,000, of which only 21,000 tonnes was taken by British vessels [21].

In general, the inshore fishermen of Scotland regarded industrial fishing as immoral and repugnant [22]. In response to the DAFS study, there was an immediate deluge of complaints from fishermen's organisations. The Herring Industry Board and the Scottish Trawlers Federation also protested to the Secretary of State, and urged the severe limitation of the practice. This opposition was not merely based upon a sentiment that fishing for human consumption was more honourable than fishing for animal consumption, industrial fishing was in itself highly deleterious to stock conservation, for a variety of reasons. By 1970 directed industrial fishing was undertaken by highly specialised vessels with small mesh nets and onboard facilities for partial reduction. The use of fine mesh nets was made possible by the fact that it did not matter to the industrial fishermen what species was taken. All that was important was that fish stocks were dense. Hence the first directed intensive industrial fishery was the Bloden fishery, based on the nursery of the North Sea herring, and thus concentrating on juvenile fish. Although from 1970 onwards the rising price of herring, informal complaints from DAFS, and the development of fisheries for Norway

pout, sprats and sand-eels led to a decline in directed industrial fishing for herring, the by-catch remained a very serious problem. The small size of sprats and sand-eels, the principal factor which made them trash species, meant that the mesh intended for them would ensnare almost all "protected" species. Only the Southern North Sea sand-eel stock was fairly distinct in range from stocks of other species; in every other industrial fishery it was almost impossible to avoid catching food fish. Directed industrial fishing for herring and the large by-catch of protected species meant that sixty per cent of the industrial catch of 1970 consisted of species habitually used for food (see Figure 9.2).

Figure 9.2: Percentage composition of North Sea industrial landings, by weight, 1970-1974.[23]

	1970	1974
Protected Species:		
Cod	0.3	0.2
Haddock	10.4	2.1
Herring	26.2	4.2
Mackerel	15.6	10.9
Saithe	1.0	0.1
Whiting	7.3	5.6
TOTAL	60.8	23.1
"Trash" Species:		
Blue whiting	2.5	2.5
Norway pout	14.6	35.7
Sand eels	12.8	24.3
Sprats	3.7	11.5
TOTAL	33.6	74.0
Others:	5.5	2.9

The fisheries departments reacted, predictably, by taking the issue to the NEAFC, and achieved some success. At its 1970 meeting, the Commission introduced rules limiting the proportion of protected species in an industrial catch to twenty-five per cent by weight, of

which forty per cent could be undersized individuals. As undersized fish weigh less than adults, the ten per cent of the total catch consisting of juveniles of protected species still represented a massive loss to the food fisheries.

These rules arguably met with some success, in that the proportion of protected species in the North Sea industrial catch declined from 60.8% in 1970 to 23.1% in 1974 (see Figure 9.2). However, this improvement was more due to the collapse of the herring stock, than to a shift of industrial fishing effort to stocks less mingled with protected species, like the Norway pout stock in the mid-North Sea and the Southern sand-eel stock. Some of the apparent decline in the proportion of protected species was probably a result of under-reporting by industrial fishermen. There was little to stop this since the speed of onboard reduction to "grey liquid cement" [24] made verification very difficult, and enforcement was still a flag state responsibility.

Be that as it may, the fisheries departments tried again, and at the NEAFC meeting of May 1974 recommended the reduction in the permitted by-catch of undersized protected species from 10 to 5 per cent by weight [25]. By that year the threat to herring stocks had become so serious that any attempt to conserve them without reducing the industrial catch would have been ludicrous. The Danes and Norwegians offered to the NEAFC alternative evidence to that of the ICES, and the matter was shelved for a year, pending the results of studies on the feasibility of by-catch limitations. The following year, half of the TAC for North Sea herring had to be allocated for industrial by-catches alone!

The NEAFC had therefore failed to make further progress against industrial fishing, despite its catastrophic effect on stocks. In addition to destroying the once massive stock of herring, largely by directed fishing, the vast size of the industrial catch meant that the by-catch of almost every protected species depressed the yield of the food fisheries. By moving to smaller target fish like sand-eels and sprats, which tended to increase in numbers as their predators' stocks were fished out, industrial fishing had effectively made nonsense of the carefully-formulated NEAFC rules on mesh size. Apart from its biological effect, its purpose and methods imparted a messianic fervour to opposition among Scottish drifters and purse seiners to a narrow fisheries limits regime. It thus in large part contributed to SNP electoral victories in the principal Scottish herring ports in the two General Elections of 1974. It also resulted in North-East Scotland's purse seiners' being diverted to West of Scotland herring and South-Western mackerel, with a knock-on effect as those habitually exploiting the new targets became dissatisfied. Herring drifters began to press more vigorously for the legal right to drift for salmon, with little success, but many began to participate in illegal drifting.

Disagreement over fishing methods

New rivalries as fishermen competed for less plentiful stocks resulted in a mounting series of accusations that particular types of fishing gear were damaging to fish stocks and demands that their use should be restricted. Many inshore MPs and even MAFF dabbled with compliance, especially after UK accession to the EEC, because *de facto* discriminatory gear restrictions offered a possible means by which UK fishermen could reduce competition from fishermen of other

member states without the UK's leaving the Community. Where such restrictions were successful, they brought the UK into conflict within EEC institutions with the victims' states, and where unsuccessful, they led the frustrated inshore fishermen towards political pressure for vigorous action by HMG to revise the CFP.

Two sets of accusations were levelled at particular types of fishing gear. The first, levelled at purse seines and at monofilament nets, was that they were injurious to the undersized fish who were intended to escape the net. The second was that certain methods of bottom trawling were damaging to flatfish and shellfish. This was not a new argument: trawling had been banned within the Scottish three-mile limit for a century. MAFF's responses were generally more political than scientific. Where a type of gear was an innovation and where the conservationist argument for its prohibition was clear, MAFF could move quickly. Thus a shift by some fishermen to nylon monofilament nets was quickly squashed by MAFF in 1970. Where prohibition of a method of fishing would involve great capital loss to a well-established section of the UK fishing industry, however, little was done. Thus, despite repeated years of representations from the Herring Industry Board from 1971, no serious attempt was made by fisheries departments or a single MP to obtain the banning of purse seining. Similarly, MAFF swiftly complied with requests for the banning of double-beam trawling because this method was not used by British fishermen. Many fishermen concerned with bottom-living species such as flatfish and shellfish claimed that the beams used to hold the trawl net open damaged species with which they came into contact.

In March 1971 the Milford Haven Trawler Owners' Association submitted

a paper to MAFF and the Welsh Office linking the depletion of sole stocks with heavy incursions by twin-beamers from Belgium and Holland[26]. While most of the sole off Pembrokeshire were harvested beyond the twelve-mile limit, the paper raised the probability of between fifty and one hundred of these vessels commencing work within Morecambe Bay, most of which lay within that limit. After consultation, MAFF responded on 9th February 1972 with an order forbidding fishing within the twelve-mile limit of England, Wales and Northern Ireland by beam trawlers whose beam or beams had a total length of eight metres or more [27]. DAFS did not act likewise since Scottish waters are generally too cold for flatfish. The effect of this order was to ban double-beam trawling within twelve miles, because single-beam trawlers rarely have such large beams.

Single-beam trawling was a far more difficult issue because such trawlers made up the bulk of the Brixham fleet. From the first representations that single-beam trawling be banned, MAFF spokesmen countered that there was no evidence that the method had a damaging effect on sedentary species [28]. During 1972 and 1973 many coastal Conservative MPs pressed for a ban. An ICES Report to NEAFC in May 1973 concluded that the decline in flatfish stocks was attributable to overfishing in general rather than beam trawling in particular. Despite this Report, at the beginning of 1974, with a General Election pending, Stodart announced that the Government intended to introduce a ban [29]. The change of government prevented this ban's implementation, but the issue became a partisan one as previously unenthusiastic Conservative front-bench spokesmen such as Prior and Buchanan-Smith (C - Angus N and Mearns) spoke confidently in favour of a ban. After a further study MAFF concluded in October 1975 "that beam trawling, while an efficient method of fishing, is no more

damaging to the sea-bed than conventional trawling gear" [30]. In many ways these attempts to ban particular types of gear constituted an effort to ignore the underlying political and economic problems with the fisheries regime, and their lack of success served to concentrate attention upon the need for a revision of the CFP.

Economic Problems

Overcapacity and the decline in stocks meant that economic losses, contrary to the Fleck expectation, became almost endemic. Only from 1969 to the OPEC oil price rise in early 1974 were all sections of the industry making good profits, and there was even an 8% gain in total employment in fisheries from 1970 to 1973. There were a number of other reasons for losses. One was the low price elasticity of demand for fish. Despite publicity drives by the WFA and new developments in storage and packaging pioneered by the Torry Research Station, total consumer demand for fish fell slightly but steadily. Although demand for some luxury species, notably nephrops, expanded considerably, this was more than offset by a decline in the mass market for white fish, especially wet (unfrozen) fish. Prices fluctuated widely in response to variations in supply, since fresh fish has to be sold quickly, but low prices created little extra demand. The relative price inelasticity of wholesale demand for fish combined with a high fixed cost of processing and distribution, to ensure that the slump in landed prices was not proportionately reflected in a lowering of the retail price [31].

Secondly there were extreme seasonal variations in supply. The quantity of newly-landed fish available on the UK market is partly a function of the favourability of climatic conditions and of fish

migration patterns, as well as of the level of foreign and domestic subsidies to fishermen, and so varies greatly from month to month. The operators of freezer trawlers are less affected by such price fluctuations than wet fishers, since onboard freezing enables a highly perishable commodity to be stored and retailed at a steady rate, independent of seasonal fluctuations in catches.

Customary seasonal fluctuations in supply were exacerbated from 1970 by the introduction of Total Allowable Catches. The resultant rush by fishermen to catch as early as possible in each year as large a share as possible of the unrealistically high TACs recommended by the NEAFC increased seasonal differences in supply and contributed to fluctuating prices. When from November 1974 national quotas were introduced, the battle for catches became one between vessels from the same state. The total effect of all this was most unsettling. For instance, in March and April 1975 the wholesale price of fish added 23.8%, having lost 25.5% in January and February. Similarly, the average price for a kit (140 lb) of cod fell from £28.50 in January 1974 to less than £12 in May [32]. This meant that the earnings per trip of the average Hull fresher fell by over £10,000 in four months [33]. The White Fish Authority reacted to such problems by using its reserve price system, and by buying fish into store. To an extent this practice may have steadied prices by creating a buffer stock, but it also encouraged foreign fishing vessels to land their fish in a port whose reserve price was high, further increasing oversupply [34].

The economic position of the industry was also weakened by an uneven flow of imports. During this period most of the UK's NEAFC partners were labouring under the same regime as the UK industry, so there was

no state whose vessels consistently attained a higher catch rate per unit effort. Norway and Iceland were able successfully to export frozen fish to the UK, however, for a number of reasons. The first was their proximity to fish stocks. Since most white fish concentrations were towards the North of the NEAFC area, they could be obtained by Scandinavian fishermen with less travelling time than the UK fleet would require. In addition exchange rates and differential rates of subsidy sometimes permitted UK prices to be undercut. Prices for a particular species obviously varied between countries according to consumer tastes, and changes in support prices also affected trade. Since Britain constituted the principal European market for white fish it received much of the white fish caught by vessels of other states. In addition, Norway's extensive subsidies to her fishing industry gave her exports an advantage. To these considerations was added another, once UK trawlers began to be excluded from Iceland. In the period before capacity had been increased to compensate for the excluded trawlers, Icelandic vessels enjoyed an appropriated fishery with a relatively low fishing capacity, and thus high yields. Poland and the USSR, when in need of foreign exchange, also exported fish very cheaply to the West.

HMG's favoured means of damping down imports was tariffs. Imports of frozen fish, mostly from Norway, heavily depressed landed prices during 1967 and 1968, and the white fish fleet was suffering considerable losses. Fishing port MPs argued that the high level of Norwegian subsidy and a devaluation of the Icelandic currency amounted to unfair trading [35]. H. Hughes (Lab - Aberdeen N to 1970) called for a separate Ministry of Fisheries to deal with "foreign competition" [36]. The position of Norway as an EFTA partner made unilateral action by the UK difficult, but after an unsuccessful

attempt to obtain voluntary quotas from the exporters, HMG extended a ten per cent ad valorem duty on wet fish from EFTA states to apply to frozen fillets. Subsequent negotiations within the EFTA framework replaced the duty with a system of minimum export prices, a system whose efficiency increased when Iceland acceded to EFTA in the following year.

Imports did not again become a problem until 1975, when a glut of fish in store was depressing landed prices. March 1975 was the month of peak activity. Since this corresponded with a period of vigorous internal debate as to the wisdom of continued UK membership of the Common Market, this issue was exploited, with some Conservative MPs calling for import controls to be applied against non-EEC members [37]. The French Government exacerbated matters by imposing such a ban, provoking fears that non-EEC imports might be diverted to the UK market. Anti-Common Market MPs, on the other hand, called for a ban on imports from EEC states [38]. The plight of the fishermen was thus being used as a weapon to make statements about the effects of UK accession to the EEC. MAFF believed that over-supply was temporary, owing to the condition of fish stocks and probable loss-induced falls in capacity, and was anxious not to provoke further retaliation by Norway and Iceland against the distant-water fleet, so it did not favour import controls. While striving to reduce the over-supply to the UK market by voluntary agreements with Norway and within the EEC on minimum import prices for cod and haddock, it took action to divert the surplus into industrial uses by raising the reserve price. These actions were largely effective, and Spring 1975 saw a recovery in fish prices.

To all this was added the OPEC oil price increase. Oil prices

increased sharply in the early months of 1974, in the wake of the Yom Kippur War of October and November 1973. Within the space of a few months, £20 million per annum was added to the industry's fuel costs. For ports whose fishing grounds were already threatened by overfishing or foreign competition this was a disaster. The once prosperous port of Milford Haven had been declining for years as a result of Dutch and Belgian fishing for plaice on the Celtic Sea banks, and the oil price rise was a further blow. Fleetwood, whose traditional hake grounds off the West of Scotland were now shared with Spanish and Portuguese boats, Buckie, beset by overfishing of herring, and Brixham, hard hit by a decline in plaice and sole stocks, all suffered particularly [39]. There was heavy pressure from opposition MPs for fuel subsidies [40]. The Government had agreed with its OECD partners, however, that it would be preferable to permit the oil price increases to work their way through the economic system. This would prevent the massive economic distortion which would be occasioned by selective subsidies, encourage conservation and the further development of alternative fuel sources, and externalise some of the UK's additional fuel costs through higher export prices. In the year beginning 1st May 1974, at a time of mounting stores of frozen fish, the real earnings of the inshore white fish fleet fell by thirty-nine per cent and of the herring fleet by fifty-four per cent [41]. The result of these losses was an unprecedented level of political activity by fishermen, especially during 1974 to 1976, the period of maximum losses. From then until the end of the period under review there was a steady loss of both vessels and jobs (see Figures 12.1 and 3.2), and the repeated introduction of short-term operating subsidies, especially to vessels over forty feet in length.

Conclusion

The High Seas fisheries regime tempered by regional intergovernmental activity had revealed, by the mid-1970s, the shortcomings implicit within it, especially when combined with a view of the domestic aspects of fisheries policy as primarily a branch of regional policy. By 1975 the UK trawler and seiner fleet was in a position of chronic economic losses which were only partly alleviated by repeated operating subsidies to maintain UK capacity as a bargaining counter pending settlement. The NEAFC had shown itself capable of innovation, but not to a sufficient extent to protect the herring or to render insignificant the industrial by-catches of protected species. Despite the Commission's ostensible basis in fisheries science, moreover, it proved unable to act in accordance with ICES recommendations.

Although these shortcomings undermined the confidence of government officials and MPs in the regime, they did not in themselves argue for an appropriated fishery. There was overall over-capacity, and there would have to be extensive fleet reductions. For many fishermen, unilateral UK extensions of jurisdiction became the preferred formula, in the hope of concentrating these capacity reductions on the citizens of other states, but these in themselves would not have solved the problem that many fish found close to UK shores as adults spend their juvenile stage in the Eastern North Sea.

The real significance of these developments is that they caused at all levels a loss of confidence in the NEAFC, and a willingness among fishermen and MAFF officials to support unilateral conservation measures by the UK. It had become clear to the officials, though

not to fishermen, that no further fudging of the need to trim effort to a level appropriate to a sustainable yield could be afforded, and that there would have to be capacity reductions. There would have to be an authoritative intergovernmental or international body to effect these aims. The stage was therefore set for MAFF acquiescence to new roles being accorded to the European Commission and the Council of Ministers. British inshore fishermen had become so dissatisfied with fisheries policy in general, however, that they could only be expected to accept an increased role for Community institutions if the access provisions of the CFP were substantially revised in the UK interest. Long-term dissatisfaction had developed among inshore fishermen. On the part of states with a greater relative dependence on fishing than the UK, such as Iceland, the collapse of stocks brought about attempts to revise the international fisheries regime from one of common property to one of state property, an aspect dealt with fully in Chapter 10.

Notes

1. This question is extremely complicated. There is no inherent reason why a minimum landing price should lead to oversupply, since a minimum price may be below the equilibrium price. However, since fishing is an activity characterised by imperfect producer knowledge as to the activities of other producers and of quayside prices, I regard it as probable that, in the short-term at least, a fisherman's effort will be predicated upon the assumption that his catch will command a price at worst equal to the support price. If several producers simultaneously were to make such an assumption, aggregate landings would be higher than in the absence of minimum landing prices.

2. Fishing Prospects 1978-9, p.9.

3. Indeed the very choice of MSY rather than MEY, a reflection of the supply-orientated "Food" interest within MAFF, was almost bound to result in overfishing and hence overcapacity, because of a small margin of error available.

4. An analysis of the economics of adjustment can be found in J.A.Butlin, "The Welfare Costs of Structural Adjustment in the UK Fishing Industry", Fishery Economics Research Unit Occasional Paper No.1 (Edinburgh: White Fish Authority, 1979).

5. Report of the Committee of Enquiry into the Fishing Industry, January 1961. Command 1266 (London: HMSO, 1961), Article 2.

6. Hansard, Vol. 894, Or. 1060, 30th June 1975.

7. Grants, loans and operating subsidies at current prices totalled £5.4m for the financial year 1967-68 and £8.6m for 1968-9. Hansard Vol. 832, Wr. 184-6, 18th May 1972.

8. In October 1970 the government reacted to the shortage of money by lowering the rates of grant payable. The Select Committee on Statutory Instruments found the reductions 'retrospective' because they applied to all applications which had not yet been approved, thereby changing the terms for those applications which had been received but had not yet been considered.

9. There was only one instance during the whole period of the suggestion being made in Parliament that the cost of Fishery Protection should be levied on fishing vessels. Hansard, Vol. 822, Wr. 38, 26th July 1971.

10. A limit was imposed on the total grant expenditure which could be committed by 31st March 1976, in order to prevent too great an investment in new capacity in a period when the future regime was uncertain. Hansard, Vol. 875, Wr. 496-7, 27th June 1974.

11. Statement of UK representative Simpson. In UN Document A/AC.138/SCII/SR31, Summary Record of 31st Plenary meeting of Sub-Committee II of the UN "Seabed Committee", 29th March 1972. In UN Committee on the Peaceful Uses of the Sea Bed and the Ocean Floor beyond the limits of national jurisdiction, Sub-Committee II Summary Records of the 24th to 32nd meetings 1st to 30th March 1972, p.119.

12. Statement of UK representative Graham. In UN Document A/AC.138/SCII/SR14, Summary Record of the 14th Plenary meeting of

Sub-Committee II of the UN "Seabed Committee", 17th August 1971. In UN Committee on the Peaceful, etc. Summary Record of the 4th to 23rd meetings, 22nd July to 26th August 1971, p.140.

13. Fishing Prospects, 1977-79, p.22.

14. Hansard, Vol. 848, Wr. 313-4, 19th December 1972.

15. "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". London, 15th March 1974. Entered into force 15th March 1974. Treaty Series 35 (1974), Command 5615. (London: HMSO, 1974).

16. Fishing Prospects, 1978-79, pp.11-12.

17. Fishing Prospects, 1980-81, p.47.

18. An interesting analysis of the processes of political bargaining about resources, with especial reference to Northeast Atlantic fisheries, can be found in A. Underdal, The Politics of International Fisheries Management: the case of the Northeast Atlantic (Oslo: Universitetsforlaget, 1980), especially pp.101-201.

19. Ibid., pp.47-48.

20. Fishing Prospects, 1975-76, p.48.

21. Hansard, Vol. 867, Or. 1051, 17th January 1974.

22. See SNP Press Office, Fishing Survey, 4th March 1981, p.1.

23. Fishing Prospects, 1975-76, p.47.

24. House of Commons, The Fishing Industry, Fifth Report from the Expenditure Committee, Session 1977-78. Together with the Minutes of the Evidence taken before the Trade and Industry Sub-Committee in Sessions 1976-78 and Appendices, (HC286), Q1778.

25. This had originated from an initiative of fishermen from N.E. Scotland. See statement by Maclennan Hansard, Vol. 863, Wr. 190-91, 7th November 1973.

26. The Milford Haven paper, updated in May 1977, appears in House of Commons, "The Fishing Industry", T299, pp.351-4.

27. Beam Trawl Regulation Order 1972, SI 1972 No. 23.

28. The first such parliamentary exchange to appear in the Official Record is between J.Gilmour (C - Fife E) and A.Buchanan-Smith (C - Angus N and Mearns), Hansard, Vol. 833, Wr. 96, 15th March 1972.

29. Hansard, Vol. 868, Wr. 362-3, 7th February 1974.

30. Hansard, Vol. 898, Wr. 471, 30th October 1975.

31. During 1975-1976 the Price Commission undertook an investigation into the price and marketing of fish, but found no evidence of profiteering in the fish trade, despite the fact the retail price was four times

the landed price. J. Ezard, "Fishermen's (and fishmongers') tale of woe", The Guardian, 12th February 1981, p.2.

32. Hansard, Vol. 878 Or. 187, 29th July 1974.

33. Based on the average landings per trip of 1,600 kits, given in "The Fishing Industry in Hull and its associated activities". Memorandum submitted by Kingston-upon-Hull City Council, House of Commons, "The Fishing Industry", T149, Section 3.

34. This was a problem in Hull, for instance, when in 1975 the reserve price per kit of cod was raised from £8 to £13. Hansard, Vol. 888, Or. 1136-7, 17th March 1975.

35. E.g. Stodart (C - Edinburgh W) Hansard Vol. 773, Or. 1286, 20th November 1968 and McNamara (Lab - Kingston-upon-Hull N) Hansard Vol. 773, Wr. 220, 18th November 1968.

36. Hansard, Vol. 799, Wr. 124, 9th April 1970.

37. E.g. Sproat (C - Aberdeen S), Hansard, Vol. 887, Or. 1471, 5th March 1975, Gray (C - Ross and Cromarty), Gilmour (C - Fife E), Douglas-Home (C - Kinross and West Perthshire), Hansard, Vol. 888, Or. 1236-1300, 17th March 1975, and Brittan (C - Scarborough and Whitby) and Trotter (C - Tynemouth) Hansard, Vol. 889, Wr. 302-3, 27th March 1975. In Mid-March 1975 a single Polish vessel disembarked 800 tonnes of frozen fillets in Hull, equivalent to a week's supply to the Hull fish quay.

38. E.g. Ewing (SN - Moray and Nairn, 1974-79), Hansard, Vol. 889, Wr. 477-8, 10th April 1975.

39. The Milford Haven trawler fleet halved from 16 to 8 between 1971 and 1976, in the face of a decline in average catch from 0.73 cwt per day at sea to 0.44. In fact the port had been in almost continuous decline since the War. In 1950 there were 97 trawlers there, a figure which dwindled to 64 in 1955, and 27 in 1960. House of Commons, "The Fishing Industry", T302.

40. E.g. Ancram (C - Berwick and East Lothian) Hansard, Vol. 872, Or. 401, 10th April 1974, Watt Hansard Vol. 878, Or. 202, 29th July 1974.

41. Hansard, Vol. 894, Or. 1086, 30th June 1975.

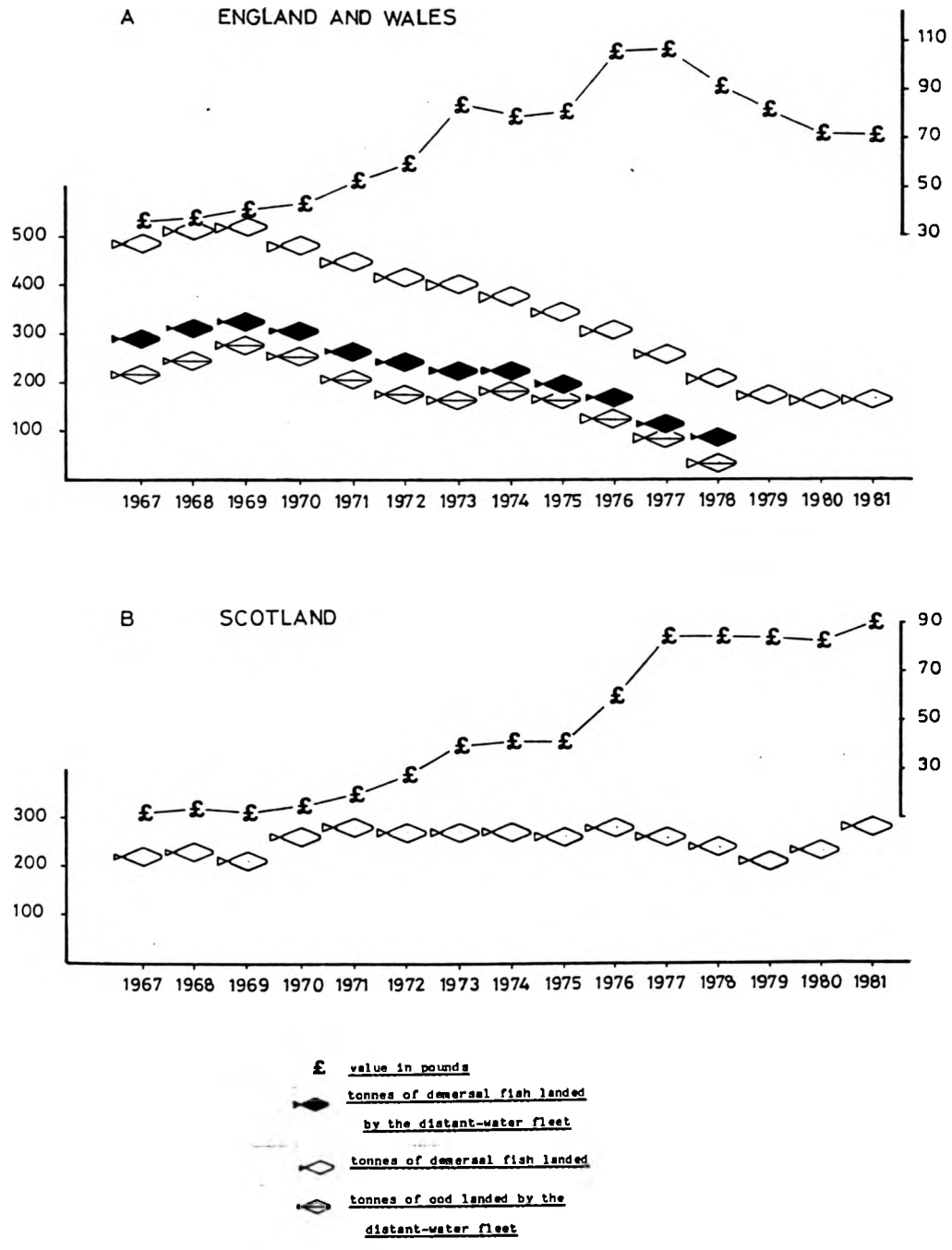
CHAPTER 10

THE LOSS OF ACCESS TO DISTANT-WATER AND MIDDLE-WATER FISHING GROUNDS

Continued fishing industry support of the High Seas fishery regime was threatened not only by the NEAFC's ineffectiveness in stock conservation but also by the gradual diminution of the relative importance of distant-water fishing grounds to the UK as coastal states reacted to declining stocks by attempting to reduce the level of foreign catch off their shores.

This progressive loss of access contributed to very considerable reductions in UK catch, especially of demersal fish (see Figure 10.1). It diverted British deep sea trawlers into uncontrolled grounds, exacerbating overcapacity. It hit employment levels among fishermen and ancillary workers in the deep sea ports and made it imperative that new grounds be found for as many of the displaced vessels as possible to minimise restructuring. Extensive new grounds could only be acquired by a massive extension of British fisheries limits (with the potential for re-entering waters from which UK vessels had been excluded by means of swap arrangements with other states), and such an extension would only be able to provide grounds for displaced vessels if the Common Fisheries Policy could be revised so as to reduce the access rights of other Community states within the new limits. The loss of access thus both reduced the size and influence of the deep sea fleet and undermined its confidence in the narrow limits policy. In reducing the English and Welsh catch, it raised the relative importance of the Scottish fleet within the UK industry.

Figure 10.1: The weight (gutted) and value of demersal fish landed in [1] (A) England and wales, and (B) Scotland, 1967-81.



The position of the United Kingdom

There were four principal territories off whose shores UK vessels were active to any great extent: Iceland, the Faroes, Canada and Norway. The fish stocks off their shores were by 1970 mostly suffering from recruitment overfishing. A 1969 study by MAFF's Lowestoft Laboratory forecast declines in yield per unit effort of between forty per cent and eighty per cent from 1965 to 1975 for all the UK's distant-water grounds, assuming no jurisdictional changes or catch limitation agreements [2]. There was thus good reason for these coastal states to wish to reduce the foreign catch off their shores, and each of them signalled to the UK their desire to do so.

The FCO, as usual, acted as the lead Department, and conducted the British case. FCO legal advisers sought consistency in UK positions over all aspects of UK transgovernmental and intergovernmental contacts, and the structure of co-ordination within the FCO helped them to define the problem. The same Under-Secretary oversaw both the UN department and the Defence department of the FCO. The strong concern of the defence establishment for the freedom of navigation was thus structurally transmitted to the FCO officials at UNCLOS 3. Similarly, a single desk officer in the FCO's Western European department oversaw British relations with Denmark (and therefore Greenland and the Faroes), Norway and Iceland. The FCO thus attempted to ensure that the agreements with the various states were legally consistent with one another.

The negotiations were initially handled by low level FCO officials, with MAFF officials and scientific and legal staff as advisors. There were some bilateral meetings of fisheries officials, but these

were conducted under FCO tutelage. The FCO was naturally unwilling to concede extensions of coastal state jurisdiction in contravention of the High Seas and territorial sea regimes confirmed at Geneva in 1958. Such extensions might create a customary law of the sea which could be used by other states to bring strategically vital straits under coastal state control without any right of transit passage. Extensions outside the UNCLOS framework would also undermine the "package deal" which the FCO hoped UNCLOS 3 would produce. International customary law requires an undefined number of sufficiently important states successfully to assert a principle in order for it to become law. It was therefore vital to FCO planners for the UK to avoid taking action which would involve UK recognition of any modification of the High Seas status of waters beyond the territorial sea, since this might lead to wide limits to coastal state jurisdiction becoming customary law in advance of a Convention. Coastal state extensions of fisheries jurisdiction was one issue on which the FCO might make concessions at UNCLOS 3 in order to gain guarantees for navigation and for global rather than state rules on vessel construction, and it was essential to the FCO that change be contained within the framework of the Conference. The FCO was determined not to be deprived of this bargaining counter by default. It was very willing to endorse conservation agreements, and to concede a reserved share of the catch beyond the territorial sea for states peculiarly dependent upon fishing, because such provisions were in accordance with the Geneva Conventions [3]. Essentially, however, it had to assert the UK's sole theoretical right to determine where British citizens could fish beyond contiguous zones. The FCO was also anxious to prevent any linkage between the continental shelf and the water column, because of the argument of some coastal states, in particular Iceland, that coastal fisheries

were resources of the shelf.

The consensus mode of procedure had neutralised the superior voting power of the non-shipowning states, and so the UK had little to fear from UNCLOS 3, and every reason to wish to prevent extensions outside the Conference, even at the risk of concessions. If states could appreciate the FCO's position, amicable solutions involving a significant loss of UK catch could be formulated. The wording of the agreements was all-important. The Faroes, Canada and Norway were happy to accept catch reductions without legal concessions by the UK: Iceland was not. The FCO co-opted the deep sea industry and MAFF behind its high policy concerns, but eventually had to accept a higher loss of catch than it had turned down earlier in the dispute: due to Iceland's threats to leave NATO, whose maintenance was also a central high policy goal of the FCO.

The positions of the coastal states and territory

Iceland

Although the deep sea fleet had a number of habitual grounds, British effort at each varied with MAFF estimates of catch prospects (see Figures 10.3, 10.4 and 10.5), making it hard for the coastal fishermen to plan their activities. A MAFF study in 1969 forecast that Iceland would experience the slowest decline of the UK's distant-water fishing grounds, information which triggered off a doubling of annual UK effort off Iceland between 1969 and 1971 (see Figure 10.4). Whereas most of the exclusions were achieved by negotiation between the littoral state and the UK, in the case of Iceland the process of catch reduction resulted in animosity and

confrontation between the parties. The unique aspect of the Icelandic issue is that in all other waters the coastal state was willing and able to reach an agreement that was, however tenuously, within the spirit of the Geneva Conventions and did not prejudice the position of the UK at the on-going international negotiations. In the case of Iceland, effecting a reduction in the UK catch was only one of the Icelandic government's goals, the issue of jurisdiction being for historical reasons a vital one, and one on which a concession would be regarded by the Icelandic public as a defeat.

Rapid and sizeable shifts in fishing effort were unacceptable to a state like Iceland: her economy depended largely on fisheries (with 80 per cent by value of her exports being fish or fish products), 16 per cent of her working population were employed in fishing, processing and distributing the catch in 1971; and few means of raising living standards or exports other than increasing the Iceland catch. Her government had powerful domestic constraints which urged it to take a tough line in excluding foreign fishermen. During the period 1971-3, when the UK and Iceland were in dispute, the government was a left-wing coalition of the Progressive Party and the People's Union, and the rivalry between the coalition partners reduced the flexibility open to Icelandic negotiators.

The assertion of legal jurisdiction over the fisheries was a firm national goal of many Icelanders. Historically and geographically the fish resources were Iceland's; without them the island would have had few export opportunities. The three-mile limit had been imposed on Iceland in 1901 by agreement between the UK and the Danish Government who then held sway over the island, and to reverse this 'betrayal' had been one of the firmest elements of Icelandic policies

since complete independence in 1944. Fisheries were, in the words of an Icelandic Minister in 1951, the "conditio sine qua non of the survival of the Icelandic people, for without them the country would not be habitable." The "real High Seas" were "the waters beyond the continental shelf" [4]. A Treaty embodying a clause giving Iceland jurisdiction over a broad band of fishery resources was therefore as important to Icelandic Ministers as was the prevention of such a clause to their UK counterparts. It was also an issue on which Icelandic public opinion felt strongly, whereas the FCO's narrow-limit views, however well thought out, provoked only indifference from the UK public.

Commitment to the struggle thus ran much more deeply through the Icelandic people than through their UK counterparts. Catch limitations were not enough, and an Icelandic government policy statement issued in July 1971, expressing the intention to extend Icelandic fisheries limits to fifty miles no later than 1st September 1972 specifically linked fisheries and the continental shelf. Such a link had been recognized in Icelandic Law since 1948; a law of that year empowered the government to issue regulations extending fisheries limits over the shelf, with no requirement for the Althing to legislate. Icelandic writers had argued for many years that the wealth of Icelandic fish stocks resulted from the high primary food production of the shallow waters above the island's continental shelf. Ecologically the argument was incontrovertible, the more so because demersal fish do not feed in deep water. The linkage between the continental shelf and the water column was something that the FCO especially wished to avoid, however, because the difficulty of defining the shelf and the tremendous variation of its width in various parts of the world could lead to a chaotic situation as

states extended maritime jurisdiction.

Iceland had few international constraints encouraging her towards compromise. She was a member of NATO, but had only joined after considerable domestic debate and acrimony, and a substantial proportion of Icelanders, including the People's Union, remained either opposed to or somewhat suspicious of the Alliance. This also meant that the Icelandic government was little concerned at the prospect of damage to NATO which might result from confrontation. The country had few other marine-related industries, and almost no merchant fleet or navy, so navigational concerns were of little interest to her. Her negotiating position in the Seabed Committee and UNCLOS 3 could be strengthened by successfully asserting and exercising rights over an enlarged zone of jurisdiction, thus helping to develop customary law in the direction of a link between the shelf and the water column.

The Faroes

The Faroes had an overwhelming relative dependence on fisheries, with 58 per cent of the working population employed in fishing and related industries in 1971. She had however no domestic constraints which would prevent her negotiating an agreement with the UK within the spirit of the Geneva Conventions and submitting it to the NEAFC for ratification. The only significant international constraints on her encouraged her to accommodate the FCO's fundamental concerns, in that her parent state, Denmark, was a member of NATO and of the EEC. In addition Denmark had an interest in opposing large coastal state extensions because she would be 'zone-locked', in other words her geographical position *vis-a-vis* other states meant that in the event

of sizeable coastal state extensions she would not obtain a fisheries zone of concomitant area [5]. Much of the Danish fleet also fished in waters that would come under UK or Norwegian jurisdiction in the event of a general extension of jurisdiction to 200 miles. Her efforts on behalf of the Faroes were therefore made within the bounds of the Geneva Convention on the basis that the islands were especially dependent upon fishing, rather than applying any criteria of increased coastal state control.

Canada

Canada was steadily moving towards a consistent coastal state position. Since 1958 she had behaved like a coastal state on fisheries. She had a low relative dependence upon fisheries, with 0.98 per cent of her workforce, employed in fishing and related industries in 1971. However, the provinces of the Eastern Seaboard bordering the grounds fished by the UK: Newfoundland, Quebec, Prince Edward Island, New Brunswick and Nova Scotia, were relatively more dependent on fisheries than Canada as whole, and Canada's federal structure gave them electoral significance. She did not however behave like a coastal state on navigation [6], more because of a desire to maintain freedom of movement for NATO warships than because of fears of damage to her merchant marine. She had few other maritime industries. Canada's once sizeable merchant marine now constituted less than one per cent of world tonnage, and anyway consisted largely of Great Lakes ore and grain carriers rather than ocean-going vessels[7]. In 1969 the ruling Liberal Government began to show an interest in limiting navigational freedoms, and then only within the straits between the islands of Arctic Canada, because of fears of spillage from tankers carrying oil from the Alaskan North Slope. It

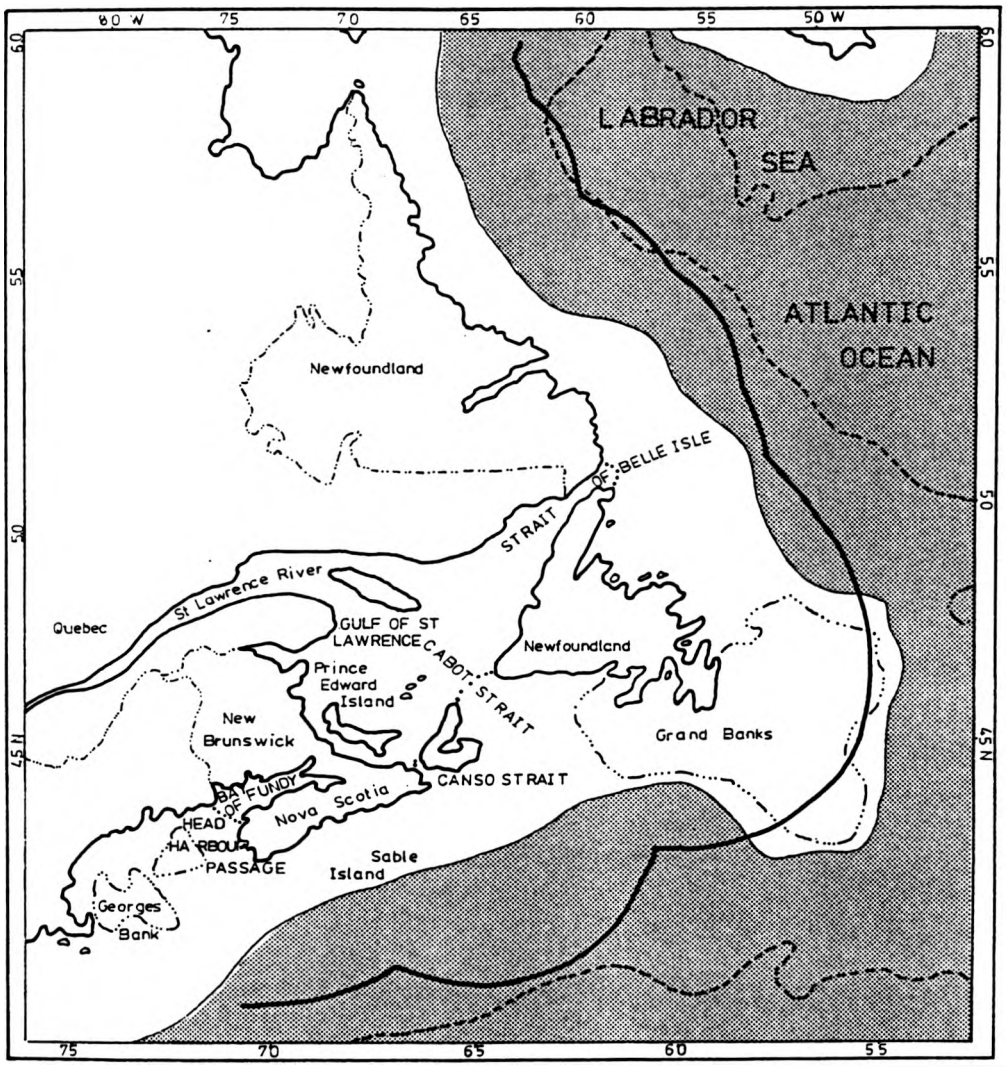
did not argue for general coastal state control of straits, but for special rights for coastal states in sensitive areas, and an Arctic Waters Pollution Prevention Act embodied this concept.

The UK was able to defer to Canadian demands because a substantial extension of Canadian fisheries jurisdiction could be made without laying claim to anything beyond twelve miles from baselines. Pearson, the Canadian Prime Minister during the mid-1960s, had held a strong commitment to multilateral action and had therefore blocked in Cabinet pressure for Canada to adopt a twelve-mile exclusive fishing zone along the lines of the European Fisheries Convention until phase-out negotiations with the many foreign nations fishing within twelve miles of baselines were complete [8]. The Fishing Zones Act 1964 had therefore provided for an exclusive twelve-mile zone to be adopted by Order in Council when negotiations were complete, rather than directly laying claim to such a zone. Progress had been slow because most states fishing the area, including the UK, obstructed phase-out negotiations [9]. By 1970, therefore, foreign fishermen were still fishing up to the edge of the three-mile territorial sea. This situation began to change after the enactment of the Territorial Sea and Fishing Zones Act on June 26th 1970. Although this repeated the 1964 Act's provision that a twelve-mile zone of fisheries jurisdiction be introduced after consultation with other ICNAF states, it excluded foreign fishermen from many of their traditional grounds by introducing extremely long fisheries closing lines (baselines joining islands at the mouths of bays) to enclose, inter alia, the Gulf of St. Lawrence and the Bay of Fundy as internal waters (see Figure 10.2). Five closing lines between them enclosed 82,100 square miles, including 60,000 square miles beyond twelve miles from the coast [10].

The Canadian approach was thus couched in a form which was, with some licence, justified by the Geneva Conventions and compatible with the UK's basic position at the international negotiations. The Canadian Cabinet had rejected their Ministry of Environment's bid to link the Canadian extension of jurisdiction to the rights of the coastal state over the resources of the continental shelf [11]. The FCO welcomed this divorce and was anxious to separate the two concepts in international law, not least because it wished to maximise the extent of the continental shelf under UK jurisdiction without the need to concede greater coastal state control of the water column. Similarly, although the length of some of the closing lines was greater than any the UK had previously recognised, the principle of straight baselines to enclose bays was a well-established one, had been found valid by the ICJ in the Anglo-Norwegian Fisheries Case [12], and was one by which the UK's coastal fisheries had profited considerably through the drawing of baselines between the various islands of the Outer Hebrides and across Cardigan, Liverpool and Morecambe Bays.

Although the FCO was anxious to prevent additional claims to the extensive patrimonial and territorial seas which loomed dangerously by 1970, the recognition of the Canadian twelve-mile fisheries zone embodied in the Territorial Sea and Fishing Zones Act and in the Arctic Waters Pollution Prevention Act accorded with established European practice under the European Fisheries Convention. The Canadian claim to a territorial sea might also bolster a possible new global consensus on a territorial sea of that width and help to undermine the broader claims.

Figure 10.2: The Fishing Grounds off Eastern Canada [13].



Canada had few domestic constraints which hindered her from accommodating the FCO's determination not to weaken the legal concept of the High Seas, and indeed understood it. Although Canada strongly advocated coastal states' rights in the UN Seabed Committee, she excluded a 200-mile territorial sea formula and supported preferential rather than exclusive rights for the coastal state in its offshore zone [14]. She was a member of NATO and the Commonwealth, and a state which had gained considerable post-war prestige by her constructive role in aiding the development of international law and organisations. In addition, as both Canada and the UK were members of the Evensen Group from the latter's inception, the mutual accommodation of the two states' positions was facilitated.

Norway

The fourth territory off whose shores UK vessels fished was Norway. In addition to extensive British effort off the South-Western coasts, many of the largest British vessels fished in the Barents Sea. Norway had quite a high relative dependence on fisheries, with 3% of the population employed in fishing, fish processing and distribution in 1971. This dependence was especially high in the country's Northern regions. While there was some Norwegian industrial fishing off Lincolnshire and East Anglia, the foreign distant-water catch off Norway exceeded the Norwegian catch close to the shores off other nations. Fisheries issues alone probably therefore argued for Norwegian extensions of jurisdiction, but far more than any of the other three territories Norway possessed a mix of marine-related industries. She had an extremely large commercial fleet, the fourth largest in the world in 1971. In addition, like the UK, she was

becoming aware of the extent of her continental shelf oil reserves. She thus had an interest in extending her control over her coastal waters, but one tempered by a desire to avoid a variety of coastal state regimes governing the construction of vessels passing their coasts. Norway's domestic constraints urging her to obtain a greater share of the catch off her coasts were strong, with the Northern area of the country so dependent on fisheries, but similarly so were the constraints imposed on her by the importance of her merchant navy. Norway's marine-related industries contributed a very large proportion of her GNP, so although the range of domestic pressures upon her government were similar to those upon HMG, they were more intense. This degree of domestic commitment, and the need to create an acceptable compromise between maritime and coastal state concerns was very important. In part Norway's situation explains the degree of motivation of Minister of Fisheries Evensen in seeking rapprochement between maritime and coastal concerns at the SBC and in UNCLOS 3.

The international constraints upon Norway militated against any unilateral extensions of fisheries jurisdiction. Like Canada, she enjoyed high prestige as an important contributor to international organisations. She was also a willing member of NATO, whose Northern flank could be weakened by any disagreement between Norway and the UK. Norway's prestige was also sustained by Evensen's role in the negotiations on the law of the sea, and to have taken any action which could have weakened the possibility of his success would have damaged this prestige. Undermining the Evensen Group's chance of success would also have weakened the possibility of Norway's fishermen, merchant marine and oil industry's all obtaining a satisfactory ocean regime. In addition, Norway was not in a

suitable position unilaterally to impose and defend an extended zone of fisheries jurisdiction. Her over 33,500 miles of coastline would have been extremely difficult to police, and in the Barents Sea Norway would be in dispute over fisheries with the USSR, as she was already beginning to be over oil. The USSR was likely to be a robust opponent in a situation of confrontation, and to enter into such a situation without the sanction of international law would have been unwise.

Like Canada and the Faroes, therefore, Norway was primarily concerned to reduce the foreign catch off her shores and thus was happy with solutions which did not prejudice the FCO's legal position or threaten the Geneva Conventions. While Norway had been involved in bitter disputes with the UK in the past, both the innovations which the UK had resisted (the use of long straight baselines to enclose bays and the twelve-mile limit) were now favoured weapons in the UK's own coastal state armoury.

The agreements

Canada

The importance which the FCO attached to the legal implications of the negotiations with these states led to the FCO's conducting negotiations, with meetings of fisheries officials in support. The new Canadian baselines and twelve-mile limit were endorsed by a meeting of Canadian and UK fisheries officials, and the changes were effected by Order in Council P.C. 1971-366 of 25th February 1971. British vessels were to cease fishing the Gulf of St. Lawrence on December 31th 1972, and within twelve miles of the Labrador and

Newfoundland baselines at the end of 1978 [15]. The effect of these exclusions on the total UK distant-water catch was not large, because the alternative attractions of the Barents Sea and the high relative costs of voyages to Canada had already caused a sharp fall in UK fishing effort off Canada over the period 1967-71 [16]. The catch was now still further reduced. Subsequent negotiation in ICNAF permitted a longer phase out in the Gulf of St. Lawrence (see Figure 10.3).

Figure 10.3: British landings (all demersal), excluding livers caught off the Canadian coast, 1967-82, expressed in tonnes. [17]

Year	Labrador	Grand Banks of Newfoundland	Gulf of St. Lawrence	Total
1967	7,380	37,392	4,428	49,200
1968	9,496	20,320	—	29,816
1969	1,771	2,312	—	4,083
1970	2,116	443	—	2,559
1971	—	4,034	—	4,034
1972	3,542	7,823	—	11,365
1973	886	5,707	1,082	7,675
1974	1,476	9,348	394	11,218
1975	118	1,697	—	1,815
1976	—	230	—	230
1977	1,424	2,382	—	3,806
1978	252	442	—	694
1979	312	431	—	743
1980	713	12	—	725
1981	—	—	—	—
1982	93	699	—	792

For Cod and Country - the confrontation with Iceland

The Icelandic saga unfolded at a leisurely pace, with the Regulation extending jurisdiction to fifty miles only being enacted on 14th July 1972, a year after the first government announcement. Iceland was seeking a link between the continental shelf and the resources of the water column, and the choice of a fifty-mile zone sprang from the width of the Icelandic shelf. The timing of the claim, made under a 1948 law concerning the Scientific Conservation of the Continental

Shelf Fisheries, was partly intended to influence events at the SBC, and for the FCO it was important not to concede any resource jurisdiction in the water column as customary law. Existing convention law was rooted in the Geneva Conventions, and changes should not be accepted except through the multilateral discussions.

Although bilateral discussions took place from August 1971, both sides also used the Seabed Committee to explain their positions. In general Icelandic statements made there were good-naturedly used by the UK as an opportunity to restate the FCO stance. Briefly, this was that no extensions of coastal state jurisdiction over any aspect of the water column beyond twelve miles from baselines were acceptable [18], Iceland's claim was not to res nullius: it was an attempt to deprive other states of a pre-existing right which accorded with both customary and convention law [19]. In addition, the unilateral nature of the Icelandic action threatened to jeopardise the successful outcome of UNCLOS 3 by taking some issues outside it [20].

The UK reaction to the Icelandic legal position was to take the case to the International Court of Justice (ICJ). Although this was in order under the 1961 Exchange of Notes which ended the first Cod War [21], it may also have been a delaying tactic and a means of maximising domestic support for the FCO's legal position. Given that the Court could only find precedent in convention or custom, it was generally expected to favour the status quo position, the UK one. Realising this, the Icelandic Government presented no case, leaving submissions by the German Federal Republic and the UK to dominate the Court's deliberations. There was a slight risk to the UK in this policy given that in 1955 the ICJ had established in the Anglo-Norwegian

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Fisheries case that fisheries constituted part of the resources of the coastal state, a judgement used by Iceland in verbal skirmishes at the Seabed Committee [22].

The crucial nature to the UK of the legal issue at stake led the FCO to maintain a careful hold on the negotiations. The FCO's view of the disputes as a potential threat to the UK's multilateral marine interests was reflected in the leading role played by its Marine and Transport department, whose supervising Assistant Under-Secretary led British official delegations to Reykjavik. A special Icelandic Unit was set up in the department, later to be moved to the Western European department as the dispute became overtly political[23]. Although many of the negotiations were conducted between MAFF officials and their Icelandic counterparts, this reflected the desire of the FCO to divert the Icelandic legal claim for a fifty-mile limit linked to the continental shelf to a technical one for a reduction in foreign fishing catch in the area. At ministerial level also the FCO dominated the negotiations, which did not begin until May 1972, almost a year after the Icelandic announcement of its intention to extend limits. Delegations were headed by a Minister of State for Foreign and Commonwealth Affairs, Baroness Tweedsmuir of Belhelvie. As the dispute escalated so as to have wider foreign policy implications, leadership passed to the Secretary of State for Foreign and Commonwealth Affairs, Douglas-Home (C - Kinross and W. Perthshire). Lady Tweedsmuir was an excellent choice from the point of view of the FCO, and she was transferred from a post of Minister of State at the Scottish Office specifically to lead the delegation to Iceland. She was keenly aware of the strategic implications of a successful Icelandic extension of jurisdiction, having served as UK delegate to the UN General Assembly during the closing phases of the

1958-61 dispute with Iceland. She was also sister-in-law to Alistair Buchan, who had recently retired as Director of the Institute of Strategic Studies, and who was keenly aware of the traditional needs of the Royal Navy. Having served twenty years as MP for Aberdeen South, she enjoyed close relations with the Scottish Trawlers Federation, giving a Scottish dimension to a fisheries dispute of immediate significance only to English trawler firms, (although the STF must have been aware that an Icelandic success might provide an example for the Faroes to follow).

There was little disagreement between government Departments as to the significant aspects of the dispute. The Department of Trade and Industry and the Ministry of Defence were strongly behind the FCO, in that they were concerned about the limitations upon the freedom of navigation of merchant shipping and warships respectively which might be imposed by a general extension of coastal state jurisdiction. MAFF ministers similarly accepted the FCO's strategic Weltanschauung, and were able to strengthen domestic support for the UK position by concentrating public attention on the maintenance of the UK catch and access rather than the more esoteric issues of legal tactics. One means was to refer to the loss of catch implied in the emulation of Iceland by other states. The Minister of Agriculture, Fisheries and Food, Prior, told Parliament on 11th July 1972:

> "A dangerous precedent would be set up if we did not reach a satisfactory agreement. We fish across most of the North Atlantic and off the coasts of many nations. Some of these nations have ambitions for wider limits, and all of them want some means of preventing overfishing by vessels diverted from Iceland. If one nation successfully

> defies international law, others will feel less strongly bound by [it]." [24]

MAFF's Parliamentary Secretary Stodart told the House in January 1973:

> "I do not think it would be advisable for me to say anything off the cuff in a debate like this, particularly when the negotiations are being conducted primarily by the Foreign and Commonwealth Office; but we have offered catch reductions of twenty-five per cent, and no one can say that that is an insignificant offer or one that lacks goodwill."[25]

Both the UK and Icelandic Governments had a high motivational investment in their respective definitions of the legal position, which was the real stumbling block between them. However, in order to court global opinion both sides needed to negotiate, provided they could do so without appearing to be under duress. HMG also needed to negotiate in order to maintain the support of the deep sea sector. Since each side considered its legal position sacrosanct, the focus of negotiation shifted to catch limitations. The UK wanted to be seen to be willing to offer substantial catch reductions for conservation purposes, while not so substantial as to lose prestige or anger domestic opinion. The Icelandic government had to insist on very UK low catch levels because the Icelandic public would view any agreement which did not recognise an extension of Icelandic fisheries jurisdiction as a defeat, so alternatively there would have to be very significant reductions in the UK catch to salvage the government's standing.

In a sense, therefore, the currency of negotiations was catch levels, despite the fact that the fundamental difference between the two states was jurisdictional. The discussions began in May 1972 and shifted to catch levels when no progress on the legal aspects appeared possible. In July they broke down because the UK offered a 30 per cent reduction, while Iceland insisted on 80 per cent. Following off-the-record discussions between the two foreign ministers at the NATO Council in New York City in November 1972 Iceland offered effort reductions rather than setting specific catch figures. She wanted no freezer trawlers and no vessels of over 180 feet in length or 750 tons in weight. The UK replied with an offer of a quota involving a 21 per cent loss of catch, but expressed a willingness to consider up to 25 per cent.

HMG's hardening attitude stemmed from a favourable verdict the UK had received from the International Court of Justice on 1st August. The ICJ forbade Iceland to enforce its regulations over foreign vessels more than twelve miles from the coast, and asked only for a limitation of the UK catch to 170,000 tonnes, only just below the UK's 1972 catch (see Figure 10.4). The next negotiations at ministerial level were not until May 1973. By then both sides were accepting the possibility of an interim solution pending the clarification of the legal position by UNCLOS 3. Lady Tweedsmuir opened the UK case with an absolute refusal to give way on the fifty-mile limit. The difference on catch had narrowed, the UK demanding 145,000 tonnes and Iceland offering 117,000 tonnes.

Although catch levels had become the principal focus of the negotiations, the transnational unanimity of scientific opinion

proved as ineffective in formulating a settlement as it had been in persuading the NEAFC to set realistic quotas. Both sides subordinated fishery scientists to legal advisors because the legal question was the fundamental one in the eyes of both governments [26]. Prevailing fishery theory had not been internalised by the political actors [27]. On the rare occasions when Ministers referred to scientific evaluations of the fishery it was at the level of crude propaganda. For instance, despite the MAFF 1969 study, Royle asserted in December 1971 that:

> "My scientific advisers share the views of the international bodies concerned that stocks of white fish off Iceland are not at present being overfished." [28]

Such a confident assertion served well when the UK was anxious to maintain access to fish, but when nearly two years later, after a decline in UK catch, government spokesmen wished to emphasise the ineffectiveness of the Icelandic harassment of UK trawlers, the depredations of this non-existent overfishing could be used in evidence. Stodart (as a MAFF minister, one might have hoped, in closer touch with the findings of fishery scientists than Royle) explained to Parliament: "The major reason for the decline in catch is that stocks were less abundant. The effect of interference in fishing was not significant" [29].

The announcement to the UK public that the dispute was about access to fish and catch levels was in part an attempt to ensure domestic support for the FCO conduct of the dispute. Little public support would have been forthcoming had the FCO appealed to the UK and global public in terms of its legal position and tactical intentions, but to

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be defending the rights of 'the fishing industry' sounded more noble. This involved maintaining a coalition of all the relevant domestic interests behind its position, a task much eased by the close relationships between the BTF and MAFF. The Federation's Director-General, Laing, shared the FCO views on the wider legal implications of the dispute for the shipping industry, and was regularly consulted. Contacts from individual firms, trade unions and the Federation of Trawler Officers' Guilds were not welcomed, lest differences of view within the industry should emerge and be exploited by the Icelanders. These bodies, and even the BTF itself, tried during the early stages of the dispute to by-pass HMG in order to reach an understanding with Iceland. In early 1972, for instance, the BTF inserted advertisements in Icelandic newspapers to try to persuade the Icelandic public of the merits of its case. In June the TGWU's General Secretary Jack Jones and other TGWU and GMWU leaders went to Iceland, and on their return forced a briefing on Lady Tweedsmuir. As the possibility of violence increased the industry closed ranks behind a joint unions', trawler officers' and owners' "Deep-Sea Fishing Industry Committee" (DSFIC). The price of the Unions and Trawler Officers being consulted was for them to abandon any policy independent of the owners, and thus of the FCO. Fundamental areas of difference included the provision of naval assistance, which the Trade Unions largely favoured while the owners did not (see page 260), and the FCO's concern with the avoidance of creating legal precedents for further extensions of coastal state jurisdiction. The owners and the Trade Unions were concerned largely with catch levels, although the owners were more sympathetic to the FCO case, perhaps from fear of setting an example to the Faroes.

The government also sought parliamentary support, and therefore unwittingly helped to undermine parliamentary consensus behind the distant-water fleet. At least during the first eighteen months after the Icelandic announcement of a future fifty-mile limit the UK position had few opponents in either of the two main parties. The two Front Benches strongly backed the FCO line, which they interpreted as the prevention of extensions outside the UNCLOS framework. Even when on 21st May 1973 frigates were sent into the disputed area the official opposition specifically and immediately approved of the action [30].

What back-bench expressions of opinion there were also supported the government, the most vociferous being MPs with distant-water constituency interests. Crosland (Lab - Grimsby to 1976) called the Icelandic demands "preposterous" [31]. Hughes (Lab - Aberdeen N from 1970) and Sproat (C - Aberdeen S from 1970) supported Government policy, stressing Scotland's distant-water interest partly in order to discomfort the SNP [32]. Archer (C - Louth, 1970-74) was a hardliner, reacting to incidents of warp-cutting by Icelandic tugs with calls for the RN to be sent in. Gilmour (C - Fife E), with extensive middle-water as well as inshore constituency interests, expressed a fear of contagion from Iceland to Faroe [33]. Johnson (Lab - Kingston-upon-Hull W), McNamara (Lab - Kingston-upon-Hull N) and King-Murray (Lab - Edinburgh Leith) also supported HMG. The majority of these MPs understood the reason why the FCO was so adamant about access to Icelandic waters. Johnson knew that the FCO regarded the precedent implications for defence and shipping as more vital than access to fish, and, perhaps surprisingly, himself concurred. He told the Commons, "There are much bigger issues than catching fish in this whole matter of international limits, it is

therefore my belief that the less said the better". He applauded unreservedly the negotiating position adopted by Lady Tweedsmuir and her colleagues [34]. Of deep sea constituency MPs, only Prescott (Lab - Kingston-upon-Hull E) was opposed to the FCO position, but kept silent in the face of overwhelming constituency pressure [35].

The minor parties did not share this harmony of purpose, not having been socialised into it by FCO advisers. The SNP identified consistently with Iceland's case [36]. As a small nation, its livelihood threatened by the greed and the power of larger and richer states, the Nationalists saw in Iceland an image of Scotland. The dispute was pursued by HMG in the interests of English distant-water fishermen and great-power chauvinists, while a similar extension of jurisdiction to that sought by Iceland was badly needed by Scottish herring fishermen. Furthermore, Icelandic fishermen were taking herring within 200 miles of the Scottish coast. At a time when Conservative Government spokesmen were emphasising the spectacular growth of inshore catches, the SNP's single MP, Stewart (SNP - Western Isles) rather prophetically asked:

> "Will the Hon. Gentleman accept that it was the extension of the Icelandic limits which brought about the original extension to twelve miles which benefitted the inshore fishermen and that Britain was the last North Sea nation to extend its limits?" [37]

The only Northern Irish MP with a fishing industry in his constituency, Kilfedder (UUUC - Down North, 1970-79, UU - Down North from 1979) also supported Iceland's claim. French, Irish and Belgian depredations of the Mourne and Isle of Man herring stocks

made him identify strongly with the Icelanders, regarding their demands as justified by the "legitimate rights of any country to protect the rights of its basic means of livelihood" [38]. The Liberal Party's position, as it evolved, was the most sophisticated of any party, in that it tried to marry coastal and distant-water interests, but this was partly because Iceland presented problems of constituency interest versus philosophy. The party had a strong belief in international law, and its spokesman on Agriculture and Fisheries, Hooson (L - Montgomery to 1979), was a QC and a recent Chairman of the Parliamentary Group for World Government, a body which had repeatedly expressed its opposition to coastal state extensions as seizures of the Common Heritage of Mankind. The Party also strongly advocated EEC membership. On the other hand, several of its most important seats were in areas dependent on inshore fishing, and many in the party had an idealised view of the independent fisherman. Most Liberal MPs decided that silence was golden. Although Beith (L - Berwick-on-Tweed from 1973), the Party's Fisheries Spokesman, and Pardoe (L - Cornwall N to 1979) were active in the inshore interest, they were silent on Iceland. Only Grimond (L - Orkney and Shetland) was willing to challenge the logic of the FCO position, asking the Secretary of State for Foreign and Commonwealth Affairs in November 1972:

> "If he could state the reason in equity why we can apparently claim the oil under the sea far beyond the existing limits, but they cannot claim the fish?" [39]

There were also Conservative dissenters. The only one of these representing an inshore constituency, Maclean (C - Bute and N. Ayrshire), compared Iceland's plight in March 1973 with the

"harassment of the Isle of Arran by British trawlers" [40]. Several other Conservative back-benchers either actively or passively opposed being over-tough with Iceland, because of the fear that she might leave NATO. Miller (C - Bromsgrove from 1970) openly argued thus throughout the dispute. The most outspoken Conservative dissenter was Reed (C - Bolton E, 1970-74). Reed felt that a general round of extensions was both inevitable and in the UK interest, themes which he developed in a Bow Group pamphlet entitled "Fish and Ships" [41]. Throughout the dispute he repeatedly attacked the FCO's position. Asserting to the Foreign and Commonwealth Secretary that the UN General Assembly had on 18th December 1972 voted 102-nil in favour of coastal state sovereignty over the waters above the shelf [42], he asked:

> "In the discussions, what account is the Foreign Office taking of the fact that there is already a large measure of international support for the view that coastal states should enjoy preferential or exclusive rights to resources overlying their continental shelves?" [43]

Nor, like Stewart, was he adverse to an historical analogy:

> "Does my Right Honourable Friend recall the previous dispute with Iceland when, for twelve years, the Foreign Office stuck to a particular line and it was discovered at the end of the day that international community support for that view had evaporated?" [44]

The course of the dispute did much to undermine the FCO position, as the disagreement between the UK and Iceland degenerated into

belligerent confrontation on the fishing grounds. The processes leading to this confrontation brought two of the FCO's principal goals into conflict with each other: the welfare of NATO and the maintenance of the Geneva Conventions as the basis of existing international law. In so doing they also weakened parliamentary support for the government's stance over Iceland, as MPs concerned about the safety of NATO and those who objected on humanitarian grounds to the UK's "bullying" the Icelanders disassociated themselves from government policy. The Icelanders had much more to gain from the introduction of force into the dispute than the UK. Both British and Icelandic foreign affairs and defence officials knew that harassment by Icelandic gunboats sufficient to deter UK trawlers from fishing might force a response by frigates, the UK lacking seagoing military vessels of equivalent size and purpose to the gunboats. The Fisheries Protection Vessels were incapable of operating in such rough seas or of remaining on station far from base facilities for a sufficient period, and were also too slow. The officials of both states knew also from the first Cod War that such an 'unequal' confrontation between frigates and gunboats would engender world sympathy for 'poor little' Iceland oppressed by the might of a modern Navy. Military confrontation, or even the threat of it, between NATO allies would also bring in other NATO states who would be likely to pressurise the UK to make concessions. Force had other attractions for Iceland. Its intention was to demonstrate effective control of territory in order to encourage international recognition of Iceland's claim, control which could be demonstrated by forcing the UK trawlers to withdraw. For the same reason, HMG had to demonstrate the ability, as well as assert the right, of its citizens to fish on the High Seas. Iceland could also use confrontation to raise the cost in money and prestige of continued

access for the UK. Harassment would also raise UK costs in that it reduced catches and destroyed fishing gear, creating demands from trawler owners for government compensation. The use of force, once embarked upon, created problems for the negotiations, with the UK refusing to negotiate until harassment should cease and Iceland refusing to negotiate until the frigates were withdrawn.

The advantages of confrontation being entirely on the side of the Icelanders, UK Governments were very wary of committing frigates, and did their utmost to make Parliament think that interim arrangements were just around the corner [45]. Nor were they alone in their distaste for the use of the RN. The BTF regarded naval assistance as synonymous with uneconomic fishing in protected boxes, while the TGWU and The Federation of Trawler Officers' Guilds were more in favour because of the risk to their members' lives from Icelandic harassment. In September 1972 gunboats began to cut the trawl wires of UK trawlers. At first HMG placed its hopes in developing a device to protect warps from damage, but this proved insufficient. On October 16th the trawler Aldershot was damaged in a collision with a gunboat, and the Deep Sea Fishing Industry Committee asked for frigate patrols just outside the fifty-mile limit. Wall (C - Haltemprice) suggested that such action would amount to recognition of Iceland's claim, and asked for a brief RN incursion into the disputed area, with no confrontation. This was not done, but harassment continued. From January 1973 onwards HMG adopted the solution of using ocean-going tugs, registered in Liberia, to interpose themselves between the trawlers and the gunboats, and their numbers were gradually increased to four, hired at considerable cost. After a six-week respite while Iceland repaired the damage wrought by an eruption of the volcano Helgefell, harassment restarted in earnest

in March. Shots were fired at trawlers and 119 warps were cut in a fortnight. HMG then made the error of announcing its refusal to negotiate till harassment should cease, a decision which rendered a bilateral solution almost impossible. Throughout Spring 1973 Royle was telling Parliament that the Royal Navy would be sent in, hoping to calm belligerent MPs and to cow the Icelanders. Meanwhile in the face of pleas from the German Federal Republic, fearing for the integrity of NATO, and advice from the FCO and the DSFIC, the frigates were not sent in. Eventually, after the combination of strong words and absence of action had become embarrassing, RN protection was granted in mid-May. On May 16th trawler skippers sent an ultimatum to MAFF stating that unless naval protection was granted within twelve hours, they would leave the disputed waters. When the demand was not met, forty trawlers left the zone. By simply refusing to fish and by withdrawing beyond Iceland's unilaterally-declared limits, the trawlermen could have created a de facto precedent of UK recognition of Iceland's claim. It therefore possessed a trump card in its game with the FCO and the Ministry of Defence. Not wishing to concede territorial control to Iceland, HMG sent two frigates into the fifty-mile zone on May 19th. Iceland immediately retaliated by banning all British military aircraft from Keflavik, signalling to other NATO members that base facilities were dependent on a satisfactory solution to the dispute. The remainder of the dispute was conducted against a background of military confrontation on the fishing grounds.

The amplification of a threat to NATO vastly increased the urgency to the FCO of an agreement. If the maximisation of navigational freedoms was of great importance to the FCO, so was the preservation of a viable Western Alliance. The dispute could, if unresolved,

result in Icelandic withdrawal, a principal policy goal of the People's Union. The strategic value of Iceland was as an unsinkable aircraft carrier from which to carry out surveillance of the gap between Greenland and the UK through which the Soviet Northern fleet has to pass on its way to the North Atlantic. Should Iceland close the NATO facilities at Keflavik or withdraw from the Alliance, surveillance would become much less effective, and a vital staging post for the resupply of the European front line would be lost to NATO. Worse still, the loss of the valuable foreign exchange and jobs generated by the Keflavik base might gradually lead the Icelandic Government to consider requests by the Soviet Union for base facilities [46].

The Organisation had already played a key role in providing, through its regular Council meetings, an opportunity for meetings between the Icelandic and UK Foreign Ministers even during periods when negotiations were suspended and enabled them to hold informal discussions outside the constraining influences of domestic politics. Now, with the threat to Keflavik, NATO increased the pressure on the disputants to settle. Dr Joseph Luns, NATO's Secretary-General, offered himself as a mediator, and he was also able to obtain the services of Norway's Foreign Minister in a similar capacity.

NATO [47] played no significant part until the Royal Navy entered the fifty-mile zone in May 1973. On 23rd May the UK informed the NATO Council of its action, while on 28th May the Council received an Icelandic request to press for withdrawal of the frigates. The Council approved a statement encouraging both sides to pursue a negotiated settlement and appointed Luns as intermediary. Discussions between Luns and representatives of the disputants met

with no success. The use of the Royal Navy eroded some of the parliamentary support for government policy. Distant-water Labour MPs Johnson [48], McNamara [49], and King-Murray were unhappy with this decision. Wall, whose formative years had been spent as a Royal Marines officer, had at first been keen to use the Navy, but maintained a discreet silence after the Icelandic government threatened to withdraw from NATO. In addition Reed, many of whose constituency activists thought his attitude to the dispute disloyal to the Government and to the UK's international standing, shifted for tactical reasons his emphasis to the threat to NATO, an argument which he thought these activists would understand better. Apart from introducing such alliterative motions as "This House values Keflavik above the cod", Reed accused the FCO of not caring if "we blew a damn great hole in the defence of NATO", and he asked the Minister of State "to confirm that the principal task of the Royal Navy remains keeping tabs on the Soviet fleet and not getting entangled in fishermen's nets" [50].

On 12th June Iceland notified the USA that it would request a revision of the 1951 US-Icelandic Treaty by which the Keflavik base had been established. On 14th July the Icelandic PM suggested in an interview with a Reykjavik newspaper, Morgunbladid, that Iceland might reconsider its attitude towards NATO. Offers of mediation by the Norwegian Foreign Minister were rejected by Iceland, and Luns began to press Prime Minister Heath to back down for the sake of NATO. The settlement was largely at Luns' behest. On 14-15th September he visited Reykjavik to discuss the Icelandic plan to alter its relationship with NATO and a new threat to sever diplomatic relations with the UK. On 26th September Heath proposed a truce to his opposite number Johannesson, and after talks with Luns on 30th

September Heath sent another message to the Icelandic PM. This announced the withdrawal of the RN and the chartered tugs, and invited Johannesson to London. The Icelandic PM accepted and announced that diplomatic relations would be maintained. The London talks of 15th and 16th October by-passed the FCO, being between Prime Ministers and between fisheries officials. They were thus able to formulate an interim settlement.

A solution was paradoxically facilitated by the very intra-coalition struggles which had blocked agreement for so long. The two People's Union Ministers, Josephsson and Kjartansson, leaked the terms of the Heath-Johannesson agreement to the Press, an act of disloyalty which cost them support at the crucial moment [51]. The agreement reached [52] was without prejudice to the position of either state with regard to the legal status of the waters beyond twelve miles from the coast and was merely couched as a two-year catch limitation agreement. The UK catch on the Icelandic continental shelf was to be reduced to an annual total of about 130,000 tonnes by a combination of closed areas, closed seasons and a reduction in fishing effort. This catch represented only a slight reduction from the actual British catch in the area in 1967, although it involved a significant fall from the very high UK catch levels of 1971 and 1972 (see Figure 10.4). Sixty-eight named UK-registered trawlers of above 180 feet in length and seventy-one of below 180 feet were to be allowed. Freezer and factory ships were excluded. The agreement did not solve the basic jurisdiction questions and in the event provided only a respite of two years, after which confrontation was to begin again. This Third Cod War is dealt with in Chapter 14 because it was instrumental in HMG's decision to extend fisheries jurisdiction to 200 miles in October 1976.

Figure 10.4: British effort and landings (all demersal) from the Icelandic Continental Shelf, 1967-79. Tonnes. Values expressed in £000s. [53]

Year	Weight	Value	Hours fishing	Tonnes per hour	Tonnes per hour index
1967	152,372	11,595	308,560	0.4938	100.0
1968	128,510	9,144	216,485	0.5936	120.2
1969	110,454	8,452	157,271	0.7024	142.2
1970	134,611	13,144	199,524	0.6746	136.6
1971	171,905	22,317	300,667	0.5717	115.7
1972	151,192	23,510	319,610	0.4730	95.7
1973	126,493	29,084	277,891	0.4552	92.1
1974	116,014	24,606	233,382	0.4970	100.6
1975	98,311	23,152	212,947	0.4616	93.4
1976	59,372	20,631	145,011	0.4094	82.9
1977 onwards		—	—	—	—

The Faroes

A non-discriminatory catch-limitation agreement with Denmark over the Faroes [54], was reached in December 1973. There was mutual concern over the conservation of white fish stocks, and about the special dependence on fishing of the Faroese economy, so that the UK had supported a move at the NEAFC's November 1973 meeting to raise the minimum mesh size in use around the islands, and offered restrictions on foreign trawling up to twenty-four miles from Faroese coasts. The agreement, which was endorsed by Belgium, France, the Federal Republic of Germany, Norway and Poland, established a Total Allowable Catch for cod and haddock of 52,000 tonnes. 32,000 tonnes would be allocated to the Faroes, 18,000 to the UK, and 2,000 as a by-catch to vessels of other states fishing for other species. UK and Faroese catches of species other than cod and haddock would be unrestricted. There would also be seasonal closures to trawling, and a restriction on the Gross Registered Tonnage (GRT) of individual trawlers to the level habitually used before the end of 1973. This agreement was relatively painless for the UK fishing industry, in that it entailed no diminution of catch, but the Scottish Trawlers Federation

regretted the lost opportunities for expansion. It also paved the way for a progressive reduction in the UK quota for the Faroes in succeeding years. The main ports affected were Leith and Aberdeen, and thus one significant result of the agreement was that it further exaggerated the inshore prevalence in the Scottish fleet.

Norway

Agreement with Norway was reached in January 1975, after several months of pressure by Norwegian fisheries interests for unilateral Norwegian extension of fisheries jurisdiction, prompted by the failure of UNCLOS 3's Second Session at Caracas in the Summer of 1974 to reach a conclusion. The fact that the session appeared to agree upon the concept of a wide EEZ, and yet was stalled over the rights and duties of states therein, as well as over a number of other issues, exasperated many fisheries organisations. On August 19th 1974 Toft, the Chairman of the Norwegian Fishermen's Association, declared, "We cannot sit with our hands in our laps and wait for the next Conference" [55]. Government Ministers were forced by the political importance of the fishermen to pay lip-service to their demands. On the same day Norwegian Junior Fisheries Minister Bolle told a fishing audience in Trondheim:

> "The situation after the Caracas Conference cannot prevent us from taking measures on a national basis. Such steps could not create problems for continued Norwegian participation in this field." [56]

In reality Norway's global commitments and maritime state concerns would not permit her to take unilateral action, and nothing was done

in this connection. The agreement between the UK and Norway [57] awarded no formal preferential treatment to Norway. Closed seasons and areas, and trawler-free zones, would apply equally to both states, although in practice the latter gave preference to coastal and inshore long-liners and drifters. Policing was to be done by means of a joint scheme to protect the High Seas status of the zones beyond twelve miles. Norwegian Fishery Protection Vessels would be able to inspect UK boats, but would report infringements of regulations to HMG for enforcement. No loss of catch was to be entailed for UK vessels, but Norway would not absorb diverted effort. The agreement proved ineffective in protecting stocks, as the UK effort during the open season and in the zones open for trawling increased rapidly during 1976 and 1977, as trawlers diverted from Iceland concentrated on the Norwegian coast. Their catch per unit effort plummeted, and only recovered when UK effort was later considerably reduced (see Figure 10.5).

Figure 10.5: British effort and landings (all demersal), from the [58] Norwegian coast, 1973-78. Tonnes. Values expressed in £000s.

Year	Weight	Value	Hours Fishing	Tonnes per hour	Tonnes per hour index
1973	19532	3437	35755	0.5462	100
1974	24944	5461	30602	0.8151	149.2
1975	22728	4960	33585	0.6767	123.8
1976	24730	7441	39001	0.6341	116
1977	30172	12288	61987	0.4867	89.1
1978	15887	7384	39720	0.3999	73.2
1979	9827	4626	18971	0.5180	94.8
1980	6274	2516	11845	0.5676	103.9
1981	3847	1677	5832	0.6596	120.7
1982	4830	2112	5356	0.9017	165

Conclusion

The FCO only resisted with any vigour catch limitation agreements which required the UK explicitly to recognise coastal state

jurisdiction beyond the twelve miles from baselines agreed in the European Fisheries Convention. Taken collectively, the catch limitation agreements made with these other states marked a very slight tacit shift by the FCO away from its previously-unequivocal stance in favour of a 'free seas' regime. Even the less painful agreements defined areas of sea different from the NEAFC areas and imposed restrictions on UK activity there. The Icelandic experience demonstrated the limitations of maritime power in a conflict that is not a war. A small state without a navy had seriously embarrassed the RN, and the diplomatic costs had been high, much international sympathy going to the underdog, and Iceland showing herself willing to play the NATO trump card.

In relation to fisheries, the agreements suggested that an extensive restructuring of the UK deep sea fleet might be inevitable, since many of the larger trawlers could not fish economically anywhere but in the Northern waters for which they were built. The freezers and factory ships excluded from Iceland were largely diverted by their owners to the Barents Sea and to the Norwegian coast, but the Icelandic agreement rendered surplus thirty fresher trawlers. A great loss of catch was also entailed, which further fuelled demands even from the erstwhile deep sea industry that the UK extend its own fisheries limits in some way. In wiping out a large proportion of the UK's demersal catch the agreements led to pressure on the UK public to change its tastes and upon fish processors and retailers to import cod and haddock. They weakened the power of the BTF and STF, leading to their merger, and they similarly reduced the earnings and influence of the White Fish Authority. They also signalled to MAFF and the Ministry of Defence that fisheries protection was a discrete task requiring specialised vessels. Finally and most importantly,

the agreements suggested to the FCO that some increased coastal state jurisdiction in the water column would probably have to be conceded, and that it would be in the UK's interest if UNCLOS 3 could reach a resolution during the two years prior to the expiration of the agreement with Iceland.

Notes

1. Compiled from Fishing Prospects, 1979-80, Frontispiece, and Fishing Prospects 1982, p.1.

2. Fishing Prospects 1971-72, p.22.

3. HMG's willingness to make substantial catch concessions and to allow closed seasons and closed areas was expressed in a White Paper, "Fisheries Dispute between the UK and Iceland", Command 5341 (London: HMSO, 1973).

4. Letter from Agnar Johsson, Icelandic Minister in London to the Netherlands Minister for Foreign Affairs, 19th October 1951. In Fisheries Case Correspondence (Vol IV), (Leyden: Sijthoff, 1952), pp.608-9.

5. Data from unpublished study of state marine attributes, B. Buzan. Computer print out 23rd September 1974.

6. B. Johnson, "Canadian Foreign Policy and Fisheries". In B. Johnson and M.W. Zacher (Eds.), Canadian Foreign Policy and the Law of the Sea (Vancouver: University of British Columbia Press, 1977), pp.61-2.

7. R.M. Mcgonigle and M.W. Zacher, Canadian Foreign Policy and the control of marine pollution. In Johnson and Zacher, op.cit., p.101.

8. Johnson and Zacher, op.cit., p.66.

9. Ibid.

10. Ibid., p.ix.

11. Ibid., p.69.

12. Fisheries Case (United Kingdom v Norway). Judgement of 18th December 1951. ICJ Reports of Judgements, Advisory Opinions and Orders 1951, pp.116-144. The UK had argued for a restriction of the permissible length of closing lines to only ten miles but had failed. Fisheries Case (United Kingdom v Norway). Applications - Written Statements - Oral Proceedings - Documents - Correspondence (Leyden: Sijthoff, 1952), Vol. I, p.71. Arguably the Canadian actions were illegal under Article 7 of the Geneva Convention on the Territorial Sea and the Contiguous Zone, but this was open to some doubt because of the complex formula given in Article 7 for the definition of a bay.

13. Johnson and Zacher, p.68.

14. See Ibid., p.72.

15. "Exchange of notes between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Canada concerning fishing by British vessels off the Atlantic coast of Canada", Ottawa 27th March 1972. Entered into force 27th March 1972. Treaty Series 68 (1972). Command 5015 (London: HMSO, 1972).

16. Fishing Prospects, 1968-69, 1969-70.

17. Sea Fisheries Statistical Tables, 1967-82.

18. Statement of Simpson in UN Document A/AC.138/SCII/SR27. Summary Record of the Twenty-Seventh Plenary meeting of Sub-Committee II of the UN "Seabed Committee", 22nd March 1972. In UN Committee on the Peaceful Uses of the Seabed and the Ocean Floor beyond the Limits to National Jurisdiction. Sub-Committee II. Summary Records of the 24th to the 32nd meetings held at Headquarters, New York, from 1st to 30th March 1972 (New York: United Nations, 1972), pp.29-30.

19. Statement of Graham in UN Document A/AC.138/SCII/SR14. Summary Record of the Fourteenth Plenary meeting of sub-Committee II of the UN "Seabed Committee", 17th August 1971. In UN Committee on the Peaceful, etc. Sub-Committee II. Summary Records of the 4th to the 23rd meetings held at the Palais des Nations, Geneva, from 22nd July to 26th August 1971, (New York: United Nations, 1971), p.139.

20. Statement of Simpson in UN Document A/AC.138/SCII/SR9. Summary Record of the Ninth Plenary meeting of Sub-Committee II of the UN "Seabed Committee", 6th August 1971. In UN Committee on the Peaceful, etc., Sub-Committee II. Summary Records of the 4th to the 23rd meetings, p.62.

21. The relevant paragraph reads as follows: " The Icelandic Government will continue to work for the implementation of the Althing resolution of May 5th, 1959, regarding the extension of fisheries jurisdiction around Iceland, but shall give to the United Kingdom Government six months' notice of such extension and, in case of a dispute in relation to such extension, the matter shall, at the request of either party, be referred to the International Court of Justice". Letter of Charles Stewart, U.K. Ambassador to Reykjavik, to Gudmundur Gundmundsson , Minister of Foreign Affairs, Iceland.

22. E.g. Speech by Anderson, Icelandic Representative, recorded in UN Document A/AC.138/SCII/SR9. Summary record of the Ninth Plenary meeting of Sub-Committee II of the UN "Seabed Committee", 6th August 1971. In UN Committee on the Peaceful, etc., Sub-Committee II. Summary Records of the 4th to the 23rd meetings, p.62.

23. W. Wallace, The Foreign Policy Process in Britain (London: Royal Institute of International Affairs, 1975), pp.236-237.

24. Hansard, Vol. 840, Or. 1373, 10th July 1972.

25. Hansard, Vol. 849, Or. 180-1, 22nd January 1973.

26. J.A.Hart, The Anglo-Icelandic Cod War of 1972-73. A case study of a Fishery Dispute (Berkeley, California: University of California Institute of International Studies, 1976), pp.51-52.

27. Ibid., p.2.

28. Hansard, Vol. 827, Wr. 262, 7th December 1971.

29. Hansard, Vol. 864, Wr. 308, 15th November 1973.

30. Hansard, Vol. 857, Or. 53-60, 21st May 1973.

31. Hansard, Vol. 847, Or. 638, 30th November 1972.

32. E.g. Hansard, Vol. 898, Or. 465-7, 22nd November 1975.

33. This paragraph is gathered from Hansard, 1972-6, passim.

34. Hansard, Vol. 855, Or. 1247-8, 2nd May 1973.
and Vol. 856, Or. 41, 7th May 1973.

35. He made little comment in the 1972-73 dispute but he privately persuaded Dalyell, who from 1967-72 had been perhaps the MP the most voluble on marine issues and who had pressed for naval intervention to protect salmon stocks off Greenland, to stay out of the Iceland controversy (Personal Interview with J. Prescott, MP; 14th June 1980).

36. They were also the first political party in the UK to call for fisheries limits greater than twelve miles. The third edition of SNP and You, Aims and Policy of the Scottish National Party, published in 1968, promised the extension of Scottish fisheries limits to fourteen miles!

37. Hansard, Vol. 840, Or. 1569-70, 12th July 1972.

38. Hansard, Vol. 847, Wr. 108, 28th November 1972.

39. Hansard, Vol. 847, Or. 639, 30th November 1972.

40. Hansard, Vol. 853, Or. 32, 19th March 1973.

41. L. Reed, Fish and Ships: Why Britain should support Iceland's fifty-mile claim, (London: Bow Group, 1973).

42. He was referring to General Assembly Resolution 3029C, which requested the Secretary-General to prepare a study of the economic significance for riparian states of the various proposals for the extension of limits. G.A.Resolution 3029C (XXVII) "Reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limit of present national jurisdiction and use of their resources in the interests of mankind and convening of a conference on the Law of the Sea". GAOR 27th Session Supplement No. 30, A/8730, p.22.

43. Hansard, Vol. 846, Or. 904, 20th November 1972.

44. Hansard, Vol. 847, Or. 642, 30th November 1972.

45. E.g. Royle in Hansard, Vol. 837, Wr. 522-3, 26th May 1972.

46. Keflavik provided 4-8 per cent of Icelandic GNP in 1973 (Hart, op.cit., p.43).

47. The next two paragraphs are partly dependent upon Keesings Contemporary Archives and upon B. Mitchell, "Politics, Fish and International Resource - Management: the British Icelandic Cod War", Geographical Review, (Vol. 66, No. 2), 1976, pp.127-138.

48. Johnson, Hansard, Vol. 853, Or. 31-33, 19th March 1973.
and Vol. 853, Or. 715, 22nd March 1973.

49. Hansard, Vol. 853, Or. 710, 22nd March 1973.

50. Hansard, Vol. 858, Or. 1206, 25th June 1973,
Vol. 859, Or. 236-8, 3rd July 1973,
and Vol. 859, Or. 543-4, 4th July 1973.

51. Hart, op. cit., p.50.

52. "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", Reykjavik, 13th November 1973. Entered into force 13th November 1973. Treaty Series 122 (1973). Command 5484 (London: HMSO, 1973).

53. Sea Fisheries Statistical Tables, 1967-79.

54. "Arrangement relating to Fisheries in Waters surrounding the Faroe Islands", Copenhagen, 18th December 1973. Entered into force 1st January 1974. Treaty Series 28 (1975). Command 5930. (London: HMSO, 1975).

55. "Growing pressure on Oslo to extend fishing limits", The Times, 20th August 1974, p.3.

56. Ibid.

57. "Exchange of Notes between the Governments of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Norway concerning the creation of certain Trawler-free zones in areas adjacent to the present Norwegian Fishery limit", Oslo 30th January 1975. Entered into force 30th January 1975. Treaty series 48 (1975). Command 5893. (London: HMSO, 1975).

58. Sea Fisheries Statistical Tables, 1973-82, Table 7, p.20.

CHAPTER 11

PROBLEMS FOR POLICY PRESENTED BY THE SPECIFIC REQUIREMENTS OF ANADROMOUS FISH.

HMG's support for the regime mapped out by the Geneva Conventions was also affected by developments within the anadromous fisheries sector. Unlike other changes within British interests, these developments did not argue for the UK to take a more strongly coastal state stance. Indeed extensions of coastal state jurisdiction, unqualified by specific reference to anadromous fisheries, would have been harmful to UK salmon interests because they would have brought the marine concentrations of salmon under the control of state regimes. The significant role played by developments in the anadromous fisheries sector in the re-evaluation of existing policy was that they strengthened HMG's need to obtain international sanction for a principle that was already enshrined in British law, namely that the state of origin of anadromous fish should have jurisdiction over them wherever they are to be found. The need to obtain such a sanction strengthened the relative value to the UK of a new Conference on the Law of the Sea. UK needs in relation to anadromous fisheries created a negotiating target which could not be obtained merely by changing or maintaining boundaries, and thus required that the issue be dealt with as a separate item at the Conference. Success on this item thus might require concessions on other issues.

Within the High Seas regime, the concentrations of adult salmon off the coast of Greenland were extremely vulnerable, but luckily until the mid 1960s little attempt had been made to harvest them. Salmon had been for over a century a matter of extreme political

significance to Scotland, since there were vivid memories of struggles between lairds and crofters over the right to harvest adults returning to spawn. During that century legislation had largely been designed to strengthen the rights of ownership, but had no underlying economic rationale, and deep divisions on the issue remained within Scottish society.

The tragedy of the late 1960s and early 1970s was that it was only when HMG was for the first time managing to take a rational 'development' approach to Scottish anadromous fisheries that fishermen of other states began to trawl for salmon, and on a scale large enough to threaten the long-term safety of the stock. With the appointment of the Hunter and Bledisloe Commissions, and the establishment of the Highlands and Islands Development Board, government was at last attempting to develop salmon fisheries by encouraging stocking, and by maximising revenues generated by them.

Unfortunately the Danes were also making use of the potential of salmon for regional development purposes, and had provided loans and grants to fishermen in their dependent territories of Greenland and the Faroes to begin trawling for salmon at their places of maritime concentration. Therefore at the same time as the UK was effectively removing many of the barriers to the progress upriver of the returning adults, the catch on the High Seas and in the territorial seas of other states was rapidly increasing. This fact united the diverse Scottish interests competing for access to the catch, and resulted in intense diplomatic and political activity. Through the NEAFC and ICNAF, and by means of high-level bilateral contacts between the UK and the offender states the UK eventually managed to limit the catch by other states, but she failed to eliminate salmon

fishing outside UK fisheries limits.

At the same time as this was happening the EEZ was emerging as a referent principle within the SBC and UNCLOS 3, and a general move to EEZs without an exemption (a 'species' approach) for salmon would be a disaster for UK salmon interests. Therefore, once the EEZ became a referent principle of the negotiations the need for the UK to obtain UNCLOS 3 sanction for a separation of anadromous fish from geographical definitions of state jurisdiction became compelling. Strangely, therefore, the need for such a separation required the UK to support the principle of the EEZ in order to obtain better terms, as otherwise unilateral extensions might leave salmon unprotected from coastal state tyranny.

The division of domestic opinion

As detailed in Chapter 4, anadromous fisheries was a semi-autonomous policy area administered by DAFS Fisheries II Division and MAFF's Fisheries I Division. Anadromous fisheries was of greatest importance to Scotland, and contributed considerable tourist revenue to both the Highlands and the Southern Uplands. Whereas in relation to marine fisheries in 1967, no claim was advanced to any stock beyond 12 miles from baselines, the Sea Fish Industry Act 1962 had laid claim to UK jurisdiction over all anadromous stocks spawned in the UK, no matter where they were located. HMG's external policy was to maximise the number of adult fish returning to UK waters.

Who could harvest these fish was a matter of some contention. There was political competition for the catch between the riparian owners, who enjoyed the support of the Highlands and Islands Development

Board, and a variety of others who wished to take the fish. These latter included herring drifters, coastal netsmen, and sports anglers lacking the wealth necessary to pay the high rod fees charged by the riparian owners. It was the experience of heavy punishments for poaching on the feudal estates in the nineteenth century which made this issue of access so emotive. Grimond (L - Orkney and Shetland) evoked Gladstonian memories when he claimed that "the whole course of legislation on salmon fishing is regarded around Scotland as being heavily biased in favour of the interests of riparian owners and letters" [1]. On the other hand, Conservative MPs representing the main salmon-rodding areas argued that restocking and improvements to encourage spawning would not take place without the continuation and possible strengthening of legislation to protect the interests of the owners [2].

Despite years of increasing legal protection for riparian owners, there was little investment in encouraging optimal spawning conditions for anadromous fish, which were treated, as were marine fish, as a part of nature's bounty which required little care or encouragement. If there was domestic agreement on external policy, there was intense rivalry between domestic interests wishing to harvest anadromous stocks. The distribution of the costs and benefits involved in stock maintenance is more clearly evident than is the case for marine fisheries, and domestic legislation is essential if benefits are to accrue to cost-carriers. Conditions in the inland spawning waters largely determine recruitment, and the costs of creating optimal spawning conditions fall partly upon the owners/managers of these waters and partly upon public authorities. The fish require a clear run upriver, unimpeded by water pollution or obstructions. The spawning areas themselves can be rendered more

productive by purposeful manipulation of habitat or by 'farming' smolt (small salmon) until they are of a sufficient size to avoid large-scale predation. In order for investment in greater smolt production to take place it is necessary that the benefits from the greater catch of adult salmon accrue to the cost-carrier. The tendency for the majority of anadromous fish to return to their birthplace renders this feasible. The fish, however, spend the larger portion of their lives away from the spawning grounds and in 1967 could potentially be cropped on the High Seas, in the territorial waters of any state or territory through whose waters they passed, including those of Greenland, Iceland, the Faroes and the UK itself, or down-river from the spawning grounds.

In fact, stocking experiments had shown that they yielded a poor return, because so many of the additional recruits were harvested before they returned to their birthplace. These problems had been addressed by the Hunter Report (see pages 96-101). The Hunter Commission had opted unashamedly for maximising the revenue from anadromous fisheries, which implied reserving access to those able to pay high fees. Sports anglers who could not afford to fish for salmon could benefit by increased stocking of lakes with trout. Statutory protection should therefore be extended to trout lakes as an incentive to investment. Anadromous fish should be taken only inland of river mouths, and new methods of counting passing fish (escapement) should be developed in order to gain more information about stocks. Fluvial pollution and obstructions should be countered and removed by government action.

Although the Hunter Report had made recommendations which were biologically and economically sound, implementation was very slow,

and up to 1972 no government had either enacted or rejected the Report's recommendations in these areas. If owners were reluctant to invest without an assured return, as they were especially in the period 1967-72, the height of High Seas salmon fishing, then Government investment would be needed. This too would present problems. Large sections of the UK population might have baulked at the government's spending £90 million (1970 prices) to improve facilities on the estates of wealthy Scottish landowners. On the other hand, to compensate the Treasury by compulsory purchases by public bodies of fishing rights and of land for fish hatcheries would have jeopardised the willingness of rich foreigners to pay high prices for a week's angling in Scotland. Exclusiveness was thought to be a major factor in keeping the price of a rod high. This compulsory purchase of rights would also have swelled still further the cost to the Treasury. The report became a source of selective ammunition for those putting pressure on HMG.

The sheer variety of interested actors in the UK and the bitterness between them implied that to have produced a decisive policy would, by favouring one of the groups involved, alienate the others. Coastal netsmen, actual and potential salmon drifters, riparian owners, anglers and tourist proprietors were all keenly interested in the decisions which would emerge. Their conflict of interests permeated the main parties. The Labour leadership was, as architect of the HIDB, sympathetic to the Board's view that maximum revenue and employment would be generated by limiting access. However, most of the Party's Scottish supporters and MPs wanted legislation to enable the Scottish population at large to fish for salmon and trout in Highland rivers and lochs. The Conservative Party was in an even more difficult position. Enjoying the support of the majority of

riparian owners, drifters, netsmen and proprietors of tourist establishments, its members knew that to clarify the Party's position on Hunter in favour of one group might alienate its support in other groups.

Removal of the administrative and pollutive barriers to restocking

From 1972 onwards, however, many of the domestic barriers to restocking were removed, especially those of water pollution and of the diversity of domestic authority over the journey between the twelve-mile limit and the spawning ground. The improvements resulted largely from the movement for cleaner coastal waters discussed in Chapter 6. Preliminary studies conducted for the Select Committee on Science and Technology showed that, although major disasters such as the wreck of the Torrey Canyon might have a spectacular ecological effect, the cumulative results of land-source pollution were much more serious. The logic that cleaner coastal waters required cleaner rivers led to pressure for legal and administrative changes that were also of benefit to anadromous fish, which became a barometer of water quality. For instance, a Commission of Enquiry on Pollution in certain Estuarial and Coastal Waters, under the Chairmanship of Sir Eric Ashby, recommended that the powers of River Boards and Local Authorities be strengthened to create bodies with the "ability to allow the passage of migratory fish at all states of the tide" [3]. Ashby also recommended that all discharges of industrial and sewage effluent to tidal waters and estuaries, together with sewage discharges from vessels, should be brought under statutory control by mid-1974 at the latest. In a letter to Ashby dated 30th November 1972 the Department of the Environment undertook (in principle), to ensure better monitoring of

water quality by River Authorities, and to seek an integrated policy for waste disposal. It also announced a decision to inaugurate one Authority per river basin, a principle which had already been under consideration since the Mitchell and Wilson Reports. Industry would be required to supply local authorities with information on discharges, and would be encouraged to eliminate pollutants before discharge by the levying of fees equivalent to the full cost of waste disposal. The Water Act 1973 [4] brought England and Wales into line with Scotland by inaugurating one Water Authority per river basin and gave each the duty of improving the passage of migratory fish. By statutory instrument [5] Water Authorities were empowered to issue licences out to the six-mile limit, and fishing for anadromous fish beyond that limit was prohibited. The unfortunate effect of this, along with the CFP's six-mile limits over much of the coast, was to permit foreigners but not British fishermen to drift salmon; but taken in conjunction with the Water Acts it brought all anadromous fish in a single river basin under a single authority, and also chanelled licence fees to bodies one of whose statutory functions was to increase freshwater fisheries. Less progress was made in controlling pollutive discharges to coastal waters, since, although a Control of Pollution Act [6] empowered the Secretary of State for the Environment to bring such discharges under control, the powers had still not effectively been used at time of writing, pending an EEC agreement on the definition of water pollution.

Reducing domestic competition for the harvest

If the pollutive and administrative barriers militating against investments in stock improvements were to a considerable degree removed, the reduction of the toll of salmon taken by UK citizens

other than the cost-carrier was less than fully achieved. Without some means of ensuring that benefits were distributed fairly in relation to costs, there was little hope of increasing the run of salmon and trout, which argued for government protection of the return on any additional investments made by riparian owners. The political costs of so doing, however, and of offending the other sections of society concerned about access to the fish, were considerable. Apart from the historical associations in Scotland of the issue of access to salmon, the absence of bold initiatives along the lines of Hunter's recommendations was in part a function of a lack of interest among either fishermen or their MPs in the overall question of the conservation of the resource. Most MPs involved in trying to influence government policy on anadromous fish took single-interest approaches. This made it even harder to effect a compromise between the differing interests. A number of Scottish upland MPs ignored the threat to salmon posed by the Greenland fishery, and concentrated instead upon trying to influence the distribution of the UK salmon catch among competing domestic interests. In general, Labour and Liberal MPs urged the Government to increase access for the ordinary Scottish population but ignored the question of increasing stocks [7]. A number of MPs acted on behalf of netsmen, in an attempt to prevent the replacement of coastal netting by fluvial netting. Campbell (C - Moray and Nairn to 1974) claimed in 1969 that if the Hunter recommendation to this effect were implemented, over half of Scotland's coastal netsmen would have to leave the industry [8]. Similarly, the National Council of Salmon Netsmen of England and Wales appointed an MP, Temple (C - Chester) as its President because it recognised that, while no Government would dare to ban coastal netting only in Scotland and risk a repeat of the anger over differential laws on drifting, a

national salmon policy might include a ban.

The legal discrimination against Scottish drifters itself continued to be questioned. Three MPs took the drifters' side during the period under review, Wolrige-Gordon (C - Aberdeenshire E to 1974), Ewing (SN - Moray and Nairn 1974-79) and Beith (L - Berwick-on-Tweed from 1973). All of them represented drifting ports, Wolrige-Gordon Peterhead and Fraserburgh, Ewing Buckie and Lossiemouth, and Beith Amble and North Sunderland. Wolrige-Gordon, at issue with his party here as on most aspects of fishing policy, argued that far from working to phase out the High Seas salmon fishery, HMG should take steps to encourage UK drifters to join in. He dismissed the emotive predictions of extinction as "claptrap", since the Scottish salmon catch had remained fairly steady over the period 1963 to 1971 despite the growth of High Seas drifting [9]. He argued that the CFP provisions would allow Europeans to drift salmon immediately beyond UK fishery limits. Why then should Scots not join the fishery [10]? Beith, likewise, claimed that catch statistics were evidence that drifting was not harmful. Any decline in Tweed catches could be attributed to seals rather than to the Northumberland drifters. Ewing gave vigorous but short-lived support for salmon drifting. Soon after her election she was persuaded by Lossiemouth fishermen to call for legislation to permit salmon drifting in Scottish waters [11]. She soon subsided into inactivity, however, because she was beginning to appreciate the complexity of salmonoid politics and to realise the dangers to the SNP of over-identification with any specific section of the interested Scottish population.

The variety of positions, and the tenacity of their advocates, not only prevented a thorough and co-ordinated implementation of the

Hunter Report, but also delayed its piecemeal application. The Labour Government of 1966-70 evaded the issue. Repeated questions from Dalyell were answered with the assurance that implementing legislation would be introduced "as soon as parliamentary time permits", which, as it transpired, was never. The order prohibiting salmon drifting in Scottish waters was repeatedly renewed, though whether or not it was to be made permanent was never clarified. The subsequent Conservative government actually reneged on one of Hunter's recommendations. Perhaps partly because of Secretary of State Campbell's constituency interest, a November 1971 White Paper on "Salmon and Freshwater Fisheries in Scotland" [12] declared fluvial trap fishing to be impracticable. Coastal netting would therefore be maintained, with entry to the fishery regulated by licence. The taking of salmon from boats within Scottish fisheries limits was banned [13]. The White Paper and the Statutory Instruments met with criticism from angling associations, who were frustrated about access and by the continuation of coastal netting, and from would-be drifters. It may have contributed to the high SNP polls of February 1974 in the drifting ports of Lossiemouth, Buckie, Peterhead and Fraserburgh (see page 217).

Even if coastal netsmen were to continue in operation, they were not radically to increase their catch. In late 1974 and early 1975 coastal netsmen began to set gill nets from boats into the most advantageous channels, whereas previously gill nets had been set from cobles or from the shore. By threatening to increase the proportion of salmon taken by coastal netting this development represented a disincentive to the owners and occupiers of inland waters to invest in stocking. DAFS was alarmed and on 7th March 1975 Secretary of State Ross announced a ban on the use in Scottish waters or off

Tweedmouth of any gill net set or fished from a boat [14].

Some action to help the anglers concerned about access was taken in 1976. As recommended by Hunter, government encouragement was given to trout stocking, but no move was made to increase public access to salmon. The Salmon and Freshwater Fisheries (Scotland) Act 1976 gave the Secretary of State the power to make a "protection order" [15] on waters for which he had received valid proposals for fishery improvements by which "there would be a significant increase in the availability of fishing for freshwater fish in inland waters" [16]. It was thought that this would especially encourage stocking with trout, and thus was an attempt to increase access of Scottish anglers to game fish. In this vein, the Secretary of State should be satisfied that fishing should be available:

> "(1) to a degree, which he considered reasonable having regard in particular to what is, in his opinion, the demand, by persons who are neither owners nor occupiers of a right of fishing for freshwater fish in the waters to which the proposals relate nor members of a club which is such an owner or occupier in those waters, for fishing in that area, and
>
> (2) on such terms and conditions as he considered reasonable" [17].

Anglers thus had the propect of greater trout-fishing opportunities, but there had been no improvement in their access to salmon. As a result, taken collectively, the incremental changes which were made in Scotland subsequent to Hunter amounted to a compromise, but one which had mildly moved in favour of the riparian owners. While the

logic of Hunter that for real improvement in stocking all catching beyond river mouths should be phased out was apparent to officials and Ministers alike, no government had acted to phase coastal netting out completely because of the dire political and economic costs of so doing. The established balance between salmon interests was therefore untouched. Coastal netting was allowed to remain but with no radical technical innovations permitted which might tip the balance between netsmen and rodsmen in favour of the former. The owners and occupiers of inland anadromous fisheries had to make improvements in the full knowledge that the coastal netsmen would also benefit, but net licence fees to the Water Authorities were to contribute to the reduction in water pollution which would in turn increase the salmon runs. Owners were to continue to be protected against the depredations of urban anglers by the price mechanism.

The fact that Scottish legislation was becalmed did not prevent new legislation for England and Wales, new Acts being passed in 1972 and 1975, encouraging stocking by assuring protection to riparian owners. The Salmon and Freshwater Fisheries Act 1972 [18], introduced by Wingfield Digby (C - Dorset W) extended closed seasons, prohibited some methods of fishing and established the power of search in cases of suspected poaching. It also made it an offence to introduce fish to a water without permission of the owner. The 1975 Act [19] consolidated the 1923 and 1972 Acts, signalling government acceptance of the status quo in English salmon legislation.

Successive governments therefore failed to develop a rational policy towards salmon, and the long period of indecision served to raise the political involvement of the various salmon interests, with some long-term implications for high policy in that some would-be salmon

drifters probably voted SNP in the two General Elections of 1974. The failure of government to implement Hunter was not all indecision, however, because the advent of an extensive fishery off Greenland prevented HMG's guaranteeing a return to investment.

The development of a large-scale marine fishery for salmon

There was scant incentive for HMG firmly to side with the riparian owners and to ban fluvial netting. A high return would still not have been guaranteed to riparian owners because of the harvesting of UK salmon by other nations on the High Seas and within the Greenland fishery limits. After the 1962 ban on Scottish coastal drifting (see page 97) the UK had obtained an NEAFC ban on all drift-netting within 150 miles of Scottish baselines, but this had no effect on the far more serious High Seas fishing off Greenland. Atlantic salmon from both Europe and North America mingle off Greenland for much of their adult lives. Fishing by Greenland natives began in 1957, generously encouraged by grants from the Danish Government, in an attempt to raise Greenland's per capita GNP. In this aim it was successful, and by 1965 individual Greenland fishermen were netting £5,000 for three months' work [20]. Such rewards attracted others to the fishery. In 1965 Faroese, in 1967 Danish and in 1968 Swedish and West German fishermen entered the fishery for the first time, concentrating on the High Seas immediately beyond Greenland's fishery limits and during migration on the waters surrounding the Faroes. Greenland fishermen caught salmon both on the High Seas and within their own fisheries limits.

During 1972 Greenlanders caught 1,306 tonnes of salmon in total, while High Seas drifting by other states produced catches of 402

tonnes for Denmark, 178 for Norway and 147 for the Faroes [21]. In order effectively to secure salmon spawned in the UK from heavy predation at sea the UK would need to obtain the banning of salmon fishing within Greenland's fishery limits. This did not at first appear to be an option, and it was the High Seas fishing of salmon which became the bête noire of salmon lovers.

Foreign netting in the oceans provided problems for the FCO as well as for the Scottish Department. Although UK legislation laid claim to anadromous fish spawned in the UK wherever they might be, any attempt to enforce this law within Greenland's fishery limits would have been contrary to the Geneva Conventions. As two-thirds of the salmon catch at sea took place within fishery limits, even a successful cessation of High Seas netting might not markedly affect the return to the UK. Furthermore, the salmon congregating around Greenland's coasts did not carry the flags of their states of origin, so differentiation between stocks was impossible. Since UK ownership of the Greenland salmon concentrations could not be asserted, the only sensible principle would be a general right of all states to prevent all fishermen, including their own, from taking salmon at a distance from river mouths where their state of origin would be uncertain. Practically, such a regime would be best enforced if it designated the outer edge of the fishery limits of the state of origin as the point beyond which salmon could not be taken. Until Convention law on anadromous fish had been revised by UNCLOS 3, however, the UK could in practice only obtain Fishery Commission sanction to ban High Seas fishing and could not really expect Denmark and Greenland to impose a ban on catching within Greenland fishery limits, a fishery which was completely in accordance with the Geneva Convention on the Territorial Sea and Contiguous Zone.

The harvest provided the only detailed information on stock levels, and scientists and salmon interests in the states of origin, Britain, Norway and Ireland, feared the worst. In the Spring of 1968 British salmon interests convened a Conference in London to which the fishery authorities of Denmark, as the parent state of Greenland and Faroes, the chief offenders, were invited but declined to attend. Sir Hugh Mackenzie, Director of the Atlantic Salmon Research Trust, called upon HMG to take drastic action to curb High Seas fishing. He told the Conference:

> "We have three years at most in which to end high seas fishing. Otherwise Salmo salar will have passed the point of no return to extinction" [22].

Throughout the period, especially during the height of High Seas salmon fishing from 1969-73, the government was pressured by domestic interests concerned with some aspect of the Hunter Report or the fishing off Greenland. Much of this domestic pressure was applied by or through Members of Parliament. The MP most active and influential in pressing Governments on anadromous fish questions was Dalyell (Lab - West Lothian) [23]. He was extremely active in trying to reduce catches between Greenland and the Faroes [24]. He asked more than twenty parliamentary questions on the matter, and went personally to see the Danish Ambassador. Anxious to circumvent the FCO tendency to see the matter as one of High Seas freedoms, he argued that the danger of extinction to the Atlantic Salmon was a special issue divorced from other fisheries matters and urgently required imaginative government action. He suggested the use of 'Socialist channels' to influence the ruling Social Democratic

parties of Denmark, Sweden and the Federal Republic of Germany, and should this fail, a boycott on Danish products and the despatch of Fishery Protection Vessels to Greenland. He also contended that the UK should co-ordinate its actions with other states of origin suffering from the fishery, such as Canada, the U.S.A., and Ireland.

A few other MPs also urged HMG to put pressure on Denmark. Apart from Dalyell, the MP most active in this connection was Mitchell (C - Aberdeenshire W, 1970-74), whose constituency embraced two of the most productive salmon waters in Scotland, the Dee and the Spey. He pressed the government without suggesting specific methods, to obtain the cessation of High Seas fishing. Ridley (C - Cirencester and Tewkesbury), whose constituency spanned the Severn, also asked a considerable number of Parliamentary questions on the matter, while Beamish (C - Lewes), though having no major salmon rivers in his constituency, also pressed for action [25].

The FCO had no wish to jeopardise the universality of marine law by permitting one emotive issue to burst the bounds of the regional machinery for consultation on fishery issues. To have done so would have looked especially ludicrous in view of UK insistence on a right to High Seas cod fishing off Iceland. FCO Ministers parried MPs' suggestions of alternative approaches to Denmark with a firm insistence that ICNAF and NEAFC were the appropriate bodies for pursuing UK aspirations on anadromous fish, and that the EEC and EFTA had no place. In practice much use was made of informal meetings between Prime Ministers to cajole reluctant states into failing to oppose Fishery Commission limitations on salmon netting. In March 1970 Prime Minister Wilson wrote to his Scandinavian counterparts about anadromous fish but refused to place copies of his letters in

the Commons Library [26]. Similarly he discussed salmon netting with the West German and Swedish Prime Ministers Brandt and Palme during their visits to London in March and April 1970 but kept the discussions off the record [27].

The period of most intense diplomatic activity on foreign netting was 1969-72, a period straddling the Wilson and Heath Governments. While pressing within the Commissions for the elimination of High Seas salmon fishing, Ministers tried to ward off domestic pressure for extraordinary action by reassuring MPs that Denmark was very ready to come to terms [28]. Within the Fishery Commissions the UK had powerful allies, Canada, the USA, the USSR, Iceland, Ireland and Norway all had substantial spawning populations of salmon. It was necessary to pursue the matter in both Commissions, because of their overlapping membership and because the main netting area straddled the boundary lines between the two Commissions' areas of jurisdiction. The UK proposed in both Commissions in 1969 that High Seas netting of anadromous fish be prohibited. The Scientific Committees of both Commissions backed such a measure, holding that without it little investment in stock growth would occur. The majority of states were in favour but Denmark, Sweden and the Federal Republic of Germany dissented (Sweden was not a member of ICNAF) while expressing a willingness to discuss alternative conservation measures. The following year the UK obtained from ICNAF a limitation of both catch and vessel tonnage to the level of 1969, and from both Commissions closed seasons for the Greenland fishery. These arrangements were reaffirmed in 1971, but the significant progress came in the following year, spurred by heavy informal US pressure on recalcitrant states. ICNAF's 1972 meeting agreed upon a gradual phasing out of the High Seas catch by 1976. The NEAFC with

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its greater number of 'guilty' states and lacking US and Canadian participation, postponed consideration of a ban, merely adding some closed areas around Iceland. In 1973, however, the NEAFC agreed that salmon catches in international waters should be restricted to 1935 tonnes and phased out from December 1975. An annual quota of 1100 tonnes would be allowed within Greenland's fishery limits from that date. The use of the Fishery Commissions therefore proved somewhat efficacious in that catch limitations were obtained together with a ban on High Seas fishing. Understanding had been shown of Denmark's problems, that salmon netting provided significant revenue for both Greenland and the Faroes, peripheral regions which like Scotland offered few alternative sources of employment. The gradual approach adopted by the NEAFC prevented abrupt adjustment costs, enabling Denmark to accept the High Seas ban. HMG's approach therefore looked at the time as though it would prove successful if slow.

While the principal determining factor in this solution was the Highland economy's dependence on tourism the legislative log-jam was only broken by NEAFC and ICNAF restrictions on salmon catching at sea. The setting of TACs for the Greenland catch meant that all marginal increases in stocks would be for the benefit of UK citizens, so investment in stocking was thus encouraged. Paradoxically the existence of a constant Greenland catch raises the proportionate increase in the potential UK catch as a result of investment in stocking a water above the proportionate increase in stocks resulting from that investment.

Conclusion

The complexity of salmon politics was such that for several years no clear rational policy emerged, and successive UK governments tried to maintain the existing balance between salmon-catching interests in the UK rather than to take any bold but unpopular steps which might assist in regenerating stocks. There were however improvements in water quality and the administration of inland waters was simplified. The inadequacy of the High Seas regime to effect a rational conservation and management for salmon was demonstrated by the growth of the Greenland fishery. In combatting this good use was made of the fisheries commissions, and even though direct prime ministerial contacts had to be used in addition to activity in the commissions themselves, a solution had been reached by 1972-3 which looked as though within three or four years it would be possible for Water Authorities and riparian owners to make investments in stocking and to be assured of an increased run of salmon. Two factors, however, prevented this becoming a reality. One was the growth of illegal salmon drifting on a large-scale off North-East Scotland, especially after the UK applied stringent conservation measures on herring in 1975-6. Far more serious, however, was the crystallisation during 1972-3 of the concept of the Exclusive Economic Zone. If a High Seas regime put highly migratory species at a disadvantage, a North Atlantic consisting solely of zones of state jurisdiction over resources found in those zones could be even more disastrous. Under such a regime UK-spawned salmon would spend their lives in Greenland fishery limits and have to run the gauntlet of Iceland's and the Faroes' in order to return home. Therefore with the emergence of the EEZ as a 'referent principle' [29] of the international negotiations, the solution of phasing out salmon fishing on the High

Seas looked as though it might prove irrelevant. Under almost any of the alternative formulae for the EEZ the right to determine quotas would belong to coastal states, and so Greenland, Iceland and the Faroes would control fishing over much of the path of the returning salmon. Since the EEZ was so firmly embedded in all draft texts at UNCLOS 3, the UK would have to plead for special sanction for its claim for jurisdiction over salmon spawned in the UK.

The EEZ put at risk the several years' work in encouraging restocking, and argued that the UK would need to work hard for special arrangements within the EEZ for anadromous fish. Paradoxically, this made it more imperative for the UK to offer to accept the EEZ in principle, in order to facilitate a compromise. The UK had to try to obtain international sanction for states of origin to exert the principal jurisdiction over anadromous stocks. Therefore the anadromous fisheries issue increased the likelihood of the UK's accepting the EEZ.

Notes

1. Hansard, Volume 850, Or. 597-8, 7th February 1973.

2. Mitchell and Gray (C - Ross and Cromarty) (e.g. Hansard, Vol. 818, Or. 347, 26th May 1971), were the principal exponents of this view while Brewis (C - Galloway) (e.g. Ibid.) argued that returns to owners should be increased by reducing the harvest by netting. An English MP active on behalf of the Salmon and Trout Association was Mills (C - Torrington), but most of his lobbying work took place outside the plenary proceedings of the House of Commons.

3. Hansard Vol. 847, Wr. 380-4, 5th December 1972.

4. Water Act 1973, 1973 c37.

5. Salmon and Migratory Trout (Prohibition of Fishing) Order 1973, SI 1973 No. 188.

6. Control of Pollution Act 1974, 1974 c40.

7. Hamilton (Lab - Fife W) pressed for the compulsory acquisition of all fishing rights by public bodies (Hansard, Vol. 839, Or. 441-2, 21st June 1972). Maclennan (Lab - Caithness and Sutherland), Steel (L - Roxburgh, Selkirk and Peebles) and Johnston (L - Inverness) opined that public bodies should acquire fishing rights through the market, as and when they came up for sale. They were divided as to which authorities should buy them, however, as a result of conflicting constituency interests. When in February 1973 the North of Scotland Hydro-Electric Board decided to sell off fishing rights under its jurisdiction, Johnston urged their acquisition by the Highlands and Islands Development Board (HIDB) while Steel preferred their sale to local authorities, and Maclennan was unspecific:

   (Johnston Hansard, Vol. 851, Or. 459-60, 21st February 1973.
   Steel Hansard, Vol. 851, Wr. 293, 26th February 1973.
   Maclennan Hansard, Vol. 851, Wr. 293, 26th February 1973).

   The HIDB would have used the rights to maximise tourist revenue, while local authorities would have yielded to political pressure by increasing access to the local population. The question of access was paramount for Steel and Maclennan because few of their potential supporters depended on the tourist revenue which the rights might generate. Maclennan's constituency embraced both the urban population of Wick and Thurso and great estates, while Steel's constituency lay wholly outside the area covered by the Hydro-Electric Board. Grimond (L - Orkney and Shetland) transmitted to Parliament the view of the Shetland Crofters' Fishing Rights Protection Society that any revision of access rights involving the diminution of crofters' rights of access must be accompanied by financial compensation (Hansard, Vol. 850, Or. 597-8, 7th February 1973).

8. Hansard, Vol. 793, Or. 1814, 19th December 1969.

9. Total catches of salmon and grilse in Scottish fishery limits and inland waters were as follows:

1963	434,201	1966	449,383	1969	558,746
1964	556,028	1967	604,131		
1965	444,209	1968	427,872		

Hansard, Vol. 810, Or. 1668-9, 3rd February 1971.

The average annual catch for the period was therefore 496,367 from 1963-69, with an average of 478,146 for the three years 1963-65 and 530,249 for the three years 1967-69. This increase in catch is not, of course, evidence that stocks were not being overfished.

10. Hansard, Vol. 850, Or. 596, 7th February 1973.

11. Hansard, Vol. 874, Wr. 188, 22nd May 1974.

12. Department of Agriculture and Fisheries for Scotland, Salmon and Freshwater Fisheries in Scotland, November 1971. Command 4821. (Edinburgh: MHSO, 1971).

13. Salmon and Migratory Trout (Prohibition of Fishing) (No.2) Order 1973, S.I. 1973 No. 207.

14. Hansard, Vol. 887, Wr. 535-6, 7th March 1975.

15. Freshwater and Salmon Fisheries (Scotland) Act 1976, 1976 c22, paragraph 1(i).

16. Ibid., paragraph 3(a).

17. Ibid., paragraph 3(c).

18. Salmon and Freshwater Fisheries Act 1972, 1972 c37.

19. Salmon and Freshwater Fisheries Act 1975, 1975 c51.

20. Hansard, Vol. 793, Or. 1807, 19th December 1969.

21. Ibid., Or. 1808.

22. Quoted in Hansard, Vol. 793, Or. 1810, 19th December 1969.

23. Added to a personal interest in marine science and conservation was his strong constituency interest in angling. Many of the West Lothian miners were fanatical anglers, often travelling long distances at weekends to the Tay and its Perthshire tributaries. One small advertisement in a local paper there, following the publication of the second Hunter Report, produced an attendance of 195 people at a noisy public meeting. The complexity of the issues was reflected in the variety of opinions expressed. Whilst most of those present recognised the importance to anglers of reducing salmon fishing at sea, opinion was divided on the question of the level of statutory protection against poaching which should be accorded to owners. Some argued that the extension of protection to owners of trout waters would benefit the ordinary angler by increasing stocks, while others held that it would further reduce the already limited opportunities for the average Scotsman to participate in a rich man's sport. A series of subsequent meetings crystallised local angling opinion around a scheme by which a Scottish Anglers' Trust would buy all fishing rights. The entire revenue raised from licence fees could thus be channelled into restocking. Dalyell and some angling associations privately pressed the Secretary of State to institute such a Trust, and Dalyell used his position as an MP to urge successive Governments from 1966 to 1975 to prepare legislation to implement the Hunter recommendations (Hansard, 1967-75, passim). Since the legislative action necessary to make

investment in stocking attractive to owners would decrease access for poorer Scots, he argued, Treasury resources should contribute to stocking, in the interests of regional development.

24. The information in this paragraph is gleaned partly from a personal interview with Mr. Dalyell and partly from Hansard. Some of his stronger suggestions of action to influence Denmark are included in Hansard, Vol. 793, Or. 1809, 12th December 1969.

25. Example of questions asked by these MPs are:

Mitchell	Hansard, Vol. 816, Wr. 47-8, 26th April 1971.
Ridley	Hansard, Vol. 786, Wr. 86, 2nd July 1969.
Beamish	Hansard, Vol. 793, Wr. 216-7, 14th May 1969.

A number of other MPs also made reference to the problem in Parliament.

26. Hansard, Vol. 798, Wr. 392, 24th March 1970.

27. Hansard, Vol. 798, Wr. 518, 26th March 1970.

28. E.g. Hansard, Vol. 812, Wr. 17, 22nd February 1971.

29. W. Zartman, "Negotiations: Theory and Reality", Journal of International Affairs, (Vol. 29), 1975, pp.69, 71-77.

CHAPTER 12

THE DECLINE IN THE POLITICAL INFLUENCE OF THE DEEP SEA SECTOR, AND THE RISE OF THAT OF THE INSHORE SECTOR

In 1967 the deep sea sector of the fishing industry had enjoyed a level of organisation and political influence which the inshore sector did not even attempt to match, but for a variety of reasons the former lost this pre-eminence over the following decade. The deep sea fleet became smaller and weaker, as a result of a loss of fishing grounds, and of extensive penetration of its markets by imports, factors which resulted in the scrapping, sale or conversion of vessels and the loss of many jobs, both shipboard and in ancillary industries. Many firms left the industry, which resulted in the concentration of the ownership of the deep sea fleet in a few firms, often ones with extensive interests in other industries that provided them with the financial resilience to withstand the economic losses so often sustained in fisheries. This monopolisation coincided with a mounting awareness among some Trade Union officials and Labour MPs that shipboard working conditions and disciplinary procedures were extremely poor, with the result that the bipartisan consensus behind the distant-water industry, still largely intact in 1972-73, began to collapse, and Labour MPs began to demand improvements in working conditions in return for economic or political support for the deep sea sector. By mid-1974 the trawler industry was itself calling for an EEZ, as a means of re-establishing UK access to the distant and middle waters from which it was now being excluded.

In contrast, the inshore sector improved its organisation, partly as a result of the need to establish Producer Organisations under the

marketing provisions of the Common Fisheries Policy and partly because the range of issues over which inshore men felt aggrieved was so extensive that they were stirred into the establishment of more effective campaigning organisations like the National Federation of Fishermen's Organisations (NFFO) and the Scottish Fishing Federation (SFF). In the same way as the BTF and STF had managed to co-opt into membership many near- and middle-water trawlers, the new organisations were strengthened by a still-growing seiner fleet, based on Grimsby and North-East Scotland, whose owners shared with the inshore vessels a concern for the conservation of the pelagic stocks close to Britain's shores. In addition to being better organised the inshore fishermen were also angrier at the prospect of foreigners fishing up to the baselines in 1982, at rigidly-applied vessel safety surveys introduced by the Department of Trade, by the effect of industrial fishing on food fisheries, and by the collapse of herring stocks. They demonstrated their willingness to vent this anger by political action, like blockades, and by third party voting.

The most telling reasons for the rise in the saliency of inshore interests to HMG, however, was that the sector found new groups of political allies within Parliament. The first was the Scottish National Party, which made a significant electoral breakthrough in the two General Elections of 1974, including a very strong showing in inshore areas while articulating a policy of rapid extensions of fisheries jurisdiction. The Labour Government of 1974-79 made the appeasement of Scottish particularism a priority because further SNP electoral gains might lead to the break-up of the United Kingdom, and paid great attention to inshore concerns as a consequence. Secondly the Parliamentary Labour Party included a number of MPs who opposed British membership of the EEC, and for whom the Common Fisheries

Policy as originally formulated provided an excellent example of an asinine Community arrangement which could and should be opposed. Thirdly there was a loose grouping of back-bench MPs, representing inshore fishing areas, of various parties, but consisting mostly of Conservatives, who had been driven by constituents to pay closer attention to inshore concerns.

The decline in the political influence of the deep sea sector

As Figure 12.1 illustrates, the size of the deep sea fleet declined throughout most of the period, with especially heavy losses of vessels during the times of acute economic crisis, in 1967 and from 1974 onwards, and with recovery, concentrated in the near and middle-water fleets, only from 1980. These declines were especially marked in the distant-water section of the fleet from 1974, as it became obvious that there would be no rapid large-scale return to their traditional fishing grounds. This rapid shrinkage of the distant-water fleet coincided with repeated heavy economic losses. Most of the vessels diverted from distant waters could not fish economically in warmer waters with a greater species mix, and in addition, since their principal target species were cod and haddock, soon found the UK market for these fish supplied by imports from Canada, Norway and Iceland. The latter clearly enjoyed a higher yield per unit effort than had the UK vessels, because the reduction in fishing effort off their shores occasioned by the departure of the UK fleet contributed to stock growth. Thus the imports were very competitively priced, and the British market was exceptionally vulnerable to these imports since few other European populations have a particular taste for white fish.

Figure 12.1: Trawlers over 80' in length registered at 31st December [1].
(Indices appear in brackets, 31st December 1966 = 100)

	ENGLAND AND WALES				SCOTLAND			TOTALS			
	D-Wr Wet	D-Wr Factory Freezer	N&M Wet	Total ESW	D-Wr Wet	N&M Wet	Total Sc.	D-Wr	N&M	All	% change on previous yr.
1966	171 (100)	25 (100)	282 (100)	478 (100)	3	124 (100)	127 (100)	199 (100)	406 (100)	605 (100)	–
1967	153 (89.5)	27 (108)	269 (95.4)	449 (93.9)	2	126 (101.6)	128 (100.8)	182 (91.4)	395 (97.2)	577 (95.3)	-4.7
1968	131 (76.6)	32 (128)	253 (89.7)	416 (87)	2	125 (100.8)	127 (100)	165 (82.9)	378 (93.1)	543 (89.7)	-5.8
1969	125 (74)	34 (136)	244 (86.5)	403 (84.3)	2	127 (102.4)	129 (101.6)	161 (80.9)	371 (91.3)	532 (87.9)	-2.0
1970	123 (72)	36 (144)	229 (81.2)	388 (81.2)	2	122 (98.4)	124 (97.6)	161 (80.9)	351 (86.4)	512 (84.6)	-3.8
1971	124 (72.5)	37 (148)	205 (72.7)	366 (76.6)	3	114 (91.9)	117 (92.1)	164 (82.4)	319 (78.5)	483 (79.8)	-5.7
1972	123 (72)	41 (164)	202 (71.6)	366 (76.5)	4	110 (88.7)	114 (89.7)	168 (84.4)	312 (76.8)	480 (80.5)	-0.6
1973	118 (69)	46 (184)	200 (70.9)	364 (76.1)	4	110 (88.7)	114 (91.9)	168 (84.4)	310 (76.3)	478 (79)	-0.4
1974	111 (65)	48 (192)	176 (62.4)	335 (70.0)	4	102 (82.2)	106 (83.4)	163 (81.9)	278 (68.4)	441 (72.8)	-7.7
1975	84 (49.1)	44 (176)	160 (56.7)	288 (60.2)	4	89 (71.7)	93 (73.2)	132 (66.3)	249 (61.3)	381 (62.9)	-13.6
1976	59 (34.5)	42 (168)	151 (53.5)	252 (52.7)	3	76 (61.3)	79 (62.2)	104 (52.3)	227 (55.9)	331 (54.7)	-13.1
1977	56 (32.7)	38 (152)	150 (53.2)	244 (51)	3	65 (52.4)	68 (53.5)	97 (48.7)	215 (52.9)	312 (51.6)	-5.7
1978	42 (24.6)	34 (136)	133 (47.1)	209 (43.7)	1	58 (46.7)	59 (46.5)	77 (38.7)	191 (47)	268 (44.3)	-14.1
1979	22 (12.8)	31 (124)	124 (44.0)	177 (37.0)	0	46 (37.1)	46 (36.2)	53 (26.6)	170 (41.8)	223 (36.8)	-16.8
1980	10 (9.3)	29 (116)	112 (38.9)	157 (32.9)	0	34 (27.4)	34 (26.8)	45 (22.6)	146 (36)	191 (31.6)	-14.3
1981	10 (5.8)	23 (92)	126 (44.7)	159 (33.3)	0	32 (25.8)	32 (25.1)	33 (16.6)	158 (38.9)	192 (31.7)	+0.5
1982	10 (5.8)	19 (76)	139 (49.3)	168 (35.1)	0	18 (14.5)	18 (14.1)	29 (14.6)	157 (38.7)	186 (30.7)	-3.1

The weakening of the deep sea sector obviously limited its ability to affect the course of government policy, an inability that was compounded by the erosion of the bipartisan support which the sector had once enjoyed. This erosion resulted primarily from organisational changes within the industry. The most significant such changes were the growing monopolisation of ownership in the deep sea fleet, and partly as a reaction, mounting pressure from Hull and Aberdeen Labour MPs and the TGWU for a government stake in running the industry. It was inevitable that the relative importance in the deep sea fleet of small trawler-owners should dwindle. The size of the fleet was in almost continual decline (see Figure 12.1) - though this decline did not imply a proportionate fall in capacity since the new vessels were generally larger, and equipped with better catching and processing technology. This technology was expensive and larger firms were better placed to obtain the necessary capital. The necessary investment, even after grant, for a new trawler was very high relative to the turnover which that vessel could generate [2]. The only growth portion of the fleet, the freezers and factory ships (see Figure 12.1), was overwhelmingly the fief of large firms, some of which were also involved in processing and storage on land and for whose catch there was therefore a more certain market than existed for the smaller wet-fishers at the mercy of fluctuations in quayside demand. The technocratically-minded Labour Government of 1964-70 encouraged the tendency to monopolisation of ownership, seeing in modern technology and in economies of scale the means successfully to ward off foreign competition [3]. The Industrial Reorganisation Corporation (IRC), formed in 1964 to encourage mergers, held talks with the industry in 1968. The following spring it was announced that two of the largest deep sea fleets, the trawler interests of Associated Fisheries and of the Ross Group, would amalgamate, and

that the IRC would nominate a Director. British United Trawlers (BUT) was owned 74% by Associated Fisheries and 26% by the Imperial Group, a giant company with substantial interests in the food and tobacco industries. In 1973 BUT took over the Ranger Trawler fleet and by December 1974 owned over half of the UK's freezer trawlers, one-third of all trawlers in England and Wales, and shares in fifty Scottish vessels [4]. Associated Fisheries had invested heavily in downstream activities, such as food processing, distribution and cold storage, and its partly-owned subsidiaries, Ross and Eskimo, were each responsible for a whole range of frozen foods in addition to fish [5]. Three firms, British United Trawlers, Boston Fishing Group Holdings and Marr owned between them fifty-two per cent of English and Welsh trawlers over eighty feet in length, with no fewer than thirty-eight other firms sharing the rest of the fleet. The Scottish fleet, which increased its capacity up to 1974, was not so completely dominated by a few companies, but even here approximately sixty per cent of the trawler fleet was owned by the five largest firms [6].

With the industry dominated by a few large firms the case for casual employment seemed weaker. The period saw mounting pressure by the TGWU for the trawler industry to be decasualised and for employment legislation to be made applicable to trawler crews. There was a feeling among Union activists that the lack of technical knowledge among deckhands and their indiscipline were products of the casual system which denied them guaranteed year-round employment, earnings and a career structure. However, in the mid-1960s the TGWU launched a campaign to eliminate casual work. In 1967 Dave Shenton, the Regional Secretary of the Hull branch became the first National Fishing Officer of the Union. Shenton's successor, Jack Ashwell,

devised the first comprehensive decasualisation plan and an integrated set of political and economic demands for employed fishermen. Ashwell relied heavily on advice from officials of the National Union of Seamen, with whom co-operation had developed during a 1965-7 series of strikes in Hull. Ashwell also included among his membership building workers, whose employment was still on a casual basis, and dockers, who were decasualised in 1967 under the National Dock Labour (NDL) scheme [7]. On advice from MAFF officials the fishing wharves were exempted from the scheme so that the 'lumpers' and 'bobbers' (fish porters) were not decasualised. The officials argued that a financial burden would be imposed upon share fishermen if they lost the right to unload their own vessels, so fishing wharves were exempted on the grounds that most of them were used by share fishermen as well as employees [8].

The first port to introduce a decasualisation plan was Aberdeen. Armed with Ashwell's scheme the Aberdeen branch of the TGWU organised a strike of trawlermen in 1969. The strike fulfilled many of its objectives. A register of fishermen was established to provide a pool of labour outside which employees could not recruit workers. The share of earnings provided by wages was raised relative to bonus [9], but suggestions of six-month guaranteed contracts came to naught [10]. A Conservative government came to power in June 1970, and gave no encouragement to decasualisation. Although the Merchant Shipping Act of 1970 established redundancy money for laid-off seamen with two years' "continuity of employment" [11], this provided no protection for trawler crews, who had to sign off at the end of each voyage and therefore could not achieve this continuity.

Another issue on which the TGWU and some Labour MPs disagreed with

the trawler companies was the harsh discipline on board trawlers. Progress here was also extremely slow. Three-quarters of a century of merchant shipping legislation had treated the shipping and trawler industries as essentially identical for disciplinary purposes, although share-fishermen were exempt. Although there was a less convincing case for penal sanctions for breaches of discipline aboard trawlers undertaking short voyages than aboard ocean-going cargo vessels, in practice if the law on trawler discipline were reformed it would prove difficult to deny merchant seamen equivalent treatment. If discipline were to be reformed consultations embracing both the shipping and trawler industries would therefore have to take place and any recommended changes be implemented in a Merchant Shipping Act. The desire for co-ordination prevented any new major provisions on discipline in the 1970 or 1974 Merchant Shipping Acts but a partial solution was found within the trawler industry itself. The determination of owners and officers to keep shop-stewards off the vessels, together with a growing unionisation of the crews led to the establishment, starting with Aberdeen in 1969, in most trawler ports of Joint Disciplinary Committees, representative of the Owners' Association, the TGWU and the Trawler Officers' Guild, and a further Committee to discipline officers. Together the action of these Committees meant that the skipper maintained his legal right to enforce his authority with penal sanctions, but that in practice both skippers and crewmen were under the restraint of possible fine or censure. While the general opinion remained that the Disciplinary Committees worked well [12], many in the unions felt that officers often exercised their authority in a high-handed manner.

The effect of union pressure on discipline and decasualisation was to

make the media, Parliament and public aware that employed fishermen had interests other than the desire to maintain access to fishing grounds, and that on many issues the interests of vessel owners and fishermen were not identical. This was further manifested by a mounting media concern about safety.

Fishing is an extremely dangerous occupation; and although a large number of inshore fishermen, especially from North-East Scotland, died at work [13], accidents involving distant-water vessels were far more influential in changing safety regulations, for two reasons. On the one hand the loss of a trawler with twenty or thirty men aboard has a far greater impact on the public mind than the loss of one or two men in a small boat. Secondly, since most inshore fishermen are self-employed, the costs of any improvements to the safety equipment of their vessels fall on them, whereas distant-water crews could, through unions and through MPs, press for improvements, secure in the knowledge that additional costs would fall on their employers [14].

The loss of vessels was not the only cause of death or severe injury to fishermen. Frequently a crew member would be injured while climbing aboard, in the absence of regulations requiring proper access facilities, and accidents involving fishing gear were also fairly common. There were, in fact, few specific rules governing the operation of fishing boats. The Merchant Shipping Acts established minimum manning levels for vessels while under way, but no such regulations existed to cover vessels while actively engaged in fishing [15]. This fact, combined with the bonus system, served to force trawlermen into working continuous shifts, fishing for up to eighteen hours at a stretch. Tired fishermen are more likely to

become careless, and the accident rate was therefore linked with conditions of work. Skippers often insisted that their crews should fish in appalling weather conditions, in order to compete for the coveted "Silver Cod" award, an annual prize for the skipper with the highest aggregate catch. Since skippers had been accorded sole authority aboard by the Merchant Shipping Acts, with penal sanctions, crews had no redress [16].

The Pearson Enquiry of 1966 had found that conditions for employed fishermen were "deplorable", and that "the incidence of both fatal and other accidents is much too high and must be reduced" [17]. Then on a single day in January 1968 three Hull trawlers, the "Romanus", the "Pendot" and the "Ross Cleveland", went down in exceptionally bad weather with the loss of fifty-eight lives. As a result relatives organised a campaign, arguing that the vessels should have taken refuge in port. This campaign became a national one as the Press warmed to a voluble seventeen-stone fish skinner from Hull, "Big Lil" Bilocca, who provided a media-worthy focus for the campaign in the immediate aftermath of the sinkings [18]. The folk-singer John Connally composed a ballad about the sinkings, denigrating "the men who have built their fortunes on fishermen's lives" [19]. In Hull there was a campaign against the "Silver Cod" award, in which a replica of the award was painted to appear blood-spattered, and taken round the streets. The campaign was successful. Prime Minister Wilson had previously agreed to present the award, but under pressure from within his party he backed down. The award was presented that year for the last time and has since resided in a Hull museum [20].

The triple tragedy prompted the appointment of a Royal Commission on Trawler Safety. The Holland-Martin Report [21] was published in the

following July. The report recommended improvements in construction and equipment requirements but also attributed the accident record of the industry to lax regulations over working conditions and crew training standards. The approach of the Board of Trade and its successors to implementation was a gradual one; many of the improvements were not legislated upon for several years because of cost or implications for conditions and construction standards in passenger and merchant ships [22]. Only after intense political pressure did they become law. A new Merchant Shipping Act passed in 1970 implemented few of Holland-Martin's recommendations on safety, for instance a recommendation made by Pearson and repeated by Holland-Martin and by the Rochdale Committee of 1970 [23] that there should be a statutory requirement for a gangway to provide fishermen with access from quay to vessel [24] was ignored by the 1970 Act, possibly because in certain harbours it was impracticable because of the tides, although a Maritime Notice recommendation was issued [25].

In 1970 the International Labour Organisation enacted an order for all member states to institute a system of compulsory notification to government of all accidents involving seafarers. This helped to provide those arguing for tighter safety standards with more accurate statistics. Some of Holland-Martin's recommendations on the equipment of fishing vessels were introduced by the Fishing Vessels (Safety Provisions) Act 1970 [26]. The trawler fleet was to be swiftly modified, while consultations were to be set in motion to improve the safety of inshore vessels. As recompense, in August 1971, HMG agreed to provide half of the cost incurred by the deep sea fleet in instituting these regulations.

Holland-Martin also suggested stability tests, and here action was

very slow. Officials of the Board of Trade were reluctant to act swiftly in extracting the implications of Holland-Martin for inshore vessels, arguing that many of the poorer fishermen would be driven out of business by the cost of improvements if regulations were over-stringent [27].

In November 1971 a consultative document was issued which detailed how seaworthiness and stability tests for all fishing vessels over twelve metres (approximately forty feet) in length could be phased-in over a six-year period. The document envisaged that, while new vessels would have to conform strictly to Departmental standards, a policy of "reasonable and practical" application would be adopted for existing vessels. The Board demonstrated no sense of urgency on the matter, and the issue was therefore passed to Working Groups on the rules, which proceeded at a leisurely pace, meeting thirteen times between April 1972 and June 1974.

The early 1970s thus saw some improvements in the working conditions of employed fishermen, but to nowhere near the extent that the TGWU would have wished. Some in the TGWU and in the Labour Party viewed the industry as dominated by a few large firms, who had through collective arrangements with MAFF and the Department of Trade succeeded in exempting themselves from much recent legislation on working conditions. The sectoral arrangements had not accomodated Union demands, and therefore the only way to circumvent the obstruction of the sponsoring departments was by political action. The TGWU's new National Fishing Officer from 1973, David Cairns, was of this opinion, and saw an opportunity when the BTF pressed for fuel subsidies after the OPEC price rise. He responded with a revised policy statement on decasualisation, which argued that "the industry"

had already received substantial government grants and loans for vessels, processing plants and co-operatives. The figures for all White Fish Authority advances to the entire fishing industry, both inshore and deep sea, were presented in such a way as to appear to refer only to the trawler industry, and the document asserted that:

> "It is time that the principle of 'no public finance without public accountability' was asserted more vigorously for the case of the trawling industry. The Union's proposal for a fundamental reform in employment relationships is one essential part of this process" [28].

Cairns' opposition to fuel subsidies and the growing strength of the TGWU in Hull effected vigorous opposition of all three Hull MPs to such subsidies [29]. Cairns also advocated the nationalisation of the deep sea fleet, and obtained parliamentary support for this view from Prescott, McNamara and R. Hughes (Lab - Aberdeen N, 1970 onwards) [30]. Johnson preferred only partial and voluntary nationalisation of uneconomic firms so as to maintain employment [31]. Prescott and Cairns disagreed with Johnson, arguing that the private control of land-based processing, storage and transport would prevent a state-owned trawler fleet from operating successfully in competition with private firms and that therefore nationalisation of all vessels, except for those operated by share fishermen, as well as of processing and distribution facilities, would be the only successful course. Partial nationalisation on a voluntary basis would obtain for the public the least economic portion of the fleet [32].

By 1974-5, therefore, the vigorous bipartisan Parliamentary support for the deep sea industry evident in 1967 had largely vanished, and

several of the Labour MPs representing trawler ports were now deeply suspicious of the trawler owners' motives. Their advocacy of nationalisation was, in contrast to this point, of little importance, for given the uncertainty about fishing grounds (see Chapter 10) it was unlikely that even the most radical Labour government, let alone one dependent upon Liberal support, as the Government of 1974-79 was, would have taken into public ownership a fleet destined for considerable capacity reductions. The loss of Labour Party support for the trawler firms companies left the FCO's traditional assumptions somewhat exposed and deprived of the supporting argument that access to distant-waters was vital to maintain employment.

The defection of the deep sea fleet from the narrow-limit view

The weakening of the relative position of the deep sea fleet and the collapse of its former bipartisan support was accompanied by the defection of the sector from the narrow limit views of the FCO. Given that the Iceland experience had taught that a continuation of distant-water fishing could not be imposed on a coastal state it had become probable that the only way to salvage access to such stocks without unacceptable force was to obtain some greater leverage on the states off whose shores the UK fleet currently fished. This could in theory be achieved by extending British fisheries limits (which meant, given the FCO's penchant for managed change and for convention law, accepting the EEZ) and negotiating 'swap' arrangements, an option favoured by both the BTF and the TGWU. In practice this option was almost closed by 1974; since UK distant-water fishing concentrated on demersal stocks, notably cod, the principal stocks for which access to them could be exchanged were pelagic ones. The harvestable concentrations of mackerel, then thought to be

underfished, were off Devon and Cornwall, rather distant from Iceland, Canada and Norway. The obvious attraction was herring. While the UK's imputed future EEZ had once been extremely rich in herring, the stocks had been vastly overfished, and the several years' moratorium necessary to permit herring stocks to be rebuilt to the extent where they could sustain a sufficient catch to attract large-scale swap arrangements would have bankrupted most trawler firms whose vessels had lost access to distant-water stocks. Therefore the UK would need to obtain leverage on Iceland and Norway by introducing into UNCLOS 3's draft texts an obligation on the coastal state to allow the aggregate catch in its EEZ to approximate to OSY. Since the coastal states off the UK's distant-water grounds obviously lacked sufficient capacity to harvest OSY, access for British vessels could possibly be maintained for sufficient time to permit British herring stocks to rebuild while the coastal states increased their own capacity. This scenario could further be improved by obtaining a clause granting preferential treatment to states whose nationals had habitually exploited a stock, but such a strategy was not without its problems for HMG. Firstly it would have strengthened the claim to continued access of the foreigners fishing in the future UK EEZ. These foreigners already had a strong claim because of the existing formulation of the Common Fisheries Policy. If foreign fishing of herring stocks were not reduced they could not be rebuilt sufficiently to render swap arrangements feasible, and SNP support in North-East Scotland might grow still further.

In an attempt to influence both government and conference, on 8th May 1974 employers and union issued a joint declaration in favour of 200-mile EEZs. They urged that states be required to pursue Optimum

Sustainable Yield and to allocate the surplus to habitual fishers. This shift by the deep sea industry was accompanied by the defection of a number of back-bench MPs from the narrow-limits position. For instance, TGWU-sponsored McNamara dropped his vehement stance against extensions [33]. Similarly, the BTF acceptance of an EEZ prompted the Conservative Parliamentary Party's new Fisheries Sub-Committee to propose an EEZ with the Common Fisheries Policy adjusted to give member states sole control of their own waters [34]. This call had attractions for both pro- and anti-Community MPs of both Conservative and Labour Parties. In emphasising the advantages of a UK-managed EEZ over an EEC-managed one, anti-Market MPs saw a means of weakening public support for continued EEC membership. Pro-Market MPs wished to obtain a revision of the CFP to show that the Community was flexible and capable of growth.

The net result of all these changes was to reduce the political influence of the deep sea sector and to replace its support for narrow limits to national jurisdiction with support for the broad concept of the EEZ.

The rise in the political influence of the inshore sector

The decline in the political influence of the trawlermen was mirrored by a rise in the political influence of the inshore sector. They became much better organised, partly because of the network of producer organisations set up under the marketing provisions of the CFP. This was not the only reason. One motivator was the fear of 1982, with the prospect of foreigners fishing up to baselines. In 1973 the Scottish Herring Producers' Association, many of whose members were being forced by the shortage of herring to pursue white

fish, and the Scottish Inshore White Fish Producers' Association joined together with four smaller local fishermen's associations to establish the Scottish Fishermen's Federation. By 1974 most Scottish inshore fishermen belonged to this body directly or indirectly, only the North Scottish Light Trawl Fishermen's Association, representing some Moray Coast fishermen, and the Orkney Fishermen's Association remained aloof [35]. The Federation selected as its goal a fisheries zone of fifty miles exclusive to UK fishermen. There were three main reasons for this. Firstly the Association felt that it would enable the UK to co-ordinate its extension with Iceland, which had announced its own fifty-mile exclusive zone from 1972. Secondly, such a zone protected from foreign competition the bulk of the Scottish white fish catch and almost all of the remaining concentrations of adult North Sea herring, as Figure 12.2 demonstrates. Lastly, the inshore fishermen were not attracted by an EEZ unless it provided the coastal state with a wide guaranteed exclusive zone, because they rightly feared that MAFF might be happy to trade fishing rights in the UK zone for distant-water concessions. They also knew that even a very generous interpretation of the Revision Clause in the Treaty of Accession would imply foreign fishing close to UK shores for perpetuity. In addition it would give UK fishermen exclusive access to both the Summer and winter concentrations of mackerel, off the West coast of Scotland and South-Western England. As Figure 12.2 demonstrates, the foreign catch within fifty miles of UK baselines far exceeded that taken by British fishermen, and much of this consisted of Eastern European catches of mackerel. The Scottish purse-seiners deprived of fishing opportunities by the decline of herring stocks were ideally suited to take mackerel, another pelagic fish. The Federation's demand for fifty miles gained the support of a number of

Figure 12.2: Estimated catches of demersal and pelagic species in UK 12, 50 and 200 miles limit (000's tonnes)[37]

	Within 12 miles limit*	Within 50 miles limit				Within 200 miles limit			
	UK fleet	UK fleet	Other EEC fleets	Third Countries' fleets	Total	UK fleet	Other EEC fleets	Third Countries' fleets	Total
Demersal									
1972	166.9 (22)	304.4 (40)	154.8	82.0	541.2	366.5 (48)	233.9	130.4	730.8
1973	137.7 (19)	258.8 (35)	180.9	75.4	515.1	315.2 (43)	247.0	118.3	680.5
1974	112.7 (17)	227.3 (34)	183.2	118.9	529.4	282.2 (42)	251.4	219.0	752.6
Average 1972-74	139.1 (19)	263.5 (37)	173.0	92.1	528.6	321.3 (45)	244.1	155.9	721.3
Pelagic									
1972	202.9 (86)	233.7 (100)	111.9	418.1	763.7	234.7 (100)	172.5	444.5	851.7
1973	249.4 (86)	288.6 (99)	202.2	504.9	995.7	290.7 (100)	267.9	637.5	1,196.1
1974	245.6 (89)	275.6 (100)	152.5	481.3	909.4	275.8 (100)	160.2	589.4	1,025.4
Average 1972-74	232.6 (87)	266.0 (100)	155.5	468.1	889.6	267.1 (100)	200.2	557.1	1,024.4
Norway Pout/Sandeels									
1972	4.4 (65)	6.8 (100)	166.6	32.4	205.8	6.8 (100)	350.1	57.5	414.4
1973	13.5 (48)	21.9 (78)	132.2	41.4	195.5	28.2 (100)	272.9	73.7	374.8
1974	16.9 (31)	36.9 (69)	166.8	78.6	282.3	53.0 (98)	327.5	141.5	522.0
Average 1972-74	11.6 (39)	21.9 (74)	155.2	50.8	227.9	29.3 (99)	316.8	90.9	437.1

*Foreign catches within a UK 12 miles limit cannot be estimated reliably from available data.

Figures in brackets show UK catch within each zone as percentage of that year's total UK catch of species in question.

Scottish academics and MPs [37]. The general expectation by mid-1974 that the UK would eventually adopt a 200-mile EEZ translated this fifty miles into an interim demand until UNCLOS 3 had finally settled its Convention, with the hope that a larger exclusive zone might then be established.

The organisation of inshore fishermen also improved in England and Wales, as loose affiliation to the Fisheries Organisation Society gradually gave way to closer affiliation to a body new in 1976, the National Federation of Fishermen's Organisations, which called for action to reduce imports and for an exclusive fifty-mile limit, and which managed to embrace most inshore fishermen in its membership.

Not only did the inshore industry's better organisation and united stance make it more vital for MAFF to pay more attention to its views, but the marketing provisions of the CFP also gained the fishermen powers traditionally wielded by the statutory bodies. The nominal division between the economic functions of the Producers' Organisations and the political functions of the NFFO and the SFF was not a gulf. For instance, the Chief Executive of the Scottish Fish Producers' Organisation, Lawrie, also served on the Executive Board of the SFF, while the NFFO increasingly began to provide the secretariats for Producer Organisations south of the border.

Inshore electoral disaffection and its political consequences

The experience of the period after 1971 produced extreme disaffection among inshore fishermen, which was powerful enough in Scotland and the North East to have electoral consequencies. The causes of their anger were legion, but industrial fishing and problems related to oil exploration, as well as the virtual collapse of the North Sea herring, affected Scottish fishermen much more profoundly than their English and Welsh counterparts. They were incensed at the continued inability of the NEAFC to conserve stocks or to reduce the industrial by-catch. Even after quotas had been introduced, the way in which they were pegged to states' catch-levels over recent years angered Scots fishermen, especially with regard to Denmark, whose directed industrial fishing for herring had played such a part. In short, the quotas were rewarding the culprits. By the time that TACs were introduced, the herring by-catch of industrial fisheries was so large that only half of the TAC for herring could be allocated to directed fishing. There was universal hatred of the policing system: it was generally claimed that British fishermen conformed to NEAFC regulations and were thwarted by dishonourable foreign fishermen [38]. South Coast fishermen were infuriated by MAFF's continued failure to ban beam trawling, while Scots fishermen were disturbed about the snagging of nets on seabed installations and debris arising from oil development. The CFP was a particular target for inshore derision, initially because of anxiety about the review clause, and as a world-wide extension of fisheries limits became a probability, because of its role in robbing Britain of the fish in what might become her EEZ. There were also feelings of hostility to the marketing provisions of the CFP. The Producer Organisations found that they had no power to regulate British fishermen operating

outside their individual areas of jurisdiction. The inflexibility of the system meant that fish retailed in fishing ports might cost up to five times the local landed price.

During 1974 extra worries were added. Inshore fishermen feared that the National Dock Labour Scheme might be extended to make it impossible for small fishermen to unload their own boats, imposing crushing labour costs upon them. They were also concerned about the costs of implementing safety rules, which they saw as imposed on inshore fishermen primarily to reduce the death-toll of TGWU members in the deep sea fleet. The exclusion of vessels under twelve metres in length from the new operating subsidies intended to maintain capacity was resented. The argument that small vessels had protected grounds and were not therefore threatened by extensions rankled, especially with the South-West long-line mackerel fishermen to whom the Buckie or Grimsby purse-seiner was as much an enemy as a Soviet trawler. Shellfishermen, operating in small numbers in sheltered bays along most of the coast, but especially numerous in Galloway, Northumberland, and in North-west Wales, were angry over the increase of week-end skin-diving for lobsters by recreational divers, and at the government's failure to ban such part-time shellfishing [39].

On top of all these complaints came the continuous economic losses after the oil price explosion. The realisation that capacity reductions would be needed, given the diversion of deep sea vessels from their traditional grounds, led many inshore fishermen to suspect the motivation of the Department of Trade's swift progress on Holland-Martin in 1974-5, after several years sloth. Stability tests, which were introduced for inshore vessels in 1975, were

characterised as a contrived means of reducing capacity. In fact the change of pace on stability tests was largely the result of Ministerial changes. Following the change of Government in February 1974 the Department of Trade was staffed with Ministers who regarded the issue of safety as more important than the economic concerns of the inshore fishermen. By June safety surveys had not yet started, and many other of Holland-Martin's recommendations had not been implemented, including those on occupational safety, crew rest periods and accommodation and crew discipline. Under-Secretary of State for Trade Clinton Davis (Lab - Hackney C) pressed officials for speedier action, with the full approval of his Secretary of State, Shore (Lab - Stepney and Poplar). Moreover, Shore appointed Prescott, for whom the welfare of seafarers was a personal crusade, as his Parliamentary Private Secretary, a post that Prescott only accepted on the understanding that he be allowed a great deal of initiative in pressurising officials on Holland-Martin [40]. Prescott possessed considerable knowledge of the situation and attitudes of employees in the merchant fleet and to a lesser extent of Hull trawlers, but he had little understanding of the attitudes of self-employed inshore fishermen. On matters of safety, he tended to bracket all categories of mariners together as "seafarers". Hence a report which he produced in 1971 as the National Union of Seamen's representative on a Department of Trade and Industry Committee on Maritime Safety which reported in 1971 compared accident rates for European and UK "seafarers", with no subdivision into categories [41]. The pressure which he applied on the Holland-Martin Report was meant to tighten up safety in the inshore fleet, but was not drawn from specific experience of that section of the industry. The Working Group's work was speeded up, and ten meetings were held between June and November 1974, almost as many as in the previous two years.

These were followed by a series of 'teach-ins' which took place at the end of 1974 and beginning of 1975 [42].

Coincidentally this period of activity corresponded with another spate of trawler accidents. In March 1974 the trawler "Gaul" went down, at a cost of thirty-six lives. Later in the year two more trawlers were lost, the "Ian Fleming" and the "Trident". The enquiry into the loss of the "Trident", which went down less than twelve miles from the Scottish coast, found that the cause was "probably insufficient stability in her design" [43]. Pressure for real progress on Holland-Martin increased. The Department of Trade's Working Party was, however, unable to delay much longer in the face of pressure from Clinton-Davis and Prescott, with the Government heavily committed to consultations with the TGWU on economic and social matters. New construction and equipment regulations were introduced [44]. While the cost of rectification would qualify for a construction and improvement grant, high survey fees would have to be found by vessel owners [45]. A large proportion of the vessels tested during the first year failed, and stability tests became a major contributory element to an inshore blockade of fishing ports in 1975 (see Chapter 13).

In view of the number of issues angering inshore fishermen, it is not surprising that their disquiet was demonstrated electorally from 1973-4. Even though fishermen nowhere constituted a large proportion of the electorate, in areas where they were strong there was wide public identification with the fishermen's lot. A number of Parliamentary seats in peripheral areas passed out of the hands of the two main parties in 1973-4, in ten of which the inshore fishing industry appears to have been a significant factor [46]. The

Conservative Party, both as the architect of the Treaty of Accession and as the dominant party in rural England and Scotland, suffered most severely from the disaffection, although the Labour Party lost four seats in Wales to third parties. At a by-election in 1973 the Conservative seat of Berwick-on-Tweed, whose coastline roughly corresponded to that unprotected by a twelve-mile limit, fell to the Liberals. The February and October 1974 General Elections saw six Conservative-held Scottish inshore fishing seats fall to the SNP, Aberdeenshire East, Angus South, Argyll, Banff, Galloway and Moray and Nairn. This cataclysm swept away Secretary of State for Scotland, Campbell (C - Moray and Nairn), and the Minister for Trade, Noble (C - Argyll). Also, in disposing of the main critic of his party's policy towards inshore fishermen, Wolrige-Gordon (C - Aberdeenshire E), it signalled to inshore Conservative MPs that it was necessary, not only to disassociate oneself from the party's policy, but to change it. It would be facile to identify fishing as the sole cause of the SNP gains: the Highlands had long been aware of central government neglect, and there had been a steady decline in Conservative fortunes in the area since the mid-1950s [47]. Oil-related developments, and the SNP slogan "It's Scotland's oil", with the claim that an independent oil-rich Scotland would become Europe's richest state per capita were also important. However, it cannot be denied that more than half of the SNP gains of 1974 came in inshore constituencies.

The SNP gains had two important consequences for UK fishing policy. Firstly it created a Parliamentary Party untrammelled by the great-power worries which obsessed the FCO and the leaders of the two main parties, and with little interest in the fate of the distant-water fleet. The Party's MPs were able to articulate, as

Stewart (SN - Western Isles from 1970) had done single-handedly in the 1970-4 Parliament, the view that the interests of the UK fishermen lay with emulating Iceland, not with opposing it. The SNP's manifesto for both General Elections of 1974 had promised a 200-mile zone of fisheries jurisdiction, of which the first 100 miles would be reserved to Scottish fishermen [48]. Secondly, the Nationalist successes could not be dismissed, as perhaps was the case with the gains in Wales by Plaid Cymru and the Liberals, as a temporary rebellion of the Celtic fringe. The SNP won three traditionally Labour seats, polled well in the Central Lowlands and came close to seizing such solid industrial seats as West Stirlingshire and West Lothian. To the Labour Government which came into office in February 1974 it was essential to stem the Nationalist tide and to prevent the further minor gains in popularity which would allow the Party to gain a large number of further seats, mostly at Labour's expense [49]. Many Labour MPs regarded their defeat as imminent. Two lowland MPs left the Party to form the Scottish Labour Party, with their own political survival as one possible motive.

The SNP was not a mere pressure group for regional issues, it aimed at a completely independent and neutral Scotland, and was able to mobilise very large numbers of active supporters, especially among young people. The Party held that since a simple majority of each of the Houses of the Scottish Parliament had in 1707 sufficed to create the Union, a simple majority of Scottish MPs would suffice for Scotland to secede therefrom. Not only did the SNP threaten the integrity of the UK and the strength of NATO, it also was bidding to take away much of North Sea oil, which, although not yet on stream, was expected by media and public alike to be a panacea for all

Britain's economic ills. At the same time as the FCC was manoeuvring at the SBC and UNCLOS 3 to maximise the state-controlled continental shelf, the SNP was threatening to deprive the UK of much of its new-found oil reserves with its cry of "It's Scotland's oil" [50]. The Labour government had to do everything possible to champion Scottish concerns in order to entice away some of the SNP's potential voters. This strategy included, inter alia, introducing legislation for the devolution of power to a Scottish Assembly , and vigourously championing the interests of inshore and herring fishermen. If the latter were permitted to become permanently alienated from the big parties, North-East Scotland could become an Nationalist heartland regularly returning a sizeable contingent of MPs able effectively to articulate SNP policies in a way which might eventually so weaken support for the other parties as to give the SNP thirty-six seats and to lead to UDI.

The second effect on fisheries policy of the SNP successes in inshore fishing constituencies was that they signalled to the surviving Conservative MPs in Scotland that they should display active support of inshore interests. To Grey and Gilmour were added the now stridently inshore voices of Douglas-Hamilton (C - Edinburgh W from 1974) and Buchanan-Smith (C - Angus N and Mearns). Free of the shackles of government, they could argue for a permanent operating subsidy for inshore fishermen and for a greater preference for coastal states within the CFP [51].

By transferring the responsibility of multilateral constraints to the Labour Party, the General Election of February 1974 liberated the tongues of a number of Conservative MPs representing English constituencies with an inshore interest. Two groups of Conservative

back-benchers were voluble on inshore matters. Sussex MPs Luce (C - Shoreham), Irvine (C - Rye), Warren (C - Hastings) and Bowden (C - Brighton Kemptown from 1970), representing areas important for coastal flatfisheries, continued their campaign against beam trawling. They argued that if the method could not be banned, a prohibition on fishing within the twelve-mile limit by vessels in excess of twenty-five Gross Registered Tons would have the same effect. A trio of Cornish MPs, Nott (C - St. Ives), Mudd (C - Falmouth and Cambourne) and Hicks (C - Bodmin) was extremely active in opposition to an invasion of the mackerel grounds: not only by French and Soviet trawlers but also by Scottish purse seiners displaced by the collapse of the North Sea herring. For instance Hicks favoured the unilateral adoption of a fifty-mile limit [52], while Mudd complained of the plight of Cornish fishermen, unsubsidised because their boats were under twelve metres in length, seeing their "fishing grounds constantly and consistently raped by the fishermen of Scotland who do enjoy the subsidy" [53].

The Labour Cabinet, therefore, found itself under intense pressure to work for the interests of inshore fishermen. The SNP constantly hounded the Government from 1974, calling for a redress of inshore grievances and for a fifty-mile exclusive limit (the Party's strength in the herring ports explains their choice of fifty miles). Its MPs called for controls on fish imports, for the abolition of NEAFC quotas in favour of a general extension of limits and for government-financed minimum price schemes [54]. Some of the Party's MPs argued that if all nations in the North-Eastern Atlantic were to extend their fisheries limits Norway and Iceland could be allowed to take a quota of British herring in exchange for a UK quota of the cod from those two countries. Unsurprisingly, the SNP's MPs

representing herring ports did not endorse this suggestion.

The new Scottish Labour Party (SLP) also pressurised the Government in the inshore interest. Sillars (SL - Ayrshire S) told the House that:

> "The most important factor in obtaining confidence, stability and viability in the long-term is a fundamental change in the Common Fisheries Policy of the Common Market" 55.

The renewed parliamentary attention to inshore concerns was not confined to Scotland. The ranks of those Liberal MPs active in the inshore interest were also reinforced. To Grimond were added the newly-elected Beith (L - Berwick-on-Tweed from 1973) and Howells (L - Ceredigion from 1974). Beith was the Party's official spokesman on fisheries from October 1974 onwards.

To the effect of the SNP gains must be added the boost to inshore concerns provided by disagreements over UK membership of the EEC. The Labour government which took office with minority party support in February 1974 had resolved deep divisions within the Labour Party as to continued British membership of the EEC by promising a referendum on whether or not UK membership should continue. The majority in the Cabinet was probably in favour of continued membership on new terms, and one way to reconcile a greater proportion of the UK population to this situation was to be seen to "do something" for inshore fishermen. The government renegotiated certain terms of the Treaty of Accession, but not the CFP. However, all through the 1970s many anti-Market Labour MPs expressed

enthusiastic and voluble support of HMG's pursuing a strong line within the CFP.

The new government therefore quickly moved to allay some grievances of the fishermen. After pressure from MPs for Scottish representation at UNCLOS retired DAFS Fisheries Secretary Aglen was included in the UK delegation for each session of UNCLOS from Caracas onwards. The problem of oil-related damage to fisheries and fishing equipment was tackled by the establishment in July 1974 of a Fisheries and Offshore Oil Consultative Group [56]. Its members consisted of representatives of the SFF, BTF (later of the British Fishing Federation), United Kingdom Offshore Operators' Association (UKOOA), DAFS, MAFF, the Scottish Development Department, the Department of Energy and the Department of Trade. The group was to meet most often in Aberdeen, with the following terms of reference:

> "To exchange information on general matters concerning the fishing and oil industries, to discuss broad principles and to keep under review developments in connection with the exploration of offshore oil and gas resources with the object of fostering close relations between the two industries so that each may carry out its operations with the minimum interference to the other" [57].

The most serious concerns of the inshore fishermen, however, related to the regime itself, and could, it seemed to HMG at that time, only be dealt with at the Law of the Sea Conference. Given the declining fortunes of, and respect for, the deep sea fleet and the latter's support for the EEZ, it appeared that if fisheries could be delinked from navigation HMG might be able to take a more strongly inshore line at UNCLOS 3.

Summary

The period thus saw major changes in the organisational structure of the industry, with the deep sea fleet in decline and the inshore fishermen, in alliance with the purse seiners, improving their organisation and honing up their demands. These demands were presented extremely effectively, especially from 1974, through the use of blockades and of third-party voting, an effectiveness improved by the rise of the SNP and by a debate within the Labour Party about the continuation of UK membership of the EEC. The deep sea industry lost the support of the Labour MPs who had been much of its previous strength, and lost its monopoly over political contact with MAFF. Indeed, reeling from limitations of access or catches on its traditional fishing grounds it lost its distinctive stance in favour of narrow limits and began to seek common positions with the inshore fishermen.

Summary of Part III

Existing policy on fisheries limits, which centred around a theoretical freedom of fishing on the High Seas tempered by flag states' co-operating with each other to enforce mutually-agreed regulations upon their own fishermen, was increasingly challenged by a considerable number and variety of developments during the period after 1967. Since fisheries limits policy was by and large a by-product of strategic policy, many of the challenges were presented by developments wholly external to fisheries, some of them involving changes in the balance of interests underlining that strategic policy. Although many of these developments have continued, and did not cease with policy change, it is important, in order to understand

why policy change took place, to look at these developments from the perspective of 1974-76; the period during which the central changes of policy occurred.

By the mid-1970's HMG had tried to confront a wide variety of challenges to its existing policy so far as possible within the framework of that policy. In many cases this approach had met with some success, but in some policy areas it had proved inadequate. There had been a decline in some of those industries which had shored up the UK's maritime state position. The number of vessels in the merchant navy had been steadily in decline, as had its ranking in the world league table. Accession to the EEC and the completion of the retreat from empire had substituted short trade routes to Western Europe for global trade routes, rendering navigational concerns somewhat less compelling.

The decline in these maritime state factors had been accompanied by a raising of the importance to the UK of coastal state factors. The most vital of these was the need to protect the new continental shelf mining industry, and if possible to establish the UK's title to the seabed to the West of Great Britain. In addition, the UK needed to strengthen its authority, either by traffic separation schemes or by compulsory pilotage, over the routeing of vessels passing through or across the Dover Strait. Some success had been met with here by recourse to IMCO, and in addition the UK had successfully sponsored a convention to control the dumping of toxic substances on the seabed.

There had also been a number of developments which occurred within the fisheries sector itself, some, but not all, resulting directly from the fisheries regime itself. The inability of the NEAFC to set

TACS or quotas to a level appropriate to ICES recommendations, or to obtain their enforcement, led to a decline in fish stocks and financial losses among fishermen. These in turn worsened the effects of the over-capacity which had in the first place led to overfishing. Specifically, industrial fishing made nonsense of a scientific approach to stock conservation, because its lack of discrimination between species denied fisheries scientists information on stock levels: its initial concentration upon North Sea herring destroyed that stock.

These systemic problems within the fisheries were one cause of a spate of extensions of fisheries jurisdiction by states off whose shores the UK distant-water fleet was operating. These extensions worsened the effects of UK overcapacity, by directing some of the larger UK trawlers into waters nearer to home. This contributed to a general dissatisfaction among inshore fishermen towards the narrow limits policy.

There were also developments which created new external forums in which UK fisheries policy could be influenced. The gradual reopening of law of the sea issues which took place within the General Assembly, the Seabed Committee and UNCLOS 3 both created opportunities for and applied constraints to the FCO. On the one hand it fostered international negotiations on law of the sea issues at a time when the majority of states appeared to favour some kind of extension of coastal state jurisdiction, while on the other hand it containedthe pressure for such extensions within a properly-formulated international conference, thus encouraging restraint by states who might otherwise have been tempted to try unilateral extensions. While the Conference did not determine

overall UK interests, it required that they be evaluated relative to one another, and provided the source for the timetable of the placing of UK policy change. Here UK policy had been fairly successful, in that it had contained the coastal state majority and prevented the Conference agenda being ossified in advance. The other development preventing a long-term change in the United Kingdom's external environment was accession to the EEC. The EEC appeared initially to peg narrow UK fisheries limits, and provided a new and long-term forum in which the fisheries regime could be discussed. This forum had not really developed by the mid-1970's, but in the long run the moving of so much domestic policy into a European context reduced the separation of the domestic and external environments, and brought much fisheries policy out of the realm of the FCO, increasing its visibility to domestic public opinion.

Apart from those of its aspects which were directly concerned with fisheries, accession to the EEC affected fisheries policy by sponsoring changes in the balance of political forces. Since inshore fishermen were disunited and poorly organised their interests received scant attention in the accession negotiations, a fact which in itself served to arouse some resentment within the inshore sector. It is not immediately obvious why the accession terms should so anger fishermen. The negotiations had in fact been fairly successful, in that 95% of the UK inshore catch had been protected by a twelve-mile limit and in addition the FCO had obtained EEC sanction for its narrow limit views. The problem was twofold. Firstly the CFP gave inshore fishermen little apparent hope for wider limits should they require them in the future, while secondly the very fact that the interests of the inshore industry so obviously counted for so little so far as HMG was concerned was in itself galling.

The marketing provisions of the CFP strengthened inshore organisation, and the fact that the access provisions of the CFP, as originally constituted, seemed to be against the interests of the inshore sector strengthened the latter's political leverage by aligning their interests with anti-market Labour MPs and the SNP. The latter were in a strong position to influence outcomes because of the possibility of Scottish UDI should the Party win more than half the Scottish Parliamentary seats, for which they needed only another 10% of the popular vote. In relation to accession the UK had been successful in bolstering the narrow limits policy, therefore, but in relation to inshore fishermen's overall perception of the EEC, HMG had failed.

Within the overall context of these various challenges to policy, and the adjustments made in order to maintain that policy, there were a number of considerations which in 1974-76 argued for UK reappraisal of the narrow limits/maximal High Seas policy. Firstly, having insisted that the proper forum for considering change in the international legal regime was UNCLOS 3, and given that the Conference had decided to proceed by means of consensus, HMG could not be too rigid. The Conference had to be seen to make some progress and the developed countries had to be seen to be willing to accommodate some coastal state or developing country demands. Secondly the UK needed to obtain UNCLOS sanction for a number of interests: apart from the desire to protect the Geneva Convention regimes of wide high seas and narrow territorial seas it seemed vital to maximise the extent of the coastal state-controlled continental shelf, so as to enable the UK to obtain control of as much as possible of the floor of the Celtic Sea, the Western approaches, and

of the area around Rockall. In addition the FCO wanted to establish the control of the state of origin over anadromous fish. The navigational concerns had been refined down to a need for the right of transit passage through straits and for innocent passage in the territorial sea. Thirdly, HMG had proved incapable of preventing the loss of access for the deep-sea fleet. In Keohane and Nye's terms, the UK fisheries industry was both sensitive and vulnerable to extensions [58]. A fourth problem was that HMG had shown itself unable and even unwilling to prevent overcapacity, and hence the destruction of fish stocks. Fifthly HMG was now tied down by the institutional framework and fisheries policy of the EEC. Changes in the fisheries regime were clearly necessary.

Notes

1. Calculated from Sea Fisheries Statistical Tables, various.

2. "Memorandum submitted by Associated Fisheries Ltd". House of Commons, The Fishing Industry, T84, pp.42-3.

3. Labour Party attention had been focussed upon the need for improved coordination, working conditions and planning in the fishing industry by a Fabian Tract published in March 1968: J. Tunstall, "Fish, an antiquated industry". Fabian Tract 380, March 1968.

4. House of Commons, The Fishing Industry, T84, p.37.

5. Ibid., T84, p.41.

6. "Draft Proposal TGWU Policy Statement on the Decasualisation of the Fishing Industry", Ibid., T267, Section 2.10.

7. Dock Workers (Regulation of Employment) (Amendment) Order 1967, SI 1967 No. 1252.

8. "Rocking the boat", The Economist, 8th July 1967, p.132.

9. House of Commons, The Fishing Industry, Q5256, Q5266-7.

10. Ibid T350. A Liaison Officer was appointed, working half-time for the TGWU and half-time for the Aberdeen Fishing Vessel Owners' Association and throughout the 1970s there were fairly good relations between the two bodies (Ibid., Q5587-8). During that time it became evident that it was too easy to be admitted to the register and that men were allowed to stay on it for too long so that by 1977 there were 8,000 on the register for 800 jobs (Ibid., Q5282). To be on the register was thus no guarantee of regular employment. Majority opinion in the TGWU, therefore, moved towards the concept of a 'reducing' register, such as that adopted in Hull following the 1966 strike there, by which a man's name would be deleted from the register after a year without a voyage.

11. Merchant Shipping Act 1970, 1970 c36, Sections 6-10.

12. House of Commons, The Fishing Industry, Q2953 Grimsby and Hull, Q4486 Lowestoft, Q5297 Aberdeen, Q6630 North Shields.

13. During the five years 1964-68 inclusive, 114 Scottish fishermen died or were lost at sea from fishing boats under 80 feet in length. Hansard, Vol. 794, Wr. 317-20, 27th January 1970.

14. Trade Union pressure for improvements did not originate from crewmen who, as stated earlier, were only partly unionised, but from full-time TGWU who officials had become increasingly aware of the importance of safety standards at work and of the disadvantages suffered by casual workers in the marine-related industries. Merchant seamen were organised into a permanent pool for defence purposes during the Second World War, and this industry was thus decasualised. Dockers and employed fishermen were still employed on a casual basis. While there is no reason for low safety standards in an industry operated by casual labour, in practice there is less organised pressure for improvement due to the lack of an experienced labour force, permanently committed to the industry. It is also possible that

untrained men are less likely to appreciate where the potential dangers lie.

The TGWU, as the Union aspiring to represent both fishermen and dockers, played a key part in the decasualisation struggle and the pressure for improved safety standards. The period 1965-67 saw national dock and seamen's strikes and a struggle in the Hull trawler industry over union recognition and the imposition of a closed shop. The dock strike prompted the Devlin Enquiry into the conditions of dockers, the Report of which revealed that Hull dockers received the lowest dock wages in the U.K. Ministry of Labour, Report of the Committee of Inquiry under Lord Devlin into the Wages Structure and level of pay for Dock Workers, October 1966. Command 3104. (London: HMSO, 1966). An internal TGWU enquiry censured Bob Head, the Regional Secretary of its Hull branch, resulting in his dismissal, after which he took up a new situation with the Hull Fishing Vessels Owners' Association Ltd (personal interview with J. Prescott MP, 14th June 1980). The Union then re-organised its staff in Hull to allow Union officials to specialise more effectively in the needs of particular groups of workers. The new Regional Secretary, Dave Shenton, was made National Fishing Officer to the Union. He was able to concentrate on fishing and to co-ordinate Union initiatives by means of six-monthly (later quarterly) fishing conferences of Union representatives. The TGWU's effectiveness in promoting the interests of casual workers was much increased by the elevation of a docker, Jack Jones, to the post of General Secretary, a post held until 1978. His position as Deputy Chairman of the National Ports Council also led to comparison between the lot of dockers and trawler crews and co-ordination to remove this disparity. The industrial influence of the TGWU and its immense bloc vote at Labour Party Conferences were crucial to many changes in the industry over the period, since a cordial reception was then accorded by Ministers, particularly Labour Party ones, to the Union leaders.

15. House of Commons, The Fishing Industry, Q2969.

16. An interesting incident serves to indicate the extent of the power of a skipper. In June 1974 the trawler "C.S. Forester", apparently fishing within Iceland's twelve-mile limit, tried to outrun the Icelandic patrol boat "Thor", only stopping after being holed by shells which threw the vessel's engine into reverse. On being hailed to the effect that the gunboat would fire, Skipper Taylor had ordered his crew to the end of the ship farthest away from the engine room, where he rightly expected the shells to fall, and attempted to outrun the Icelander. When apprehended he refused to answer questions from "Thor", the coastguard and even his owners. After enquiries and repairs in Iceland, the skipper ordered the crew, whose normal tour of duty was already over, to fish for two days before returning to Hull. The crew refused, and so Taylor made the vessels lie just off port for two days before putting in. To those pressing for changes this incident was evidence of a heinous legal inequity between skipper and crew, and was also a link between the issues of crew safety and crew discipline. Taylor had wilfully hazarded their lives and yet incurred no penalty except an appearance before the UK Trawlers' Mutual Owners' Insurance Association, whereas the crew had technically committed the criminal act of mutiny. Taylor was banned from skippering for several months by the Insurance Association, but during that time his firm permitted him to sail on their vessels as a well-paid "adviser". (Personal interview with J. Prescott, MP, 14th June 1980).

17. Industrial Courts Act 1919. "First Report of the Court of Enquiry into certain matters concerning the shipping industry", June 1966. Command 3025. (London: HMSO, 1966), p.2.

18. Mrs. Bilocca's period of unofficial leadership of the campaign lasted for a period of only around three weeks, since she failed to obtain to obtain any major post in the elections held by the Trawlerwomen's Association on 24th February. During this time, however, she appeared on TV, and obtained from HMG a promise of new safety regulations. By not turning up for work during the campaign she lost her job, and three years later, despite twenty-five years experience, had still not been offered another. See "Threats to harm Mrs. Bilocca", Hull Daily Mail, 6th February 1968; "Cheers as champion reports back", Hull Daily Mail, 6th February 1968; "Chuck out silver cod, says Big Lil", Hull Daily Mail, 8th February 1968; "Big Lil is shouted down", Hull Daily Mail, 14th February 1968; "Big Lil sacked, says husband", Hull Daily Mail, 19th February 1968; "I'm even more determined now, says Big Lil", Hull Daily Mail, 20th February 1968; "Big Lil may call for strike", Hull Daily Mail, 20th February 1968; "Big Lil in hot water with backers", Hull Daily Mail, 21st February 1968; "Big Lil faces her biggest battle", Hull Daily Mail, 22nd February 1968; "Safety at sea champion loses unofficial title", Hull Daily Mail, 24th February 1968; "New novel on Hull trawlers and Big Lil", Hull Daily Mail, 19th March 1971.

19. Circulated as a single sheet at the University of Sussex Folk Club, 1971.

20. "Cold storage for silver cod". Hull Daily Mail, 9th November 1968. "Museum nets fine record of fishing", Hull Daily Mail, 10th November 1976.

21. Board of Trade, Final Report of the Committee of Inquiry into Trawler Safety, July 1969. Command 4114. (London: HMSO, 1969).

22. The first finding of the Holland-Martin Commission to be implemented was that a 'mother ship' should be provided to the distant-water fleet to fulfil medical needs and facilitate communications. This service was provided from November 1969, firstly by the chartered "Orsino" and "Cirolana" and from 1970-1980 by the purpose-converted "Miranda". In addition from 1972-76 the chartered trawlers "Othello" and "Hausa" were used off Iceland. It proved impossible for these mother ships to cover all the distant-water grounds simultaneously, but it is probable that they had a beneficial effect. These mother ships did not add to the industry's costs since they were directly funded by the Treasury (telephone conversation with D. Roberts, Commander, HM Coastguard Headquarters, 15th June 1982). According to some Grimsby fishermen, the Miranda was never deployed in the optimal fishing grounds to carry out its work. House of Commons, The Fishing Industry, Q3046.

23. Board of Trade, Committee of Inquiry into Shipping: Report May 1970. Command 4337. (London: HMSO, 1970).

24. J. Prescott, The Growing Necessity for a Marine Authority. (Discussion paper, April 1975), pp.2-3.

25. Ibid., p.3.

26. Fishing Vessels Safety Provisions Act 1970, 1970 c27.

27. The members of the Holland-Martin Committee themselves had appreciated that there were trade-offs between safety and cost for the trawler fleet, and that although some of their recommendations obviously also had relevance for the inshore industry, the Board of Trade would need to moderate the stringency of their regulations in order not to impose financial ruin upon small fishermen. In 1969 a member of the

Committee, Admiral Sir Casper John, wrote to the President of the Board of Trade:

"Any fool could make life in trawlers safer if he was ready to take measures that would ruin the fishing industry. Almost any measure will cost money and we are aware that, if our recommendations are accepted, the total sum involved will not be inconsiderable. We have examined only the trawler industry, but we suggest that some of our recommendations may be applicable to the sea fishing industry as a whole".

The Admiral had made this comment in a "private and confidential letter", as he revealed in: Letter from Admiral of the Fleet Sir Casper John, GCB to John Cunnington relating to the Holland-Martin Report, dated 23th October 1975. In House of Commons, The Fishing Industry, T244.

28. "Draft Proposal TGWU Policy Statement on the Decasualisation of the Fishing Industry", op.cit., Section 2.11.

29. E.g. Hansard, Vol. 880, Cr. 1232-3, 7th November 1974.

30. E.g. Hansard, Vol. 878, Cr. 197, 29th July 1974.

31. E.g. Hansard, Vol. 878, Cr. 191, 29th July 1974. As early as 1968 Johnson suggested that eight trawlers seized by the White Fish Authority for loan default should be used as the basis for a public fleet, but no government interest was forthcoming. Hansard, Vol. 775, Wr. 70, 18th December 1968.

32. Personal interview with J. Prescott, MP, 11th February 1980. Cairns' views on nationalisation appear in House of Commons, The Fishing Industry, Q3308-9.

33. An examination of Hansard, various.

34. I have been unable to obtain a copy of this document, since neither the Conservative Research Department nor the Fisheries sub-Committee have a copy. Sir Walter Clegg (C - Fylde N) recalled in an undated letter to the author "to the best of my knowledge such a proposal was made".

35. By 1977 the SFF represented the owners of over one thousand fishing boats with a total crew of approximately 6000, which helps to explain the effectiveness of the 1975 blockade.

36. "UK fishing outside a UK 200 miles [sic] limit", Memorandum by the Ministry of Agriculture, Fisheries and Food. House of Commons, The Fishing Industry, T20, p.8.

37. For instance, I. McGibbon, Professor of International Law at Edinburgh University, told an FCO-sponsored seminar in January 1975:

> "We have been told about the urgency...fifty miles as a temporary measure I would support and support strongly because I believe it will give the Scottish herring industry and Scottish herring fishermen most of what they want."

"The Third United Nations Law of the Sea Conference. Consultations with Non-Governmental organisations and individuals on British policy at the Conference", Church House, 30th January 1975. (London: FCO, 1975), p.7.

38. In fact this belief, repeated ad nauseam by fishermen and MPs alike, appears to have little basis in fact. See: C.M. Mason (Ed.). The Effective Management of Resources. The International Politics of the North Sea, (London: Frances Pinter, 1979), p.137.

39. Guernsey introduced an order requiring recreational divers to pay a licence fee before taking shellfish (the Fishing by Diving (Licensing) Ordinance 1975). However, HMG demonstrated no great urge to follow suit. See for instance the Ministerial replies given in Hansard, Vol. 892, Wr. 144, 15th May 1975, and Hansard, Vol. 894, Wr. 227, 26th June 1975.

40. This whole paragraph is dependent on a personal interview with J. Prescott, MP, 14th June 1980.

41. National Union of Seamen, Report on Mortality, Sickness and Accidents Among Seafarers, National Union of Seamen, 1971.

42. House of Commons, The Fishing Industry, T212.

43. Ibid., Q2025.

44. Fishing Vessels (Safety Provisions) Rules 1975, SI 1975 No. 330.

    Some aspects of fishing vessel safety and construction remained matters of contention. Curiouslv trawlers did not have to include either mattresses or ashtrays. Department of Trade officials continued to insist that because some ports had extreme drops between tides, all fishing harbours should be exempt from the requirement to provide gangways. The Departmental view prevailed,however, and the fishing industry continued to gain blanket exemption from legislation on docks and harbours. Regulations under the Health and Safety at Work Act 1974 (Health and Safety at Work Act 1974, 1974 c37) included a requirement that a gangway be provided for dockers and pilots to board fishing vessels but not for the fishermen themselves. The same Act established that any place of work should have a Safety Representative elected by the employees, but the fishing industry was exempted, lest Safety Representatives become ad hoc Shop Stewards and undermine the authority of skippers. The Hull and Grimsby Trawler Officers Guilds were both opposed to the introduction of Safety Officers on board fishing vessels, whom they viewed as shop stewards under another name. House of Commons, The Fishing Industry, Q3382, Q3105.

45. This fact disturbed the owners of many older vessels, and was lamented in Parliament by a number of inshore MPs, for instance Trotter (C - Tynemouth), whose constituency included the port of North Shields, Hansard, Vol. 799, Wr. 604-6, 11th November 1975.

46. Inshore disaffection does not appear to have been a factor in the Plaid Cymru victory at Carmarthen or in any of the SNP gains not mentioned here (of which only Dundee East was coastal), there being no fishing industry. It is possible, though uncertain, that local anger about Liverpool and Cardigan Bays may have had a slight effect on the election results in Cardigan, Merioneth and Caernarvon. As for the Liberal victory in Truro, although the constituency includes the fishing ports of Flushing and Mevagissey, the expanding mackerel market and the increasingly optimistic stock estimates meant that local fishermen had little cause to revolt. As Penhaligon (L - Truro

from 1974) put it in a letter to the author: "As far as Cornwall is concerned, I do not think the Government fishing policy was in a mess in 1974; the mackerel fishermen were having a bonanza, for all that it would appear that a reasonable number voted for me". Letter dated 3rd June 1980. His ref 448/79.

47. For example, the three General Elections of 1951, 1964 and February 1974, each produced a roughly equal total UK vote for the Conservative and Labour Parties. Yet of the seventeen seats comprising the Highland and Tayside regions and the three Island Groups, the Conservative Party won twelve in 1951, nine in 1964 and only six in February 1974.

48. Scottish National Party, Fishing, Policy Document. (Edinburgh: SNP, 1978), Paragraphs 12.2-12.3.

49. A straight swing of ten per cent from the Labour Party to the Scottish National Party from the October 1974 result would have given the SNP 25 Labour-held and 4 Conservative-held seats. They would then have held forty seats, over half of Scotland's total of 71.

50. Although this slogan was extremely effective in generating SNP support, there is considerable doubt whether the bulk of the oilfields would in fact have fallen in the Scottish sector, given the principles governing maritime boundaries between adjacent states. See E.D. Brown, "Hypothetical boundaries in the North Sea - a case study", Marine Policy, (Vol. 2, No. 1), January 1978, pp.3-21.

51. Hansard, Vol. 888, Or. 1275-80, 17th March 1975.

52. Hansard, Vol. 887, Or. 1268, 17th March 1975.

53. Hansard, Vol. 898, Or. 1736-8, 30th October 1975.

54. E.g Hansard, Vol. 884, Or. 1971-98, 23rd January 1975.

55. Hansard, Vol. 898, Or. 465-7, 22nd October 1975.

56. The SNP unequivocally took the side of the fishermen in the conflict between the oil and fishing industries. SNP, Fishing, Paragraphs 19.1-19.2.

57. Hansard, Vol. 877, Wr. 485-6, 24th July 1974. There followed a number of compensation agreements between oil firms and fishermen. For instance, BP and Shell paid £70,000 in compensation to members of the Shetland Fishermen's Association. While the worst of the ill-feeling thus disappeared, the issues of dumping and the loss of fishing grounds to exclusion zones around oil rigs continued to rankle (See, for instance, J.Wills, "Fishermen accuse oil firms", The Times, 12th March 1982).

58. R.O. Keohane and J.S. Nye, Power and Interdependence: World Politics in Transition (Toronto: Little, Brown and Company, 1977), p.13.

PART IV

POLICY ADJUSTMENTS

As has been noted in Part III, a number of challenges were presented to the narrow limits view on which UK fisheries policy was predicated. This fact, in itself, does nothing to explain why HMG should have decided to alter that policy.

The decision to alter a central feature of overall marine policy in this way requires a realisation that the costs of policy maintenance have begun to outweigh the costs of policy change. Such a realisation involves two things: firstly an appraisal, a weighing up of the implications and a relative consideration of the interests served by various policy options, and then an allocation of values to various interests. If the relative value allocated by a government to two interests shifts then policy change may appear warranted even if all other considerations remain constant. Similarly the costs of a particular high policy may far outweigh the benefits for a considerable period, but because sectoral policy is operated in a sectoral and self-contained fashion there may be no mechanism for the reappraisal of a high policy, and inertia might favour policy maintenance.

In the situation under review, both a change in values and a reappraisal took place. The change in values resulted partly from a reorientation of the UK's foreign policy focus from a global posture to a regional one, together with a similar reorientation of trade routes, which served to lower the paramountcy of navigational issues. In addition HMG's perception of the strategic value of oil rose

sharply with the 1973-4 oil crisis, rendering the strengthening of UK control over the shelf a vital policy concern. The reappraisal was provided by the FCO activity in preparation for UNCLOS 3, where UK positions on a variety of law of the sea issues had to be set in relation to one another.

We are concerned with the transformation of UK fisheries policy, but the minutiae of fisheries policy are subordinate to the fundamental nature of the fisheries regime, and three key policy decisions can be identified as being central to this transformation. The first is the decision by HMG, and the announcement at UNCLOS 3's second session at Caracas, that HMG was willing to accept the concept of the Exclusive Economic Zone, providing that suitable safeguards for traditional High Seas freedoms within such a zone could be found. This first decision marked an appreciation that the mix of competences comprising sovereignty could be delinked, and that resource jurisdiction could be exercised without danger to the fundamental requirements of navigation, which were newly redefined as transit rather than the right to linger. The second central decision was made in 1976: namely to adopt a 200-mile fishery zone on a fixed date even without Conference agreement. This decision marked not only a symbolic move away from the UK aversion to law of the sea changes by customary law, but also the end of the interlinking between conferences on the law of the sea and fisheries, turning fisheries into a resource issue rather than a by-product of strategic policy. The third central policy change was the decision to take a vehemently national line within the EEC over the CFP. Chapter 13 explores the nature and purpose of these central shifts in policy, while Chapter 14 deals with the minutiae of policy adjustments subsequent to these central decisions.

CHAPTER 13

THE MAJOR POLICY SHIFTS

As detailed in Chapters 6 to 12, the period from 1967 saw a growth in the relative importance to HMG of coastal compared with maritime factors. The rise in the price of oil precipitated by OPEC made the exploitation of deeper waters and smaller resevoirs more economically viable, while the OAPEC boycott emphasised the danger of being dependent on energy imports. The continental shelf was therefore both a strategic and an economic prize to be safeguarded, and the importance to the UK of gaining rights over resources to the continental margin was increased. The increased incidence of terrorism, and the relative vulnerability of oil platforms, argued for a shift in favour of greater coastal state control over activities in offshore oilfields than the right to control traffic in a 500 metre zone around each installation accorded to the coastal state by the Geneva Convention on the Continental Shelf. A series of collisions, wrecks, founderings, and the accidental or deliberate discharge of dangerous cargo close to British coasts had also persuaded a reluctant Department of Trade in favour of greater, though limited, coastal state control over navigation. A twelve-mile territorial sea had already been offered to straits states in exchange for a limited right of transit passage, the former an apparent concession which would enable the UK more effectively to control traffic in the Dover Strait and to impose compulsory pilotage where necessary.

The growth of the saliency of these coastal factors was mirrored by a

decline in importance of the UK's maritime concerns. The virtual completion of decolonisation and the prospect of re-orientation of trade from the Commonwealth to the EEC suggested the gradual replacement of the UK's long global supply lines with short ones concentrated on Western Europe. The growth of the continental shelf oilfields promised to reduce the UK's dependence on Gulf oil. The number of ships in the Merchant Navy was shrinking fast as vessels were scrapped or transferred to Liberian or Panamanian registration. By 1974 the merchant fleet, at twenty-nine million tonnes, had shrunk to only the the third largest commercial fleet in the world.

The Royal Navy had also, apparently, shifted from a global to a regional posture. No British forces were now based to the East of Suez or at Simonstown in South Africa, and less reliance was now placed on surface ships. This is not to say that navigational rights were of no interest to the Royal Navy; in particular its interests in the Mediterranean had considerable implications for the law of the sea. Most of these, however, concerned transit through straits and navigation through archipelagoes, issues on which the UK had already had some success in the Seabed Committee.

This growth in the relative importance of coastal factors to the UK had been gradual. The timing of policy shifts, however, was largely determined by the international negotiations, and the UK's own coastal state concerns were not the first consideration. After having for so long been the principal opponent of coastal state extensions the UK offered at the Conference's first substantive session at Caracas to accept the concept of the Exclusive Economic Zone in return for guarantees for UK interests on certain law of the sea issues. There are a number of reasons for this timing, some of

them international and some of them domestic.

One reason for the decision to launch a policy initiative at Caracas lay essentially in the very success of FCO tactics at the SBC and UNCLOS 3. The UK had driven a wedge between the straits states and the coastal states in general by its work in the UK-Fiji Group on straits. Its success was in part due, according to Miles, to its ability to exploit the fact that most straits states were not specifically opposed to the maritime powers, but to regional antagonists [1]. In the UK-Fiji Group (the Group on Archipelagic States) a compromise had been struck between the wishes of the maritime and straits states. Its essential elements were a right of transit passage through straits and one of innocent passage through the territorial sea coupled with a general extension of the latter to twelve miles. The fundamental FCO concerns about navigation were therefore assuaged.

Secondly, the outcome which the UK most feared, the possibility of UNCLOS 3's sanctioning sizeable extensions of territorial waters, had been made less likely by the almost universal state support for the general adoption of 200-mile Exclusive Economic Zones. This development offered the FCO both opportunities and dangers. On the one hand, it had reduced the probability of much wider territorial seas, per se, but on the other hand the nature of the EEZ was a matter for substantial disagreement between states, with some alternative draft texts claiming a package of coastal states' rights in the EEZ which differed little from sovereignty. These included the power to control and regulate scientific research, on the grounds that a coastal state would hardly be able to use the resources of the zone to optimal effect when other states were possessed of more

detailed information about those resources than itself [2]. In addition, many states argued that since damage to the economic resources of the EEZ could result from discharges, accidental or deliberate, from vessels in the zone, a coastal state should be able to establish regulations as to the construction, equipment and manning of vessels passing through the EEZ [3]. In relation to fisheries itself, some states claimed that the coastal state should not only have sole jurisdiction over the fish resources of its zone, but should also have exclusive access to them [4].

All these contentions were opposed to the concerns of substantial interests in the UK. Natural scientists and mining interests alike proclaimed the essential unity of scientific research. The merchant fleet, and the UK's invisible earnings from shipping and marine insurance, were equally as threatened by the prospect of differential coastal state regulations for the construction and operation of vessels as by the prospect of direct restrictions on navigation. The deep sea industry's support for the EEZ was predicated upon the hope that the legal formulation of the Zone require coastal states to be compelled to aim at OSY and to allocate to other states any surplus which their own fishermen could not harvest [5]. Since the EEZ attracted overwhelming support from states at UNCLOS 3, the UK would only be in a position to prevent unattractive formulations of the Zone by offering in principle to accept the Zone providing its details were acceptable.

Thirdly, Caracas was chosen because it constituted UNCLOS 3's first substantive session, since the New York session in December 1973 had dealt primarily with procedural matters. The policy of urging coastal states to wait for the Conference would backfire unless some

willingness to concede some of their wishes were shown at Caracas. Whereas the SBC had initially been made up largely of states with a traditional interest in the sea, the widening of the ocean policy process to encompass all states brought in a large number of land-locked, shelf-locked or zone-locked states who would stand to gain little from extensive increases in coastal state power. The Conference could thus be expected to prove a more favourable environment than the SBC for limiting increases in coastal state powers, but only if maritime states were willing to enter into a dialogue with them and break up regional voting blocs as much as possible. Therefore, concessions had to be offered. In addition, the FCO's favourable experience of the Evensen Group had raised UK confidence in the possibility of the Conference's yielding a result of which the UK might approve. If the maritime states were to stand aloof, and refuse seriously to seek consensus, the territorialists might lose faith in UNCLOS and resort to unilateral extensions, ushering in a period of disputes and unmanaged change.

Fourthly, the experience of the Second Cod War had shown HMG that Iceland could not be cajoled. The association of this issue with the strength and effectiveness of NATO had brought in an element of high policy that argued for coastal state extensions, rather than against them. To an extent this was threatened by the rise of the SNP, but by far the greatest threat to it was the amply-demonstrated willingness of Iceland to consider withdrawal from NATO should the UK impose continued access for its fishermen to the stocks above the Icelandic shelf. Such a withdrawal would greatly complicate the task of patrolling the Greenland-UK gap, which had risen to be a primary strategic concern with the tremendous expansion of the size and capability of the Soviet Navy which had taken place since 1960.

Indeed, the patrolling of this gap had become the RN's main NATO task. Since the UK-Icelandic agreement was due to expire in September 1975, if the UK wished to prevent another confrontation dangerous to NATO then it would need to throw its weight behind the development of a Law of the Sea Convention which would permit coastal states to extend their jurisdiction over fish stocks.

These high policy arguments for accepting the EEZ had been reinforced by changes in the organisation and policies of the fishing industry. As shown in Chapter 12, sections of the fishing industry had begun to reassess the narrow limits policy at the same time as the FCO resolved to resist the Icelandic claims. The desire of the inshore and seiner fleet to reduce foreign fishing close to UK shores was now allied with the deep sea need to find new grounds for the displaced vessels. The FCO could not allow the fishing industry support for extensions of fisheries limits, which increased rapidly during the first half of 1974, to be transmitted to the UNCLOS negotiations, since the UK had so many domestic interests which required sanction that a willingness to extend fisheries limits was one of the few concessions which the UK could offer in exchange. Luckily the two sections of the industry had somewhat different demands, with the trawler federations favouring an EEZ and the inshore fishermen of Scotland calling for a fifty-mile exclusive limit, since they did not want their already depressed herring stocks to be swapped away for access to Icelandic white fish.

The Caracas offer

Given that a general extension of coastal competences over marine resources was all that it could offer the coastal states at UNCLOS 3,

the FCO was not anxious for the issue of fisheries limits to develop great domestic political importance. However, with the new Labour government controlling a minority of the seats in Parliament after the February 1974 General Election it was important to show an interest in areas of public concern. In particular, the government was dependent on the votes of SNP MPs to maintain power. The FCO therefore tried to absorb fishing industry demands into the policy-making net, thereby playing for time. This was done by holding two seminars to gather domestic opinions on fisheries matters, to which were invited a variety of interest group representatives and academics [6]. The clamour of inshore men for a fifty-mile exclusive limit, distant-water representatives for a 200-mile EEZ and of internationalist associations for the internationalisation of all resources in the water column beyond twelve miles from baselines presented the impression of universal disagreement and enabled the FCO to continue with its strategy without interest group interference [7].

The re-formulation of UK marine policy presented a problem in that the UK now had a very wide range of interests for which it hoped to obtain UNCLOS sanction. In the SBC it had gained some navigational guarantees by offering transit passage and a general extension of territorial seas to twelve miles: if these gains were not to collapse the FCO must not give the impression that the UK was now taking a more coastal state position. The offer of an EEZ had to appear as an unwilling concession offered in exchange for specific guarantees, especially on navigation. Therefore the first substantive document submitted to the Second Committee at the Caracas session was the UK-sponsored "Draft Articles on the Territorial Sea and Straits". The Draft provided for an extension of the

territorial sea to twelve miles, and for the navigational provisions of the apposite Geneva Convention to apply within the extended territorial sea [8].

The draft next provided for innocent passage as a normal right, but listed more specifically than had the Geneva Convention the acts which would not constitute innocent passage. The coastal state was to be allowed more latitude than had been the case in 1958. Even the temporary suspension of the passage of all foreign ships would be acceptable for security purposes. The coastal state would also be allowed to make rules, after due publicity, for traffic separation schemes, the protection of facilities, the preservation of the environment, the maintenance of customs, fiscal, immigration and sanitary regulations, and to prevent unauthorised fishing. Coastal states would not be able to make rules applying to the design, manning or equipment of foreign ships unless these were expressly authorised by international rules. No scientific research would be permitted in the territorial sea without the consent of the coastal state. The provisions on criminal jurisdiction would be similar to those in the Geneva Convention, as would sovereign immunity for warships.

In straits wholly within territorial seas, a regime of 'transit passage' was to apply. Ships were to move as expeditiously as possible from one end of a strait to another. The definition of a strait was to be that of the Corfu Channel case, that it connected two parts of the High Seas together. A state or states controlling a strait would be able to formulate traffic separation schemes and sealanes, after such schemes had first been referred to the "competent international organisation" (IMCO) [9]. The Articles also

provided for the co-operation of maritime and coastal states in the establishment and maintenance of necessary navigational and safety aids in straits [10].

Having laid down its draft text on the territorial sea and straits, the UK offered a new package deal, the essentials of which were revealed by a "special Representative of Her Majesty's Government", Minister of State for Foreign and Commonwealth Affairs Ennals (Lab - Norwich N), when he visited the Conference on 4th July 1974, a gesture which served to underline the impression that the UK was making a new and generous offer.

The core of the new policy was a willingness to consider the concept of the EEZ provided that the rules holding sway in it were acceptable to the UK. Almost the only new competence which the UK was offering to coastal states was in fact control over fish stocks within 200 miles from baselines, increased control which Ennals characterised as unwillingly offered, despite the almost unanimous support in the British fishing industry for extended coastal state jurisdiction over fisheries:

> "On fisheries, we have supported the existing rules of law on narrow limits to national jurisdiction but with international regulations established by regional fishery commissions. This regime has seemed to be to the best advantage not only of our own fishing interests but of that of a number of other countries in the North Atlantic regions... our overriding concern is to help establish a generally acceptable Convention. The discussions in the Sea-Bed Committee and, indeed, the position already taken

in this Conference by previous speakers in the debate have made clear the imperative need seen by many governments to evolve a new regime of fishing which will take account both of modern developments in fishing techniques and of the pressing needs of coastal states. In the interests of securing a general agreement on a new Convention we are now ready to discuss positively and constructively the concept of an economic zone of 200 miles as a measure of progressive development of international law. But if we are to create new rights, it is reasonable to look for balancing obligations. Our position therefore is conditional on the establishment of satisfactory rules for such a zone as well as the freedom of navigation" [11].

In exchange for this limited concession, the UK had a whole string of interests which it wanted sanctioned. Paramount among these were the rights of transit passage through straits and of innocent passage through the territorial sea, and of freedom of navigation and overflight in the EEZ:

"Firstly, we are a major shipowning nation. The UK fleet, at twenty-nine million tons, is the third largest in the world, representing about 10% of world shipping...We... regard it of the greatest importance that freedoms of navigation and overflight are not whittled away. We shall seek to ensure the preservation of the right of innocent passage through territorial waters and freedoms of navigation and overflight outside them... We also have defence commitments which must not be imperilled... These interests, like those of other countries, require the

freedoms of navigation and overflight to which I referred earlier. In addition they require that ships and aircraft should be able to move freely, safely and expeditiously through and over straits and archipelagoes" [12].

Ennals also reiterated the UK's willingness to recognise a twelve-mile territorial sea in exchange for international guarantees for navigational freedoms in over one hundred straits used for international navigation which would thereby cease to exist. He also reminded the Conference of the UK's sponsorship of A/AC.138/SCII/L44 and support for the creation of a new concept of archipelagic state, subject to a clear definition and satisfactory navigational arrangements:

"Firstly it must contain a clear and objective definition as to which states may claim archipelagic status. Secondly there must be satisfactory provisions for navigation and overflight by ships and aircraft through and over the archipelago" [13].

The compromise on offer was further expanded by members of the UK delegation at the Conference. Residual rights in the EEZ, for instance, should rest with the international community:

"The principle of exclusive rights for the coastal state to the resources of the water column out to a distance of 200 miles...is not an attractive concept to my delegation. Nevertheless we are prepared to envisage, as part of an overall package, that the coastal state should gain such

rights, on the clear understanding that, as in the case of the continental shelf, those rights extend to the resources and that, resource jurisdiction apart, the waters of the economic zone continue to be high seas" [14].

The coastal state was offered only extended control over resources, and the UK threatened to oppose any attempt to extend coastal state competences in any other area:

"claims to other competences for coastal states not directly related to the exercise of jurisdiction over resources...put at risk the progress that has been made in the search for bases of agreement. They can only prejudice a successful outcome to the Conference itself" [15].

Attempts to obtain for coastal states exclusive jurisdiction over pollution control and over scientific research were definitely excluded, and were characterised as not in the interests of developing countries:

"The benefits from marine science flow indirectly to all states coastal and landlocked. The nature of such science, and the benefits which may flow from it, frequently are on the scale of whole ocean basins and it may be essential to make observations in key areas far from the areas most likely to benefit. It is therefore essential to all mankind to maintain the degree of freedom which marine scientists have required in the past to make observations whenever they are required in the ocean. If

this had not been possible in the past, we should not have the working hypotheses that we now have to account for and predict the recurrence of the recent disastrous Nino conditions off Peru and the present disastrous drought in the Sahel zone of Africa. Marine science cannot be subdivided and it would be gravely prejudicial to science generally to give one coastal state the right to block research which is being carried out in the interests of a whole region; knowledge may well be gained from such research which could benefit the whole world" [16].

Any regulations on vessel construction and equipment must be on a global scale:

"If coastal states have unconditional sovereignty entitling them to impose their own requirements regarding shipping design and construction there will inevitably be differences of application. The result could well be that a ship able to go to country A could not pass through the waters adjacent to country B, its neighbour...It is less obvious but equally true that even regulations on discharge from ships if applied over a wide sea area are tantamount to regulations on their design and construction or equipment... At present shipbuilders know the standards of construction they have to adopt to meet the internationally-agreed discharge regulations. If however shipbuilders were faced with a series of varying regulations it would be virtually impossible to design ships that could move through all the areas that were regulated. As a consequence the economy of ship movement

would be drastically reduced and the costs of world trade would be significantly increased" [17].

In reality, therefore, the UK was giving little away, and the only new offer was the willingness to discuss coastal state control over the resources of the water column to a distance of 200 miles. This was couched as though it were a concession by the UK, which had, according to UK representative Jackling, made "a fundamental change from our previous position... in an effort to contribute to general agreement" [18]. However, in addition to the fact that the bulk of the UK fishing industry now argued for extended coastal state jurisdiction, the UK was not advocating jurisdiction untempered by regional fisheries arrangements. In order to obtain renewed access for British trawlers to lost grounds it was, moreover, hoping to compel coastal states with insufficient fishing capacity to ensure OSY within their EEZ:

> "We should also wish to ensure that, in regard to living resources, due account were taken of their migratory habits, of conservation requirements and above all of the maximum utilisation principle. There must in our view be an obligation upon the coastal state to allow others, perhaps with preference for some, to fish for that part of the stock which its own vessels cannot by themselves harvest" [19].

The new policy involved no pretence of flexibility on two other issues on which the UK also required international sanction for its position. The UK continued to advocate that coastal state rights over the resources of the continental shelf should extend to the

margin, beyond the EEZ if necessary:

> "In Britain we expect to be self-sufficient in oil supplies by the early 1980s. For us the maintenance of our existing rights to explore and exploit the resources of our continental shelf, as well as the security of our installations from damage or destruction, accidental or intentional, are vital" [20].

In addition, there was the problem of anadromous fish, which in the absence of special arrangements for their conservation might prove to be the principal casualty of the EEZ. Therefore the UK attempted to distinguish them from other marine fisheries, strongly advocating a species approach:

> "We also have a special interest in anadromous fish, particularly the salmon which breeds in British inland waters but migrates to areas outside our own fishing limits. Like all species, they are subject to the dangers of over-exploitation, but because of characteristic patterns of migration we believe that special arrangements are appropriate for their conservation" [21].

Holding the Line

The next two years saw a concerted attempt by the British delegation to the Conference to obtain UNCLOS sanction for these interests in exchange for the introduction of the EEZ, while at the same time maintaining a strong line against any extensions of coastal state competences outside the UNCLOS framework. The situation was fairly

acceptable in relation to marine fisheries, since a suitable formula for fisheries within the EEZ was negotiated within the Evensen Group, and was largely complete by the end of the Geneva Session [22]. Its provisions entered verbatim into the first two draft texts produced by the Conference, the Informal Single Negotiating Text (SNT) [23], issued in May 1975 and the Revised Single Negotiating Text (RSNT) produced a year later [24]. The UK preference for regional conservation organisations was bolstered [25], as was the requirement that coastal states aim at MSY (approximate to OSY) [26], and the provisions on the latter issue stressed the rebuilding of stocks to the requisite level [27]. In the search for this position the UK maintained a flexibility, and was the sole EEC member to dissent from two Community submissions on fisheries, one in August 1974 [28] and one in April 1975 [29]. These submissions, inter alia, attempted to temper the rights of the coastal state in the EEZ with the statement that although regional fisheries organisations were the best way of managing fish stocks not confined to the EEZ of a single state, other types of regime could exist within customs unions [30]. This was to accord with Article 102 of the Treaty of Accession, but HMG wished to signal to the Community that it would not necessarily accept the latter as competent for stock conservation.

By the end of the Geneva session in May 1975 a generally-acceptable formula for fisheries had been reached. The coastal state was required to ensure MSY (OSY), with priority for any surplus not harvestable by its own vessels to be given to habitual fishers and to any developing countries in the region [31]. On many other issues negotiation continued, and the UK was still determined to prevent extensions of jurisdiction in the absence of a new law of the sea convention.

Foremost among the UK concerns which were not yet secured was of course navigation. At Caracas, the UK-Fiji Group (now popularly-styled "the Group of Thirteen"), a compromise group representing states with both coastal and maritime interests, superseded the Group of Five as the main vehicle for organised opposition to the Straits States Group [32]. The latter, thinned by some defections, and now consisting largely of the Arab Group plus Spain, reacted to the UK's Draft Articles on the Territorial Sea and Straits with alternative formulations reserving more competences to the straits state [33]. At Geneva in 1975 the Straits States Group tried again to establish coastal state determination of navigational rights in Straits. However, the Group of Thirteen and two straits states with considerable dependence upon seaborne trade, Italy and Singapore, established that straits states should exercise jurisdiction for sanitary and safety purposes over vessels in straits, and that rules should be established within IMCO. The negotiations mostly took place outside the formal discussions of the Second Committee, but the Group of Thirteen's position was strengthened because the Committee's Rapporteur, Nandan, was a Fijian. The group responded to Group of 77 support for increased coastal state controls over vessel construction with a new proposal containing an element of port state jurisdiction. The proposal was presented by the UK and eight other shipowning states as "Draft Articles on the prevention, reduction and control of marine pollution" [34].

The intention was to create an international regime that would circumvent, without interfering with the flow of trade, the lack of enthusiasm of some flag states to enforce IMCO regulations. It was

hoped that the pressure for greater coastal state control could be reduced by charging any state into whose port a vessel suspected of breaches of IMCO regulations might put during the six months following the alleged offence to investigate, and to detain the vessel if necessary. Port state jurisdiction was far preferable to coastal state jurisdiction so far as the maritime states were concerned, since the port state at least had a vested interest in the trade being pursued. Two further concessions were made in this document, firstly states exercising jurisdiction over "sensitive areas" were to be empowered to formulate relevant regulations and to lodge them with IMCO, a concession to Canada's Arctic regime. The second concession was to permit coastal states to request, and receive, certain information from vessels passing through their EEZs.

Part port-state jurisdiction was included in the SNT and the RSNT. In general the RSNT arrangements were probably acceptable to the UK, in that the text provided that coastal state regulations should accord with "international rules and standards established through the competent international organisation or general diplomatic conference [35]", terminology usually implying IMCO. A coastal state right of boarding of suspected violators remained [36], together with a right to take proceedings under its own laws [37], but the spectre of coastal state regulation of construction and equipment had disappeared. The RSNT was also a little easier on the superpowers' naval concerns than the SNT, in that sovereign immunity was confirmed, and sole flag state responsibility for violations of regulations committed by warships established. The maximum penalty available to a coastal state was to require a warship to leave the territorial sea immediately [38].

At Geneva the future regime for the conduct of shipping on the High Seas was largely settled by the Evensen "Consolidated Text on the High Seas" [39], incorporated in the subsequent Negotiating Texts. By the end of the session the UK's navigational interests in straits, in the territorial sea and on the High Seas were thus protected, and the assumption that navigational rights were linked to fisheries now looked incorrect. On many other issues, the UK met with less success, for example on the issue of residual rights. At Caracas the UK joined with the other eight member states of the EEC in co-sponsoring a Working Document on the High Seas, which asserted that the EEZ was part of the High Seas:

> "It is the view of the co-sponsors that the principles and provisions contained in the High Seas Convention ... must remain in force for areas beyond the territorial sea" [40].

This view was for two years vigorously opposed by the strongest supporters of the EEZ, who held that residual rights should rest with the coastal state. The road to compromise was opened when in May 1976 at the Conference's Fifth Session a new coastal state group launched an offensive to establish the EEZ as sui generis [41].

The UK also had not been able, by mid-1976, to establish that scientific research constituted a basic right, largely because the drifting apart of the Group of Five once its navigational requirements were safeguarded encouraged maritime states to examine more closely their individual interests in relation to scientific research. A very favourable draft, from the UK point of view, was submitted at Caracas by seventeen land-locked or geographically-disadvantaged states, which characterised scientific

research as a fundamental right of all states [42]. Also at Caracas the UK, France and Italy joined with thirteen land-locked or geographically- disadvantaged states in a short-lived Group on Scientific Research [43], but the Group was unable to prevail against the Group of 77. In subsequent sessions of the Conference maritime states were even less successful on this issue. The SNT contained a regime of implied consent [44], with an onus on the coastal state to object within a specified time to a proposal for research in its EEZ. In the RSNT, however, this was only to apply where the proposed research was unrelated to the investigation of exploitable resources [45], an Evensen compromise.

Similarly, since the Second Committee was fully occupied with the EEZ, the UK made no progress at Caracas in its bid to establish that state jurisdiction over the continental shelf should extend to the edge of the continental margin, rather than being defined as stopping at the 200-mile limit. At Geneva the UK joined a consciousness-raising and bargaining group of states with similar attitudes towards the margin. This was partly an out-growth of the Coastal States Group, and partly a lobby on the Evensen Group [46]. It was small, the other members consisting of Canada, Australia, the USA, Argentina, Norway, New Zealand, Iceland and India, with Mexico and Brazil also contributing some input. Having established a common position allowing each coastal state either to delineate where the sediments from the shelf ceased or to draw straight lines connecting fixed points not more than sixty nautical miles from the foot of the continental slope [47], it succeeded in incorporating its decisions almost verbatim in a series of Evensen Group Texts [48]. The group was not able to incorporate its detailed formulations in the SNT, although the latter did define the shelf as extending either

to 200 miles from baselines or to the edge of the margin [49]. 1976 saw no clarification of this situation, in that progress at the fourth session in New York City was hampered by a division of opinion between two alternative formulae for the margin, the Hedberg [50] and the Irish [51]. The RSNT formulation was thus almost identical to the SNT one, and although imprecise was fairly satisfactory to the UK position as defined by Ennals, since its vagueness permitted the coastal state considerable latitude.

Probably the issue area on which the UK was furthest from its preferred goal in 1976 was anadromous fisheries. Whereas Ennals had asserted the UK's special interests, both the SNT and the RSNT favoured coastal states rather than states of origin. While they proclaimed that "States in whose rivers anadromous stocks originate shall have the primary interest in and responsibility for such stocks" [52] it allowed them to set TACs only "after consultation with other states fishing these stocks" [53]. In addition the the enforcement of regulations was to be the object of joint agreement between states of origin and others [54], making it difficult for the former effectively to prosecute violators. It limited fishing to EEZs [55], but since these areas would cover almost the entire North East Atlantic and North Sea, this was of little use, and would negate the phasing out of high seas salmon fishing which the UK had negotiated in the Fishery Commissions [56]. Most of the salmon migrating from Greenland waters to spawn in the UK would have to pass through the Faroese and Icelandic EEZs. This would make them liable to cropping by vessels of all three territories. In addition, the text allowed fishing beyond EEZs to continue where cessation would result in economic dislocation to states already fishing stocks [57], obviously arguable in the case of Greenland. Lip service was paid

to regional organisations, such as favoured by the UK, but they would only be used "where appropriate" [58].

Pressure from the fishing industry for an extension of UK fisheries jurisdiction

Thus by the end of the fourth session of UNCLOS 3 in May 1976, the conference was working with a draft text which accorded with many of Britain's interests as defined during the mid-1974 rethink, but which fell short on two of them: the freedom of scientific research and the special role of the state of origin in the conservation of anadromous fish. During those two years HMG had adopted no significant unilateral innovations, not even submitting to the temptation to adopt a twelve-mile territorial sea, which would have met with little opposition and which would, if carried out in conjunction with similar action by France, have allowed still further improvements to the traffic separation scheme in the Dover Strait. The fact that the EEZ package emerging at the conference looked as though it would be quite acceptable to the UK, especially when compared with the alternative of large numbers of unilateral or co-ordinated extensions of territorial seas as had appeared possible in 1969-70, made HMG all the more determined to do nothing to weaken the conference.

The problem with this position was that all sections of the UK fishing industry wanted their grounds to be protected, and did not feel able to wait until every aspect of the future law of the sea had been established to HMG's liking. The Scottish inshore and seining fleets had settled on a fifty-mile exclusive limit, and during the two years had been extremely restless. Another Ennals Seminar had

taken place in January 1975 at which the majority of participants favoured a swift extension of UK fisheries limits, and yet no commitment or statement of long-term intent had been forthcoming from HMG. Then in the Spring of 1975 the Scottish inshore industry's discontent had erupted into direct action, which forced HMG to take more notice of those of its concerns which were not connected with limits, and also contributed to the improvement of the organisation of inshore fishermen. There were specific immediate catalysts for the revolt. Many owners of vessels less than 40' in length were angered by their exclusion from the system of flat rate daily payments for vessels above that size which had been in operation since February 1974. In addition there was dissatisfaction with the quota system. By November 1974, for instance, ninety-five per cent of the UK's quota for North Sea herring had been taken. This quota, which was only four per cent of the Total Allowable Catch, had been intended to suffice until June 1975. Many seiners from Grimsby and Peterhead moved to the West of Scotland where the UK had a more generous quota, and the resultant high level of effort in that area threatened to exhaust that quota also. The alleged dumping of fish onto the UK market by Eastern Europeans also provoked rancour. In mid-March 1975 a single Polish vessel disembarked 800 tonnes of frozen fish fillets in Hull, equivalent to a week's supply to that market. The Scottish inshore fishermen were also concerned that even if there were a general move to 200-mile limits they would not be protected from fishing because of the CFP. The Labour Party Manifesto of February 1974 had promised to renegotiate the terms of accession, a pledge which they had honoured, and with some improved terms. They had however made no attempt to renegotiate the CFP, and a referendum on continued membership was now being planned.

In late March 1975 a loose "Action Committee" based on Scotland co-ordinated a blockade of commercial ports to stop the imports [59]. The response was nationwide and soon involved Fleetwood fishermen as well as their colleagues more normally considered 'inshore'. The fishermen had demanded a fifty-mile exclusive zone, a ban on imports of frozen fish from non-EEC countries (in the Summer fresh fish was to be excluded too), renegotiation of the CFP, and the extension of the subsidy scheme to all vessels. On 24th March a blockade was imposed on the Humber Estuary to stop imports from entering the ports of Hull and Grimsby. HMG reacted by peaceful negotiation and a conciliatory attitude. Peart, the Minister of Agriculture, Fisheries and Food rushed to meet the Action Committee. Following the meeting, MAFF officials hurriedly fixed up a voluntary agreement with Norway on minimum import prices. A few days later a more extensive blockade with more ambitious demands started, and by 31st March was UK-wide. Brown (Lab - Glasgow, Provan), the Under-Secretary of State at the Scottish Office, had refused to meet the Action Committee, upon which he had no desire to confer legitimacy. On 2nd April, however, he had met representatives of the STF and the SFF in Aberdeen, and then spoken to fishermen in Shetland. Brown assured them that the Government intended to modify the CFP, and would endeavour to meet their other demands.

The blockade had led to a permanent improvement in consultation procedures between MAFF and the inshore industry. In his statement, Brown agreed to convene a meeting, if possible on a national basis, within about ten days of the closure of the Geneva session of UNCLOS 3 and of the meeting of EEC Agricultural Ministers in Brussels, that is, during May 1975. Despite these assurances, the Scottish Fishermen's Federation sent its own representatives to Geneva to put

its case for a fifty-mile limit. Following the Brussels meeting, Brown again met representatives of the Scottish fishing industry in Aberdeen, and reaffirmed that HMG would safeguard stocks from overfishing and strive for modification of the CFP. Opinion within MAFF held that the direct action had resulted from the anachronistic nature and inadequacy of the old sectoral arrangements. The BTF had lost some of its separate interests and much of its economic and strategic importance and yet the inshore industry had not attained a comparable consultative position with MAFF. The latter therefore asserted its willingness to help the fishermen to improve their organisation. Rather than use the emerging network of Producers' Organisations as the basis of consultation between Government and the industry, MAFF chose the Fisheries Organisation Society as the nucleus of a tighter inshore organisation and of a permanent consultative arrangement between fisheries departments and inshore fishermen. The latter suspected the motives in this choice, and they preferred to operate through the SFF and in England through an even newer body, the National Federation of Fishermen's Organisations, whose membership grew rapidly from 1977.

The FCO's attitude to the demands of the inshore fishermen was clearly defined by the need to present as concessions to coastal states changes that were, on balance, in Britain's interests. It could ask MAFF to offer the UK what it had offered Iceland - closed seasons and gear restrictions - but it could not offer any territorial extension. The FCO view was opposed to any action outside UNCLOS 3. Thus a suggestion from Norway for co-ordinated extensions of UK, Norwegian and Soviet fishery limits to fifty miles was rebuffed [60].

The government also had to contend with demands from the trawler owners for extensions. Some of their vessels had been diverted out of Icelandic and Faroese waters, and they knew that others would follow. The need to extend UK limits so as to facilitate swap arrangements seemed pressing. As early as August 1974 Austen Laing had threatened:

> "Strongly though we deplore unilateral action, we may be forced into a position where the United Kingdom Government would have to consider extending our own limits in order to protect stocks which are already being fished as much as they ought to be" [61].

Pressure from the deep sea industry increased as it became obvious that UNCLOS 3 was stalled, especially since fisheries issues and most aspects of the EEZ were settled at Geneva. The industry did not share the FCO opinion that it should be patient. In November 1974 the BTF called for a 200-mile EEZ by the end of 1976, whatever UNCLOS might do, arguing that an exclusive limit of six miles in a twelve-mile zone was equivalent to an exclusive limit of 100 miles in a 200-mile EEZ.

The distant-water fleet continued to contract. On 20th May 1975 the British Trawlers Federation wrote to MPs with fishing interests, asserting "the industry is in danger of total collapse, but very few seem to be noticing or caring." The Conservative Party had been freed by the General Election of February 1974 from the concern for navigation and from international commitments, and on 30th June 1975 the Opposition front bench initiated a debate, in which MPs of all parties called for drastic action, but most of them omitted to state

what action this should be. Some of them probably knew that a reduction in capacity was both necessary and inevitable, but such a view would have been most unpopular with fishermen, and most Opposition MPs probably preferred to shift the burden of decision on to the Government, or on to other states. The fleet shrinkage was portrayed as a disaster: both McNamara and the Opposition spokesman on Agriculture, Jopling (C - Westmoreland), estimated that the distant- and middle-water fleet would lose between 150 and 200 trawlers during 1974 and 1975 [62]. Only Watt (SNP - Banff, 1974-79) dared to suggest openly that there was over-capacity, and that the UK should pay a scrapping subsidy. He was assailed as a traitor to the fishing industry by Bishop, the Government spokesman. According to Bishop such a subsidy, without regime change, would only have increased returns to foreign fishermen fishing the same grounds, and would, therefore, not necessarily have benefitted the rest of the UK fleet [63].

Both the government and the official opposition thus committed themselves to maintain a high level of capacity at a time when it was by no means certain that there would ever be any hope of that capacity being economically employed. It thus became imperative for domestic reasons to support the interests of both sections of the industry, a fuzziness of intent which was to lead to another cod war at the same time as the government was planning to adopt extended limits to its own jurisdiction over fisheries.

Summary

In mid-1974 HMG, faced with growing coastal state concerns within the UK, and with an overwhelming majority of states at UNCLOS 3 favouring

some form of extension of coastal state jurisdiction, offered to concede the concept of an Exclusive Economic Zone favoured by the majority of developing countries. This offer was conditional upon mutually acceptable arrangements for the Zone, and specifically a formulation which maintained the rights of passage through straits and the territorial sea. While the negotiations at UNCLOS continued HMG ignored, so long as it felt able, the united stance of the fishing industry in favour of a UK extension of jurisdiction, since the FCO did not wish to lose the bargaining counter of resource extensions which it was offering the developing states at UNCLOS 3.

The reluctance to extend limits was accompanied by a bipartisan policy of making vague promises of support for the industry, such as Brown's committment to reform the CFP and the various undertakings made at the adjournment debate of 30th June 1975. These promises of support mobilised the fishing industry behind perhaps unobtainable demands, and ushered in a period of several years during which the industry, with its perceived public sympathy, was able to ensure that UK negotiating positions at the EEC were strong ones.

Notes

1. E. Miles, The Structure and effects of the decision process in the Seabed Committee and the Third United Nations Conference on the Law of the Sea, International Organisation (Vol. 31, No. 2), 1977, p.201.

2. See for instance UN Document A/CONF.62/C3/L9. Trinidad and Tobago: "Draft Articles on Marine Scientific Research", 5th August 1974. In R. Platzoder (Ed.), Third United Nations Conference on the Law of the Sea: Documents of the Caracas Session 1974 (Hamburg: Alfred Metzner Verlag, 1975) pp.202-3; and UN Document A/CONF.62/C3/L13. Columbia: "Draft Articles on Marine Scientific Research", 22nd August 1974. In Ibid., pp.206-7.

3. See for instance UN Document A/CONF.62/C3/L6. Canada, Fiji, Ghana, Guyana, Iceland, India, Iran, New Zealand, and Spain. "Draft Articles on zonal approach to the preservation of the marine environment", 31st July 1974. In Platzoder, Caracas op. cit., pp.197-199.

4. Miles, 1977 op. cit., p.187.

5. It was hoped that coastal states with substantial fishing capacity and a range of vessel sizes would be less likely to require such compulsion, since they might be induced to enter into arrangements to swap British access to their coastal stocks for quotas within the UK Zone. In practice few stocks within 200 miles of the UK coast were suitable to be bartered away (see page 417).

6. "The Third United Nations Law of the Sea Conference. Consultations with Non-Governmental organisations and individuals on British policy at the Conference", Church House, 15th May 1974. (London: FCO, 1974).
and
"The Third United Nations Law of the Sea Conference. Consultations with Non-Governmental organisations and individuals on British policy at the Conference", Church House, 30th January 1975. (London: FCO, 1975).

   MAFF called a similar consultative conference at Sunningdale. House of Commons, The Fishing Industry, Q1199. Clearly no attempt was made to encourage contact between the UK delegation to UNCLOS 3 and representatives of the fishing industry. See Ibid., Q1314.

7. The variety of solutions proposed was remarkable. The Association of Sea Fisheries Committees, for instance, argued that the UK should press for a "coastal state preferential right" of 200 miles, with an EEZ of only twelve miles. This formula was to circumvent the Common Fisheries Policy (1974 Seminar report, p.7) The Working Party on the Law of the Sea of the National Executive Committee of the Labour Party asked for a 200-mile EEZ, catch quotas in which would, as in the ocean beyond, be controlled by a global fisheries authority (Ibid., p.10).

8. UN Document A/CONF.62/C2/L3, United Kingdom: "Draft Articles on the Territorial Seas and Straits". 3rd July 1974, Chapter 2, Part 1, Article 1, Section 3. Reproduced in Platzoder, Caracas op. cit., pp.80-88. Part 2, Article 2 is followed by: "Note. Add here the text of Articles 3 to 13 of the Territorial Sea Convention, 1958".

9. Ibid., Part 3, Article 3, Section 3.

10. Ibid., Part 3, Article 5.

11. Statement to Plenary Session on $th July 1974 by the Right Honourable David Ennals MP; United Kingdom Minister of State for Foreign and Commonwealth Affairs and Special Representative of Her Majesty's Government; Paragraphs 16-17, p.5.

12. Ibid., Paragraph 12, p.3.

13. Ibid., Paragraph 20, p.6.

14. Statement by United Kingdom Delegation in the Second Committee on the Economic Zone, 5th August 1974. Sir Roger Jackling, p.2.

15. Ibid., p.6.

16. Ibid., p.4.

17. Ibid., p.5.

18. Ibid., p.2.

19. Ibid., p.2.

20. Statement to Plenary Session on 4th July 1974 by the Right Honourable David Ennals MP; op. cit., Paragraph 12, p.3.

21. Ibid., Paragraph 11, p.3.

22. The final version: Evensen Group, The Economic Zone, Sixth Revision, 16th April 1975, appears in R. Platzoder (Ed.), Third United Nations Conference on the Law of the Sea: Documents of the Geneva Session 1975 (Hamburg: Alfred Metzner Verlag, 1976), pp.273-280.

23. UN Document A/CONF.62/WP8. Third United Nations Conference on the Law of the Sea. Official Records. Informal Single Negotiating Text, 7th May 1975.

24. UN Document A/CONF.62/WP8/Rev.1. Third United Nations Conference on the Law of the Sea. Official Records. Revised Single Negotiating Text, 6th May 1976.

25. Informal Single Negotiating Text and Revised Single Negotiating Text, Articles 50 Section 2 and 52 Section 1.

26. Ibid., Articles 50 Section 3 and 51 Section 1.

27. Ibid., Article 50 Section 3.

28. UN Document A.CONF.62/C2/L40 Add 1. Belgium, Denmark, Germany, Federal Republic of, France, Ireland, Italy, Luxembourg, Netherlands, "Draft Articles on Fisheries", 5th August 1974. Reproduced in Platzoder, Caracas op. cit., pp.145-152.

29. European Community, "Draft Articles on the Regime of Fisheries", 30th April 1975. Unnumbered document submitted to Geneva Session of UNCLOS 3.

30. European Community, "Draft Articles on Fisheries", Article 23.

31. Informal Single Negotiating Text, Article 51.

32. Miles, 1977 op. cit., p.201.

33. UN Document A/CONF.62/C2/L6 Corr 1, Spain "Draft Articles on Item 2.1 of the List of Subjects and Issues". Reproduced in Platzoder (Caracas Session op. cit), p.89.
and
UN Document A/.CONF.62/C2/L16. Oman, "Draft Articles on navigation through the territorial sea, including straits used for international navigation". Reproduced in Platzoder, Caracas Session op.cit., pp.96-102.

34. UN Document A/CONF.62/C3/L24. Belgium, Bulgaria, Denmark, German Democratic Republic, Germany, Federal Republic of, Greece, Netherlands, Poland and United Kingdom: "Draft articles on the prevention, reduction and control of marine pollution", 21st March 1975. Reproduced in Platzoder, Caracas Session op. cit., pp.

35. Revised Single Negotiating Text, Part III, Article 24.

36. Ibid., Article 26.

37. Ibid., Articles 26-27.

38. Ibid., Articles 29-31.

39. Evensen Group, Revised Consolidated text on the high seas, C2/No. 9 Rev. 1, 5th May 1975. Reproduced in Platzoder, Geneva Session op. cit., pp.186-192.

40. UN Document A/CONF.62/C2/L54. Belgium, Denmark, France, Germany, Federal Republic of, Ireland, Italy, Luxembourg, Netherlands and United Kingdom of Great Britain and Northern Ireland, "Working Document on the high seas". Reproduced in Platzoder, Caracas Session op. cit., pp.169-171.

41. See Miles, 1977 op. cit., p.217.

42. UN Document A/CONF.62/C3/L19. Austria, Belgium, Bolivia, Botswana, Denmark, Germany, Federal Republic of, Laos, Lesotho, Liberia, Luxembourg, Nepal, Netherlands, Paraguay, Singapore, Uganda, Upper Volta and Zambia, "Draft Articles on Marine Scientific Research", 23rd August 1974. Reproduced in Ibid., pp.208-210.

43. The Caracas Session ended with this compromise group's proposals heavily outfavoured by proposals backed by the Group of 77. See UN Document A/CONF.62/C3/SR17. Third United Nations Conference on the Law of the Sea, Committee III. Summary Record of the Seventeenth Meeting, 27th August 1974. In Third United Nations Conference on the Law of the Sea, Second Session. Official Records: Caracas, 20th June - 29th August 1974 (New York: United Nations, 1975), Vol. II, pp.381-3.

44. Informal Single Negotiating Text, Article 49.

45. Revised Single Negotiating Text, Article 60.

46. Miles, 1977 op. cit., p.231.

47. Committee of Jurors, "The Continental Shelf" - Fourth Revision, 6th May 1975, Article 1. The text is reprinted in Platzoder, Geneva Session op. cit., pp.281-4.

48. Committee of Jurors, "The Continental Shelf" - First to Fourth Revisions.

49. Informal Single Negotiating Text, Article 62.

50. See H.D. Hedberg, "Ocean Boundaries and Petroleum Resources", Science (Vol. 191), 12th March 1976, pp.1009-18.

51. The relevant part of the Irish formula is reprinted in UN Document A/CONF.62/C2/L98, Third United Nations Conference on the Law of the Sea, Seventh Session, Second Committee, "Preliminary Study illustrating various formulae for the definition of the continental shelf", 18th April 1978, pp.1-2.

52. Informal Single Negotiating Text, Article 54 Section 1.

53. Ibid., Article 54 Section 2.

54. Ibid., Article 54 Section 3.

55. Ibid., Article 54 Section 3(a).

56. That the Exclusive Economic Zone breathed new life into the possibility of salmon-drifting was not lost upon its UK supporters. At the FCO-sponsored seminar in May 1974 Gilmour (C - Fife E), whose constituency included some small and declining herring-drifting ports, argued in favour of the EEZ on this basis. "The Third United Nations Law of the Sea Conference. Consultations with non-governmental organisations and individuals on British policy at the Conference. Church House, 15th May 1974." (London: FCO, June 1974).

57. Informal Single Negotiating Text, Article 54 Section 3(a).

58. Ibid., Article 54 Section 5.

59. A full and detailed account of the blockade can be found in: G.Cargill, Blockade 75, (Glasgow: Molindar Press, 1976).

60. Hansard, Vol. 887, Or. 1297, 17th March 1975.

61. "Wider cod war feared after Sea Law Conference". The Times, 21st August 1974, p4.

62. Hansard, Vol. 894, Or. 1023 and 1045, 30th June 1975.

63. Watt Hansard, Vol. 894, Or. 1068, 30th June 1975.
Brown Hansard, Vol. 894, Or. 1090 and 1094, 30th June 1975.
Despite grand words in the debate, most significant contributions were made by members with an established concern for fishing, and towards the end of the debate there were only seventeen members in the House.

CHAPTER 14

THE MOVE TO A TWO HUNDRED MILE FISHERY LIMIT

The policy of containing change within the conference became untenable during 1976, because of a renewed clash with Iceland, which resulted in Iceland's again threatening to leave NATO. This, together with growing evidence of the inability of the NEAFC to conserve stocks, and with mounting political pressure from the fishing industries of EEC member states, led the EEC countries to by-pass the UNCLOS 3 negotiations and to declare their own 200-mile fisheries zones with effect from 1st January 1977. By 1976, although UNCLOS 3 appeared to be stalled, many of Ennals' declared interests had been sufficiently ensured by the draft texts and the process of fragmentation into groups of states had been so thorough that a major re-opening of many of these issues looked unlikely. Also, the basic compromise of the EEZ had such universal support that it was unlikely to be ruined by a concerted succession of extensions outside the UNCLOS framework by powerful states, provided that those states acted in accordance with the formula in the current draft text. The EEC states did not declare Exclusive Economic Zones, but only fisheries zones, as did a number of other states during 1976-77, including Canada, the USA, the USSR and Japan.The extensions were possible because the course of UNCLOS 3 had effectively delinked fisheries and navigation.

The Third Cod War

The two year agreement with Iceland was due to expire in November 1975, and in July Iceland announced that it would be extending its

fisheries jurisdiction to 200 miles in October. If the UK wanted to use the dispute to strengthen its position at the conference, so did Iceland. A dispute ensued which in many ways mirrored that of 1972-3, with two principal differences - there was more domestic opposition and the escalation to violent confrontation was much more swift.

The significance of such a claim for events at UNCLOS 3 meant that FCO Ministers were involved almost immediately. Leadership was exercised by Hattersley (Lab - Birmingham Sparkbrook) Minister of State at the FCO, and sometimes by the Secretary of State for Foreign and Commonwealth Affairs, Callaghan (Lab - Cardiff SE). One attempt was made to conduct separate scientific and legal negotiations [1], but the hidden hierarchical subordination of one to the other prevented a satisfactory outcome. Furthermore, since the FCO would not give way on the legal issue, as in the earlier dispute, the only aspect on which a concession could be made was catch levels. Moss, MAFF's Deputy Secretary in charge of Fisheries and Food, was a hardliner on the catch issue, and both Hattersley and Callaghan regarded severe catch-limitations as damaging to UK prestige. There was thus little flexibility in the UK stance, and the lessons which Iceland had learned in 1972-3; that violent confrontation and threatening NATO would increase the cost of the dispute for the UK, were quickly applied.

Most sections of the 1972-3 coalition were still intact. There was little disagreement between government Departments as to the significant issues. The Department of Trade and the Ministry of Defence were still well- integrated into FCO policy, although MAFF was more willing to make its own public statements about catch levels

and less willing to accord the FCO a monopoly of public relations than it had been in 1972-3. Although the majority of inshore fishermen sympathised with the Icelanders, most pragmatically did not wish British trawlers to be diverted into British coastal waters.

Like MAFF, the BTF had lost its concern for the strategic views of the FCO, and cared about access and about catch levels alone. The threat of contagion to Norway and Faroe had almost vanished. Neither the Federation nor Austen Laing as an individual were still particularly concerned about the High Seas' downgrading, committed as they were to the concept of a 200-mile EEZ [2]. They were obviously concerned that their vessels should not be forced out of Iceland before the UK had developed its own EEZ, however, and provided advisors to the negotiations. The TGWU, partly through the influence of National Fishing Officer Cairns, was unimpressed by confrontation with the Icelanders, suspicious of the trawler owners, and unconcerned with the balance in UNCLOS 3. It favoured withdrawing British trawlers from the disputed area, paying compensation to the employees, and negotiating for some continued access [3]. Little thought appears to have been given as to what leverage could be applied. The position of the TGWU, plus the views of Heffer (Lab - Liverpool Walton), helped to move the Labour Party's National Executive Committee to a position by late 1975 of mild opposition to Britain's use of force [4].

Once violence had begun, a Deep Sea Fishing Industry Committee was established, as in 1972-3. The FCO attempted to convince the Icelanders that a settlement could be made directly between the latter and the Deep-Sea Fishing Industry Committee, a settlement which would thus ignore the legal question of fisheries jurisdiction.

In February 1976 the Committee 'volunteered', after negotiations with the FCO, to limit its effort on the Icelandic Continental Shelf to 105 trawlers with an implied catch of 100,000 tonnes. Such an offer could not have satisfied the Icelandic government, which had staked its political survival on the question of legal jurisdiction.

The political parties took much the same positions as they had in 1972-3. The Government took a tough line with Iceland, and its position did not waver even in the face of opposition from the National Executive Committee of the Labour Party. The opposition front bench acted as their Labour colleagues had done in the earlier dispute, and expressed approval of the government's actions [5]. Buchanan-Smith was articulating a mutual front-bench understanding when he told the House:

> "There is no dispute about the end which, I hope, the Government are seeking to achieve, the extension of limits. The dispute is about the means and the timetable for doing so. Iceland is taking unilateral and illegal action in advance of multilateral negotiations" [6].

There were a number of opponents of the government in both main parties. Those in the Labour Party usually opposed the concept of a big state coercing a small one. Stonehouse (Lab - Walsall N) spoke of the FCO's "big power mentality" [7]. Luard (Lab - Oxford, to 1970, 1974-79), himself an authority on the law of the sea, and later to be appointed HMG's Special Representative to UNCLOS 3, stressed the paradox that the UK, having steadfastly opposed extensions of coastal state jurisdiction, was itself expected to declare a UK EEZ and would have to maintain international credibility [8]. Prescott, although a

Hull MP, shared Cairns' views on the dispute, and conducted independent negotiations with Iceland [9].

New Conservative dissenters consisted mainly of persons concerned for the security of NATO. The most vociferous addition to those who had expressed fear on these grounds in 1972-3 was Lawrence (C - Burton). The other parties lined up as they had in 1972-3. The number of Plaid Cymru and SNP MPs had risen from two to fourteen, and the latter were willing to express what neither of the two main front benches were willing to state, that in the eyes of the government the dispute was not primarily about fish. A particularly well-expressed attack upon the detached legalistic attitude of the FCO was made by Watt (SNP - Banff, 1974-79):

> "An even bigger worry is that negotiation will be done not by the Minister of Agriculture and his team, who have some knowledge of fishing and fish, but by the Foreign Office, which has none... Icelandic fishermen have been talking to British academics. One side went through the hard school of the North Sea and the North winds while the other came through the soft school of double firsts at some University and straight into Westminster. It is little wonder that the talks failed....If the Foreign Office is to be negotiator in the EEC, our fishermen will be the losers" [10].

The SNP characterised deep sea fishing as a solely English industry, a characterisation which was not entirely accurate, since there was a substantial middle-water industry based on Aberdeen. For the SNP, Aberdeen's two seats were worth forfeiting in exchange for about

twenty constituencies with an inshore industry. When an STF delegation came to London, no SNP MPs offered to meet it. Among the Liberals, only Grimond and Howells (L - Cardigan, from 1974) ventured into the Iceland debate. Howells called the Cod War "senseless", a dispute about something on which HMG itself was preparing a volte-face [11].

In many ways the course of the dispute mirrored that of 1972-3, although it escalated much more rapidly. Iceland had learned the propaganda gains to be derived from harassment, while the UK in turn had learned that fisheries disputes had a relentless logic of escalation. The special links between the Labour Party and the trade unions also meant that the Labour Government was under pressure to act decisively to protect trawlermen's lives. The first warp cuttings of November 1975 provoked naval intervention. On 12th December the Icelandic gunboat "Thor" fired live ammunition at the "Star Aquarius", probably as a signal to the NATO Council then in session.

Iceland used confrontation to raise the cost in money and prestige of continued access for the UK. The gunboats deliberately collided with frigates, causing severe damage on forty-one occasions between 25th November 1975 and 10th May 1976. The dispute cost HMG £2 million in compensation and vessel hire, in addition to many millions in repairs. The effect on prestige was still more damaging; photographs of expensive, well-armed frigates limping away from Iceland with great gashes in their sides from collisions with tugboats only served to make Britain look ridiculous in the eyes of the world. Harassment also raised UK costs in that it reduced catches (see Figure 10.4) and destroyed fishing gear, creating

demands from trawler owners for government compensation. The use of force, once embarked upon, created problems for the negotiations, with the UK's refusing to negotiate until harassment should cease and Iceland's refusing to negotiate until the frigates were withdrawn.

The shift of negotiating focus to catch limitations occurred again. From the beginning the Foreign and Commonwealth Secretary was heavily involved, and talks between Ennals and Hallgrimsson, the Icelandic Foreign Minister, took place as early as 30th July 1975. This high ministerial priority resulted in part from the crucial state of the UNCLOS negotiations, which had just completed their third session at Geneva, and in part also from the danger of Iceland's distancing itself from NATO. In November 1975 the UK negotiating team, headed by Hattersley and Bishop, offered to reduce the UK cod catch to 110,000 tonnes, while the Icelanders insisted on no more than 65,000. To have accepted such terms would have involved a loss of prestige, despite the fact that scientific advice was unanimous in saying that the aggregate catch was too high. Four months later Prescott, acting privately, obtained an offer of 70,000 tonnes. The UK developed two face-saving schemes in February 1976, by which catch levels could be depressed considerably without the FCO backing down and without a change in the status of the waters. The first was to offer Icelandic scientists the opportunity to set a Total Allowable Catch, with the UK to be allowed twenty-eight per cent of it. Icelandic negotiators could not agree, because an increasing Icelandic share of the catch was vital to the government's domestic popularity and plans for economic growth. The second face-saver was the 'voluntary' offer of a catch of 100,000 tonnes made by the Deep Sea Fishing Industry Committee. This was not accepted either, and until June 1976 the initiative for a settlement lay outside bilateral

negotiations.

Britain made no use of the ICJ, because the Court had become a less reliable ally in the face of a large number of state extensions of fisheries jurisdiction which had occurred in the interim. The Court had ruled on 25th July 1974 that it could not comment on the legality of fifty -mile or 200-mile fishing limits, but that the unilateral extensions as used by Iceland were contrary to international law [12].

The most significant multilateral institutions in this dispute were NATO and the EEC. Almost immediately, NATO Headquarters in Brussels offered to provide informal non-diplomatic channels. As early as October 1975 there were informal discussions between Ennals and Evensen. Evensen was an excellent person to understand both points of view. Apart from the ethnic affinity and common dependence upon fishing which Iceland and Norway shared, his role and experience at UNCLOS 3 gave him flexibility and prestige. On 28th November Prime Minister Wilson (Lab - Huyton) echoed Heath and offered negotations directly to PM Hallgrimsson, to no avail. In the third week in January, just before the NATO Council meeting in Copenhagen, Luns went to Reyjkavik. Extensive discussions took place on 19th January. Prime Minister Wilson and Foreign and Commonwealth Secretary Callaghan were in Copenhagen discussing with Ministers from various NATO countries and that evening Callaghan and Luns flew to Brussels for further discussions. Luns was aware of the Icelandic reluctance to be seen to negotiate under duress, so he persuaded the UK to withdraw the frigates immediately. An attempt to repeat the success of October 1973 followed, under Luns' good offices. Talks took place in London between Wilson, Callaghan and Hallgrimsson on 24-27th January, with British and Icelandic fishery scientists

meeting separately. It was at this meeting that the offer of twenty-eight per cent of an Icelandic-determined TAC (see page 403) was made. After extensive consideration by the Icelandic Cabinet the offer was turned down on 3rd February, partly because of differences between the parties making up the coalition. During the period of Icelandic deliberation Wilson wrote again to Hallgrimsson, stressing UK appreciation of the need to protect communities strongly dependent on fishing and of the imperative need to conserve stocks. Wilson told him that the UK was very happy to make substantial catch concessions, providing that the 'freedom of the seas' was not compromised [13].

Following further warp cuttings the frigates returned on 6th February, and confrontation worsened to the extent that Iceland broke off diplomatic relations on 19th February. This breach of diplomatic relations led to NATO pressure being applied in earnest. The Nordic Council also emerged as a key body in the dispute. The three members of that Council who were also members of NATO, Denmark, Norway and Iceland, all had important fishing industries. Norway's role in the dispute was crucial. A member of both NATO and the Nordic Council, she had of course herself been involved in fisheries disputes with the UK in the past, and Frydenlund, her Foreign Minister, had offered to mediate.

On 29th February 1976 the Council's Praesidium issued a recommendation to member countries to press for the withdrawal of the British frigates, which were "preventing a peaceful solution to the conflict [14]". During March, Norway and the Faroes each made bilateral agreements with Iceland to limit their own fishing efforts in the Icelandic 200-mile zone [15], hence divesting Norway and Denmark

of their own disputes with Iceland. On 26th March the Foreign Ministers of the Nordic Council states called for UK warships to be withdrawn.

The United Kingdom was now dangerously exposed, as she had been in 1961. All the other states with distant-water fleets fishing Icelandic waters, Norway, Denmark, Belgium and the Federal Republic of Germany, had now made bilateral agreements with Iceland tacitly giving some recognition, even if not expressly stated, to Iceland's 200-mile zone. There was discussion within the Community of a concerted extension of jurisdiction by EEC states to 200 miles. However much the FCO might hope to reserve to itself relations with Iceland, media discussion within the UK conveyed UK fishing industry opinion to Iceland. This enabled Icelandic Ministers to point out the ludicrousness of the UK position. Ostensibly the FCO was fighting for the deep sea industry, whose largest representative body, the British Trawlers Federation, was at that time calling for a 100-mile fishing zone reserved exclusively for UK ships. In March Hallgrimsson drew attention to the irony of this demand and announced that Iceland would be happy to accept the same [16].

In the light of HMG's political isolation it looked as though some measure of extended fisheries jurisdiction could and must be conceded, hopefully without the total erosion of all rights which had been enjoyed under a High Seas regime. That this might be feasible was increasingly demonstrated with the emergence at UNCLOS 3 of the details of the Exclusive Economic Zone. Simultaneously with that Conference's Fourth Session in New York a retreat began, under diplomatic pressure from NATO states and with Norway playing a key role. In April Hattersley visited Oslo for talks with Norway's

Prime Minister Nordii and Foreign Minister Frydenlund. Iceland tried to force the USA to choose between herself and the UK by requesting from the USA the lease of two fast naval patrol boats. Secretary of State Kissinger's assurance to Callaghan that the vessels would not be provided prompted a firm warning from Minister of Justice Johannesson that Keflavik base might be closed [17]. This threat almost coincided with the elevation of Foreign and Commonwealth Secretary Callaghan to be Prime Minister. He was replaced by Crosland, who as MP for Grimsby had been a staunch opponent of catch concessions to Iceland. This erstwhile hardliner, confronted with mounting evidence of the threat posed by this dispute to the UK's most vital high policy concerns, now had to find an honourable way out of the crisis.

Three fundamental problems remained, of which the first was prestige. The UK retreat could not be allowed to appear to be made under duress from a minuscule nation equipped with converted tugboats. In fact, as harassment proved more effective during the early days of May and catches diminished, it proved increasingly difficult to demonstrate that the Royal Navy could genuinely enforce the right of UK vessels to fish in those waters. Low domestic cod prices because of high imports damaged the economic position of the distant-water fleet, and made trawler owners less willing to fish off Iceland. There was a rebellion of trawler crews on 3rd May because of the government's refusal to offer financial compensation to them for their loss of earnings consequent upon the low catches. The number of trawlers engaged in fishing dropped on some days below twenty-five [18]. In another blow to the prestige of the Navy, it was announced on 20th May that frigates were to be fitted with wooden fenders and sandbags to protect them against collisions [19].

The second problem facing the FCO was how to make a volte-face on the issue which had brought about the UK's intransigence in the first place, namely the need to avoid any formal concession to coastal state jurisdiction over fish resources beyond twelve miles from baselines. The UK had always insisted that any agreement would have to accord with the Geneva Convention formula that the coastal state has no absolute jurisdiction over the fishery resources in the High Seas adjacent to its territorial sea, but does have a 'special interest' [20]. It had held that however massive the catch and area concessions made by the UK, policing of UK vessels must remain in the hands of the United Kingdom and there must be no explicit statement in the text relinquishing the High Seas status of the waters beyond twelve miles. As an indication of good faith, at the end of April the UK asked trawlers to stay beyond twenty miles from Icelandic baselines [21], but this was characterised as a voluntary flag state action. Now the UK was planning to adopt a coastal state line in relation to fisheries, and the switch had to be justified.

The third problem for Crosland lay in placating the hardliners. After having urged Moss, the English and Welsh Fisheries Secretary, to be firm, the FCO was not particularly worried about NATO. Crosland therefore revived a catch ceiling of 70,000 tonnes agreed in February 1976 between Einarsson, a senior official of the Icelandic Foreign Ministry, and Prescott during a visit to Iceland by the latter (see Appendix II). After indirect contacts, at the NATO meeting of 20-21st May the Icelandic Foreign Minister offered Crosland an effort limitation agreement worth 70,000 tonnes. Moss did not consider the offer sufficient, and counselled Minister of Agriculture, Fisheries and Food Peart (Lab - Workington) that Iceland

was herself under pressure from NATO states, and that a better offer could be obtained. No such offer was forthcoming, and at an emergency meeting in Hull Moss agreed not to oppose the offer provided the UK would expedite its own adoption of a 200-mile limit.

The stage was now prepared for an agreement, with all the niceties observed to prevent British loss of face. Crosland went to the Conference of NATO Foreign Ministers early and spent 18th May in talks with Frydenlund. Before he left he told the House of Commons:

> "I should like above anything else to achieve a settlement of this dispute in which there would be no victory and no defeat, but in which both sides come out with a reasonable and honourable settlement [22]".

If this was Crosland's aim, Frydenlund did his best to fulfil it and to salvage UK prestige. Crosland explained to his Norwegian counterpart that the UK needed an interim right to fish until the EEC member states should extend their own limits to 200 miles. The Federal Republic of Germany was then urging restraint on its fellows in the hope that UNCLOS 3's Fifth Session in Autumn 1976 would finalise the shape of the future law of the sea and produce a Convention. Therefore, while Luns and the Norwegian Ambassador in Reyjkavik urged Iceland to permit an "interim" agreement which would not formally recognise Icelandic jurisdiction over the 200-mile zone, Frydenlund made a well-publicised speech on 19th May apparently appealing to both sides. Norway was willing to mediate in the dispute but neither side wanted this to happen, he said. He asked that UK frigates be withdrawn from the disputed area, but eschewed the belligerent language of the Nordic Council's statement on the

matter. Their withdrawal should take place, suggested Frydenlund, because it would be 'psychologically helpful' [23].

The following day, on 20th May, Agustsson told the NATO Conference that it was "extremely likely" that Iceland would give formal notice of her intention to leave the NATO organisation within six months. Over the weekend he and Hallgrimsson met informally with Crosland several times, with Luns and Frydenlund acting as mediators. Since the EEC member states were discussing the extension of their own fisheries limits to 200 miles, the legal question had lost most of its former importance. All that was now vital was an interim agreement for six months concomitant with an annual UK catch of about 70,000 tonnes of cod as envisaged in the Prescott deal. The UK could not withdraw the frigates, however, until Iceland had agreed to formal negotiations. Agustsson and Hallgrimsson conveyed the verbal package to their relevant Parliamentary Committees on 27th May, and on 30th May the Icelandic Government announced that it had decided to 'explore' whether it was feasible to reach a short-term agreement [24]. In response the frigates were withdrawn as arranged and the UK trawlers were ordered to cease fishing, with Treasury compensation for the crews while the agreement was being finalised [25].

By an Exchange of Notes on 1st June 1976 (the Oslo agreement) [26] the two states agreed that the UK Government would limit British fishing effort to an average, over each month, of twenty-four trawlers fishing each day, with no more than twenty-nine in any one day, for the duration of a six-month phasing out agreement. The list of 139 trawlers recognised by the interim 1973 agreement was to be pruned to ninety-three. Conservation areas were to be maintained as per the 1973 agreement, and Iceland would be able to introduce more,

providing they were non-discriminatory in application. The system of policing designed to obfuscate the status of the waters beyond twelve miles applied in the agreements with Norway was adopted. To some extent the UK recognised an extension of Iceland's limits, because it was agreed that no UK trawler would fish closer than twelve miles from the baselines. This provision was only partially within the spirit of the European Fisheries Convention, in that historic rights were being disregarded. In form, however, the High Seas regime was maintained, because this was an agreement by the UK to prevent its own vessels from fishing in a certain area. The UK pledged itself to press the EEC to implement Protocol 6 to a 1972 treaty of association between the Community and Iceland [27], extending EEC tariff concessions for Icelandic goods, including fish, to a level as if the Protocol had been in force since 1973. The Protocol had not previously entered into force because of the fisheries dispute. The UK would also ask the EEC to negotiate long-term reciprocal fishing quotas with Iceland. The agreement would have reduced the UK annual catch off Iceland to perhaps 60,000 tonnes, but in fact it was soon overtaken by an extension of both Icelandic and EEC states' fisheries jurisdiction to 200 miles. Its importance lay not so much in the displacement of forty-six distant-water vessels, as in its removal of a final obstacle to the UK adoption of a 200-mile fisheries limit (in practice, although the UK avoided any such claim, this was little short of an Exclusive Economic Zone). Its other significant effect was to render inevitable the ultimate displacement of all UK trawlers working the Icelandic shelf. The effect of this was to further anger an already rebellious inshore industry and to bring about a common purpose within all sections of the UK fishing industry and within MAFF for the adoption of a vigorously coastal state fishing policy rather than an open access

one. The displaced trawlers must have grounds, but should not find them at the expense of inshore fishers or of the near-water trawlers.

With the Icelandic agreement HMG could no longer ignore the deep sea industry's need for grounds, and since many other important maritime states were now planning extensions it was clear that they could take place without any significant threat to navigation. Swap arrangements had vanished as a short-term possibility since there were no herring left to trade for distant-water white fish. Financial losses (see Chapter 9) and access-limitation agreements (see Chapter 10) had weakened the BTF's devotion to free enterprise. Icelandic harassment had succeeded in depressing British catches severely over several months, and the temporary subsidy scheme for larger vessels expired at the end of 1975. Together with low landed prices these factors promised severe fleet contraction unless secure grounds were obtained swiftly.

This led to a new relationship between erstwhile rivals, aided by the improving organisation of fishermen. In June 1976 the BTF and STF dropped their request for a 100-mile zone in order to co-ordinate with the SFF and NFFO a demand for a fifty-mile exclusive zone in a 200-mile EEZ. This became the united policy of the whole industry, and the relationship between the organisations and the MAFF Parliamentary Secretary with responsibility for fisheries became close.

The adoption of a 200-mile limit

Sufficient grounds could only be found by an extension of UK fisheries limits. If these took place within the Community

framework then vigorous government action would be needed to ensure that the required reductions in Community capacity did not fall inordinately upon the UK, whose fleet included half of all the Community vessels which had been displaced since 1973. Despite the dislike of the EEC felt by many inshore fishermen, the Community promised to be the only institution with enough clout and will to permit an increase in UK fisheries jurisdiction with the maritime safeguards for which the FCO was concerned. However, the existing provisions of the CFP would not allow UK vessels exclusive access to any new grounds.

The neglected Article 102 (see page 207) might prove useful in obtaining a workable conservation regime. The NEAFC proved increasingly less able to set realistic TACs or to persuade its members not to exceed its quotas. North Sea herring stocks continued their collapse, and the NEAFC proved unable to cope. An alternative conservation scheme was obviously badly needed. In 1974 the Fisheries Commission adopted at the UK's suggestion closed seasons for herring, but political pressure, especially from the Danes, continued to bid up ICES-recommended TACs. The herring's shoaling tendency and the use of sonar meant that increased scarcity was no protection. The problem of the cyclical nature of herring supplies was exacerbated by closed seasons and by the early fulfilment of quotas, and the processing factories were much disrupted. At the Commission's 1975 meeting Denmark and Iceland objected to a North Sea herring quota of 250,000 tonnes [28], itself substantially higher than the ICES recommendation. Even the swollen TAC finally accepted was exceeded in four months, and in October 1975 the Herring Assessment Working Group of the ICES recommended a complete ban on North Sea herring fishing for 1976. The Scottish

Herring Producers' Association expressed its members' willingness to observe such a ban, but the proposal was rejected the following month by an emergency meeting of the NEAFC, which set a North Sea TAC at 87,000 tonnes. UK insistence that food fisheries should be given priority was rewarded by an enlarged UK share of the West of Scotland herring TAC, and by the banning of directed industrial fishing for herring.

The ICES recommended a total ban on herring yet again in February 1976, but the NEAFC did not act accordingly, setting a totally unrealistic TAC of 160,000 tonnes for all NE Atlantic herring stocks for 1976-77. Norway objected to her quota and no decision was reached on this. Despite the ban on industrial fishing for herring, Ireland continued to allow her nationals to fish the Mourne stock for industrial purposes.

Effort round UK coasts was increasing, as more of the sea came under extended zones of fisheries jurisdiction. To British, German and Belgian vessels diverted from Northern waters were added Soviet bloc and Iberian vessels diverted from off West Africa. By early 1976, the sloth of UNCLOS 3's deliberations had demonstrated that it probably would not construct new Convention law in time to save depleted fish stocks from destruction. On the other hand, most aspects of the 'Exclusive Economic Zone' had already been closely defined within the UNCLOS framework. There was, therefore, no reason why states should not adopt, unilaterally or in regional groups, legislation extending jurisdiction over resources so as to create a new customary law akin to the stalled Convention law. The need for new fishing grounds for displaced UK trawlers, as well as the need to exclude foreign trawlers displaced from more regulated

areas argued that UK limits should be extended. Abhorring unilateral extensions, and not confident of Britain's ability to exclude Polish and Soviet trawlers from its zone without help, FCO and MAFF officials worked to co-ordinate the extension of economic jurisdiction with other states in the EEC. Any unilateral extension by the UK would have involved the UK in breaches of the Accession Treaty and posed a threat to the UNCLOS package. In February 1976 the European Commission produced a plan for state members of the Community to declare a 200-mile fisheries limit and to unite their fishery zones in the North Sea and Atlantic into an EEC pond [29]. Each state would reserve a twelve-mile coastal belt for the exclusive use of its fishermen.

The Commission's plan was not popular in the UK. The BFF argued that if the UK enjoyed an exclusive zone of six miles under a system of twelve-mile limits, there should be an exclusive 100-mile zone in a system of 200-mile limits. The Statutory Bodies argued for the adoption of an exclusive limit of 200 miles. The Times Editorial of 2nd March 1976 argued that since coastal states would have to bear the cost of conservation measures in their EEZs they should have a more generous exclusive belt than twelve miles. The same day, when the Plan was officially unveiled to the Council of Ministers, Foreign and Commonwealth Secretary Callaghan told his EEC colleagues that the UK would not accept so narrow a limit [30].

Be that as it may, the UK's bargaining power was weak. She could not unilaterally defend a large national zone, and it was she who had the biggest fishing effort in the waters of third parties which was under threat. Such an effort would not be sustainable in the long-term, since most Scandinavian countries were anxious to expand

their fishing fleets to take up the new catch opportunities presented by 200-mile limits. The trawlers which would be diverted would need grounds. The UK's need for an EEZ was thus much greater than most of her EEC colleagues, who could better afford to wait. There was little need to worry about implications of territoriality, since the most powerful maritime states, the USSR and the USA, were also preparing to extend their fishery zones, and would not do anything to weaken the navigational compromises formulated within UNCLOS 3. After the Iceland settlement, the Faroes, Canada and Norway all gave notice of their intention to adopt 200-mile zones on 1st January 1977. They did not propose to establish EEZs, only fishing zones. Aware of the increased pressure on their zones that this would mean, the Council of Ministers met at the Hague on 30 October 1976 and approved a Commission Plan for a co-ordinated extension on 1st January 1977. Their Atlantic and North Sea zones would be united to form a Community zone ("the pond") [31].

In addition to the establishment of the zone of EEC fisheries jurisdiction, the Ministers made several decisions, some of which could be used by HMG in pressing its case for a greater UK share of the catch. The Council declared that preference should be given to communities particularly dependent on fishing, citing Greenland, Ireland and the northern UK. These "Hague preferences" gave the Fisheries departments some latitude, precisely because their effect was not clearly spelt out. Furthermore, it was established that until the EEC should have acceded to the NEAFC and ICNAF, member states would act in concert in the Fisheries Commissions. The Council also agreed that member states would be permitted, in the absence of a NEAFC agreement and pending the establishment of a common Community conservation regime under Article 102, to adopt

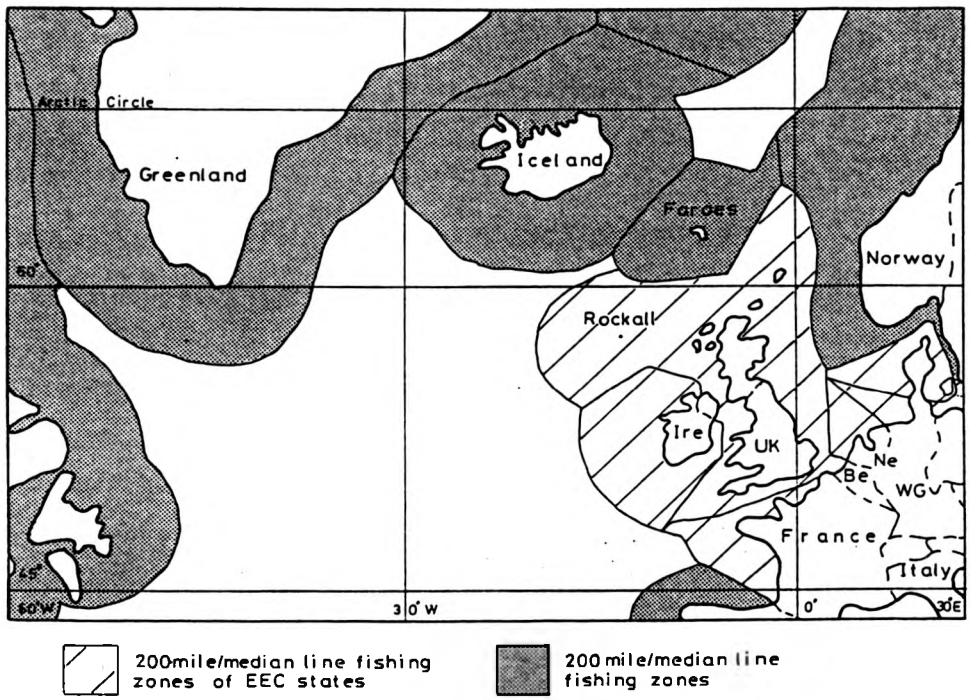
non-discriminatory measures to protect the fish resources off their coasts, provided the Commission was consulted at all stages.

The Hague agreements also established that non-member states would only be permitted to fish in Community waters in accordance with fishing agreements made between the Community and third parties, and instructed the Commission to begin negotiations. While this provision made it more likely that some British fishing would be re-established in Northern waters, most reciprocal concessions made by the Community would be at the expense of the UK. Except for tariff concessions, quotas of Northern demersal stocks could only be obtained in exchange for quotas of pelagic fish. None of the pelagic stocks in the European pond were particularly appropriate for swap arrangements, although in 1973 the pelagic catch by third countries in the Community zone had been 600,000 tonnes [32]. The Skagerrak and North Sea herring stocks had both collapsed and to barter foreign access to the latter would have been politically inadvisable for any government. The West of Scotland herring stocks were fairly healthy but already adequately fished, while the South-Western mackerel was the life-line extended to many larger British vessels, and could not be spared for barter. Only a fairly low catch in Northern waters would thus be obtainable by reciprocal access agreements. The alternative bait of improved opportunities for export of fish and fish products to the Community market would also fall disproportionately upon British fishermen, since Norway and Iceland primarily produced cod, for which Britain was by far the biggest market. As most third country agreements would therefore be of little benefit to the UK the latter was in the years between the extension of fisheries limits to 200 miles and the formulation of a new CFP agreement in January 1983 to be presented with a number of

opportunities to block such agreements in exchange for an improved UK share of the catch in the pond. Although the UK's bargaining power in relation to its neighbours was generally weak (see page 415), here was an area of strength for the UK.

By the Fishery Limits Act of 1976 [33], UK fisheries jurisdiction was extended to 200 miles with effect from the beginning of 1977. This extension, while it provided for the negotiation of reciprocal fishing quotas with non-EEC states [34], did not provide the UK with control over its own zone. UK Ministers were to be responsible for the conduct of fishing operations throughout the zone, but they were powerless to exclude vessels of EEC member states, because of the primacy of Community over national legislation. The Act provided that the Minister could make orders requiring vessels fishing in the UK zone to hold a licence for particular species, but this could not come into effect in the absence of a conservation regime. Figure 14.1 shows how national fishery zones encompassed most of the North East Atlantic. The rapid contraction in the UK trawler fleet continued unabated. Although the expulsion of Soviet, East European and Iberian vessels eased pressure on some fish stocks, this was more than compensated for by the diversion of German and British deep sea trawlers into UK waters from Iceland, the Faroes and the Barents Sea. Whereas in the absence of a CFP the government would perhaps have been able to exclude some foreign vessels from the UK's 200-mile zone this was not an option under the CFP as constituted. Therefore the pressure on fish stocks imposed by increased effort and profitability led all sections of the industry to press for extensions of the UK's exclusive limits. A diminution of the political influence of the statutory bodies which resulted from their poverty removed 100 and 200-mile exclusive fishery limits from the political stage, and a

Figure 14.1: The North Sea and North-Eastern Atlantic under a regime of 200-mile zones [55].



fifty-mile exclusive fisheries zone became the united choice of the fishing industry by mid-1976. All political parties were committed to an EEZ, while both Labour and Conservative parties wished to show themselves to be as loyal to the inshore men as the SNP. In addition the governing Labour Party wanted to placate its anti-Market members, and the government wished to prevent a drastic reduction in UK capacity. Therefore the demand for an enlarged exclusive fisheries zone (albeit of indeterminate width) was by Summer 1976 the UK's negotiating position with its EEC partners, and the stage was set for a long struggle within the Community over fisheries.

The adoption of 200-mile fisheries limits was by far the most significant policy decision during the period 1967-83. It redefined tasks for policy in a number of ways. Firstly it took fisheries policy out of the plethora of institutions in which it was previously to be found, and concentrated it primarily in the EEC. The enhanced bargaining power of the EEC would be useful for swap arrangements, and the only way in which better fishing grounds were to be located was by obtaining a revision of the CFP. It thus defined the task of the UK as gaining a larger share of the catch in the EEC pond for its own fishermen (see Chapter 15). Secondly the 200-mile decision broke the interlocking pattern of British marine policy at UNCLOS 3 and created a situation where UK negotiators had to work still harder to pursue remaining goals. By de facto accepting the concept of an EEZ without safeguards on these issues, the UK had removed the bait with which it had tempted coastal states. Remaining UK goals, such as obtaining the outer margin beyond 200 miles for the coastal state, and strengthening the powers of the state of origin over anadromous fish stocks, became single issue struggles involving groups of states. There was progress on the margin, since the formulae were

already well advanced and because the Geneva Convention status quo effectively gave the whole shelf to the coastal state. Anadromous fish, however, required a shift from the existing position. In response, the UK joined with Canada, Denmark, Iceland, Ireland, Japan, Norway, UK, USA and the USSR in an "Anadromous Fish Group" at Geneva in Spring 1978. The group worked to reduce the powers of states other than the state of origin to fish anadromous stocks, and succeeded in marginally reducing those powers in the revisions to the ICNT issued at the close of the Geneva session. The change was the only significant revision in Committee II's part of the Informal Composite Negotiating Text allowed by Committee Chairman Aguilar at Geneva, an indication of the Group's strength. The revised text maintained the right of states to continue fishing beyond EEZs where they could suffer economic dislocation from cessation, but established that permanent consultations must be held between interested states with regard to any fishing beyond EEZs, with the stipulation that only the danger of economic dislocation could permit continued fishing beyond the EEZ to be maintained [36]:

> "Fisheries for anadromous stocks shall be conducted only in waters landwards of the outer limits of exclusive economic zones, except in cases where this provision would result in economic dislocation for a state other than the state of origin. With respect to such fishing beyond the outer limits of the exclusive economic zone, states concerned shall maintain consultations with a view to achieving agreement on terms and conditions of such fishing giving due regard to the conservation requirements and needs of the State of origin in respect of these stocks." [37]

The Anadromous Fish Group appears to have regarded the revised text as the optimum that it would be able to obtain, since it did not operate at the Conference's eighth session in 1979. No further revision of the Article referring to anadromous fish had taken place by the end of the year. Taken in isolation, the text was not very suitable for encouraging investment in improvements on the spawning grounds since it permitted the taking of anadromous fish over a very large area of ocean. The areas of maritime concentration now lay within the Greenland and Faroe fishing limits. Since these two chose not to join in the CFP, the fact that their parent state was Denmark did not help the UK to obtain a Community regime. The text which entered the draft Convention on the Law of the Sea [38] empowered the state of origin to set total allowable catches but established no formula for quota share-outs, leaving this to consultation. In addition, no definition of economic dislocation had been provided, leaving the rights of the state of origin firmly in the realm of diplomacy. In the event, the course of UNCLOS 3 has done nothing to conserve salmon-stocks and much to harm them. While the EEZ became, to all intents and purposes, customary law in 1976, UNCLOS 3 did not produce a Convention until 1982, and when, if ever, it will enter into force is a matter of debate. Therefore the claim of the Faroes and Greenland over the previously High Seas salmon stock was strengthened several years before the right of the state of origin to establish total allowable catches entered into force. Indeed, the states of origin moved away from UNCLOS 3 and into specific negotiations about salmon, which finally resulted in the signing in March 1982 of the Convention for the Conservation of Salmon in the North Atlantic [39]. The signatories undertook to co-operate in an intergovernmental North Atlantic Salmon Conservation Organisation, which started work in February 1984. By this time the Greenlanders

and Faroese moved over to drifting with immense monofilament nets, as had many of those drifting off Northumberland, albeit illegally. Partly as a result, the catches in Scottish rivers by 1982 were approximately one-tenth of the size of those in 1975 [40].

Anadromous fisheries were thus a casualty of the introduction of 200-mile fishery limits. The Conference continued for four years (see Appendix I), with some issues not settled until 1982. The most intractable issues were those concerning arrangements for the exploitation of manganese nodules, the resource which had originally motivated Pardo to introduce Resolution 2340. Fisheries was however effectively decoupled from events at UNCLOS 3, and the latter are therefore of little relevance to the present study. Eventually a Law of the Sea Convention was adopted in April 1982. The USA voted against the Convention from objections to the deep seabed regime, while the UK abstained, on the grounds that "the provisions relating to deep seabed mining including the transfer of technology (were) not acceptable" [41]. The USA followed up its objection by putting pressure on other Western countries not to sign. This pressure involved a visit to Western Europe by Donald Rumsfield, a former US Defence Secretary, a visit which helped to move HMG from a position of basic approval of the Convention on the grounds that it conferred important rights for civil and military shipping not available outside the Convention, to one of refusing to sign.

There is an additional factor, which may have have been of importance. The UK fishery limits enclosed 275,000 square miles, of which 100,000 were generated by Rockall alone. The Law of the Sea Convention forbade uninhabitable islands from generating zones, and were Denmark or Ireland to take the UK to the Law of the Sea Tribunal

provided for under the Convention's Dispute Settlement procedure, Rockall might be deemed "uninhabitable", and the UK lose not only the fisheries zone but much of its continental shelf. The loss of the former would be of little consequence in the short term, since by the time such a case could have been heard by the Tribunal the percentage allocations of the catch to each state would probably have been fixed for several yaers. However, future CFP revisions might see a lower allocation of quotas to the UK in the light of the relative size of its zone without Rockall, and, far more importantly, the loss of the shelf might mean the loss of oil reserves.

The search for alternative grounds for displaced trawlers

The third significant result of the move to 200-mile limits was that it led trawler companies and MAFF to search for new fishing grounds for the displaced UK-registered vessels. Even though some of the displaced trawlers were suitable for use within 200 miles of UK coasts, the EEC 'pond' was unlikely to be able to provide them with sufficient grounds even with a major revision of the CFP in the UK's favour, since total UK capacity alone was sufficient to take more than half the sustainable yield in the entire pond [42]. The majority of the displaced freezer trawlers could not fish economically in the North Sea anyway, given its lower density of high value stocks and its greater species mix than prevails in the Northern waters for which they were built. A few trawlers were converted to oil supply vessels or hydrographic survey ships, and a few more found employment in other countries' fisheries zones by relocation. The only advantages accruing to the trawler owner from the latter type of arrangement were an income, the continued employment of key personnel, and the writing off, over a realistic life, of the capital

invested in the relocated trawlers. In 1977 British United Trawlers entered into a joint venture with a firm in Western Australia, by which three modern freezer trawlers were moved from Humberside to Albany [43]. Some trawler owners considered moving trawlers to the Falkland Islands dependencies in order to fish for Antarctic krill, a resource of immense wealth. This came to nothing, partly because the Antarctic Treaty of 1959 [44] had to be revised in order to clarify the question of access to the living resources of the Antarctic Ocean, a process which was not completed until 1981 [45], and partly because HMG opened negotiations with Argentina on the question of long-term arrangements for the Falklands and the South Sandwich Islands, which Argentina considered to be her territory. The construction of shore facilities on the islands would also entail considerable investment and a delay which the trawler fleet, with its high fixed cost, could ill afford. The investment might, in the event of a transfer of sovereignty to Argentina, not be recoverable.

MAFF placed great hopes in a stock of blue whiting which gathers to spawn in early Spring between Rockall and the Shetlands [46]. Initial estimates of stock size were massively inflated, as successive exploratory trawls by vessels under contract to MAFF revealed. Methods of processing the fish, so as to make them of use to human beings, had still eluded MAFF scientists by 1983, due to their small size and the 'spent' condition of most fish following spawning. The seasonal nature of the stock also made the prospect of a substantial permanent food fishery very slim. Industrial use of the fish would have run counter to the strong prejudice among UK fishermen against catching for reduction to fish meal, and in order to be economic would require purpose-built vessels.

There were also Ministry-encouraged experiments with the reduction to fish meal of scud, also called "horse mackerel", but these were not successful for technical reasons [47]. The one area of success in expanding or developing a fishery was the winter mackerel fishery off the South-West. The mackerel fishery had been primarily a small coastal one in 1967, but after the ICES' Mackerel Assessment Working Group declared the stock to be more abundant than had previously been thought, many Grimsby and Peterhead purse seiners, languishing from the demise of the herring, together with some large trawlers, began to participate in the fishery. A further niche in the mackerel fishery was created by the expulsion of Eastern bloc trawlers from the pond on 1st January 1977. In general, however, sufficient grounds did not exist for all of the displaced vessels. UK catches in the ICNAF area recovered slightly, but to a level totally insufficient to compensate for lost grounds. By the time the Council of Ministers finally decided upon quota levels there were only ten wet fishers and nineteen freezer or factory trawlers of above 140' in length left in service (see Figure 12.1), less than ten per cent of the distant-water fleet of a decade earlier. The rapid reduction in the UK fleet produced redundancies among fishermen, with twenty to thirty shipboard jobs lost for each trawler scrapped. There were some losses in processing, but employment in this area was kept up by increasing imports or landings of unprocessed fish from Poland, Iceland and Norway. Hull and Grimsby could offer displaced workers some alternative employment in connection with their growing role for intra-EEC trade, while the Aberdeen-based offshore oil industry absorbed many redundant fishermen and ancillary workers, and even some trawlers. Fleetwood was the hardest hit distant-water port, since there were few alternative sources of employment on the Fylde.

The loss of vessels prompted a reorganisation of what had been the distant-water industry. The BTF and STF, which had lost their previous monopoly of influence with MAFF, amalgamated to form the British Fishing Federation (BFF). The BFF remained influential in shaping routine policy, because although the deep sea industry was declining in size, its wealth, organisation and united policy stance enabled it to continue to influence fisheries departments. Regular consultations now took place between the BFF, the SFF and the NFFO, and they tried to present MAFF with common positions where possible. The extinction of distant-water fishing removed a major source of division within the industry. On external policy the three Federations were now agreed on a fifty-mile exclusive zone, in marked contrast to the disagreements during the disputes with Iceland. There was still considerable disagreement about local limits, and the inshore fishermen resented large trawlers fishing close inshore. This problem was not as widespread as the number of trawlers displaced from other grounds might suggest. Off most of the Scottish coast trawling was banned within three miles anyway, and most of the other coasts lacked fish stocks in sufficient density to permit profitable exploitation by large trawlers. The problem was most acute in the mackerel's winter shoaling grounds off South-Western England. The practice of klondyking developed, by which purse seiners and mid-water trawlers would remain on the grounds throughout the winter season, transshipping their catch to Eastern European factory ships who could no longer fish in those waters. This practice was not only irksome to the Cornish, whose traditional method of long-lining prevents growth overfishing, but by evading landing restrictions resulted in the under-reporting of catches and the taking of undersized mackerel. MAFF took no action

against klondyking until 1981, because of the role of the mackerel fishery in maintaining capacity pending a new CFP [48].

The growth of interest in restrictive licensing

Another development consequent upon the declaration of the 200-mile fishery limit was a growing interest among fishery economists in the use of restrictive licensing as a fisheries management tool. The division of the North Atlantic into state zones effectively removed the common property status of fish resources, although some stocks became the property of more than one state. This development would theoretically make feasible for the first time the restriction of effort to a level appropriate to the maximisation of economic rather than biological yields by allowing fishing only by licence, and by limiting their issue either to vessels or individuals who had habitually fished a stock, or by charging high fees, or both. While such a policy would entail a gradual reduction in employment in the fishery, the multiplier effect of the enhanced producers' surplus should increase employment in the environs of fishing ports. According to McKellar, of the White Fish Authority Fisheries Economics Research Unit, this effect had been demonstrated in the British Columbia salmon fishery:

> "The employment multiplier effect of this improvement has probably created more jobs in ancillary activities than were lost on vessels as a result of the restricted entry programme" [49].

According to the Canadian Fisheries Service:

> "the benefits of the programmes have been the change from static, no growth welfare-type fisheries to modern, dynamic growth fisheries with high returns to fishermen and solid ancillary support industries such as shipbuilding and electronics" [50].

The margin of error between MEY and the point at which recruitment overfishing would begin to occur would be such as to render stock collapse less likely than in the case of systems of fisheries management aimed at maximising the biological yield. Moreover, a restrictive licence scheme could permit licensed vessels to fish for a longer season than had been possible where closed seasons had been employed, and a more predictable season than quotas would permit. Licensing schemes are also much easier to police than TACs or quotas, permitting some suspected violations to be assessed without boarding the vessel. In addition, a licensed fishery can be expected to yield more complete statistical information than an unregulated one, and licence revenue might be used to fund research, regulation or enforcement (freeing those from Treasury caprice). Where an excessive number of licences had been judged to have been issued, such revenue could be used to "buy back" licences. Such schemes would also supply fisheries authorities with clear information as to increases in capacity consequent upon investment in new vessels or gear, although in order for such an evaluation to be really effective clear definitions would have to be formulated of the concepts of "effort" and "capacity", and to know how a purse seiner compares, for instance, with a long liner.

Licences also hold the advantage that they provide a relatively simple means of permitting foreign participation in a fishery. The

restriction of effort to named vessels in specified quantities established in the UK-Iceland agreements recognised the greater ease of enforcement than would be the case had quotas been imposed. Such an arrangement could have been further elaborated by charging an annual fee for each vessel, which would not only have utilised licensing as a means of sharing access, but also as a source of rent to the state owning the fishery.

Despite these advantages, and the considerable support felt in the technical arms of fisheries administration [51], the UK introduced no restrictive licensing schemes in the immediate wake of the general moves to 200 miles in the North East Atlantic. The first reason was the CFP. Britain had agreed to a system of free access for Community vessels anywhere beyond twelve or six miles from her coasts, and this situation had not changed merely because the UK had adopted a new 200-mile fisheries limit. Licensing is only effective in an appropriated fishery. In order for the UK to establish restrictive licensing schemes, except in exclusive coastal waters, either the access provisions of the CFP would have to be revised in favour of the coastal state or clear national quotas would have to be established. Secondly even had Britain been prepared to defy its partners and to exclude them from a considerable portion of her waters many of the stocks harvestable in the UK's 200-mile zone spend their juvenile stages in the zones of other community states, with the result that the conservation of such stocks could not be ensured by UK regulations alone. The third reason for the non-adoption of licensing was the fact that it would weaken the government's negotiating position within the EEC. The surplus capacity consequent upon a welfare approach in a free-for-all fishery was exacerbated by the high number of diverted trawlers, and HMG wished

to maintain this surplus capacity while it argued for a revision of the CFP, so that Britain's need could be seen to be considerable. It was also hoped that the Commission would be able to negotiate access to the waters of third countries for at least part of the displaced fleet. Restrictive licensing would have prematurely shrunk the fleet. There were also many political problems which restrictive licensing would entail. It would force the fisheries authorities, in the first instance, to choose between types of vessels. If this were done by an arbitrary bias in favour of inshore vessels it could undermine the market competitiveness of British-caught fish, and if it were done by competitive licence fees it would have given the trawler companies an unfair advantage, with the resulting possibility of more inshore disquiet and a further massive electoral boost to the SNP. These initial problems would be compounded over time, as experience in Australia and Canada had shown [52] that restrictive licensing accelerates investment. This would mean that effort would tend constantly to increase, and licences would need to be continually reduced in number, with a concomitant reduction in direct employment. So long as the profit from fishing is invested locally this would not be a problem, but if large companies from other parts of the UK were to become involved the regional gains made by NE Scotland, for instance, might be reversed.

In effect, therefore, there had been a growth of interest in licensing as a tool for the management of an appropriated fishery, but as yet such a fishery did not exist.

Summary

The FCO's attempt to contain all change in the law of the sea within

the framework of UNCLOS 3 collapsed as a result partly of a renewed cod war with Iceland and partly as a result of systemic crisis in all the fisheries of the North Atlantic. It became evident as negotiations continued that fisheries could be delinked from navigation without detriment to the latter, since discussions about the EEZ had broken up coastal state demands into individual competences. In addition, the extension by the UK was carried out in consultation with a large number of other developed states with both maritime and coastal interests. None of these states formally claimed an EEZ, which might have appeared a snub to the Conference, but it was resources which concerned them as coastal states: in relation to the remaining problems of the EEZ, such as scientific research, their interests were maritime ones. The extension of fishery limits to 200 miles confirmed a substantial reorientation of the trawler fleet, and this, together with pressure from all sections of the industry, made it imperative for the UK to take a coastal state line and to attempt to revise the CFP in its favour.

Notes

1. Hansard, Vol. 904, Or. 25-33, 28th January 1976.

2. J.A.Hart, The Anglo-Icelandic Cod War of 1972-73. A case study of a Fishery Dispute, (Berkeley: University of California Institute of International Studies, 1976), p.50.

3. Hansard, Vol. 901, Or. 171-8, 20th November 1975.

4.. On 17th December 1975 the National Executive Committee of the Labour Party issued the following statement:

> "That this National Executive Committee views with concern Britain's worsening relations with Iceland and the escalation of the current fisheries dispute with the introduction of Royal Naval vessels. It urges the Government to develop an overall fisheries policy designed to secure the interests of the British fishing industry in the seas which will soon come under British jurisdiction with the general application of the 200 mile fisheries limit, supports an international agreement on the conservation of living resources in the oceans, and calls for the speedy resumption of negotiations with Iceland".

Report of the Seventy-fifth Annual Conference of the Labour Party, Blackpool, 1976 (London: Labour Party, 1976), p.35.

5. Hansard, Vol. 901, Or. 171-8, 20th November 1975.

6. Hansard, Vol. 905, Or. 1503, 19th February 1976.

7. Hansard, Vol. 903, Or. 1144, 30th January 1976.

8. Hansard, Vol. 846, Or. 904, 20th November 1972.

9. See Appendix II.

10. Hansard, Vol. 905, Or. 1554, 19th February 1976.

11. Hansard, Vol. 905, Or. 1532, 19th February 1976.

12. "Fisheries Jurisdiction (UK v Iceland) Merits, Judgement". ICJ Reports, 25th July 1974.

13. Hansard, Vol. 904, Or. 425-33, 28th January 1976.

14. Keesings Contemporary Archives (K 27825).

15. The two agreements differed in form. The Icelando-Norwegian agreement of 12th March 1976 adopted the system of limiting the number of Norwegian vessels in the zone at any one time. Twenty three of forty-five named trawlers could be within 200 miles of the Norwegian coast at any one time. The agreement between Iceland and the Faroes, made on 24th March 1976, allowed any number of Faroese freshers in the zone provided they did not catch more than 8,000 tonnes of cod and 9,000 of other species. Keesings Contemporary Archives (K 27798).

16. Keesings Contemporary Archives (K 27825).

17. Keesings Contemporary Archives (K 27825).

18. Keesings Contemporary Archives (K 27824).

19. Keesings Contemporary Archives (K 27825).

20. Convention on Fishing and Conservation of the Living Resources of the High Seas, Article 6.1.

21. Keesings Contemporary Archives (K 27824).

22. Hansard, Vol. 911, Or. 1403-4, 19th May 1976.

23. Keesings Contemporary Archives (K 27825).

24. Keesings Contemporary Archives (K 27826).

25. This had also been provided during the period when the frigates were absent from the fishing grounds in January and February 1976. In May-June the payments were set at £400 per trawler per day (£350 for a Fleetwood side trawler) to be shared between the crew. A demand from the BTF's Laing for £25-30 million in compensation to owners, made on 2nd June, was ignored.

26. "Exchange of Notes between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Iceland concerning fishing in the Icelandic fisheries zone (with related documents)", Oslo, 1st June 1976. Entered into force 1st June 1976. Treaty Series 73 (1976). Command 6545. (London: HMSO, 1976).

27. Agreement between the European Economic Community and the Republic of Iceland with Final Act, Brussels 22nd July 1972. Presented to Parliament December 1972. Miscellaneous No. 50 (1972), Command 5182. (London: HMSO, 1972).

28. Unless otherwise stated, all figures for ICES-recommended or NEAFC-established quotas are from Fishing Prospects.

29. Commission of the European Communities, COM (76) 59 final, 24th February 1976.

30. M. Hornsby, "Britain resists fishing limits of only 12 miles round its coasts", The Times, 2nd March 1976.

31. "Hague Resolutions", analysed in M. Wise, The Common Fisheries Policy of the European Community, (London: Methuen, 1984), pp.156-7.

32. Ibid., p.146.

33. Fishery Limits Act 1976, 1976 c86.

34. By October 1979 framework arrangements establishing the general lines of fishery relations between the Community and third countries had been negotiated with Canada, the Faroes, Finland, Norway, Senegal, Spain and Sweden, and an agreement had been concluded with the USA.

35. Wise, op. cit., p.171.

36. The revised text of Article 66 appears in United Nations Third Conference on the Law of the Sea, "Report of the Committees and Negotiating Groups on negotiations at the Seventh Session contained in

a single document both for the purposes of record and for the convenience of delegations". 7th Session, Geneva, 28th March to 19th May 1978. GE.78-85880. (Geneva: United Nations, 1978), p.69.

37. Ibid., Article 66 Section 3(a).

38. UN Document A/CONF.62/L78. Third United Nations Conference on the Law of the Sea, Draft Convention on the Law of the Sea, 28th August 1981, (New York: United Nations, 1981), Article 66.

39. "Convention for the Conservation of Salmon in the North Atlantic Ocean", Reykjavik, 31st August 1982, Entered into force 1st October 1983. Miscellaneous Series 7 (1983). Command 8830. (London: HMSO, 1983). At time of writing its membership consisted of Canada, Denmark (for the Faroes and Greenland), the European Commission, Finland, Sweden and the USA.

40. Sir A. Gilchrist, "Salmon ranchers can win the West", The Times, Thursday 22nd July 1982.

41. Hansard, Vol. 33, Or. 404, 2nd December 1982.

42. G.A. Mackay, "The UK fishing industry and EEC policy", Three Banks Review, (No. 132), December 1981, pp.59-60.

43. House of Commons, The Fishing Industry, "Memorandum submitted by Associated Fisheries Ltd", T84, p.43.

44. "The Antartic Treaty", Washington, 1st December 1959. Entered into force 23rd June 1961. Treaty Series 97 (1961). Command 1535. (London: HMSO, 1965).

45. "Convention on the Conservation of Antartic Marine Living Resources", Canberra 31st December 1980. Entered into force 7th April 1982. Treaty Series 48 (1982). Command 8714 (London: HMSO, 1982).

46. Parliamentary questions about this stock were extremely frequent between 1972 and 1975, although they came from less than ten MPs. Random examples from Hansard are:

    Maclennan Vol. 867, Or. 1055, 17th January 1974. He rashly claimed stocks to be between 100 and 800 million tonnes, in retrospect ludicrous figures.

    Dalyell Vol. 882, Or. 1920-21, 5th December 1974.
    The peak time for MAFF exploratory activity was between April 1973 and February 1974, when six experimental trawling voyages were undertaken. Fishing Prospects, 1974-5, p.21.

47. Despite MAFF's attempts to interest industry in this fish (as per Fisheries Laboratories Leaflet No. 38) catches of scud remained low.

48. N.B. McKellar, Restrictive Licensing as a Fisheries Management Tool, Fishery Economics Research Unit, 1977 Occasional Paper No. 6, (Edinburgh: White Fish Authority), pp.12-13.

49. Ibid., pp.14-15.

50. House of Commons, The Fishing Industry, Q963.

51. The allocation of licences within a Community pond held the advantage over national zones in conservation terms because it could take into account the migratory patterns of fish and the interdependence of stocks.

52. McKellar, op. cit., pp.14-5.

CHAPTER 15

THE SEARCH FOR AN ACCEPTABLE COMMON FISHERIES POLICY

The move to 200-mile limits to coastal state jurisdiction over almost all the stocks fished by United Kingdom fishermen, together with the Hague decisions, concentrated fisheries policy upon the EEC and its institutions. It also effectively delinked fisheries from strategic and maritime policy. In concentrating UK fisheries policy upon the European Economic Community, it weakened the relative influence in policy determination of the FCO and strengthened that of MAFF. It sharply lowered the importance to the fishing industry of developments at UNCLOS 3, and in so doing reduced the possibility of a species approach being instituted for anadromous fisheries. Taken together with the adoption of two-hundred mile fishery zones by most other states fishing the North Atlantic (see Figure 14.1) it confirmed the diversion of the distant-water fleet from its traditional grounds. In so doing, it weakened the cruciality to the UK of the Fisheries Commissions, since it promised a single authoritative Community regime for most of the grounds fished by UK vessels.

The move to wider limits did not in itself dissipate the problems which had built up over fisheries policy, some of which were political, some biological, and some economic. It did nothing in itself, for instance, to placate the newly militant fishing industry, united as never before in its demand for a fifty-mile zone exclusively reserved for British fishermen. Failure to obtain such a zone might lead to further blockades and possibly to a new General Election, since the Labour Government of 1974-79 commanded only a

tiny overall Parliamentary majority.

It did not appear, in 1976-77, that the SFF and the NFFO would be content with an alternative formulation of a narrow exclusive zone coupled with a conservation regime which gave the UK quotas constituting a high proportion of TACs agreed within the framework of the Community. Such an arrangement might suit the British Fishing Federation (BFF) - newly formed from an amalgation of the BTF and STF - whose need, despite its common negotiating position with the other fishermen, was primarily for new grounds to replace those lost. The exclusions from distant waters had lost them over a third of the UK's total catch, equivalent in value to the losses from exclusions of all the other Community member states put together. These exclusions, and capacity maintenance by flat rate daily payments, had left the UK with a catching capacity sufficient to take 54% of the annual yield of protected species in the Community pond. For the trawler companies high proportional quotas might suffice, but this would not fulfil inshore aspirations.

In this vein, extensions did nothing in themselves to solve the problem of how to balance the needs of small independent and share fishermen against trawlers, as to whether or not the former should have reserved grounds. Nor did they solve the problem of over-capacity, a problem which could only be approached on a Community-wide basis, since there would be no incentive sharply to reduce UK capacity unless the other member states did likewise. Nor did the extensions in themselves provide a new framework for an effective conservation regime.

HMG was faced with these needs, and had little room for manoeuvre,

given the militancy of the fishermen and the government's near-dependence on the votes of the minority parties, one of which, the SNP, treated inshore fishing as a major determinant of its actions. Also, as the Economist has pointed out [1], many inshore seats were then highly marginal, and for a government with a parliamentary majority so slim that its fate could be determined by by-elections inshore concerns could not be ignored. To add to this, the Minister of AFF, Silkin (Lab - Deptford), was determinedly opposed to UK membership of the EEC, a fact which predisposed him to take a strong line in negotiations within Europe. In response to the needs and demands of the fishing industry HMG had only one concession which it could make to the industry which was independent of success in the negotiations in the Community, and that was financial assistance.

A pattern was therefore set for several years in which the UK tried unsuccessfully to reshape the Common Fisheries Policy to fulfil some of her needs, while placating the industry with periodic financial assistance. During this time UK capacity adjusted itself downwards even despite subsidy payments, the total GRT of British vessels over 40 feet fell by one-third between 1973 and 1979 [2].

In its struggle to revise the CFP, the UK had three major factors in its favour. Firstly, although the extensions had been made in concert with other member states of the EEC, customary international law, and the stalled UNCLOS Treaty, accorded the 200-mile limit to individual states. Therefore the British public could view the sector of the EEC "pond" generated by the UK as "British waters", or "the British contribution to EEC waters" and generally sympathized with HMG's taking a tough line. Secondly, the Hague agreements

afforded states the opportunity legally to apply conservation measures, providing that by the end of 1977 the Community conservation regime envisaged by Article 102 of the Treaty of Accession had not been agreed. This implied that the UK could block a Community regime, and then, providing that there was consultation with the Commission, take unilateral conservation measures. The third item in the UK's favour was the "Luxembourg Compromise" of 1966, by which an individual state was accorded an assumed veto in the Council of Ministers when a 'vital' national interest was at stake. While this had no formal Treaty status it prevented Community measures being agreed by majority voting, and effectively empowered the UK to block any agreement on a revised CFP which did not meet the UK's requirements. It did not, unhappily, empower the UK to construct a CFP tailored to her needs.

It needs to be established why the UK did not simply withdraw from the CFP and institute its own national 200-mile limit, as indeed some individual fishermen advocated [3]. Firstly the European Court had ruled in the "Kramer" case of July 1976, that the Community competences in fisheries exceeded those of individual states, and to have ignored this judgement would have resulted in embarrassing cases at the European Court:

> "The Community has the power, so far as its internal constitution is concerned, to take any measures for the conservation of the biological resources of the sea, including the fixing of catch quotas and their allocation between the different member states" [4].

Even within a national limit independent of Community agreements,

historic rights of several hundred years' duration, generalised by the Treaty of Accession, would have been especially difficult to extinguish, and could have resulted in many fisheries disputes. Moveover, the EEC regime held out the prospect of a more effective conservation regime than the NEAFC had proved to be, if acceptable arrangements could be negotiated. There were fewer states involved, and the Community had potentially an authoritative control over the fish stocks of a fixed area, a far more effective arrangement than the NEAFC. It was also hoped that the weakness of the scientific ICES in relation to the political NEAFC would not be duplicated in the technically-orientated Commission. The degree to which fish move between national sectors of the North Sea, with many spawning in a different national sector from the one in which they spend their adult lives, suggested that a unilateral UK conservation regime would not in itself secure stocks. Danish fishing at the Bloden spawning grounds or Dutch trawling of juvenile plaice could destroy the adult stocks in the UK zone. Moreover, the UK would not unilaterally be able to exclude foreign fishermen from her new 200-mile zone, and needed support from other Community states both in relation to the latter's own fishermen and to those of third parties, like the USSR, Poland and Spain.

An attempt to create a unilateral regime including the vast zone generated by Rockall, upon which so much of the British claim to make a large contribution to EEC waters and to EEC fish stocks depended, would undoubtedly have resulted in attempts by the Irish and the Danes to challenge the UK claim to the islet. With the support of other EEC member states (in retaliation against UK unilateralism) and the advantages afforded by UNCLOS 3 this could have been quite effective, possibly removing not only fish resources but a large area

of possibly oil-rich continental shelf from the UK's grasp.

The EEC's potential for negotiating with third parties was also a valuable asset in the UK's attempt to maintain or re-establish access to waters of non-Community territories such as Iceland, Norway and the Faroes. The Community was such a valuable market for the newly fish-rich states of the Arctic that it could swap access for market concessions in addition to direct swaps of access rights. It was also important to co-ordinate activities with other member states in order to protect the navigational aspects of the EEC package which the UK had worked so hard to develop. Although the UK had finally acted outside the Conference structure, it had only done so for fisheries, and had at the time no intention of preventing the implementation of the Convention when it was complete. The states comprising the Community were sufficiently influential within the global system to set a powerful precedent in customary law as to the rights and duties of a coastal state in a 200-mile zone of fishery jurisdiction.

There were also aspects of the CFP's marketing provisions which, if suitably modified could prove useful to the UK industry. The Producer Organisations had instituted a degree of self-regulation which could free government of the recurrent demands for subsidies, price supports and other forms of protection. Suitable reference and withdrawal prices, together with appropriate import tariffs, could alleviate some of the fishermen's economic ills. Moreover, there might be more FEOGA money available for the repair or replacement of fishing vessels, especially important in view of a stipulation in the Treaty of Accession forbidding operating subsidies after six years [5]. The Commission had already, following the

blockades of 1975 and similar actions by French inshore fishermen, introduced proposals in October 1975 to assist inshore fishermen in the interests of regional and social development [6], and had also suggested financial aid for restructuring [7].

The UK thus needed a Common Fisheries Policy, and could not effectively adopt a unilateral national zone of fisheries jurisdiction. It had, however, to push either for a preferential zone or for a large share of Community quotas in order to placate the fishermen and anti-marketeers, and could adduce as arguments the facts that the UK both made the largest contribution to Community fish resources and had suffered the greatest loss of catch through exclusions from Third Country waters.

One way of improving the protection for inshore fishermen without breaching the CFP might have been to adopt the time-honoured coastal state tactic of creating new baselines. The provisions of the RSNT would have permitted the UK to claim archipelagic status, and thus to make some useful gains in internal waters between the Orkneys and the Shetlands (the Hebrides were already enclosed under the 1964 Act [8]). This approach was not to the liking of the Commission, however, whose first proposals on a new regime of extended jurisdiction stipulated the application of the baselines of February 1976 [9].

The co-ordination of British policy towards Europe was centred on the Cabinet Office, which weakened the FCO's contribution to planning. The extensions of jurisdiction agreed at the Hague, and the appointment in mid-1976 of an energetic Dane, Gunderlach, to serve as the relevant Commissioner, increased the priority accorded to finding a technical solution to the fisheries problem. Thus MAFF and the

Scottish Office began to exercise more prominent roles. Their officials always accompanied FCO Ministers to the Council of Ministers, and MAFF maintained five senior staff permanently in Brussels, [10]. This higher structural priority was magnified by a more strenuous ministerial involvement. The Scottish Office's involvement was co-ordinated by Brown, Minister of State, who, chastened by his earlier experiences, now held regular meetings with all Scottish fisheries organizations [11]. From January 1977, certain items were transferred to the Council of Agricultural Ministers from the Council of Ministers, demonstrating a yet further diminution of FCO control [12].

The combination of a dependence upon the Community, and of a fishing industry pressing the government for an exclusive zone, defined the approach taken by HMG. The Government signalled to its European colleagues that a "successful review of the common fisheries policy must include two major elements: a satisfactory coastal regime and a workable quota system" [13], effectively this embraced both the inshore requirement for protection and the desire of all in fisheries for conservation arrangements which would not be breached. A negotiating position based on these two considerations was announced by the FCO's Minister of State, Hattersley, on 4th May 1976, between the Commission's initial proposals on extensions and the Hague agreements, and before the settlement of the Third Cod War. In that context it is perhaps unsuprising that the government balked at asking for an exclusive length defined by a uniform distance from baselines. Claiming that "the British fishing industry" were asking for an exclusive limit of 100 miles - in fact was a demand of the BFF alone, and one which it was to abandon the following month - Hattersley laid down HMG's demand as being for an exclusive belt of

variable width from twelve to fifty miles according to "regional (economic and political) considerations". Historic rights within twelve miles would not necessarily have to cease. Hattersley suggested that the NEAFC had been ineffective, but that "in the community it could be different", and that quotas would have to be obeyed [14]. To strengthen HMG's hand, the policy was put to a vote in the House of Commons [15]. In the light of this negotiating position, Silkin refused all Commission initiatives on the CFP which did not accord with the UK's requirements.

Despite this, HMG was not inflexible, and twice adjusted the UK's demands in order to accommodate the dislike which some of her partners felt for exclusive zones within a Common Fisheries Policy. In June 1977 the variable exclusive band moved to a demand for a twelve-mile exclusive zone, with the gradual phase-out of historic rights, and a 12-50 mile zone of "dominant coastal state preference". This preference could be enforced either by the issue of licences, by selective effort limitations, or by state quotas. In the remainder of the pond each state would have a "normal" share of quotas, enforced by effort limitation. Such an arrangement had no implications of territoriality, and unlike the variable belt treated all coastal states equally. The UK advantage would stem from its more extensive coastline. The Commission and the other states, except for Ireland, showed themselves unwilling to concede such a general derogation from the principle of free access, and discussions began to move towards a consideration of national shares of TACs. The government adopted a fall back position of asking for about 900,000 tonnes of fish, plus a share of increased TACs resulting from effective conservation measures [16]. In December 1977 Silkin asked for forty-four per cent of total TACs in the pond [17].

If the UK gradually moved towards formulae which could avoid any implications of territoriality, the Commission also attempted to accommodate UK aspirations. It first proposed quotas based on average catches over ten years, weighted to emphasise 1973-6 and for the Hague preferences. The UK, together with the German Federal Republic, succeeded in persuading the Commission also to include "jurisdictional losses" (losses from third country extensions) [18] in its calculations. This issue was important to the UK, which had lost thirty per cent of her traditional catch in this way, but the weighting in the Commission's formulations was not accepted as sufficient. HMG also continued to press for some allowance to be given for contribution to resources. She argued that since sixty per cent of the Community zone was generated by the UK, her fishermen should be entitled to a high proportion of TACs [19]. For the other state members of the EEC to have conceded that contribution to resources might be taken into account in the establishment of quotas might have had serious precedent effects upon other issues. The balancing of national contributions and receipts conflicted with Community principlesin general. The British claim to sole ownership of the fish also ignored the fact that adult fish caught in UK waters were often born and recruited in other national zones, and thus their stocks could not be conserved without the conservation efforts of other states and their nationals.

The Commission could however concede less-territorial formulae. In its 1978 proposals it offered "fishing plans", an arrangement for restricted access to certain areas beyond twelve miles which would "normally relate to" endangered stocks or stocks whose exploitation is of special importance to coastal populations" [20]. They were not

allowed to discriminate between fishermen of different member states, but they would take into account vessels with a limited range of operation. Fishing plans were therefore intended to advantage local coastal fishermen, and to operationalise the Hague preferences, and as such they were accepted by Ireland, which like the UK had been asking for larger exclusive zones. With these fishing plans to protect coastal fishermen, the UK could have thirty-one per cent of total TACs.

Silkin rebuffed fishing plans on the grounds that the quotas with which they were offered failed to take into account this sizeable contribution to resources and did not sufficiently compensate jurisdictional losses. In addition the fishing industry continued to insist upon a fifty-mile exclusive zone. There were three main strands to the UK's approach during the period 1977-9. The first was to make use of its rights under the Luxembourg Compromise to block any aspect of the CFP, arguing that the whole package would have to be settled together. The second was to introduce national conservation measures in the UK zone pending an EEC agreement. This was perfectly in order under the Hague agreements provided the UK notified the Commission, and measures were introduced according to ICES recommendations. Early on in the struggle the dangers to the legal standing of the coastal state of conservation regulations which were de facto discriminatory, even if not so in form, were shown when Ireland was censured by the European Court [21]. It nevertheless proved was possible for the UK, in the name of conservation, to transfer capacity reductions to other states, especially the Danes, because the UK zone constituted such a large proportion of total EEC waters. Britain could make arrangements for well over half the fish resources in the pond, which gave it tremendous influence.

The unilateral application of conservation regulations was in part intended to placate inshore fishermen, to raise the cost to other EEC states of the failure to reach a settlement, and to curb directed fishing for industrial purposes. The UK had an excellent opportunity to pose as a scientifically responsible state, because from March 1975 the ICES had repeatedly asked NEAFC to impose substantial short-term sacrifices on member states to allow overfished stocks, notably North Sea herring and plaice, to recover.

The UK's growing willingness to take decisive and sometimes unilateral action in the application of conservation regulations was facilitated by an enlargement of its policing capability and by the divorce of the Fishery Protection and Mine Countermeasure Squadrons in May 1977 [22]. The six DAFS fishery cruisers and nine MAFF 360 ton minesweepers had been augmented, between 1973 and 1976, by four 'Bird' patrol boats and a number of Nimrod aircraft, all under military control. Then between March 1976 and June 1977 five vessels of the new 'Island' class were launched. These were 1,250 ton armed trawlers, with a maximum speed of only 16 knots and no helicopters. A number of commentators and MPs suggested that the UK should order a number of 'Aztec' patrol boats, developed by a Scottish firm for the Mexican Navy, with a much higher speed and a lower unit cost than the 'Island' class. Such suggestions were scotched by the Royal Navy, who were anxious to maintain all Fishery Protection Vessels as potentially operational warships. Arguments for a 'blue-lamp navy' (marine police force) [23] to carry out both oil-related and fishery protection functions, were strenuously opposed by both the FCO and the RN. While the vessels were slower than might have been desirable the introduction of aerial patrols by

RAF Nimrods enabled some violations to be filmed and fishing effort to be plotted, which much improved enforcement [24].

The first major stock on which the UK imposed its own conservation regulations was North Sea herring. The ban on directed industrial fishing for herring still left half the North Sea quota allocated to industrial by-catches, with only six per cent of the total TAC for 1976 allocated to British fishermen. The fisheries departments agreed that it was unreasonable to allocate the UK fishermen such a small proportion of the TAC in a 'pond' of which more than half was contributed by the UK. HMG was unwilling to accept the political and economic costs of a massive shrinkage of the herring fleet on such terms. Having obtained the agreement of the Fishermen's Federations for a complete ban on directed herring fishing if such a ban could be negotiated, the fisheries departments offered to impose a complete ban on directed fishing for North Sea herring until the end of 1977, as long as all other EEC governments did likewise. This offer, made in August 1976, was accompanied by an announcement that until such a ban was imposed UK fishermen would not be required to observe their quota, then 9,700 tonnes. By mid-September, they had taken 25,000 tonnes, and as no response had been forthcoming from other states, HMG imposed a unilateral ban on all directed fishing for herring in the UK 200-mile zone. The following March the ICES' Herring Assessment Working Group recommended a complete ban for the third consecutive year. A three-month ban was agreed by the Council of Ministers but was not renewed on expiration in June. The UK maintained her unilateral ban, and the EEC Agricultural Ministers agreed in August to make it EEC-wide. The measure proved effective, in that the spawning stock increasing from 267,000 tonnes in Spring 1978 to 400,000 tonnes a year later. Fishing was not reopened until

1981, but a longer period of restraint would have been required to restore the spawning stock to its level of the early 1950s, when it was estimated by MAFF scientists at 2.5 million tons. The herring question showed the EEC to be potentially an effective conservation body, but prone to the same political problems as the NEAFC.

Unilateral action was also taken in relation to the Mourne herring stock in the Irish Sea. The stock straddles the zones generated by the Republic of Ireland, County Down and the Isle of Man, and Ireland ignored the 1975 NEAFC ban on directed industrial fishing to benefit a newly-commissioned fishmeal plant. The UK retaliated by permitting herring fishing to continue within Manx waters and within half a mile of County Down. Entry to these fisheries was restricted by a licensing system off the Isle of Man [25] and to vessels under 35 feet in length off the Down coast [26], so as to limit the fishery to the local fishermen who were enraged by the industrial fishery.

MAFF was also willing to take unilateral action in relation to the mackerel fishery of the South-West. By the close of the 1976-7 winter fishery it was apparent that the catch had far exceeded the recommended TAC of 250,000 tonnes. In all 315,000 tonnes were recorded, and the potential fraud in the practice of transshipment implied that the true catch might have been considerably higher. In 1977, following vigorous pressure from fishermen and MPs, MAFF introduced a licensing scheme [27], limiting the number of large vessels based elsewhere than in Devon and Cornwall which could participate. There was little controversy about this since few vessels from other member states exploited the fishery. The scheme was loosened when the ICES' Mackerel Assessment Working Group declared the stock to be twice as large as previously thought and

recommended TACs for 1978 and 1979 of 450,000 and 435,000 tonnes respectively.

The most contoversial conservation measure initiated by the UK was the creation of the 'pout box' in the North Sea. MAFF scientists felt that tighter controls on the by-catch of protected species in industrial fishing were unenforceable, and they recommended the banning of fishing for Norway pout (taken by Danish vessels for reduction to fishmeal) in a large area of the North Sea constituting the nursery grounds of haddock and whiting. Having obtained Commission sanction, the UK asked the NEAFC to ban pout fishing in the area 56-60 N and 4W - 1E. The NEAFC accepted the validity of UK arguments and instituted from 1st November 1977 a slightly smaller 'pout box' stretching Eastwards only as far as the Greenwich Meridian line. Assessments of the results of this measure differed widely in Britain and Denmark. Aitchieson, the SFF Secretary, said that it was the most effective measure for the conservation of white fish which the UK had yet taken [28]. Spokesmen for Danish government and industry argued to the contrary, the measure had damaged white fish stocks as adult pout feed on immature white fish. In July 1978 the UK, having failed to convince the European Commission, unilaterally extended the box Eastwards to the UK-Norwegian median line, and instituted fishery patrols to enforce the extension. The pout box may or may not have been an effective conservation measure, but it sharply reduced Danish fishing capacity, which fell by 30% in the year to October 1979 [29]. The UK also applied NEAFC-agreed mesh and size regulations in prawn (March 1977) and nephrops (July 1979) fisheries without awaiting the Commission's decisions on implementation.

The conservation policy froze the situation in which the UK was at loggerheads with other member states over access, TACs and quotas. Despite this, the UK, along with its Community partners, withdrew from individual membership of the Fisheries Commissions to make way for EEC representation, in December 1977 and December 1978 respectively. Overfishing continued, and yet in 1979 the European Commission advanced no new proposal on quotas, refusing to offer the UK above thirty-one per cent of TACs. Since the UK blocked agreement, no TACs were established for the year.

The third strand to the UK's approach was to give periodic aid to the fishing industry, but not enough to permit the purposeful restructuring of the fleet. In part this was the result of a desire to maintain capacity pending agreement, an aim in which it was not completely successful, but UK capacity over 40' only fell by thirteen per cent in the two years 1977 and 1978 [30]. This desire to prevent capacity reductions also led to the adoption in October 1977 of a system of daily quotas for herring in the Clyde and the Forth. This angered many small boat pelagic fishermen of the Clyde and the South West, who argued that the new system did nothing to safeguard stocks. They were faced with the choice either of dumping any fish over their daily landing quota, or of transshipping catches at sea to Eastern European factory ships (klondyking), an activity already widely engaged in by larger trawlers and purse seiners. This practice, the small fishermen held, made enforcement of catch limitations almost impossible [31]. Two years later MAFF offered the fishermen another incentive to remain in business by allowing fishing for mackerel on their summer grounds in the North Sea, but the fish were so widely dispersed that catches were very poor.

Blocking an agreement for three years, while using as leverage the importance of the UK zone to the fishing industries of other member states, was both unavoidable, given the political pressures, and most effective. The capacity of the Danish fleet fell by thirty per cent during the year to October 1979 [32], reducing future effort in the industrial fisheries. The hard line also encouraged the other member states to compromise with Silkin's more pro-Market successor, lest the chance of an agreement recede once more.

The General Election of 1979 brought in a Conservative government whose election strategy had made much of being "good Europeans" as compared to the Labour Party, which it characterised as obstructive to the European ideal. Given the fact that Conservative MPs represented most inshore seats during the 1974-79 parliament, and since the party had regarded as crucial the recapture from the SNP of the six inshore seats which it had lost in 1974, no specific Conservative Party criticism had been made of Silkin's hard line. Indeed for most of the previous parliament the party's MPs representing inshore constituencies had adopted a strongly coastal state standpoint [33]. With a parliamentary majority of around forty, as opposed to the one or two available to the Labour government, and the SNP strength reduced to two, the government now had some latitude. The new Minister for AFF, Walker (C - Worcester), had no constituency interest in fishing and was anxious to reach a settlement.

In addition some of the UK's weapons were removed as from 1979 onwards the European Court ruled several of her conservation measures to be illegal. In October 1979 the Court, in the "Cap Caval" case [34], found that in introducing the March 1977 regulations concerning

mesh size for prawn the UK had failed to consult the Commission as required by the Hague agreement. The following July the Court condemned the UK for the discriminatory nature of the Isle of Man and Northern Ireland herring regulations, and for its failure to consult the Commission. In addition the Court ruled that the Eastward extension of the pout box had not been conducted according to the spirit of the Hague agreements and that its purpose was not conservation but to limit the Danish industrial catch while raising the catch of the British food fishery [35]. A further judgement in May 1981 attacked the manner of introduction of the nephrops and herring regulations, and declared that from 1st January 1979 (six years after accession as stipulated by Article 102 of the Accession Treaty) member states were "no longer entitled to exercise any power of their own in the matter of conservation measures in the waters under their jurisdiction" [36].

The new government and the industry's continuing financial losses made MAFF negotiators a little more flexible on what constituted a fair proportion of the catch. In addition, sensing that exclusive belts and zones were anathema to many of its partners, it dropped "dominant preference", and instead sought "an adequate zone of exclusive access and preferential arrangements beyond; satisfactory quotas; a comprehensive and effective Community conservation policy; and a control system which enables us to police our own waters" [37]. Britain participated in a Working Party to determine which historic rights were "vital" and which were not.

This flexibility on access concentrated the discussion on TACs and quotas, and on 29th January 1980 an agreement establishing TACs for 1980, by zone and species, was signed by officials of all the members

of the EEC. The agreement was adopted by the Council of Ministers on 26th March [38]. Although TACs were now established, their division into state quotas still promised to be difficult, but in May a tacit agreement was made that this could be achieved provided a solution could be found to Britain's excessive contribution to the Community budget [39]. The Council of Ministers agreed on 30th May that a new common policy would be put into effect at the latest on 1st January 1981. Quotas would be established with particular regard to traditional catch levels, to the special needs of regions particularly dependent on fishing, and to jurisdictional losses, a formulation which refused to concede the criterion of contribution to resources [40].

Following this declaration, much work was put into reaching agreement on quotas. In July the UK again rejected quotas amounting to around thirty-one per cent of TACs [41], but in September a standard procedure for boarding and inspection was established, which went some way to make up the gap left by the collapse of the NEAFC joint enforcement scheme at the general extension of limits [42]. In December the Council discussed a proposal which gave total compensation for jurisdictional losses, but no allowance for by-catches of protected species, and paid regard to the traditional shares of each country in the period 1973-78 [43]. Although this reference period under-valued Britain's herring catch, the proposal offered Britain 36.1 per cent, by value, of the total catch of protected species, five per cent above any previous offer. HMG was inclined to accept, but France, with an election pending, did not feel able to accept the modifications of its historic rights as agreed by the Working Party. No agreement was therefore reached. At the December meeting the UK also revived fishing plans as a means of protecting coastal

fishermen, suggesting two preferential boxes for demersal fishermen, one covering the Irish Sea and one embracing the Orkneys and Shetlands. In these boxes only vessels under 79 feet in length would be able to fish [44].

The absence of quotas in 1980 left each state constrained only by the requirement that fishing by its vessels should keep within the TAC, and for 1981 the Council of Ministers failed to adopt any TACs at all. This could have resulted in massive overfishing. Instead the Commission declared that notwithstanding the Council of Ministers' failure to adopt Commission proposals, member states were required to force their vessels to comply with them, since the Community had possessed sole competence for conservation measures since January 1979. Few states accepted this assumption of power by the Commission, but in the Council of Ministers member states undertook for three months to regulate their fishing activities "taking into account" the TACs recommended by the Commission [45]. This decision was renewed every three months until the January 1983 agreement.

The Conservative government found itself in a similar position to that of its Labour predecessor. Despite its claims to be a "good European", it could not afford to alienate the fishermen, whose interests and concerns were now regularly aired and analysed in the media, a process aided by the new unity of purpose between the BFF, the SFF, and the NFFO. The government urgently needed to improve the economic viability of the UK industry, whose capacity was draining away, with large vessels particularly hard hit [46]. The government continued to make successive and short-term releases of cash for operating subsidies, the amount being related to the size of the vessel. A prime motivation for HMG was to maintain UK

over-capacity as a bargaining counter for the negotiations about a revised CFP [47]. While the optimal solution was for the UK to obtain high quotas, the restriction of imports would also be useful. Much of the cod caught off Iceland and Norway by local fishermen found its way into the UK, Europe's principal market for white fish. Resentment about such imports was demonstrated by renewed blockades of ports by Scottish inshore fishermen in February 1981, when a high pound, buoyed up by oil revenues and the UK failure to join the European Monetary System, encouraged large quantities of imports. MAFF thus shifted its area of concentration from access and quotas to the marketing provisions of the CFP. Pressure was applied on the other member states by preventing the entry into force of fisheries agreements with third countries. The EEC had made a number of such agreements, but they had in no way lived up to the BFF's expectations. The total United Kingdom quota for Third Country waters for 1979 amounted to 72,000 tonnes, of which only forty per cent was cod (see Figure 15.1). Reserving on such an agreement was not entirely a new weapon, since the UK had blocked entry into force of the fishing agreement between the EEC and Norway for the year 1978-79. The blocking had little effect, since both parties applied the agreement in autonomous regulations, and applied scant pressure on other member states, since the agreement provided for a UK quota of around 27,000 tonnes of cod and 10,000 of haddock in the Barents Sea and off Spitzbergen (see Figure 15.1). In 1980-2, however, the UK was able to block three agreements which offered her relatively little, two of which involved improved access to the EEC market for the fishery products of a third country. Thus Britain blocked implementation of a long-term fisheries agreement made with Canada in November 1980. In this agreement the Community agreed to grant Canada a tariff quota of 24,000 tonnes at reduced rates of duty in

Figure 15.1: United Kingdom 1979 quotas in third country waters [48] in tonnes

1. Norway (excluding North Sea Joint Stocks)

	UK	EEC
Cod	23,496	32,000
Haddock	10,545	15,000
Saithe	1,541	13,000
Redfish	5,964	16,000
Greenland Halibut	500	1,000
Others	1,393	2,500

2. Spitzbergen

	UK
Cod	4,000
Haddock	130
Others	490

3. The Faroes

	UK	EEC
Cod and Haddock	4,880	5,000
Saithe	4,090	13,500
Redfish	61	5,500
Blue Whiting	11,000	30,000
Other	1,677	8,300

4. Northwest Atlantic

a. Canada

	UK	EEC
Cod	1,020	8,450
Others	115	535

b. International Waters

	UK	EEC
Cod	1,800	9,000
American Plaice		700
Flounder		400

exchange for catch quotas in Canadian waters. The UK was only awarded a quota of 1,000 tonnes, out of a total of 14,500 tonnes, with the bulk of the quota going to West Germany. Since Britain was the principal open market for white fish HMG demanded, as the price of acceptance, a 25 per cent increase in withdrawal and reference prices, subsidised sales of fish to Poland, an end to certain autonomous tariff suspensions and a limit to the amount of Canadian exports entering the British market [49]. The Germans retaliated with a threat to prevent the UK's receiving budgetary rebates about which HMG had been pressuring the Community [50].

This obstructionist policy was effective in some ways. In September 1981 Britain abandoned its "reserve" on the Canadian agreement and on the 1981 agreements with the Faroes and Sweden in exchange for a promise of a new market organisation package to come into effect on 1st January 1983 [51]. The new organisation was more flexible than that established in 1970, and effectively made the industry self-governing except for conservation purposes. This was a logical extension of the concept of producer organisations, since already the White Fish Authority and the Herring Industry Board, which had operated for several years with shared facilities, had been formally united by the Sea Fish Industry Act 1980 [52]. More generous grants were available to producers' organisations, and certain rules concerning trade in fish products were extended to non-members of such organisations. Basic withdrawal prices were increased, but the cost of withdrawals was to be financed by a co-responsibility levy on all producers. A degree of flexibility was introduced, with withdrawal prices sliding progressively downwards as more fish were withdrawn from sale. These prices were also to be adjusted seasonally to take into account seasonal changes in price. A 'carry

over premium' was introduced so as to permit withdrawn fish later to be processed for human consumption. Finally, the reference price system for imports from third countries was modified so that the Commission could act more rapidly to prevent serious disturbances to the EEC market.

Having obtained substantial concessions on the organisation of marketing, HMG hoped to be able to relax its stance on access without alienating the fishermen. In bilateral discussions with France the demand for the fishing plan area for the Irish Sea was withdrawn, and the reserved box demanded for Orkney and Shetland was reduced in size. The maximum size of unlicensed vessels in this box was raised to accommodate more Scottish boats, and 128 licences, all but a few allocated to British or French vessels, were to be made available to vessels above 85 feet in length. In return France would lose such historic rights as previously agreed. As a result of these British and French discussions the Commission was able to make a proposal which effectively meant that for the period from 1st January 1983 until 31st December 2002 a twelve-mile limit, with specified historic rights, would persist. The British and French compromise on the Orkney and Shetland box was accepted [53]. On quotas the UK was happy with the percentage offered in December 1980, and a fairly similar proposal in June 1982 received the support of all member states save Denmark. The latter had been the principal loser during the course of negotiations over quotas. When only historical catches had been taken into account she had been offered forty per cent of TACs, now she asked for a thirty per cent share [54]. In October the Commission offered Denmark a reduction in the size of the Orkney and Shetland box, and higher cod allocations in the North Sea and the Norwegian Sea. Denmark responded with a demand for 20,000 tonnes of West of

Scotland mackerel. The nine other member states countered that they would withdraw the proffered concessions and implement the June proposals, but offered Denmark additional temporary quotas for cod and mackerel [55]. Somehow the situation had changed to the extent that instead of the UK being isolated it was now the Danes, whose fishmeal industry was being offered very little.

In November the Council discussed adopting the Commission's proposals by majority vote, but this was opposed by the UK, together with France and Greece, as a matter of principle, since it could prove a significant precedent for the loss of sovereignty. A number of further quota, trade, and structural aid inducements were offered to the Danes, and on 25th January 1983 the Council of Ministers finally approved the new CFP package [56].

The Terms of the Agreement

Despite six years of wrangling, or perhaps because of them, the Common Fisheries Policy as agreed in January 1983 represented a coherent and potentially authoritative structure for the management of fisheries. The Commission was empowered to set TACs annually in the light of scientific advice assembled by a new Scientific and Technical Committee for Fisheries [57]. Thus the setting of TACs was taken out of the processes of political bargaining which had bedevilled the NEAFC. These TACs and quotas were to be specified for smaller and much more precise zones than had been the case in the NEAFC [58], and to prevent future wrangling about quotas it was established that their agreed allocation would provide a "reference allocation" upon which the distribution of future quotas would be based. These quotas would be established with the intention of

ensuring "relative stability of fishing activities" [59].

The provisions about access to the UK twelve-mile zone fell far short of the industry's demands for a fifty-mile exclusive limit, and constituted an approximate return, for the ten years 1983-92, to the position of 1964-72. At the end of 1992, historic rights between six and twelve miles from baselines would again be generalised. Walker boasted that he had eliminated or reduced historic rights in nearly three-quarters of the British coastline where other member states had fished [60], but the catch effect of this was negligible. In practice the UK had, over the four years 1979-83, abandoned access concerns in favour of a larger share of the catch.

There was only one significant derogation about access so far as the UK was concerned. This was the establishment of the Orkney and Shetland box, which although smaller than originally proposed represented a large tract of Community waters beyond twelve miles from baselines where the principle of national non-dicrimination did not apply. Only the UK (62), France (52), Germany (12) and Belgium (2) were to receive licences for vessels over 85' in length.

Conservation measures were to be determined by the Commission in the first instance, according to the annual recommendations of the Scientific and Technical Committee for Fisheries [61]. A Management Committee for Fishery Resources was established, with weighted representation from member states under the chairmanship of the Commission [62]. This Committee would pass to the Council any objections it might have to a conservation measure adopted by the Commission [63]. This system was not independent of the Fisheries Commissions, since the Commission represented the Community on both

the NEAFC and the new North Atlantic Fishing Organisation (NAFO), which had superseded ICNAF as a body with greater executive powers and less dependent upon the whims of states [64].

Enforcement of conservation arrangements was to be left to member states, but the regime of flag state control had given way to a system of control according to national zones. All Community vessels were to be required to keep a log in which their catches would be recorded. The state exercising jurisdiction over the zone where a stock is located would exclude vessels of another when a check of logs revealed that that state's quota has been exhausted. Any fishermen, from whichever member state, contravening Community regulations would be liable to prosecution in the courts of the state in whose zone the offence occurred [65]. This national approach may seem to contravene the communitaire motivation of the CFP, but the regulations under which a fishermen would be prosecuted would be those of the Community, rather than regulations formulated by the prosecuting state. In addition, the system would require a comprehensive system of surveillance, reporting and collation of information, and whereas member states are likely to have such facilities for the observation of shipping and the reporting of oil slicks, the cost of a new system for fisheries alone would be immense. Zonal enforcement is also likely to be far more effective than flag state enforcement and somewhat more effective than enforcement by the Community. As Underdal has put it: "the closer one party is to exclusive ownership of a certain stock, the more responsible will be its management policies" [66]. To ensure coastal state compliance with the regulations a team of Community fishery inspectors was established.

Summary

HMG found itself in a position from 1976 where for a variety of domestic political considerations it had to take an extremely strong line in defence of the interests of the fishing industry, whose traditional division into inshore and deep sea had become insignificant so far as international fisheries policy was concerned. On the other hand it was not possible, lest other Community states retaliate, to adopt a unilateral 200-mile zone and to renege on the CFP. The solution was therefore adopted of applying national conservation measures in the UK zone while refusing to sanction agreement on any aspect of the CFP which did not take into account the UK's contribution to resources, jurisdictional losses, and populations particularly dependent on fishing. This policy was to the personal liking of the Minister for Agriculture and Fisheries during the period 1974-9, Silkin, who was opposed to continued UK membership of the Common Market. The policy was also fairly popular with the fishing industry, which stuck to a common demand for an exclusive fifty-mile zone from 1976 onwards, a demand which although not adopted by HMG placed constraints upon it because of the Labour government's extremely small overall parliamentary majority.

This blocking of an agreement succeeded in sharply reducing the fishing capacity of the Danes, the bulk of whose industrial catch came from the UK zone. It also increased the willingness of other member states to deal with the Conservative government which came into power in May 1979, and which was less beset by domestic constraints than its predecessor. From 1979 the new government adopted a slightly more conciliatory attitude, and traded concessions on marketing issues and a protected area around the Orkneys and

Shetlands for lower quotas than originally demanded. It also blocked agreements with third countries as a lever in the negotiations. Finally in January 1983 a new CFP was agreed upon, which gave the UK less than the fishing industry demanded, but promised to provide a much more workable fisheries regime than had previously held sway. It created semi-appropriated fisheries, with fairly national quotas in place of territorial control. It appeared to usher in a new period of stability after a period of extreme instability in fisheries policy.

Notes

1. The Economist pointed out that in the 1974-79 Parliament the proportion of marginals among fishing constituencies was three times the national average, with the Conservatives in particular being vulnerable to any swing against them (The Economist, 21st January 1978), quoted in M. Shackleton, "Fishing for a Policy? The Common Fisheries Policy of the Community", in H. Wallace, W. Wallace, and C. Webb (Ed.), Policy-making in the European Community (Chichester: John Wiley, 1983), p.354.

2. Sea Fisheries Statistical Tables, 1973 and 1979.

3. Letter of Commander M.B.F. Ranken, The Times, 25th April 1975.

4. "Officier Van Justitie v. Cornelis Kramer (Case 3/76)". European Court of Justice, 14th July 1976. Common Market Law Reports (1976) 2, pp.440-473.

5. "Treaty concerning the accession of the Kingdom of Denmark, Ireland, the Kingdom of Norway, and the United Kingdom of Great Britain and Northern Ireland to the European Economic Community", Brussels, 22nd January 1972. Treaty Series 1 (1973). Command 5179, Article 102.

6. M. Wise, The Common Fisheries Policy of the European Community (London: Methuen, 1984), p.215.

7. Commission of the European Communities, Restructuring of the small-scale fishing industry, ISEC/B54/75, 19th December 1975.

8. Fishery Limits Act 1964, 1964 c72.

9. Commission of the European Communities, COM (76), 59 final, 24th February 1976.

10. House of Commons, The Fishing Industry, Fifth Report from the Expenditure Committee, Session 1977-8. Together with Minutes of Evidence taken before the Trade and Industry Sub-Committee in sessions 1976-8 and Appendices. (HC286), Q1372, Q1414.

11. Ibid., Q1400.

12. Ibid., Q1377.

13. Text of Statement made to the EEC Council of Ministers by the Right Hon Mr. Roy Hattersley MP, Minister of State for Foreign and Commonwealth Affairs in Brussels on 4 May. Ibid., T15, p.1.

14. Ibid., T15, pp.1-2.

15. Hansard, Vol. 910, Or. 1484, 6th May 1976.

16. M. Leigh, European Integration and the Common Fisheries Policy, (London: Croom Helm, 1983), p.90.

17. Wise, op. cit., p.186.

18. Commission of the European Communities, COM (77), 524 final, 17th October 1977.

19. The UK's fallback position, in 1977, was for a British catch of 800,000 to 900,000 tonnes per annum. Although in weight this catch would only comprise a little over one third of the annual total catch in the UK fisheries zone, it included a disproportionate share of certain higher value species, like cod. House of Commons, The Fishing Industry, Q1426.

20. Commission of the European Communities, COM (78), 39 final, 30th January 1978.

21. "Re: Sea Fishery Restrictions: E.C. Commission v Ireland, (Case 61/77)", European Court of Justice, 16th February 1978. Common Market Law Reports, 18th July 1978, pp.466-518.

22. House of Commons, The Fishing Industry, T86.

23. See, for instance: E. Young "Time for Britannia to manage the waves", The Times, 13th May 1974, p.16, and P. Dickins, "Policing Offshore Waters", The Times, 2nd March 1976, p.13.

24. H. Clayton, "Stormy journey towards adoption of EEC fisheries policy", The Times, 6th March 1981, p.7.

25. This was achieved by granting ministerial discretion to issue licences within fishery limits, by means of annually-renewed Statutory Instruments. See, for example: Herring (Isle of Man) Licensing Order 1977, SI 1977 No. 1388.

26. See, for example, Herring (Irish Sea) Licensing Order 1977, SI 1977 No. 1389.

27. The Grimsby Seiners Association, who take much of the mackerel catch, had for four years been advocating a licensing system because unlike quotas it would permit vessels, albeit a reduced number, to operate profitably.

28. P. Hetherington, "Navy put on fishing invasion alert", The Guardian, 12th October 1979, p.3.

29. Ibid.

30. Sea Fisheries Statistical Tables, 1976 and 1978, Table 12.

31. B. Wilson, "Scots forced to dump herring", The Observer, Sunday 28th October 1979.

32. P. Hetherington, op. cit.

33. For the first time ever, the considerable number of Conservative MPs with an inshore interest in their constituencies began regular consultations with each other.

34. "French Republic v United Kingdom of Great Britain and Northern Ireland (Case 141/78)", European Court of Justice, 4th October 1979. Official Journal of the European Communities, C280, 9th November 1980, p.5.

35. "European court raps fish measures", The Times, 11th July 1980, p.6.

36. "Commission of the European Communities v United Kingdom of Great Britain and Northern Ireland (Case 804/79), 5th May 1981. Common Market

Law Reports, (1982), No. 1, pp.543-76.

37. Hansard, Vol. 983, Wr. 683-4, 2nd May 1980.

38. EEC Regulation 753/80, 26th March 1980. Official Journal of the European Communities, L84, 28th March 1980, p.30.

39. Leigh, op. cit., p.92.

40. Council of Ministers. Declaration, 30th May 1980. Official Journal of the European Communities, C158, 27th June 1980, p.20.

41. Commission of the European Communities, COM (81), 435 final, 24th July 1981. The precise calculation of the proportions of the fish resources allocated to each state is difficult, but the proposal weighted species in terms of "cod equivalent", to account for differences in prices. A tonne of whiting, for instance, is deemed equivalent to 0.36 tonnes of cod.

42. On the declaration of 200-mile zones the NEAFC Joint Enforcement Scheme was effectively replaced by national enforcement mechanisms, although the relevant Treaty remained in force.

43. Leigh, op. cit., p.93.

44. H. Clayton, op. cit., p.7.

45. EEC Regulation 3796/81, 29th December 1981. Official Journal of the European Communities, L379, 31st December 1981.

46. See, for instance, letter from D.G. Aitchison, Chief Executive of the SFF, to the Right Hon. George Younger MP, Secretary of State for Scotland. In House of Lords, "EEC Fisheries Policy". Sixty-seventh Report to the Select Committee on the European Communities, with Minutes of Evidence. (HL351) (London: HMSO, 1980), pp.122-4.

47. For instance, in March 1981 the collapse of CFP talks was announced in Parliament at the same time as the unveiling of a new £25m package of financial aid to the fishing industry. M. White, "A touch of the fishy fillet", The Times, 31st March 1981, p.2.

48. Source: Office of the European Communities.

49. See Leigh, op. cit., p.113, and "Possibility of solution to fishing dispute at today's Brussels meeting seems remote", The Financial Times, 27th March 1981, p.2.

50. Wise, op. cit., p.221.

51. EEC Regulation 3796/81 op. cit.

52. Sea Fish Industry Act 1980, 1980 c35.

53. "Danes have a week to reach agreement", The Times, 27th October 1982, p.1.

54. "Walker denies giving way on EEC fisheries", The Times, 1st July 1982, p.4.

55. Leigh, op. cit., p.97.

56. EEC Regulation 170/83, Official Journal of the European Communities, L24, 27th January 1983, pp.1-13, Article 2.

57. Ibid., Article 12.

58. EEC Regulation 172/83, Official Journal of the European Communities, L24, 27th January 1983, pp.30-41.

59. EEC Regulation 170/83 op. cit., Article 4.

60. I. Murray, "Walker hails 'superb agreement' on fish", The Times, 26th January 1983, p.1.

61. Ibid., Article 12.

62. Ibid., Article 13.

63. Ibid., Article 14.

64. "Convention on Future Multilateral Co-operation in the Northwest Atlantic Fisheries". Entered into force 1st January 1979. Miscellaneous No. 9 (1979). Command 7569. (London: HMSO, 1979).

65. Wise, op. cit., p.253.

66. A. Underdal, The Politics of International Fisheries Management: The Case of the Northeast Atlantic (Oslo: Universitetsforlaget, 1980), p.203.

CHAPTER 16

POLICY CHANGES 1967-83 AND THEIR DETERMINANTS

The revised Common Fisheries Policy agreed in 1983 has been treated in this study as a new equilibrium in UK fisheries policy, reached after a period of uncertainty and piecemeal change. To some extent this is an oversimplification, since it was obvious that the revised CFP would face a number of challenges. Firstly it was not yet certain what effect the conservation regime would have upon stocks. If, as was hoped, there was a recovery of depressed stocks as a result of more effective conservation it might not prove possible to treat the quotas for 1982 as reference ones since the relative size of stocks might change rapidly due to predation and thrust the question of distribution back into the political realm. By mid-1984, for instance, there were signs that the heavy mackerel fishing off the South-West of England had created a sizeable new stock of sprats, upon which mackerel feed, and that these sprats in turn supported a new cod stock off South Wales and the West Country. There were no TACs for either of these stocks, and when and if they were established the lack of reference quotas might lead to inter-state rivalry over the shareout. Another problem which might cause a further modification of the new CFP was the future accession to the Community in 1986 of Spain and Portugal, with extensive national zones and large fishing fleets. Spain would probably be allocated quotas for some of the stocks in the existing pond, a requirement which even if reciprocated with quotas in Iberian waters for the fishermen of existing member states would not please UK fishermen, since the famed conservatism of the British palate meant that unfamiliar species would be unlikely to find a ready market

here. Another question which remained unanswered is to what extent fisheries management would move towards maximising MEY, whether the limited use of licensing, such as had been made as a means of limiting access to sensitive areas such as the Orkney and Shetland box would give way to a system where licences had a monetary value and authoritively controlled entry to the fisheries. The more probable alternative, given the importance which the Community's economic and social programmes generally attached to the maintenance of employment, was that the Community may eventually find itself faced with a "post Fleck" problem of having financed excess capacity with grants and loans for vessel construction.

A brief overview of policy changes

With these caveats, it was clear that the CFP agreed in January 1983 represented a new opportunity for stability in UK fisheries policy when compared to the period which had preceded it. UK fisheries policy had altered tremendously from the position in 1967, as described in Part II of this study. The fisheries regime accepted by the UK had shifted from one of narrow limits to coastal state fisheries jurisdiction to one of wide limits, and from a High Seas regime, characterising fishing as a freedom, to a semi-appropriated fishery, by which quotas had become a defined national resource within larger Community TACs. The CFP regime is a regional one, as those defined by the NEAFC and ICNAF had been, but centres around those states situated in the North East Atlantic region rather than those fishing within it. Therefore, unlike the Fisheries Commissions, the relevant EEC institutions possessed absolute control over which states, and therefore individuals, could involve themselves in the fisheries. The general acceptance of the 200-mile

norm had allowed EEC member states to exclude outsiders from the North Sea and from much of the North-East Atlantic, and thus new entrant states would not be able to take advantage of the EEC's stock investment strategies.

If the nature of the regime accepted by the UK had changed, the attitude of HMG towards it had changed even more. From the most steadfast opponent of coastal state jurisdiction over fisheries HMG had moved to an insistence that due attention within a regional scheme be paid to a coastal state's "contribution to resources". The speed of this change was remarkable. In May 1976, at the same time as frigates were being employed to enforce the "right to fish" twelve miles off the Icelandic coast of UK fishermen a Minister of State for Foreign and Commonwealth Affairs was arguing for a coastal belt of up to fifty miles effectively reserved for UK fishermen.

Coupled with shifts in the nature of the regime had been changes in the character of the regulatory arrangements made under that regime, from weak ones dependent for enforcement upon the goodwill of flag states to strong ones backed up by a joint Community inspectorate and regulations enforced by coastal states. Overlapping membership between ICNAF and the NEAFC had given way to a single family of consultational forums of interest to the UK. The strength of this change should not be overestimated, however. The Fisheries Commissions had in 1967 both discussed joint enforcement schemes, and the UK had supported them. The difference between the Commissions and the EEC lay mainly in the degree to which they were likely to be able to be effective, because of their overall power in relation to policy as a whole.

These changes in the fisheries regime favoured and accepted by the UK had been accompanied by only marginal shifts in the institutional arrangements for the government of fisheries. MAFF and DAFS persisted, with the only perceptible change being the addition of two new fisheries divisions within MAFF. The position of fisheries within the overall structure of policy-making had however changed markedly. Fisheries policy was still sectoral only to the extent that it remained of a technical nature and of interest only to specialist sections of the population, and that it relied upon delegated legislation. In addition fisheries was still not independent of the influence of Departments concerned to harmonise policies with other sectors, such as the Department of Trade and Industry and the Department of Employment. In other respects it no longer fitted the sectoral model delineated on pages 60-61. The paternalistic "sponsorship" relationship between the Fisheries departments and the fishing industry had given way to the regulation of government property rights, both in administering fishery activities within the UK zone and in overseeing the taking of UK quotas by British fishermen. Regulation by the Fisheries departments now implied managing the fisheries, both nationally and intergovernmentally, and required a willingness to limit the effort aimed at a UK quota in order to prevent a downturn in yield, rather than a search for workable compromises between conflicting interests. Moreover, whereas within the classic sectoral model a sectoral interest spanning the domestic and international environments would have to persuade the FCO to take up its concerns with other Foreign Ministers, within the new CFP there was an automatic system for the referral to the Council of Ministers of any problem raised by the Management Committee for Fishery Resources. A further major shift within the government of fisheries is that whereas in 1967 the

industry's views and wishes were often co-opted for strategic purposes by the FCO and by Her Majesty's Government in general, from 1983 fisheries was being treated independently and for its own rationale (my earlier remarks about the entry of Spain and Portugal excepted). This rationale is imposed through the Community's own system of assembling scientific information. This is conveyed directly to the European Commission, rather than indirectly to individual governments through a weak body representative of states, as had been the fate of the scientific advice proferred by the ICES.

The introduction to this study lists four main international aspects to fisheries policy; (i) limits to coastal state jurisdiction over fisheries, (ii) the vesting of authority on the High Seas beyond the limits of coastal state jurisdiction, (iii) the type of regulations introduced in order to conserve fish stocks, and (iv) the approach adopted for the enforcement of these regulations.

(i) On the issue of fisheries limits, whereas in 1967 the UK accepted, for Europe at least, a regime of twelve-mile limits to fisheries jurisdiction, legitimate under the Geneva Convention on the Territorial Sea and Contiguous Zone and legitimated by the European Fisheries Convention of 1964, by 1983 the UK recognised 200-mile limits to fisheries jurisdiction as customary law, legitimated by the Fishery Limits Act of 1976. Although this could be said to constitute a shift from a global to a regional approach, the UK had been careful in 1976 to co-ordinate its move with the provisions of the negotiating texts of the Convention on the Law of the Sea, and the general principle of 200-mile economic zones enjoyed such widespread support among states that this departure from the UK's global approach was unlikely significantly to increase uncertainty

within the international system. The UK was careful not to claim an EEZ so as not to prejudge the UNCLOS package, a package in which, ironically, after having invested so much effort, it was to appear to lose interest during 1983. Despite the vast increase in the UK's area of jurisdiction made by the-Fishery Limits Act, there had been in practice no corresponding extension of the exclusive area reserved to British fishermen. In 1983 the area between six and twelve miles from UK baselines where historic rights were exercised was smaller than in 1967, but in practice the potential catch taken in this zone by foreigners was much the same. For the first time, however, specific effort limitations had been agreed for these historic rights, rather than their being applied to any fisherman from a specific state.

The medium for the regulation of inter-state fisheries in the Atlantic remained regional arrangements, but in practice the only regime of importance to the UK was the EEC one. The NEAFC persisted, and ICNAF had been replaced by the North Atlantic Fisheries Organisation (NAFO), but they were of comparatively little relevance to the UK once the new CFP had been settled. The UK was no longer independently represented on either, the European Commission having replaced the individual representation of member states. External fisheries policy had become the concern of the Commission, and the UK's once large distant-water catch had been replaced by a concentration on EEC waters.

(ii) On the vesting of authority over what had formerly been the High Seas, the most significant change has been from the strident advocacy of open-entry fisheries tempered only by flag-state application of regionally-formulated rules, to the acceptance that EEC institutions

Figure 16.1: British wet fish landings in 1983 by region of capture.[1] ICES and NAFO areas appear in brackets.

		Tonnes	£000s	% of total catch by value
Distant water (NEAFC)	Iceland (Va)	—	—	—
	Barents Sea (I)	4250	2089	0.9
	East coast of Greenland (XIV)	—	—	—
	Bear Island and Spitzbergen (IIb)	—	—	—
	TOTALS	4250	2089	0.9
Distant water (NAFO)	West coast of Greenland (1B-F)	1265	684	0.3
	Gulf of St. Lawrence (4S-V)	—	—	—
	Labrador (2G-J)	—	—	—
	Gulf of Main and Georges Bank	—	—	—
	Grand Banks of Newfoundland (3L-P)	—	—	—
	TOTALS	1265	684	0.3
	TOTAL DISTANT WATER	5515	2773	1.2
Middle water (NEAFC)	Faroes (Vb)	262	205	0.1
	West of Scotland (VIa)	231707	42008	18.1
	Rockall (VIb)	702	287	0.1
	Norwegian Coast (IIa)	3361	1301	0.6
	Skagerrak (IIIa)	—	—	—
	TOTALS	237032	43801	19.1
Near water and inshore	West of Ireland and Porcupine Bank (VIIb-c), together with South of Ireland and Sole Banks (VIIg-k)	1975	1577	0.7
	Irish Sea (VIIa)	22389	8783	3.8
	North Sea (IV)	377714	150116	65.6
	English Channel (VIId-e)	80074	18909	8.1
	Bristol Channel (VIIf)	6347	3210	1.4
	TOTALS	488499	182595	79.6
	TOTAL CATCH	731046	229169	100.0

Figures for "near water and inshore" are not further subdivided because MAFF fishery statistics are not presented in a form which identifies the size of vessel used or distance taken from shore. A direct comparison with Figure 4.3 reveals to what extent UK effort had retreated into waters close to the UK coast. This comparison slightly overstates the fact, however, since Figure 4.3 excludes shellfish, which are mostly taken close to UK coasts.

should control the choice of grounds and the catch levels of British fishermen. The demand for free access to distant waters had been replaced by the principle that the European Commission could negotiate catch quotas there on behalf of member states. The area of High Seas would be much reduced should the Convention on the Law of the Sea enter into force, since by its provisions the EEC was sui generis.

(iii) Methods of conservation had moved from rules on minimum mesh and landed fish sizes, to a system of national quotas within a Community TAC, and a wide variety of conservation measures. To these mesh and landing regulations had been added closed seasons and closed areas, specifically the pout box. Effort limitations had been accepted for sensitive areas, and their extension was advocated by fishery scientists, although the latter favoured restrictive licensing rather than limits on gear type and vessel size, like that adapted for the Orkney and Shetland box. Industrial fishing for protected species had ceased, although there was still a substantial by-catch from the fisheries for trash species. There was a far greater understanding than in 1967 of the interlocking relationship between different stocks, and of the implications of the alternative conservation methods for the economic viability of all or part of the fishing industry.

(iv) The UK approach to enforcement has also shifted. An enforcement approach appropriate to a High Seas regime, primarily concerned about enforcing the right to fish, had given way to a system of national policing of EEC conservation rules in coastal zones out to 200 miles or the median line. The equipment available for the task of enforcement was somewhat superior to that which had

been available in 1967, with more vessels and the use of Nimrod photographic patrols. While vessels and aircraft still remained, with the exception of the DAFS fishery cruisers, under the control of the RN and RAF respectively, this had become an advantage because of the need for coordination between fishery protection, military surveillance of passing vessels and aircraft, and the safeguarding of oil installations.

Determinants of Policy Change

The extent and the speed of these policy changes are especially surprising in the light of the strength of the UK's previous commitment to narrow limit policies. There are two main reasons for this. The first is that the costs to the UK of policy maintenance exceeded the costs of policy change. Costs were imposed solely within the fisheries sector by a collapse of certain fisheries and by the diversion of vessels from distant waters, but this is not in itself a sufficient explanation of the shift in policy on fishery limits. More telling were the costs imposed upon high and low (economic) policy by narrow limits to national jurisdiction, in relation both to fisheries and to other issue areas. The loss of the effective surveillence of the UK-Greenland gap should Iceland leave NATO and the immense damage to the UK environment and tourist industry which might result from an accident involving a supertanker in the Dover Strait were costs imposed upon a simplistic policy of narrow limits to national jurisdiction comprising all competences. Similarly costs would have been imposed upon the UK by a series of unilateral extensions of coastal state jurisdiction, a prospect which looked very real during the majority of the life of the Seabed Committee, whereas to offer supporters of such extensions a

compromise seemed the only prospect of averting such general and indiscriminate extensions.

The second factor underlying change is that United Kingdom high policy interests changed very rapidly during the period. While the commitment to NATO and the wider "Western Alliance" remained paramount, the period saw the UK rapidly retreat from a global to a regional military posture. The Royal Navy and the RAF lost their bases on many other continents, while a shrinkage of the merchant navy occurred at the same time as a considerable reorientation of UK trade from the Commonwealth to the EEC. The minimisation of coastal state control over navigation thus became gradually less crucial to UK interests. One major development which might to an extent be expected to have strengthened the UK's concern for the freedom of navigation was a growing dependence of UK industry, for reasons of cost and convenience, upon imported oil. The resultant concern about oil supplies was heightened from 1973-4 by a series of price increases imposed by OPEC, and an oil embargo imposed by OAPEC. The steady development of oilfields within the North Sea promised to an extent to remove the cruciality of Suez and the Straits of Hormuz to UK strategic policy. On the other hand, new rights were needed to protect the oilfields, and a new requirement to extend the shelf controlled by the UK developed.

There are interlocking elements in both these explanations, and while neither of them pay sole accord to fisheries, it can be seen that fisheries interests have played a significant part in the determination of policy outcomes, even in relation to the question of fisheries limits, traditionally reserved to high policy. This does not imply that fisheries interests (the industry or any sector of it)

were able to articulate a clear and rational scheme for the overall management of fisheries and to obtain government sanction for it. For much of the period the industry was more successful in asking for operating subsidies than for anything else. This was because of its importance to regional policy and the degree of public sympathy engendered by maritime pursuits, and because subsidies did not threaten high policy, but even here its power was limited. Even during the period 1974-6, for instance, at a time when the inshore sector enjoyed a number of political advantages, and was willing to indulge in blockades, it was unable to obtain an extension of operating subsidies to vessels under 50'. Once work at UNCLOS 3 on the package for the Exclusive Economic Zone had removed any implications of territoriality from fisheries extensions, the fishing industry was able to wield more influence. In the Third Cod War the trawler owners forced HMG to send in frigates by determining that they would no longer fish within the zone without adequate protection. Similarly the inshore fishermen, in alliance with the purse seining fleet, were able between 1976 and 1979 to force HMG to take a strong stance in their favour in relation to the EEC, although they were not able to persuade the government to adopt their programme. Their success was largely a function of public sympathy, of the small size of the Labour government's parliamentary majority, and of the influence of the SNP and of anti-marketeers. The industry's influence receded somewhat once the last three factors had subsided, and after the 1979 General Election it was unable significantly to influence the CFP negotiations.

If the power over policy of fisheries interests was limited, the influence of fisheries issues lay rather in the increasing unworkability of existing sectoral arrangements. Even without the

military aspects of the cod wars and the perceived strategic implications of fishery limits, it is inconceivable that HMG could have refused by 1975 to seek a new conservation regime. It was confronted by the manifest failure of the NEAFC to stabilise stocks and by a massive dislocation of the trawler fleet in the light of the virtual extinction of distant-water fishing. This influence was however negative rather than positive, in that it did not prescribe a clear set of alternative policies so much as demonstrate the shortcomings of the existing ones. It is tempting to say that fisheries were solely responsible for the timing of the extension of fisheries limits, in that the end of the Third Cod War and the Fishery Limits Act were clearly related, but this would be to ignore developments at UNCLOS 3. It is difficult to predict what would have been the outcome had the FCO not felt confident that a move to 200-mile fishery limits in 1976 would not have jeopardised freedom of transit. Systematic crises within fisheries had no doubt occurred before: what made that of the 1960s and 1970s so thorough were the sophistocation of catching technology, the number of states involved, and governmental approaches to fisheries which concentrated upon the maintenance of employment rather than upon the needs of the resource.

Influential Actors

Central to the transformation of fisheries policy during the period was the shift by HMG from firm support of narrow limits for fisheries jurisdiction to support of wide limits. This shift was such a rapid reversal of a policy of three hundred years' duration that it is necessary not only to point to the factors underlying policy change, but to analyse which actors within the policy-making net were influential in effecting that change. The Fisheries departments and

the statutory bodies experienced an increasing disaffection of their staff from the concept of free entry fisheries. Although this disaffection began in the mid-1960s it was especially marked from 1973. The speed at which opinion change took place related partly to the condition of fish stocks, and partly to the inability of the Fisheries Commissions to do anything to restore them. The defection of the deep sea industry from the narrow limits position from 1974 onwards, and the introduction of regular consultations between the Fisheries departments and inshore organisations also propelled the opinions of fisheries civil servants towards support for appropriated fisheries. The speed at which institutional opinion moved was partly related to the degree of crisis in the fish stocks with which an individual institution was concerned. Thus the Chairman of the Herring Industry Board lost faith in the High Seas/ Fisheries Commissions regime as early as 1968, whereas MAFF's Fisheries Secretary clung to it until 1976.

Given the sectoral nature of fisheries administration, however, the opinions of these institutions cannot be said to have been particularly important in influencing policy change. In that the FCO is the lead department in international relations, it was FCO reassessments which led to the central shifts in emphasis. This statement is an oversimplification, however. One of the principal activities in which the FCO engages is information gathering, and even though institutional opinion within the fisheries section wielded no power over FCO decisions, it would have been transmitted into FCO considerations. The FCO, however, possessed ample evidence of its own as to the inadequacy of its traditional High Seas views on fisheries for its own high policy concerns; in the damage wrought by the cod wars to Britain's prestige, and possibly to NATO.

Alternatively, the Caracas offer may be viewed as an internal FCO calculation as to on what issues concessions could be made in order to obtain UNCLOS sanction of other vital policy goals. Given the secrecy of the FCO, and the way in views emerge, it is impossible to ascertain whether or not the FCO decision from the late 1960's to pay more attention to economic and technical training played any part in the move to a coastal state position.

Nor is there any evidence that other innovations to smooth policy co-ordination and change, such as the Cabinet Office, or the Central Policy Review Staff, played much part in policy change. The CPRS was influential in increasing government awareness of the importance of oil rig protection, however, which was one issue contributing to the redefining of the UK's navigational goals from freedom of navigation to unimpeded transit.

The record of political representation in contributing to the development of a national fisheries policy is mixed. The fragmented character of the fishing industry, together with the technical nature of many of the issues, meant that neither MPs nor political parties adopted stances in favour of an international fisheries policy appropriate to the resource. Parties generally took approaches designed to "defend our fishermen", a recipe for over-capacity when applied simultaneously by other states involved in the fishery. Most MPs took a similar position, but concentrated upon the particular needs of fishermen in their constituencies. The South Coast MPs who presented petitions about beam trawling knew and cared little about the technical evidence. Similarly Scottish positions on the drifting of salmon related, not to the overall needs of a fragile resource, but to the relative numerical strengths within

constituencies of coastal and inland populations. Even the willingness of some SNP MPs to advocate a scrapping subsidy to reduce over-capacity probably resulted less from a search for a workable conservation regime than from a desire to protect the herring industry of NE Scotland from competition from diverted distant-water vessels.

There were MPs who were influential, but they did not represent fishing ports. Dalyell (Lab - West Lothian) and Reed (C - Bolton E) made effective use of Parliamentiary questions on a wide variety of marine issues, even during the prosperous years of 1968-73, questions which required civil servants to research information and to assemble replies. Their attentions were not welcomed by the front benches of their own parties and nor was the attempt by one MP, Prescott, (Lab - Hull E) to conduct independent foreign policy of his own in negotiating with Iceland. The front benches seemed wedded both to a "national" approach to fisheries and to the traditional FCO interpretation of the strategic policy implications of fishery limits up until mid-1976, and similarly maintained a broadly common view once UK fishery limits were extended.

The fishing industry itself was influential more in its ability to appear to be in crisis, and to claim itself to be so, than in any advocacy of a rational all-embracing fisheries policy. It is not surprising that this should be so, given both the traditional divisions of the industry, and the fact that in an international free-for-all fishery there was no incentive for fishermen to limit their effort or capacity. The extension of fisheries limits, together with reference quotas, should help the industry to become more responsive to the needs of the resource. The traditional

organisational division will vanish - the BFF was wound up in February 1984, leaving the NFFO and the SFF to represent all fishermen and also to provide the secretariats for many of the Producer Organisations. Unanimity of industry opinion should thus be easier to obtain in the future, and fisheries policy should become less political. It should also become even more firmly sectoral than in 1967, since even international fisheries policy is semi-domestic, being wholly conducted within the EEC.

Lessons for an understanding of policy-making in general

It has to be asked to what extent the tortuous experience of policy change on fisheries throws light on the processes of policy change on other issues. At first sight it does not: fisheries is an international resource issue, and there are few resources which remain international and unappropriated by states. Manganese nodules are not a good analogy for fisheries, even though those on the deep seabed are to be the subject of an international regime. Whereas fisheries issues yield some interest from a section of the population who warm to the concept of fishermen as brave individualists preserving Britain's maritime traditions, nodules have not seized the imagination of the public. Even the moral question as to whether it is legitimate for the developed states to take advantage of their technical sophistication in seizing international resources appears to have generated little public concern. Moreover, whereas many in the fishing industry are somewhat vague on the technical issues involved, the actors involved in nodules are technically well-informed, and indeed have a monopoly of information on which even governments have to rely. Therefore, there do not seem to be any issue areas similar enough to fisheries for

implications to be drawn from the latter.

There are, however, certain general conclusions which can be drawn about policy-making within a fragmented state system. Firstly, since high policy dominates the international activities of states, the needs of resources will suffer. Within this context, the majority of states prefer solutions involving firm national boundaries in preference to strongly international ones. Any resource which requires an authoritive international institution for its effective management will be particularly at risk - anadromous fish stocks, for instance, have become a victim of the division of the oceans into national zones. Secondly, there is often uneasy interplay between bilateral and multilateral relations, and between pairs of bilateral relations. Hence the incongruency during 1976 between the UK position in relation to the European Community and that towards Iceland. Similarly there was at the same time potential conflict in the process of policy formation between the FCO desire for a comprehensive UNCLOS Convention and the pressing domestic need to find more protected fishing grounds for the diverted trawlers. Thirdly, system managers whose power declines begin to move away from a sense of responsiblilty to the global order. Hence the UK, after three hundred years of maintaining a uniform system, moved to a position of self-interest, refused to sign the UNCLOS Treaty, and vigorously pursued maximising UK resources, whether in fisheries or oil. On the other hand, the UK has developed a sense of regional responsibilty, and has been the principal state advocate of a workable conservation regime for fisheries. It is to be hoped that, in fisheries at least, a new stability will be found.

Notes

1. Sea Fisheries Statistical Tables 1983, Table 6, pp.17-9.

APPENDIX I

MEETINGS OF THE THIRD UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA

SESSION NUMBER	DATES	VENUE	SIGNIFICANT OUTPUT	UK SUBMISSIONS	UK GROUP MEMBERSHIP
1	December 3–15 1973	NEW YORK CITY	Agenda Election of officers, Procedures, Committee structure,		Group of Five (E) Western European and Others (E)
2	June 20–August 29 1974	CARACAS	Large number of documents and position papers submitted. EEZ becomes a probability. Consensus mode of procedure	A/CONF.62/C1/L8 (with EEC) A/CONF.62/C2/L3 A/CONF.62/C2/L54 (with EEC) A/CONF.62/L3 and ADD1 to 4	Group of Five (E) Gp on Settlement of Disputes (IC) Evensen Gp (IC) European Economic Community (E) Group on Pollution Control (ISI)
3	March 17–May 9 1975	GENEVA	SNT (Informal Single Negotiating Text) May 1975	Articles on the Continental Shelf (Margin Gp submission to Evensen Gp) Working Papers on Settlement of Disputes (with Gp on Settlement of Disputes) Articles on the Transfer of Marine Technology (with EEC) A/CONF.62/C3/L24 (on marine pollution)	Margin Group (ISI) Group on Archipelagic States Gp on Settlement of Disputes (IC) Evensen Group (IC) European Economic Community (E)
4	March 15–May 7 1976	NEW YORK CITY	RSNT (Revised Single Negotiating Text) May 1976	Amendments on Scientific Research (with EEC) Amendments on Transfer of Technology (with EEC)	Margin Group (ISI) Gp of Thirteen (ISI) Evensen Group (IC) European Economic Community (E)

(Continued overleaf)

5	August 2 -Sept 17 1976	NEW YORK CITY		A/CONF.62/51 forwarding Bermuda's offer to host institution for settlement of disputes	Margin Group (IC) Gp of Thirteen (ISI) Evensen Group (IC) European Economic Community (E)
6	May 23- July 15 1977	NEW YORK CITY	ICNT (Informal Composite Negotiating Text) July 1977	A/CONF.62/54 letters (as President of EEC) requesting that Community be party to convention	Margin Group (IC) Working Group on Settlement of Disputes (IC) Evensen Group (IC) European Economic Community (E)
7	March 28 -May 19 1978	GENEVA	Reports of the Committees and Negotiating Groups on negotiations at the Seventh Session contained in a single document both for the purposes of record and for the convenience of delegations. A/CONF.62 RONG/1		Margin Group (IC) Working Group on Settlement of Disputes (ISI) European Economic Community (E) Group on Anadromous Fish (ISI)
Resumed 7	August 21- Sept 15 1978	NEW YORK CITY	A/CONF.62/RONG/2		Negotiating Groups (IC) Sub-Group of Technical Experts.
8	March 19 -April27 1979	GENEVA		Revised text on Anadromous fish (with Anadromous Fish Group) A/CONF.62/76 with Western European Group	Negotiating Groups (IC) Sub-Group of Technical Experts Anadromous Fish Group (ISI).
Resumed 8	July 19- August 24 1979	NEW YORK CITY	ICNT/Rev 1		Negotiating Groups (IC) Sub-Group of Technical Experts.

(Continued overleaf)

9	March 3– April 4 1980	NEW YORK CITY	ICNT/Rev 2	A/CONF.62/L48/ Rev 1 with Western European, Asian and Arab States Proposal on Ocean Ridges text (Article 76 para 3) in Wide Margin Group. Proposal on Production Limitation.	Negotiating Groups (IC) Sub-Group of Technical Experts
Resumed 9	July 28– August 29 1980	GENEVA	Draft Convention on the Law of the Sea (Informal Text)		Negotiating Groups (IC) Sub-Group of Technical Experts.
10	March 9– April 16 1981	NEW YORK CITY	A/CONF.62/L78 Draft Convention on the Law of the Sea	Proposal on Article 60.3 (removal of abandoned installations)	Negotiating Groups Group of Five (E)
Resumed 10	August 3 – 28 1981	GENEVA	Agreement on delimitation of the economic zone and continental shelf between states with opposite or adjacent coasts. Jamaica chosen as site for International Seabed Authority. Hamburg chosen as site for International Law of the Sea Tribunal		Negotiating Groups

(Continued overleaf)

11	March 8–April 30 1982	NEW YORK CITY	Convention adopted by vote 130–4 (Israel), Turkey, USA, Venezuela) – 17 (UK) Resolutions on: Preparatory Commission Preparatory Investment Protection Dependent Territories National Liberation Movements		Coordinating Group (ISI) Reciprocating Group (ISI)
Resumed 11	Sept 20 –24 1982	NEW YORK CITY	Final Report of Drafting Committee adopted	Statement on Article 38 of Annex VI statement on Article 7(2) of Annex IX (with EEC). Reply to Argentine statement on Resolution III and Argentine decision not to sign Final Act or Convention	
Final Session	Dec 6–10 1982	MONTEGO BAY	Final Act signed by 150 Delegations (States, Territories, Liberation Movements)	Statement explaining decision not to sign	

Key: E – External Group
EEC – European Economic Community
IC – Internal Compromise Group (après Buzan, 1979)
ISI – Internal Sectional Interest Group

Source: Foreign and Commonwealth Office

APPENDIX II

INDEPENDENT FOREIGN POLICY - J. PRESCOTT AND THE THIRD COD WAR

This item has been placed in an Appendix because although its detail is not warranted in a work of this scale it involves an interesting example of an individual MP conducting foreign policy, and illustrates clearly the high policy nature of the FCO's concerns. The bulk of the material below is based primarily on an interview with Prescott, but he was kind enough to provide me with copies of the letters and telegram referred to below, so I consider it to be broadly accurate.

John Prescott, Labour MP for Kingston-upon-Hull E, attempted to put together a catch limitation agreement with the Icelandic government in 1976, without reference to the Foreign and Commonwealth Office. Prescott's concern was overwhelmingly an employment-related one, and he viewed his intervention as legitimate both in view of his position as a constituency MP and as a member of the Trade Union Parliamentary Committee. As a result of his visits to the Council of Europe Prescott was acquainted with Thordar Einarsson, a top civil servant in the Icelandic Foreign Ministry. Einarsson arranged for Prescott to visit Iceland during the period of February 13th to 16th. During his visit Prescott spoke to a number of trade unionists and politicians, including the Prime Minister. (Most of the subsequent information was obtained from J.Prescott, MP, Letter to Rt. Hon. Harold Wilson, OBE, FRS, MP, 24th February 1976, and J. Prescott, MP, Letter to Rt. Hon. Roy Hattersley, MP, 23rd March 1976). The Icelandic Justice Minister was especially anxious for an agreement. Having no concern for the legal issue which obsessed the FCO Prescott was happy to concede the Icelandic claim to a 200-mile limit, and became convinced that a fairly large UK catch could be guaranteed in exchange. Prescott's visit angered the FCO and senior ministers, especially in view of the absence of diplomatic relations. However, Prescott presented a detailed report on his visit to both MAFF and the FCO. He also wrote to P.M. Wilson, unsuccessfully requesting a private audience and telling him that a short-term agreement could be made within the terms of the statement issued by the two governments following the previous negotiations.

On 1st March Einarsson telephoned Prescott and suggested a meeting in London the following Sunday, 7th March. Prescott told Einarsson that he had briefly spoken to Secretary of State for Foreign and Commonwealth Affairs Callaghan and that he was convinced that the latter would like to reopen negotiations if Iceland would put an offer on the table. He suggested that the Nordic Council would be a suitable third party through which an offer could be conveyed. Direct negotiations could then recommence and the Royal Navy could then be withdrawn as a goodwill gesture. The two men felt that a UK catch of 70,000 tonnes of cod would be a suitable compromise. Whether Prescott knowingly led Einarsson to believe that he had any sanction from HMG for this meeting is uncertain, but as a result Einarsson was led to believe that the potential compromise sketched out had the tacit support of the UK government. On 16th March the US Ambassador for Iceland told UK Charge d'Affaires Young that the Icelandic cabinet had suspended consideration of an initiative by Frydenlund in order to formalise the Einarsson-Prescott compromise, which unlike Frydenlund's plan had no safeguard for the FCO's legal position. Foreign and Commonwealth Secretary Callaghan responded by

sending a telegram to the British Embassies of all NATO states and Sweden emphasising that Prescott had acted in a personal capacity and was in no way representing HMG (FCO telegram no 1719202, 17th March 1976). Nevertheless on 16th March Prescott received a telephone call from Einarsson to the effect that Iceland would be offering the UK a medium-term guarantee of an annual catch of 70,000 tonnes of cod in exchange of UK acceptance of Icelandic fisheries jurisdiction out to 200 miles. The offer would be made via an unspecified third party, "a friend across the water". On 22nd March the offer arrived, and Minister of State for Foreign and Commonwealth Affairs Hattersley showed Prescott Callaghan's telegram. Prescott felt that he had been misrepresented and that the only effect of the telegram had been to prolong the dispute.

In catch terms "the Prescott deal" was more generous than the agreement which HMG was eventually to accept, but the FCO could not recognise a unilateral move by Iceland to 200 miles and strongly wished to discourage independent diplomacy by MPs. Although the FCO was perfectly happy to see the 200-mile EEZ emerge as an accepted part of international law in a tightly-formulated Convention, to accept a unilateral extension might undermine UNCLOS 3 and usher in an era of unmanageable change and diverse and conflicting coastal state regulations.

Although to the FCO and to many Ministers the dispute was fundamentally about international law, to the UK public it was about the 'right' to fish, and it was therefore in terms of the suggested catch limits that FCO Ministers assailed Prescott in public. They said that 70,000 tonnes was too little, a view passionately shared by J.R.Moss, the Deputy Secretary in charge of Fisheries and Food. In a private argument Hattersley accused Prescott of indifference to the jobs of trawlermen, and insisted that negotiators must stand firm for a more generous catch. Prescott deeply resented this and retaliated by referring to Hattersley's acceptance of the exemption of trawler crews from employment protection legislation when he was Parliamentary Secretary at the Department of Employment and Productivity from 1967 to 1969.

The Hull MP did in fact feel dangerously exposed in relation to Hull public opinion. With Johnson, and to a lesser extent McNamara, making public statements against severe catch limitations, Prescott's position would have been very precarious in Hull were it not for the support of TGWU National Fishing Officer Cairns. Cairns told key local opinion leaders that 70,000 tonnes was the best catch offer for which the trawlermen would hope, and that swap arrangements would enable distant-water fishing to continue after a general global extension of coastal state fisheries jurisdiction to 200 miles. Prescott's main fear during the period of violent confrontation on the fishing grounds was that a British trawlerman would be killed in a warp-cutting or ramming incident, because jingoism would set in in the distant-water ports and he would be regarded as a traitor.

Although the FCO had encouraged MAFF in its strong opposition to catch concessions, the Ministry at large and the fisheries department had to learn what the BTF and the TGWU had already learned during March, April and May 1976, namely that the UK could not secure the trawlers from harassment sufficiently to provide an economic return to the trawler firms. MAFF's Fisheries department had to be persuaded that concessions must be made. Prescott played a key role in the formulation of the agreement, partly because of the length of

time during which he had been amassing a case for a retreat from Iceland, and partly because of his personal contacts with Icelandic politicians. Immediately following Crosland's elevation to the post of Secretary of State for Foreign and Commonwealth Affairs Prescott wrote to him urging an early settlement (J. Prescott, MP, Letter to Rt. Hon. Anthony Crosland, MP, 13th April 1976.), but Crosland soon left for China, asking Prescott to work through Hattersley (Rt. Hon. A. Crosland, MP, Letter to J. Prescott, MP, 27th April 1976.) About a month had elapsed before Prescott was able to acquaint Crosland with the details and to present him with a copy of the agreement which he and Einarsson had mapped out. By this time Crosland, by now under extreme diplomatic pressure from his civil servants, had come to the conclusion that the UK would have to back down; but he was concerned about prestige.

When he saw the 'Prescott deal', which he had heard alluded to in disparaging terms but the details of which he had never previously read, Crosland was agreeably surprised at the cod catch of 70,000 tonnes. In view of the slump in catches under harassment this now looked quite attractive. In the absence of diplomatic relations, and given his understandable reluctance to be the first to take up Luns's or Norway's offer of mediation lest that appear as backing down, Crosland found Prescott's contacts useful. The two men agreed that Prescott would telephone Einarsson and enquire whether the deal was still open. This was done, and the latter undertook that Iceland would offer a similar deal to Crosland at the NATO meeting in Oslo on 20-21st May. He told Prescott that any catch limitations would have to be made by restricting access to particular vessels. The advantage to Iceland of such an arrangement was that policing of catch limitations would not be so easy if the UK was merely allocated a quota, because UK skippers might cheat when reporting catches. By reducing the number of trawlers allowed on the grounds to a number concomitant with the hoped-for catch, enforcement would be much simplified and would not require on-board inspection by Icelandic officials. Prescott urged Crosland not to accept this means of limitation of the catch, but to insist upon a quota. He took the view that Iceland's preferred solution would maximise returns to the trawler owners by raising the catch per vessel employed and thus reduce employment in the industry. Departmental opinion was however against him, since overcapacity was the cause of enormous losses by the trawler companies. The Fisheries departments were already being urged by the White Fish Authority that restrictive licensing would prove the only way to place fishing on a sound economic basis. Even more telling was the opinion of the FCO Marine and Transport Department, which still hoped to maintain the appearance of a High Seas regime in any agreement, even though it was obvious that narrow fisheries limits were a thing of the past. A solution which did not require extensive Icelandic inspection at sea would be more likely to allow flag-state control of fishing vessels than would a solution based upon a quota. Crosland therefore ignored Prescott's complaints, and it was agreed that the interim solution should incorporate a limitation on the number of vessels.

Prescott also helped to calm the opposition of MAFF. Moss was angry at having worked so tirelessly for maximal access only to have his concerns thrown out for reasons largely unconnected with fisheries. On his advice, Minister of Agriculture, Fisheries and Food Peart (Lab - Workington) urged Crosland not to capitulate too swiftly, arguing that Iceland was herself under pressure from NATO states and Norway to seek a solution and that with steadfastness it would still be

possible for the UK to maintain the right to a considerable catch far into the future. A few days before Crosland went to Oslo, a secret meeting took place in the Station Hotel in Hull between Peart, Moss and Prescott. Nobody else was invited, though Crosland was aware of the meeting. Prescott argued that rising fuel costs would have made distant-water fishing uneconomic even without the Icelandic extension of jurisdiction, and that with the general move to an Exclusive Economic Zone which then seemed inevitable, the UK would gain jurisdiction over fishing grounds more extensive than those she was losing. He also pointed out to Moss that much of the fish-processing industry would remain in operation, because increased Icelandic production would have to be exported, and it would be some time before Iceland could expand her own processing facilities to cope with her increased catch. After a lengthy and sometimes heated discussion, Moss conceded that in the circumstances even an agreement which involved a complete phasing out of UK fishing off Iceland would not be a disaster, providing the UK could herself move rapidly to obtain exclusive access to sufficient fish stocks off her own coasts to supply the trawlers with grounds. Peart was somewhat bewildered because UK fishing on the Icelandic continental shelf had such a long history that he had never believed that it would be phased out completely; but he accepted the verdict of his fisheries department.

GLOSSARY OF TERMS AND ABBREVIATIONS AS USED IN THE TEXT

Anadromous	Fishes which, though spending much of their lives in the sea, ascend rivers to spawn.
Ancillary Workers	Workers who owe their employment to the fishing industry, but who do not catch fish. They are engaged in the processing, unloading and the transport of fish or the administration and maintenance of the fishing fleet.
Baseline	The line from which the breadth of the territorial sea is measured. Landward of the baseline any sea areas have the status of internal waters.
Beam-trawler	A trawler whose trawl-net is kept open and on the sea-floor by a heavy beam on the net's bottom leading edge.
BFF	British Fishing Federation. An organisation of trawler owners formed in 1976 by the amalgamation of the British Trawlers Federation and the Scottish Trawlers Federation.
BTF	British Trawlers Federation. An organisation representing the owners of most of the larger English and Welsh trawlers, merged in 1976 into the British Fishing Federation.
BUT	British United Trawlers.
by-catch	Catch of species other than that at which fishing is directed, often involving juveniles of species other than the target one.
C	Conservative.
Capacity	The fishing power of a vessel or a group of vessels. It is therefore an amalgamation of speed, volume and gear size. It is equivalent to the tonnes of fish per hour which a vessel could potentially extract, although in practice, stock abundance means that actual catches do not reach capacity.
CFP	The Common Fisheries Policy of the European Communities.
Closing Line	A line drawn across the mouth of a Bay or between islands to enclose the waters landward of the Closing Line.
Cohort	That part of a stock hatched in a particular year.
Cohort Analysis	Prediction of stock trends by an examination of the size of the cohorts making up each stock.
Commission	Commission of the European Communities.
Committee I	The Committee of the Third United Nations Conference on the Law of the Sea established to formulate arrangements for the seabed lying beyond the limits of national jurisdiction.
Committee II	The Committee of the Third United Nations Conference on

	the Law of the Sea established to formulate arrangements for traditional Law of the Sea matters.
Committee III	The Committee of the Third United Nations Conference on the Law of the Sea established to formulate arrangements for the Protection and Preservation of the Marine Environment.
Contiguous Zone	A zone of indeterminate width contiguous to a state's territorial sea, defined by the Geneva Convention on the Territorial Sea and Contiguous Zone, in which the coastal state may take certain actions to protect its sanitary, customs or fixed regulations.
Continental Margin	Submerged land geologically associated with the continental mass.
Continental Rise	That part of the continental margin which constitutes an accumulation of sediment at the base of the continental slope, tapering off and merging with the deep ocean floor.
Continental Shelf	That part of the continental margin which is a natural extension of the land, marked by a shallow inclination towards greater depths.
Continental Slope	That part of the continental margin which marks a break in the shelf and plunges at much steeper inclinations to great depth.
Council of Ministers	The Council of Ministers of the EEC. The Council consists of one member of the government of each member state, normally, but not always, the Foreign Minister.
DAFS	Department of Agriculture and Fisheries for Scotland.
Deep Sea vessels	Trawlers above 80' in length.
Deep Seabed	The seabed beyond the continental margin.
Demersal	Bottom-feeding.
Directed Fishing	Fishing aimed at a particular species of fish. The target species will determine the grounds, gear and mesh size.
Distant-water vessels	Trawlers over 140' in length.
District Inspectors	MAFF's chief official in each of England and Wales' Sea Fisheries Districts.
Double-beam trawler	A beam trawler with two parallel beams in place of the more usual one. This enables a greater weight to be applied to the bottom edge of the trawl without increasing the length of the beam.
Drifter	A vessel used in pelagic fisheries equipped with a large net which hangs vertically, extended by weights at the bottom and by floats at the top, and which is allowed to drift with the tide.

DSFIC	Deep Sea Fishing Industry Committee.
DTI	Department of Trade and Industry.
EEC	European Economic Community.
EEZ	Exclusive Economic Zone.
EZ	Exclusive Zone.
Effort	The number of hours spent fishing multiplied by the capacity (q.v.) of the vessels engaged.
Enforcement	Ensuring that fisheries regulations are observed.
Escapement	The number of adult salmon which manage to reach their breeding grounds without being caught en route.
FAO	United Nations Food and Agriculture Organisation.
FCO	The Foreign and Commonwealth Office.
Fish Farming	The hatching and rearing of fish in a protected environment.
Fish Ranching	The hatching of fish in a protected environment, their rearing in such an environment until a juvenile stage and subsequent release.
Fishery	This is used to mean both: the business of catching fish, and a place for catching fish. Which meaning is intended is clear from the context of each time the word occurs.
Fisheries Closing line	A line drawn across the mouth of a Bay or between two islands, claiming the waters landward of the line as internal waters for the purposes of fisheries only.
Fisheries departments	The Fisheries divisions of the Department of Agriculture and Fisheries for Scotland and the Ministry of Agriculture, Fisheries and Food.
Fisheries Organisation Society	A loose organisation of inshore fishermen, with mostly indirect membership.
Fishery Limits	The outer edge of the area within which a state exercises jurisdiction over the fish stocks off its coast.
Fishery Officers	Officials responsible for inspections to ensure that fishery regulations are observed.
Fishery Protection	Enforcement of fishery regulations.
Flatfish	Demersal fish which lie on, or swim horizontally along, the seabed. The principal species of commercial value are plaice, sole and flounder.
FPS	Fishery Protection Squadron.

FRG	Federal Republic of Germany ("West Germany").
GMWU	General and Municipal Workers' Union.
GNP	Gross National Product.
Growth overfishing	An unacceptable level of mortality among undersized fish owing to fishing activities.
GRT	Gross Registered Tonnage
Heavy Beam Trawler	A beam trawler whose beam or beams exceed 24' in total length.
HIB	Herring Industry Board.
High Seas	All parts of the sea that are not included in the exclusive economic zone, in the territorial sea or internal waters of a State, or in the archipelagic waters of an archipelagic State.
Highly Migratory Species	Species of which the same stock ranges through a large number of zones of state jurisdiction. A list of these considered of commercial interest appears in Annex I of the ICNT Rev 2. None of them are found in commercially exploitable concentrations on any grounds commonly fished by UK vessels since 1967.
Historic Rights	The established right to fish in a certain area of sea.
HMG	Her Majesty's Government.
'Hobby' fishermen	Fishermen who sell fish commercially, but for whom fishing is not the principal source of income.
Hull	Kingston-upon-Hull.
ICES	International Council for the Exploration of the Sea.
ICJ	International Court of Justice.
ICNAF	International Commission for North-West Atlantic Fisheries.
IMCO	Intergovernmental Maritime Consultative Organisation.
Ind Lab	Independent Labour.
Industrial Fishing	Fishing for purposes other than human consumption, usually for reduction for fish meal.
Inshore vessels	Vessels less than 80' in length.
Internal Waters	Waters landward of baselines.
Kit	A box holding approximately fourteen pounds of fish.
Klondyking	The transshipment of fish to factory ships offshore in return for cash.

L	Liberal.
Lab	Labour.
Landed Price	The price paid for fish on first sale.
Landed Weight	The weight of the fish as caught. Gutting can reduce the weight of a catch by about one-third, and filleting and freezing will further reduce this figure.
Larva	The early immature form of a fish; their habits and haunts often differ markedly from those of the adult form.
Licensing	The restriction of access to a fishery by means of licences.
Long Liner	A boat which fishes by playing out over a mile of line, with baited hooks spaced at intervals.
m	Either, distance: Nautical Mile, 6080 feet or 1852 metres, or, money: Million.
MAFF	Ministry of Agriculture, Fisheries and Food.
Maximum Economic Yield	The level of annual catch for a particular stock which maximises the excess of revenue over costs.
Maximum Sustainable Yield	Annual harvest from a stock which would be feasible without depressing that stock. Since it is mathematically imprecise, it has given way among fishery biologists to Maximum Economic Yield.
Median Line	The line every point of which is equidistant from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.
Middle-water vessel	A vessel between 110' and 140' in length.
Minimum Price Scheme	A scheme whereby fish which at point of first sale fail to to command a specified minimum price, are withdrawn from the market.
Monofilament	Constructed with a single filament rather than intertwined filaments.
Mother Ship	A vessel to provide support services, like food and medical attention, to a fishing fleet.
MSY	Maximum Sustainable Yield.
NAFO	North Atlantic Fisheries Organisation. A Fisheries Commission for the North Atlantic, which succeeded ICNAF (q.v.).
NATO	North Atlantic Treaty Organisation.
NEAFC	North-East Atlantic Fisheries Commission.

Near-water vessels	Vessels between 80' and 110' in length.
NFFO	National Federation of Fishermen's Organisations.
NIMA	Northern Ireland Ministry of Agriculture.
Nursery	An area of sea inhabited by the larvae of a particular stock or species.
OAPEC	Organisation of Arab Oil Producing and Exporting States.
OECD	Organisation for Economic Co-operation and Development.
OEY	Optimum Economic Yield.
OPEC	Organisation of Oil Producing and Exporting States.
OSY	Optimal Sustainable Yield.
PC	Plaid Cymru.
Pelagic	Mid-water feeding.
Pond	The area of sea within the North Sea and North-Eastern Atlantic lying beyond member states' exclusive fisheries limits but within the 200-mile Fisheries Zone of the European Economic Community.
Pout Box	A box covering part of the Northern North Sea within which fishing for Norway Pout was prohibited. First established in January 1977, the box continued until time of writing, with varying boundaries.
PPS	Parliamentary Private Secretary.
Producer Organisations	Fish marketing organisations owned operated by fishermen, established within the Common Fisheries Policy.
Protected Species	Species monitored by the NEAFC (pre-1977), or the EEC (post-1977), because of their value for human consumption.
Purse Seiner	A boat equipped with an extremely large, bag-shaped net, the mouth of which can be drawn together with cords. Most purse seiners are equipped with sonar to locate shoals of pelagic fish.
Recruit	A fish which has newly reached adulthood and has begun to behave in a fashion appropriate to the adults of its species.
Recruitment	The number of newcomers to the adult stock of a species in a year.
Recruitment overfishing	A level of mortality owing to fishing activities such that the number of newcomers to the adult stock is depressed. It can be caused by the taking of undersized fish, or by fishing for adults on the spawning grounds, or by such immense catch levels that the number of new larvae is reduced.

RN	Royal Navy.
SBC	The Committee on the Peaceful Uses of the Seabed and Ocean Floor beyond the limits of National Jurisdiction, together with its ad hoc predecessor.
SC	A Sub-Committee of the SBC (q.v.).
Seabed Committee	Used to mean both the Committee on the Peaceful Uses of the Seabed and the Ocean Floor beynond the Limits of National Jurisdiction of the General Assembly of the United Nations, and its ad hoc predecessor.
Sector	A semi-autonomous policy area with, under normal circumstances, its own distinct set of actors, both governmental and non-governmental. The actors work within legal frameworks established by the dictates of high policy (q.v.).
Sectoral	Pertaining to a sector (q.v.).
Sedentary Species	Organisms which at the harvestable stage, either are immobile on or under the sea-bed or are unable to move except in constant physical contact with the sea-bed or the subsoil.
SFF	Scottish Fishermen's Federation.
SFST	Sea Fisheries Statistical Tables.
Shellfish	Marine molluscs and crustaceans.
Skippers' Guild	An association representing skippers in a particular port. Most of the larger deep sea ports had one, Fleetwood did not.
SL	Scottish Labour.
SN	Scottish National.
SSFST	Scottish Sea Fisheries Statistical Tables.
STF	Scottish Trawlers Federation.
Stock	A distinct population of a particular species.
Sub-Committee I	A sub-committee of the Seabed Committee (q.v.) established to deal with questions relating to the deep ocean floor.
Sub-Committee II	A sub-committee of the Seabed Committee (q.v.) established to deal with questions relating to traditional law of the sea issues.
Sub-Committee III	A sub-committee of the Seabed Committee (q.v.) established to deal with questions relating to the preservation of the marine environment, scientific research, and the transfer of technology.
TAC	Total Allowable Catch (q.v.).

Territorial Sea	A strip of sea contiguous to the coast, which forms part of the territory of the coastal state.
TGWU	Transport and General Workers' Union.
Tonne	One thousand kilogrammes, equivalent to 1.016 tons.
Total Allowable Catch	The aggregate catch of a stock or species determined by the institution responsible for a fishery to be harvestable in in a particular year.
Transport and General Workers' Union	The UK's largest Trade Union representing workers in a variety of of trades, most of them being unskilled or semi-skilled.
Trash Species	Those species not subject to fisheries management.
Trawler	A vessel used mainly in demersal fisheries, equipped with a bag-shaped net which is pulled along the sea floor, either from the side or from the stern.
Trawler Federations	The British Trawlers Federation and the Scottish Trawlers Federation.
Treaty of Accession	The Treaty by which the United Kingdom acceded to the European Economic Community.
UKOOA	United Kingdom Offshore Operators' Association.
UNCLOS 3	The Third United Nations Conference on the Law of the Sea.
UU	Ulster Unionist.
UUUC	United Ulster Unionist Council.
Warp	The steel rope by which a trawl is pulled behind a trawler.
WFA	White Fish Authority.
Withdrawal price	The minimum landed price established at a specific port for a particular species. Fish failing to command the withdrawal price are withdrawn from the market.
Year-Class	Cohort (q.v.).

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