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MINISTRY OF AGRICULTURE, FISHERIES AND FOOD
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From the Minister

Prime Minister

(2)

Mr Walker reports an agreement reached with
the Danes by Mr Buchanan-Smith. Mr Walker
regards the outcome as satisfactory but evidently
12 September 1980
anticipates a good deal of criticism

PRIME MINISTER

MS

Handwritten initials and date 15/5

FISHERIES

NORWAY POUT BOX

One of the most intractable problems in the Common Fisheries Policy negotiations is our dispute with the Danes over the 'Norway Pout Box'. I am writing to let you know of the results of a discussion which, with the agreement of George Younger, Alick Buchanan-Smith had on 10 September with the Danish Minister on this issue.

2. The background is that Norway pout is an inedible species of fish caught mainly by Danish fishermen in the Northern North Sea for conversion into fishmeal. As a by-catch in the fishery substantial quantities of immature fish of species used for human consumption are caught to the detriment of fishermen interested in the latter species who, in the Northern North Sea, are mainly British from the east coast of Scotland and from north east England. The previous Administration in 1977 introduced nationally a ban on the pout fishery in a part of the Northern North Sea partly to protect the stocks of human consumption species and partly as a weapon in their policy of confrontation in the Community; subsequently in 1978 they substantially increased the area in which the ban operated by providing for an eastward extension during the winter months. Our present national measure is summarised in the map at Annex I. The 'Pout Box' is highly regarded by the UK industry which benefits from its effects on the human consumption fishery and is relatively unaffected by its effects on the pout fishery. The Danish industry being more interested in the industrial fishery, takes the opposite view.

3. The Commission have claimed that our national measure was incompatible with Community law and have proceeded against us on this (and other) issues in the European Court. The Court's judgement given in July in effect supported the Commission, finding our 1978 measure to be defective in Community law both in terms of

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the procedure by which it was adopted and, more disappointingly, in substance. Our legal advice is that as a consequence we will certainly not be able to enforce a box east of the meridian from 1 October because United Kingdom Courts would refuse to convict offenders on the basis that our measure was ultra vires.

4. An acceptable box is an essential component of a revised Common Fisheries Policy for our industry and it is vital to agree one before 1 October so that the immature fish of human consumption species can be adequately protected after that date. To proceed with another national measure would be certain to run us into trouble again in the Court and put a stop to any hope of progress on a revised Common Fisheries Policy. The only hope of progress is to reach agreement with the Danes; accordingly, with the Commission's knowledge, we have had bilateral discussions with them over the last few weeks. Gundelach has said that he is prepared to propose as a Council regulation anything that is acceptable to both the Danes and ourselves. An agreement should be able to be ratified at the Fisheries Council on 29 September and be effective by 1 October.

5. The map at Annex II illustrates the box that Alick agreed on Wednesday with the Danes. This protects most of the areas in which by-catches in the pout fishery are especially high and also has the advantage of operating throughout its range for the whole year (unlike our present Order) and of containing a small new area directly east of the Shetlands which is presentationally attractive. Its disadvantage is that we have had to concede that pout fishing be allowed in areas in the north of the box where it is currently banned; this is regrettable especially in respect of the areas to the west of the meridian. Nevertheless, our scientists have shown that the box in Annex II has very real advantages in terms of conservation and is much better in this respect than the box extending eastwards to 0° only which is all the Commission have hitherto been willing to propose. The Danes have made it clear that they are prepared to go no further; and if need be they are prepared simply to wait until 1 October when they know perfectly well that we will be unable to enforce a box east of the meridian. Not only would this make us look foolish but the resulting fracas would be bound to damage the prospects for a settlement later this autumn. In all the circumstances I am sure that it is right to settle for the box at Annex II and I have agreed that we should approach the Commission jointly with the Danes to inform them accordingly.

6. The more clear-sighted leaders of the industry (whom I shall inform of the position next week) are likely to appreciate that we have secured rather more on this issue than might have been expected given the weakness of our hand. But the economic position of much of the industry is so precarious that we can, realistically,

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only expect criticism for anything that does not match their demands fully. However, they would be certain to be more critical if there were effectively no box east of the meridian from 1 October.

7. I believe that George Younger, for whom this is an especially sensitive issue, broadly agrees with this assessment.

8. I am copying this to Peter Carrington, Ian Gilmour, George Younger and Sir Robert Armstrong.

D.E. Jones

for PETER WALKER
Approved by the Minister
and signed in his absence

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