

CONFIDENTIAL

Ref. AO2773

MR ALEXANDER

Prime Minister

②
Print. 1/4

COMMON FISHERIES POLICY: FISH AS A COMMON RESOURCE

The Prime Minister has on occasion referred to fish as a "common resource" - indeed the only common resource - in the Community. I am advised that this is not legally correct; and in the context of our negotiations over the Common Fisheries Policy we need to be careful not to give the Germans or others more than in fact they aspire to.

2. The Prime Minister may have in mind the doctrine of Public International Law to the effect that fish are not subject to the jurisdiction of any state until they have actually been caught. In practice this is only relevant to the high seas, since it is an equally accepted principle that coastal states have the right to control access to their waters for the purposes of catching fish. But the concept of a "common resource" is not an established doctrine of Community law. All that appears in the Act of Accession and in the basic Fisheries Regulation is the term "equal conditions of access". The Germans have not claimed that Community fishery resources are owned in common: all they are claiming is the right to fish within a specific geographical area. To use the term "common resource" as shorthand for "equal conditions of access" would therefore not be tactically wise. Moreover, by allowing the concept to gain credence we might inadvertently damage our position in another context such as North Sea Oil.

ms

RA

(SIR ROBERT ARMSTRONG)

31 July 1980

CONFIDENTIAL