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Continue Trawling and Continue Negotiations: The 50-mile conflict

Soon after World War II, the German deep-sea trawling industry started the rebuilding of the fleet and fishing operations in areas far distant from their homeports at the German Bight. The grounds off Iceland quickly became one of the most important fishing regions for this fleet once again. Therefore it was no wonder that Germany was involved in the conflicts about fishery limits like any other European fishing nation. But during the twelve-mile conflict in the 1950s the Federal Republic of Germany was a young nation with a very special position in the field of international political affairs. Germany was not in the position to play a major role in the conflict. In fact Germany accepted the Icelandic claims to the twelve-mile limit virtually without engagement in the conflict.¹ Nevertheless, there was one aspect which would become important for the further development. After the conflict between Great Britain and Iceland was settled, the Federal Republic claimed a position similar to that of Great Britain regarding fishing rights off Iceland, and they were granted.² Particularly one point in the agreement of 1961 would become relevant in the future: Iceland and Germany agreed that a further widening of the Icelandic fisheries limit should be announced to the Federal Republic early and the International Court of Justice was accepted as a court for any conflicts that might result from any further action taken by Iceland.³



Fig. 1 In the 1970s, the factory-stern-trawlers of the so called *Universitäts-Klasse* made the German deep-sea fisheries fleet one of the world's most sophisticated fishing fleets. (Archiv DSM / Photo: DSM-Nordsee-Archiv)

Only ten years later, when Iceland unilaterally declared the new fishing limit of 50 miles in 1972⁴, this situation had changed dramatically. On the one hand, the Federal Republic of Germany was no longer an “underdog” on the political scene, but economically one of the most powerful nations in Western Europe and an important partner in the defence system of the NATO. On the other hand, the structure of German deep-sea fisheries had also changed. In the early 1970s, instead of a small fleet in a start-up period, Germany possessed one of the world’s most sophisticated fishing fleets. Only a few years earlier, one of the most challenging factory-trawler construction programmes had been completed.

At the beginning of the 1970s, the German deep-sea trawling fleet thus included not only 66 fresh-fish-trawlers but also 52 factory-stern-trawlers.⁵ The background for the building of this fleet was the assumption of increasing fish consumption in Germany as well as the unlimited availability of fishing grounds in the North Atlantic.

Iceland claim to the 50-mile limit was a real shock for the German fishing industry. The problem was not only the potential loss of one or two fishing grounds but the failure of investments worth hundreds of millions of German Marks or several billions of Icelandic crowns. The mere acceptance of the 50-mile limit was no option for the German fishing industry.

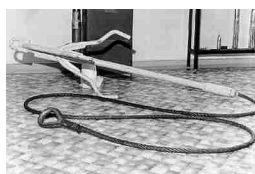


Fig. 2 The trawl wire cutter. (Landhelgisgæslan, Ísland)

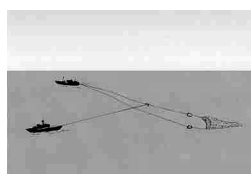


Fig. 3 Scheme of the use of the trawl wire cutter. (Landhelgisgæslan, Ísland)

After the failure of the first round of diplomatic negotiations⁶, Germany took the case to the International Court of Justice on June 5, 1972, just as Great Britain had done a few weeks earlier.⁷ When the new Icelandic regulations on the 50-mile limit went into effect, there was already an interim order by the International Court of Justice in The Hague.⁸ The court decided that Iceland was not entitled to use its new regulations against German and British trawlers but at the same time reduced the total annual catch of these fishing fleets in the Icelandic area. Although this judgement seems to have offered an interim solution to the conflict, neither side reacted as demanded by the court. Iceland used coast-guard vessels to prohibit any foreign trawling inside the 50-mile limit and Germany did not reduce its fishing activities.

Although there was a second interim order in July 1973⁹, the whole procedure at the International Court of Justice had no influence on the everyday situation in the grounds off Iceland. German fishing vessels continued trawling inside the limit and Iceland tried to prohibit any fishing by foreign trawlers by intensive use of coast-guard vessels and especially of a new weapon, the trawl wire cutter.

A few incidents with the use of weapons were reported, but they remained limited to a few exceptions without further consequences.¹⁰

By the autumn of 1973, the situation for German trawlers in the Icelandic area was very similar to that of British ships and is well known. But after the agreement between Great Britain and Iceland this situation changed dramatically and seems to have all but fallen into oblivion in Iceland and Germany alike.

When the agreement between Iceland and Great Britain was signed, all British trawlers and navy ships left the Icelandic area.¹¹ Only the German trawlers and a few fishery protection vessels continued their operations. At first, in the autumn of 1973 Germany decided to send an additional auxiliary fishery protection vessel to Iceland, the former trawler NORDENHAM. In the official announcement to the Icelandic government, the NORDENHAM was referred to as a hospital



Fig. 4 The trawler NORDENHAM as a provisional fishery protection vessel. (Archiv DSM)

ship¹², but its real duty was also to provide German trawlers with information about the operation areas of the Icelandic coast-guard vessels and if possible to assist the trawlers against the use of the trawl wire cutters.

The coast guard was increasingly successful in its struggle against the German trawlers and in October 1973 the OÐINN alone managed to cut the entire gear of three trawlers in less than ten days.¹³ A few days later the German government announced the sending of two further auxiliary fishery protection vessels to Iceland and beginning in January 1974 there were seven such ships operating in the Icelandic area. All were called hospital ships, but their duties comprised much



Fig. 5 The Icelandic coast-guard vessel OÐINN, the most important Icelandic ship in all the conflicts on fishing limits after World War II. (Photo: Heidbrink)



Fig. 6 The trawler ARCTURUS, the only German ship to be captured by Iceland. (Photo: DSM-Nordsee-Archiv)

more than the provision of medical and technical support to the fishing fleet. In a verbal note issued by the German embassy to the Icelandic ministry of foreign affairs, the tasks of the fishery protection vessels were described as follows:

“Within the framework of the pertinent instructions issued to them by the Federal Government, the German fishery protection vessels are trying to protect the German trawlers against such unlawful action by Icelandic coast-guard vessels.”¹⁴

Throughout this period, a continuous series of negotiations was in progress which seems to have been more or less successful. The only issue for which there seemed to be no solution whatsoever was that of the factory freezer trawlers. Then, however, on November 24, 1974, the ARCTURUS incident occurred, changing the entire situation. The German trawler ARCTURUS was brought up by an armed coast-guard vessel and the master of the ship was charged with illegal fishing before an Icelandic court.¹⁵ In response, the German fisheries and fishing harbour authorities now started to play hardball against Iceland.

All landings by Icelandic trawlers were banned in the German fishing ports.¹⁶ In fact, while Great Britain had sent its navy to Iceland as a demonstration of power, Germany now started to force a kind of an economic war against Iceland. Although Germany was not the main market for Icelandic trawlers, this ban caused serious damage to the Icelandic fisheries. This was not the first step towards an economic conflict. Already in March 1973 Germany had blocked negotiations on the reduction of tariffs between Iceland and the EU.¹⁷ Even during the annual meetings of the OECD and the GATT in 1974 Germany had adhered to its unbending position. While Iceland explained that 15.5% of its entire export to Germany was blocked by the landing ban and demanded a settlement via the OECD or GATT system, the German legation at the OECD simply declared: “We think that neither the OECD Convention nor the ‘Trade Pledge’ are in any way involved.”¹⁸

In fact the conflict between Germany and Iceland was in a deadlock. Iceland had neglected the competence of the International Court of Justice, and Germany the competence of the OECD and



Fig. 7 German fishery protection vessels such as the FRITHJOF were not navy vessels but civilian vessels under the flag of the ministry of agriculture. (Archiv DSM / Photo: Krüger)

the GATT. Furthermore, while the conflicts between Iceland and all other fishing nations had been settled, Germany continued trawling inside the limit and continued bilateral negotiations.

So much for the pure facts, but what was the background of this behaviour – so different from that of any other fishing nation – and what were the results? Why was there no chance for an agreement of the kind concluded between Iceland and Great Britain in 1973? Was there an advantage to be gained by Germany or would have it been better to accept an agreement?

As mentioned earlier, there were two structural differences between Germany and Great Britain: First of all, the German fishing fleet consisted to a much larger extent than the British of factory-freezer trawlers. Secondly – and perhaps more importantly – the German fishery protection was not part of the navy but of the civilian fleet of the ministry of agriculture.

For this reason the engagement of the German fishery protection vessels could hardly be interpreted as military action against Iceland. After the British navy vessels had left the Icelandic area, the military conflict seemed to be solved. Even the increased operations of German fishery protection vessels could not be seen as an escalation of the conflict. In fact, this situation was something of a political trap for Iceland. On the one hand everybody could assume that the actual task of the fishery protection vessels was similar to that of the British navy vessels; on the other hand, any sympathy for Iceland would have been lost if Iceland had started to take action against civilian hospital ships. The use of civilian fishery protection vessels instead of navy vessels prohibited an escalation of the conflict on the fishing grounds.

The question of the factory freezer trawlers was more difficult. These ships naturally used the same fishing gear as the fresh-fish catchers and the German interpretation of factory freezer trawlers as vessels of similar quality as fresh-fish catchers appeared correct at first sight. But it was a matter of fact that these ships had much better means of reacting to bad catches on one fishing ground over a certain period of time. Because of the freezing equipment they could stay in the Icelandic region as long as it was necessary to get a full load. The German argumentation that Iceland was not entitled to blame the German deep sea trawling fleet because of its state of

technological development could not be accepted by Iceland. Nobody in Iceland promoted the sophistication of the German trawlers, and why should a sovereign nation like Iceland accept disadvantages caused only by the expectation of better economic benefits in a foreign country?

Despite the fact that, in the course of the negotiations, Iceland made several offers for an arrangement which would have granted Germany a phasing out of the Iceland fisheries without major disadvantages, Germany replied to all offers in the same way. The possibility of the use of factory freezer trawlers was a *conditio sine qua non*. In retrospect this seems especially irrational, because the Icelandic area was not the main operational area for those ships. The factory freezer trawlers operated near Newfoundland, Labrador and Greenland as well as in other very far distant fishing grounds. Iceland was the operational area for the remaining fleet of fresh-fish catchers. In fact, the factory freezer trawler question could not have been the real reason why Germany stuck to its position.

An explanation may be found in the catch data pertaining to the early 1970s. When the Icelandic-British agreement was signed in 1973, the annual catch of German trawlers near Iceland (1972) was 95,000 t.¹⁹ In the negotiations Germany demanded a quota of 105,000 t. But a quota that would have been comparable with the Icelandic-British agreement would have been only 65,000 t, which was exactly what Iceland offered in the negotiations.²⁰ The acceptance of this offer would have meant the loss of 30,000 t of catch per year in comparison to the actual situation. A volume of 30,000 t annual catch in comparison to 35 fishing gears cut by the Icelandic coast-guard vessels: From the purely economic point of view the conclusion was clear: Continue trawling. But why also continue negotiations? Of course, most of the delegates were interested in finding a solution to the conflict. But the continuation of the negotiations was at the same time a tool to prevent an increase of the Icelandic actions against German trawlers. As long as an agreement seemed to be within reach, the negotiations prohibited further Icelandic action.

Altogether a minimum of 35 fishing gears of German trawlers were cut by the Icelandic coast guard and nearly 500 attempts to stop German trawling operations were reported.²¹

– For the possibility of catching an additional 30,000 t of fish per year, this was a more reasonable price than would have been demanded by any negotiated arrangement.

But how was the situation finally resolved?

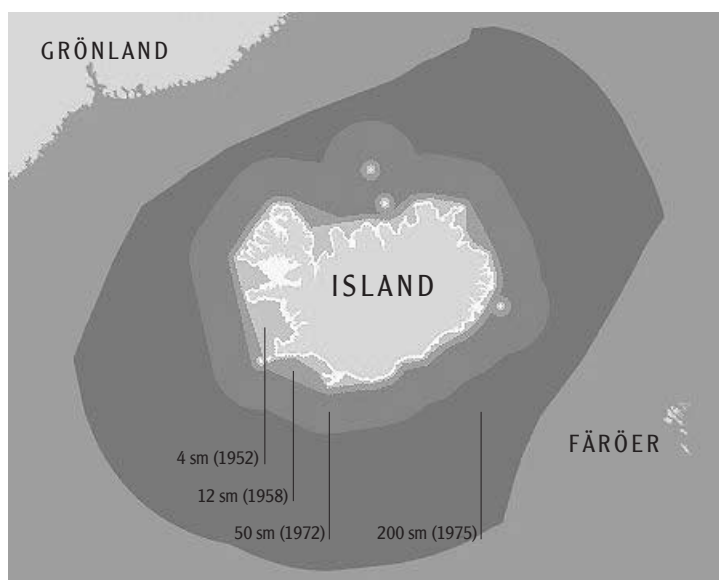


Fig. 8 The development of the Icelandic fisheries limit to 200 nm. (Landhelgisgæslan, Ísland)

In 1975 Iceland announced a further step in its widening of the fishery limits, now to 200 miles. Great Britain responded once again with navy vessels and another real cod war started.

At the same time the negotiations in the United Nations Conference on the Law of the Sea reached a stage where it became clear that future international law would include expanded fisheries limits for the coastal nations. The era of the 'continue trawling and continue negotiations' policy was over. There were only two solutions: either join the British side and take action against the Icelandic coast-guard vessels or accept the loss of the fishing grounds. Germany chose the second option. Between 1972 and 1975/1976 there was enough time to restructure the German fishing industry on the basis of fish import instead of the country's own catches. What is more, it was no longer possible to keep the conflict out of the limelight of the international political scene.

To sum up, the German behaviour in the 50-mile conflict was closely related to the fact that nearly everybody in Iceland thought only of Great Britain in connection with the fishing conflicts. Germany could therefore continue trawling without attracting major attention. Even at a time when Germany was the only nation that had not accepted the Icelandic regulations of 1972, the amount of attention paid to the matter in Iceland was not a great as that paid to the previous conflict with the British, as the German action was a purely civilian operation without any interference by the navy.

In a certain sense, Germany continued exploiting its early post-World-War-II position as a political "underdog" with a minor fishing fleet despite the fact that by the 1970s it was a politically and economically important nation with one of the largest deep-sea fishing fleets in Europe. Germany did not give a demonstration of naval power against Iceland, but tried to a certain extent to hide its fishing and fishery protection activities. This can be regarded as merely another form of unfair play – and I am sure it was not gentleman-like – but in a certain sense it was successful. The British approach of blaming a small nation by a demonstration of naval power failed much earlier than the German concept of accepting Iceland as an equal partner, at least when Iceland declared the 200-mile fisheries limit.

Although this paper deals with one of the most difficult periods of the German-Icelandic fisheries history, and surely – in retrospect – it can be said that there were mistakes and awkward behaviour on both sides, I will finish this paper with one very important aspect which should not be forgotten: Even in the worst times of the conflict there was an unwritten agreement on support in any emergency. For example, the German fishery protection vessels offered their support for the evacuation of Heimaey after the volcanic eruption in 1973, and the Icelandic coast guard and the entire Icelandic society granted every kind of medical support to any German crew member of a trawler after an accident or injury of any type, even if it happened during illegal fishing inside the Icelandic fisheries limit.

You will know the frequently quoted term "friends in conflict" or – in a translation of a German term – "the art of war between friends" and that is in my opinion not only the background for the good relations in the fisheries branches of Iceland and Germany today but also for the ceremony in Vík í Mýrdal tomorrow. The opening of a fisheries memorial that will not be only in honour of those crew members of German trawlers who lost their lives on the fishing grounds off Iceland but as well in honour of those Icelanders who risked their lives in rescue operations.

The chapter of history which dealt with the fisheries conflicts is as much concluded as German fishery off Iceland, and it is time to remember a development which started 111 years ago with the arrival of the first German trawler off Iceland, time to express thanks for the good relations between our nations despite the difficult decades, and time to look forward to a future of responsible use of the resources of the oceans as our common heritage, administrated by the coastal nations, as well as good trade and general relations between our nations.

Notes:

- 1 O.V.: "Der Fischereistreit um Island spitzt sich zu." In: *Allgemeine Fischwirtschaftszeitung* 10, 1958, No. 36, p. 3.
- 2 Wengler, Wilhelm: "Die isländische Fischereivorbereichszone vor dem Internationalen Gerichtshof." In: *Neue juristische Wochenschrift* 26, 1973, p. 936-940.
- 3 Bekanntmachung über das Inkrafttreten des deutsch-isländischen Fischereiabkommens. From August 14, 1961. Published in: *Bundes-Anzeiger* 1961, No. 172, p. 1.
- 4 Ministry for Foreign Affairs: *Fisheries Jurisdiction in Iceland*. Reykjavik, 1972, p. 19.
- 5 Baartz, Roland: *Entwicklung und Strukturwandel der deutschen Hochseefischerei unter besonderer Berücksichtigung ihrer Bedeutung für Siedlung, Wirtschaft und Verkehr Cuxhavens*. Hamburg, Stuttgart, 1991, p. 348.
- 6 Thór, Jón Th.: *British Trawlers and Iceland 1919-1976*. Esbjerg, 1995, p. 203.
- 7 Rüster, Bernd: "Überlegungen zum isländischen Fischereistreit." In: *Festschrift für F. Berber*. Munich, Berlin, 1973, p. 449-466.
- 8 International Court of Justice: Fisheries Jurisdiction Case (Federal Republic of Germany v. Iceland). Interim Protection. Order of 17 August 1972.
- 9 International Court of Justice: Fisheries Jurisdiction Case (Federal Republic of Germany v. Iceland). Interim Protection. Order of 12 July 1973.
- 10 Deutsches Schiffahrtsmuseum, Nordsee-Archiv: Island-Konflikt I-IV: Kapitänberichte der betroffenen Trawler.
- 11 Thór, Jón Th.: *British Trawlers and Iceland 1919-1976*. Esbjerg, 1995, p. 213.
- 12 Þjóðskjalasafn Íslands: Utanríkisráðuneytið 1996 B/88: Árekstrar milli V-Þýskra togara og íslenska varðskipa 1.1.1973-1.2.1975. 15 D 10a Pk.nr.1:
Verbal note: September 11, 1973 – Embassy of the Federal Republic of Germany / The Ministry of Foreign Affairs of the Republic of Iceland.
- 13 Deutsches Schiffahrtsmuseum, Nordsee-Archiv: Island-Konflikt II: Sofortmeldungen der Trawler SPITZBERGEN, HESSEN und OTHMARSCHEN.
- 14 Þjóðskjalasafn Íslands: Utanríkisráðuneytið 1996 B/88: Samniagaviðræður við V-Þjóverja fiskveiðiréttindi 1.1.1973-1.12.1974. 15 D 10 (áður 15 D 4):
Verbal note: January 22, 1973 – Embassy of the Federal Republic of Germany / The Ministry of Foreign Affairs of the Republic of Iceland.
- 15 Ibid.: Verbal note: RK 500.52 No. 129. December 6, 1974 – Embassy of the Federal Republic of Germany / The Ministry of Foreign Affairs of the Republic of Iceland.
- 16 Ibid.: German declaration on the German-Icelandic fishery conflict at the OECD council session of December 17, 1974 in Paris.
- 17 O.V.: "Noch keine Zollsenkung für Island." In: *Allgemeine Fischwirtschaftszeitung* 25, 1973, No. 7, p. 5.
- 18 Þjóðskjalasafn Íslands: Utanríkisráðuneytið 1996 B/88: Samniagaviðræður við V-Þjóverja fiskveiðiréttindi 1.1.1973-1.12.1974. 15 D 10 (áður 15 D 4): German declaration on the German-Icelandic fishery conflict at the OECD council session of December 17, 1974 in Paris.
- 19 Thór, Jón Th.: *British Trawlers and Iceland 1919-1976*. Esbjerg, 1995, p. 243.
- 20 Þjóðskjalasafn Íslands: Utanríkisráðuneytið 1996 B/88: Samniagaviðræður við V-Þjóverja fiskveiðiréttindi 1.1.1973-1.12.1974. 15 D 10 (áður 15 D 4): Pressemitteilung Nr. 206/1973. 24. Oktober 1973. Vereinigte Wirtschaftsdienste GmbH, Zweigstelle Bremen.
- 21 Deutsches Schiffahrtsmuseum, Nordsee-Archiv: Island-Konflikt I-IV: Kapitänberichte und Sofortmeldungen der betroffenen Trawler.