1961 No. 342

SEA FISHERIES

The Anglo-Norwegian Sea Fisheries Order, 1961

Made - - - - *27th February*, 1961

Coming into Operation 1*st April*, 1961

At the Court of Saint James, the 27th day of February, 1961

Present,

Her Majesty Queen Elizabeth The Queen Mother
Her Royal Highness The Princess Margaret

Lord President — **Mr. Secretary Maclay**
Mr. Secretary Profumo — **Mr. Powell**

Whereas Her Majesty, in pursuance of the Regency Acts, 1937 to 1953, was pleased, by Letters Patent dated the seventeenth day of January, 1961, to delegate to the following Counsellors of State (subject to the exceptions hereinafter mentioned) or any two or more of them, that is to say, His Royal Highness Prince Philip, Duke of Edinburgh, Her Majesty Queen Elizabeth The Queen Mother, Her Royal Highness The Princess Margaret, His Royal Highness The Duke of Gloucester, His Royal Highness The Duke of Kent and Her Royal Highness The Princess Alexandra of Kent, full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

And whereas Her Majesty was further pleased to except from the number of the said Counsellors of State His Royal Highness Prince Philip, Duke of Edinburgh, and His Royal Highness The Duke of Kent and Her Royal Highness The Princess Alexandra of Kent while absent from the United Kingdom:

And whereas on the 17th day of November, 1960, an Agreement was entered into between the Government of the United Kingdom and the Government of the Kingdom of Norway for regulating sea fishing by vessels registered in their respective territories in waters off the coast of Norway which Agreement is with its annexes set out in the Schedule hereto and is hereinafter referred to as " the Agreement ".

Now, therefore, Her Majesty Queen Elizabeth The Queen Mother and Her Royal Highness The Princess Margaret, being authorised thereto by the said Letters Patent; and in pursuance of the powers conferred by Section 23 of the Sea Fisheries Act, 1883(a) (hereinafter referred to as " the Act ") and of all other powers in that behalf, do hereby, by and with the advice of Her Majesty's Privy Council, on Her Majesty's behalf order, and it is hereby ordered, as follows:—

1. The provisions of the Act shall apply to the Agreement and have effect in like manner as if the Agreement were set forth in the first schedule to the Act and were part of that schedule and were referred to in the Act as

(a) 46 & 47 Vict. c. 22.

" the Agreement " and were the Convention referred to in the Act subject only to the following conditions:

(1) Section 4 of the Act shall be construed as if for the words " Articles thirteen to twenty-two (both inclusive) of the first schedule to this Act " there were substituted the words " Articles 10 to 15 inclusive and 17 and 19 of Annex I and the provisions of Annex II of the Agreement ".

(2) Section 5 of the Act shall be construed as if for the words " Articles twenty and twenty-one of the first schedule to this Act " there were substituted the words " sub-paragraphs (1) and (2) of Article 17 of Annex I of the Agreement ".

(3) Section 10 of the Act shall be construed as if for the words " The boats and things specified in Article twenty-five of the first schedule to this Act " there were substituted the words " The vessels and things specified in Article 18 of Annex I of the Agreement ".

(4) Section 15 of the Act shall be construed as if for the words " Article thirty-three of the first schedule to this Act " there were substituted the words " Article 25 of Annex I of the Agreement ".

(5) The area within which the Act shall be applicable for the purposes of this Order shall comprise only those waters in which vessels registered in the territories of the United Kingdom and of Norway respectively fish in accordance with the terms of the Agreement and which are situated off the coast of Norway north of 61° North latitude and as far west as the meridian of the North Unst Lighthouse.

2.—(1) This Order shall come into operation on the first day of April, 1961, and may be cited as the Anglo-Norwegian Sea Fisheries Order, 1961.

(2) The Interpretation Act, 1889(a), shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

W. G. Agnew.

SCHEDULE

FISHERY AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE KINGDOM OF NORWAY

The Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as " the United Kingdom Government ") and the Government of the Kingdom of Norway (hereinafter referred to as " the Norwegian Government ");

Taking into account the proposal on the breadth of the territorial sea and fishery limits which was put forward jointly by the Governments of the United States of America and Canada at the Second United Nations Conference on the Law of the Sea in 1960 and which obtained 54 votes;

Affirming their belief that an Agreement to stabilise fishery relations between the two countries should be based on the aforesaid proposal, and should not contemplate the exclusion of fishing vessels from any area beyond the limits of the fishery zone referred to in that proposal;

(a) 52 & 53 Vict. c. 63.

Desiring to stabilise fishery relations between the United Kingdom and Norway;

Have agreed as follows:—

ARTICLE I

For the purpose of this Agreement:—

(*a*) the term "mile" means a nautical mile (1,852 metres) reckoned at sixty to one degree of latitude;

(*b*) the term "territory" means, in relation to the United Kingdom, the territory of the United Kingdom of Great Britain and Northern Ireland, including the Isle of Man; and in relation to Norway, the territory of the Kingdom of Norway;

(*c*) the term "vessel" means any vessel or boat employed in fishing.

ARTICLE II

As from a date of which the Norwegian Government shall give due notice to the United Kingdom Government, the latter Government shall not object to the exclusion, by the competent authorities of the Norwegian Government, of vessels registered in the territory of the United Kingdom from fishing in an area contiguous to the territorial sea of Norway extending to a limit of 6 miles from the base line from which that territorial sea is measured.

ARTICLE III

During the period between the date referred to in Article II of this Agreement and the thirty-first day of October, 1970, the Norwegian Government shall not object to vessels registered in the territory of the United Kingdom continuing to fish in the zone between the limits of 6 and 12 miles from the base line from which the territorial sea of Norway is measured.

ARTICLE IV

After the thirty-first day of October, 1970, the United Kingdom Government shall not object to the exclusion by the competent authorities of the Norwegian Government, of vessels registered in the territory of the United Kingdom from fishing within the limit of 12 miles from the base line from which the territorial sea of Norway is measured.

ARTICLE V

If at any time before the thirty-first day of October, 1970, the Norwegian Government considers that there has been a fundamental change in the character of the fishing carried on in the zone referred to in Article III of this Agreement by vessels registered in the territory of the United Kingdom, the Norwegian Government may raise the matter with the United Kingdom Government, and the two Governments shall together review the position.

ARTICLE VI

Except in the case of arrangements between the Norwegian Government and the Government of any other Scandinavian country in respect of the Skagerrak, the Norwegian Government shall accord to vessels registered in the territory of the United Kingdom treatment no less favourable than that accorded to the vessels of other foreign countries.

ARTICLE VII

As from the date referred to in Article II of this Agreement, the Contracting Parties shall apply to vessels registered in their respective territories the provisions of the Annexes to this Agreement which shall be an integral part of the Agreement.

ARTICLE VIII

Nothing in this Agreement shall be deemed to prejudice the views held by either Contracting Party as to the delimitation and limitation in international law of territorial waters or of exclusive jurisdiction in fishery matters.

ARTICLE IX

This Agreement is subject to ratification. The exchange of the instruments of ratification shall take place as soon as possible in London and the Agreement shall enter into force on the date on which the instruments of ratification are exchanged.

In witness whereof the undersigned, being duly authorised thereto by their respective Governments, have signed the present Agreement.

Done in duplicate at Oslo, this 17th day of November, 1960, in the English and Norwegian languages, both texts being equally authoritative.

W. J. M. PATERSON HALVARD LANGE

ANNEX I

RULES FOR THE REGULATION OF THE FISHERIES

CHAPTER I

Rules Concerning the Nationality, Registration and Identification of Fishing Vessels

ARTICLE 1

(1) The vessels of each of the Contracting Parties shall be registered in accordance with the administrative regulations of that Party.

(2) The competent authority of each Contracting Party shall specify one or more initial letters and a consecutive series of numbers for each port or for each maritime district.

(3) Each Contracting Party shall draw up a list showing these initial letters.

(4) This list, and all modifications which may subsequently be made in it, shall be notified to the other Contracting Party.

ARTICLE 2

A vessel shall bear the initial letter or letters of the port or maritime district in which it is registered and the numbers under which it is registered. The letter or letters and numbers shall be painted outside on the hull so as to be clearly visible.

ARTICLE 3

A vessel shall bear its name and the name of the port in which it is registered. The names shall be painted so as to be clearly visible.

ARTICLE 4

A vessel shall not bear outside on its hull any name, letter or number other than those prescribed by Articles 2 and 3, except that where the national regulations of the Contracting Party in whose territory the vessel is registered so provide, a letter or letters indicating the type of fishing in which the vessel engages may be added after the number.

ARTICLE 5

(1) Small boats and all fishing implements shall be marked with the letter or letters and number of the vessel to which they belong.

(2) These letters and numbers shall be large enough to be easily recognised. The ownership of nets or other fishing implements may be further distinguished by private marks.

ARTICLE 6

(1) The master of each vessel shall have with him an official document, issued by the competent authority in his own country, for the purpose of enabling the nationality of the vessel to be established.

(2) This document shall show the letter or letters and number of the vessel, as well as the name of the owner or the name of the firm or association to which it belongs, and shall specify the description of the vessel.

ARTICLE 7

Names, letters and numbers placed on the vessels shall not be effaced, altered, made or allowed to become illegible, covered or concealed in any manner whatsoever. The nationality of the vessel shall not be concealed in any manner whatsoever.

ARTICLE 8

(1) The provisions of this Chapter apply to vessels whether they are inside or outside waters where the Contracting Parties have exclusive jurisdiction over fisheries.

(2) The enforcement of the provisions of this Chapter is placed under the exclusive superintendence of the authorities of the country of the vessel concerned. Nevertheless the commanders of fishery protection vessels of either Contracting Party shall acquaint each other with any infractions of these provisions committed by vessels registered in the territory of the other Contracting Party.

CHAPTER II

Rules Governing the Operations of Fishing

ARTICLE 9

(1) Whenever either Contracting Party gives advance notice to the other that substantial concentrations of fishing nets (other than trawl nets) and lines are to be expected in any part of the area to which the provisions of this Annex apply, the Contracting Party so notified shall give notice by the best means possible of the expected concentration to such of their trawlers as are likely to be sailing for the area.

(2) Such notice may be given direct to the competent authority of the other Contracting Party, provided that immediate notification to that effect shall also be given through the diplomatic channel. The giving of such notification by a Contracting Party shall in no way affect the liabilities of its vessels or those of the other Contracting Party in respect to the provisions of this Annex.

ARTICLE 10

(1) No vessel shall anchor or remain at anchor between sunset and sunrise on grounds where drift-net fishing is actually in progress.

(2) This prohibition shall not however apply to anchorings which may take place in consequence of accidents or any other circumstances beyond the vessel's control.

ARTICLE 11

Vessels arriving on fishing grounds where other vessels are already fishing or have set their gear for that purpose, shall not place themselves or their lines, nets, buoys, or other fishing implements so as to interfere with or obstruct fishing operations already in progress.

ARTICLE 12

(1) Whenever, with a view to drift-net fishing, a decked vessel and an undecked vessel commence shooting their nets at the same time, the undecked vessel shall shoot its nets to windward of the decked vessel.

(2) The decked vessel, for its part, shall shoot its nets to leeward of the undecked vessel.

(3) In normal circumstances, if a decked vessel shoots its nets to windward of an undecked vessel which has begun fishing, or if an undecked vessel shoots its nets to leeward of a decked vessel which has begun fishing, the responsibility as regards any damage to nets which may result shall rest with the vessel which last began fishing, unless it proves that the damage was done under stress of circumstances beyond its control or that the damage was not due to its fault.

ARTICLE 13

No net or any other fishing implement shall be set or anchored on grounds where drift-net fishing is actually going on.

ARTICLE 14

(1) Nets and lines anchored in the sea shall be furnished at each end with flag buoys by day and light buoys by night, sufficient to indicate their position and extent to vessels approaching them and to be visible at a distance of at least two miles.

(2) The westernmost end buoy shall be fitted with two black flags, one above the other, or one black flag and a red radar reflector, and the easternmost end buoy shall be fitted with one black flag or a yellow radar reflector. At night, the westernmost end buoy shall be fitted with two white lights and the easternmost end buoy with one white light.

(3) On gear extending more than one mile, additional flag buoys or, as far as possible, light buoys, shall be placed at distances of not more than one mile so that no part of the gear extending one mile or more shall be left unmarked. Such buoys shall by day be fitted with a red flag or a red radar reflector and by night with one white light. In no case shall the distance between two lights of the same gear exceed two miles.

(4) The flag pole of each buoy shall have a height of at least 3 metres above the buoy.

(5) On gear which is attached to a vessel a flag buoy or light buoy shall not be required at the end attached to the vessel.

ARTICLE 15

(1) Trawlers shall take all practicable steps to avoid anchored nets or lines in order to prevent damage to them and, in particular, to avoid trawling between two buoys which mark in accordance with the relevant provisions of this Chapter the gear belonging to any particular vessel.

(2) When in sight of vessels fishing with nets (other than trawl nets) or lines, or standing by their nets or lines, trawlers shall if necessary make enquiries of such vessels as to the position and extent of the nets or lines, and shall, when informed thereof, take all possible precautions to keep well clear of them.

(3) The fishery protection vessels of either Contracting Party may call the attention of trawlers to nets or lines placed in the sea, and the trawlers shall take all possible precautions to keep well clear of the nets or lines.

(4) No vessel shall make fast to or hold on to the nets, buoys, floats, or any other part of the fishing tackle of another vessel.

ARTICLE 16

Where it can be proved that damage has been caused to nets or lines by a trawler, the responsibility shall be presumed to lie with that trawler unless it proves:—

(*a*) that the damage was done under stress of circumstances beyond its control; or

(*b*) that the damage was not due to its fault; or

(*c*) that it had complied with the relevant provisions of this Chapter and had done all that was possible to avoid the damage; or

(*d*) that the vessel whose gear had been damaged had not complied with the provisions of this Chapter, and that such non-compliance materially contributed to the damage.

ARTICLE 17

(1) When nets belonging to different vessels get foul of each other they shall not be severed without the consent of both parties unless it is impossible to disengage them by other means.

(2) When vessels fishing with lines entangle their lines the vessel which hauls up the lines shall not sever them unless they cannot be disengaged in any other way, in which case any lines which may be severed shall where possible be immediately joined together again.

(3) Except in cases of salvage and the cases to which the two preceding paragraphs relate, no vessel shall, under any pretext whatsoever, sever, hook, lift up the nets or do unnecessary damage to lines or gear not belonging to it.

(4) When a vessel fouls, or otherwise interferes with gear not belonging to it, it shall take all necessary measures for reducing to a minimum the injury which may result to such gear. The vessel to which the gear belongs shall at the same time avoid any action tending to aggravate such damage.

ARTICLE 18

(1) All vessels, or their small boats, or rigging, tackle or other appurtenances of vessels, all nets, lines, buoys, floats, or other fishing implements whatsoever found or picked up at sea, whether marked or unmarked, shall as soon as possible be delivered to the competent authority of the first port in the territory of either Contracting Party to which the salving vessel returns or puts in.

(2) Such authorities shall, where the circumstances permit, inform the consular representative of the country of which the salvor is a national and also the consular representative of the country of which the owner of the salved articles is a national, and the articles shall be restored to the owner or to his representative as soon as such articles are claimed and the interests of the salvor have been properly guaranteed.

(3) Subject to any agreements which may be in force to the contrary the administrative or judicial authorities of the country in which the port is situated shall fix the amount which the owner shall pay to the salvor according to the laws of that country.

ARTICLE 19

No vessel shall except by reason of distress dump in the sea any article which may obstruct or cause damage to fishing gear.

CHAPTER III

Rules Relating to the Policing of the Fisheries

ARTICLE 20

(1) The superintendence of the fisheries in areas outside the zone referred to in Article III of the Agreement shall be exercised by fishery protection vessels of each Contracting Party recognised as such by the other Contracting Party and commanded by naval officers or officers holding commissions.

(2) In the zone referred to in Article III of the Agreement the superintendence of the fisheries shall be exercised by Norwegian fishery protection vessels, commanded by naval officers or officers holding commissions.

ARTICLE 21

The commanders of fishery protection vessels are authorised to visit vessels and to draw up reports upon all infringements of the provisions of Chapter II of this Annex and of the provisions of Annex II to the Agreement, whichever may be the nationality of the vessels accused of such infringements.

ARTICLE 22

When the commanders of fishery protection vessels have reason to believe that an infringement of the provisions of Chapter II of this Annex or of the provisions of Annex II to the Agreement has been committed, they may require the master of the vessel concerned to exhibit the official document establishing its nationality. The fact of such document having been exhibited shall immediately be endorsed upon it. The commander of the fishery protection vessel shall not pursue further his visit or search on board a vessel which is not of the nationality of the protection vessel, unless this is necessary for the purpose of obtaining proof of any infringement of the provisions referred to above which has already been reported to or observed by the fishery protection vessel.

ARTICLE 23

(1) The commanders of fishery protection vessels shall exercise their judgment as to the gravity of facts brought to their knowledge, which they are authorised to investigate, and shall verify any damage resulting therefrom which may be sustained.

(2) They shall draw up, if there is reason for it, a formal statement of the verification of these facts as elicited both from the declarations of the parties and from the testimony of those present and forward the statement both to the competent authorities of the country in which the vessel complained of is registered and to the competent authorities of the country in which the complaining vessel is registered.

(3) The commander of the fishery protection vessel may, if in the light of the investigations referred to in sub-paragraphs (1) and (2) of this Article the case appears to him sufficiently serious to justify the step, report the case by wireless or otherwise to a fishery protection vessel of the country in which the offending vessel is registered or to the competent authority of that country. Nothing in this paragraph shall be deemed to limit the action of a fishery protection vessel where the offending vessel belongs to the same flag.

ARTICLE 24

(1) The formal statement referred to in the second paragraph of the preceding Article shall be drawn up in the language of the commander of the fishery protection vessel and according to the forms in use in his country.

(2) The alleged offender and the witnesses shall be entitled to add or to have added to such statement, in their own languages, any observations which they may think suitable and must sign such observations.

ARTICLE 25

(1) When an act committed by a vessel is not of a serious character, but has nevertheless caused damage to another vessel or its gear, the commanders of fishery protection vessels with the consent of the parties concerned, may arbitrate at sea between them and fix the compensation to be made.

(2) Where in such cases one of the parties is not in a position to make compensation at once, the commander shall cause the parties concerned to sign in duplicate a formal document specifying the compensation to be made.

(3) One copy of this document shall remain on board the fishery protection vessel and the other shall be handed to the master of the vessel to which the compensation is due, in order that, if necessary, use may be made of it before the appropriate courts.

(4) Where, on the contrary, the parties do not consent to arbitration, the commanders shall act in accordance with the provisions of paragraphs (1) and (2) of Article 23.

ARTICLE 26

Resistance by a vessel to the directions of commanders of fishery protection vessels exercising the powers provided for in this Chapter, or of those who act under their Orders, shall, without taking into account the nationality of the protection vessel, be considered as resistance by the former vessel to the authorities of the country in which it is registered.

ARTICLE 27

The Contracting Parties shall take such measures as may be appropriate for ensuring that vessels registered in their respective territories comply with the provisions of this Annex and of Annex II to the Agreement. Prosecutions for infractions of these provisions shall be instituted in the courts of the Contracting Party in whose territory the offending vessel is registered.

CHAPTER IV

Area of Application

ARTICLE 28

The area within which the rules set out in this Annex shall be applicable comprises all waters in which vessels registered in the territories of the United Kingdom and of Norway respectively, fish in accordance with the terms of the Agreement and which are situated off the coast of Norway north of 61° North latitude and as far west as the meridian of the North Unst lighthouse.

CHAPTER V

Review and Amendment of the Rules

ARTICLE 29

(1) Representatives of the competent authorities of the Contracting Parties shall meet together when this is requested by one of the Contracting Parties to consider any questions arising out of the interpretation and application of the rules set out in this Annex and, if they consider it to be necessary, to make recommendations for the amendment of any of those rules.

(2) The Contracting Parties undertake to give effect to any recommendation for the amendment of the rules set out in this Annex which has been unanimously adopted at a meeting of representatives of the competent authorities of the Contracting Parties.

CHAPTER VI

Termination of Application of the Rules

ARTICLE 30

The application of the rules set out in this Annex may be terminated on behalf of either Contracting Party after the thirty-first day of October, 1970, by means of a notification in writing addressed to the other Contracting Party. Such notification shall take effect six months from the date on which it is received by the Contracting Party to whom it is addressed.

ANNEX II

Reserved Line and Gill Net Fishing Areas

Taking into account the desire of the Norwegian Government that areas should be reserved for line and gill net fishing within the zone referred to in Article III of the Agreement in order to reduce the risk of damage to such gear, fishing by vessels registered in the territory of either Contracting Party shall be limited to fishing with long line, hand line and gill net in the areas specified in sub-paragraphs (*a*), (*b*), (*c*) and (*d*) below between the dates specified in those sub-paragraphs. The areas and dates specified are:

(*a*) *Andenes:* From 15° 25′ East to 16° East longitude. To be reserved throughout the year.

(*b*) *Vesteralen:* From 69° 12′ North to 69° 18′ North latitude. To be reserved from 16th May to 14th February, both dates inclusive.

(*c*) *Grimsbakken:* From 69° 43′ North to 69° 47′ North latitude. To be reserved from 1st December to 15th April, both dates inclusive.

(*d*) *Fugloybanken:* From 19° East to 19° 30′ East longitude. To be reserved from 1st December to 15th April, both dates inclusive.

EXPLANATORY NOTE

(This Note is not part of the Order but is intended to indicate its general purport.)

This Order made under section 23 of the Sea Fisheries Act, 1883, enables the provisions of a Fishery Agreement made between the Government of the United Kingdom and the Government of Norway to be applied to vessels registered in the United Kingdom.