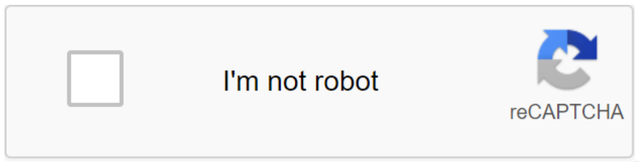

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Anglo norwegian fisheries case pdf

(p .117) Court, the above makes the following decision: on 28 September 1949, the Government of the United Kingdom of Great Britain and Northern Ireland filed an application to the Secretariat to bring a case against the Kingdom of Norway, the subject of the proceedings is validity or otherwise, in accordance with international law, the lines of delimitation of the Norwegian fishing zone set out by the Royal Decree of 12 July, 1935, amended by the Decree of 10 December 1937 , for this part of Norway, which is located north of 66 28.8' (or 66 28'48) N. latitude. The statement referred to the Declarations, which recognized the United Kingdom and Norway as binding jurisdiction under article 36 of paragraph 2 of the Statute. In that statement, the court requested (a) to declare the application of the principles of international law in determining the baselines, citing which the Norwegian Government has the right to delimit the fish zone extending to p 119 at sea 4 nautical miles from these lines and exclusively reserved for its own citizens, and to identify such baselines as needed, in light of the arguments of the Parties, in order to avoid further legal differences between them; (b) To award damages to the Government of the United Kingdom for all norwegian interference in UK affairs by the Norwegian authorities; fishing vessels outside the zone, which, in accordance with the Court's decision in accordance with (a) the Norwegian Government has the right to reserve its citizens. Under article 40, paragraph 3 of the Statute, the application was notified to States that have the right to appear before the Court. It was also betrayed to the Secretary-General of the United Nations. Applications were filed within the time frame set by the Order of 9 November 1949 and then extended by orders of 29 March and 4 October 1950 and 10 January 1951. Under article 44, paragraph 2 of the Court's Rules, they were brought to the attention of the Governments of Belgium, Canada, Cuba, Iceland, Sweden, the United States of America and Venezuela at their request and with the permission of the Court. On 24 September 1951, the Court, in the application of article 44, paragraph 3 of the Rules, following the example of the Government of Norway and with the consent of the Government of the United Kingdom, allowed these motions to be made available to the public. The case was ready for a hearing on April 30, 1951, and the opening of oral proceedings was scheduled for September 25, 1951. Public hearings were held on 25, 26 September, 27, 28 and 29 October, 1, 5, 6, 8, 9, 10, 12, 13, 15, 17, 18, 19, 20, 24, 25, 26, 27 and 29. During the hearing, the Court heard Sir Eric Beckett, an agent, Frank Soskis, Mr. Wilberforce and Professor Waldock, Advocate, on behalf of the Government of the United Kingdom; and M. Arnzen, agent and lawyer, and Professor Burkin, lawyer, on behalf of the Government of Norway. In addition, Commander Kennedy provided technical clarifications on behalf of the Government of the United Kingdom. At the end of his argument, the Agent of the Government of the United Kingdom submitted the following submissions: the United Kingdom argues that the Court must decide that the maritime restrictions that Norway has the right to apply to the United Kingdom must be established in accordance with the following principles: p 120 (1) That Norway is entitled to a fixed-width territorial water belt of as much as 4 nautical miles. (2) What, as a result, the outer limit of Norwegian territorial waters should never be more than 4 nautical miles from any point on the baseline. (3) That, provided (4) (9) and (10) below, the baseline should be a low water mark on permanently dry land (which is part of Norwegian territory) or a proper closure line (see (7) below) of Norwegian inland waters. (4) That where there is a low tidal altitude located within 4 nautical miles of permanently dry land, or the proper closure of the Line of Norwegian Inland Waters, the outer limit of territorial waters can be 4 nautical miles from the outer edge (at low tide) of this low tide of altitude. In no other case can the tide increase be taken into account. 5) Norway has the right to claim that as the inland waters of Norway, on historical grounds, all fjords and sunlight that fall under the concept of the bay, as refined in international law, whether the proper entrance to the indentation is more or less 10 nautical miles wide. 6) This definition of a bay in international law is a well-marked indentation, the penetration of which inland inland in such proportion to the width of the mouth that constitutes an indentation more than just the curvature of the coast. (7) Where the area of water is a bay, the principle that determines where the closing line should be drawn is that the closing line must be stretched between the natural geographic entry points where the indentation ceases to have a bay configuration. (8) What is the legal strait of any geographical strait that connects the two parts of the high seas. 9) Norway has the right to claim that as Norwegian territorial waters on historical grounds were all the waters of the fjords and acres, which have the character of a legal strait. Where the sea zones taken from each shore intersect at each end of the strait, the territorial water limit is formed by the outer rims of the two sea zones. Where, however, the sea belts so drawn do not intersect, the limit follows the outer each of these two sea belts until they intersect with a straight line, connecting the natural natural point of the strait, after which the crossing of the limit follows that straight line. (10) This, in the case of the Westfjord, the outer boundary of Norwegian territorial waters, at the southwest end of the fjord, is the pecked green line shown on charts 8 and 9 appendix 35 response. (p. 121) 11) Norway, due to its historical title of fjords and the sun, has the right to claim either territorial or inland waters, water areas lying between the island outskirts and the mainland, which it Norway. In order to determine which areas should be considered to be adjacent between the islands and the mainland, and whether these areas are territorial or inland waters, it is necessary to contact Nos. (6) and (8) higher, being definitions of the gulf and the legal strait. 12) Norway has no right to apply any claim against the United Kingdom to waters not covered by previous principles. As between Norway and the United Kingdom, the waters off the coast of Norway north of the parallel of 66 28.8' N., which are not Norwegian because of the aforementioned principles, are open seas. (13) Norway is obliged to compensate the United Kingdom for all arrests since 16 September 1948 of British fishing vessels in waters on the high seas due to previous principles. The United Kingdom Government agent later presented the following conclusions at the end of his oral reply: the United Kingdom argues that the Court must decide that the maritime restrictions that Norway has the right to apply to the United Kingdom must be established in accordance with the following principles: (1) that Norway is entitled to a fixed-width territorial water belt of as much as 4 miles. (2) What, as a result, the outer limit of Norwegian territorial waters should never be more than 4 nautical miles from any point on the baseline. (3) This, according to Nos. (4), (9) and (10) below, the baseline should be a low water mark on permanently dry land (which is part of Norwegian territory) or a proper closure line (see No (7) below) of Norwegian inland waters. (4) That where there is a low altitude located within 4 nautical miles of constant land, or a proper closure line of Norwegian inland waters, the outer limit of Norwegian territorial waters may be 4 nautical miles from the outer edge (at low tide) of this low tidal altitude. In no other case can the tide increase be taken into account. (5) Norway has the right to claim that as the inland waters of Norway, on historical grounds, all fjords and sunlight that fall under the concept of the bay, as defined in international law (see No .6) below), whether the proper closure line is more or less 10 nautical miles long. (p. 122) (6) This is the definition of the gulf in the law is a well-marked indentation, the penetration of which inland in such proportion to the width of his mouth, to represent a retreat more than just the curvature of the coast. (7) Where the area of water is a bay, the principle that determines where the closing line should be drawn is that the closing line must be stretched between the natural geographic entry points where the indentation ceases to have a bay configuration. (8) What is the legal strait of any geographical strait that connects the two parts of the high seas. (a) that Norway has the right to claim that as Norwegian territorial waters, on historical grounds, were all the waters of the fjords and the lights that have the character of a legal strait. (b) Where the sea zones taken from each shore intersect at each end of the strait, the limit of territorial waters is formed by the outer rims of the two sea zones. Where, however, so drawn sea belts do not intersect, the limit follows the outer rims of each of the two sea belts until they intersect with a straight line, connecting the natural entry points of the strait, after which the crossing of the limit follows that straight line. (10) This, in the case of the Westfjord, the outer boundary of Norwegian territorial waters, at the southwest end of the fjord, is the pecked green line shown on charts 8 and 9 appendix 35 response. 11) Norway, due to its historical title of fjords and sun rays (see No. 5) and (9) (a) above), has the right to claim both inland and territorial waters for the waterways between the island outskirts and the Norwegian mainland. In order to determine which areas should be considered to lie between the island border and the mainland, and whether these areas are inland or territorial waters, the principles nos. (6), (7), (8) and (9) (b) should apply to indentations on the outskirts of the island and to indentations between the island outskirts and the mainland of areas that lie in the indentations of the nature of the bays. , and within the proper closure of lines that are considered inland waters; and those areas that are indentations, which have the nature of legal straits and within their proper limits, which are considered territorial waters. 12) Norway has no right to apply any claim against the United Kingdom to waters not covered by previous principles. As between Norway and the United Kingdom, the waters off the coast of Norway north of the parallel of 66 28.8' N., which are not Norwegian because of the aforementioned principles, are open seas. (p. 123) (13) The Norwegian Royal Decree of 12 July 1935 is not enforceable to the United Kingdom to the extent that it claims that Norwegian waters (internal or territorial waters) are not covered by Nos. (I)-(II). (14) What is under international international compensation to the United Kingdom is to comply with all arrests since 16 September 1948 of British fishing vessels in waters on the high seas because of previous principles. Alternatively No. 1) to (13) (if the Court is to decide by its decisions the exact limits of territorial waters that Norway has the right to apply against the United Kingdom), Norway has no right to require any areas of water off the Norwegian coast north of the parallel 66 28.8' N. which are outside the beak green line, which are outside the beak green line, as Norwegian waters. drawn on diagrams that form 35 responses. As an alternative to the Nos. (8) before (n) (if the Court must have ruled that the waters of Indrele are the inland waters of Norway), below is the replacement Nos. (8) on (II): I. That, in the case of the Westfjord, the outer boundary of Norwegian territorial waters at the southwest end of the fjord represents 14 nautical miles of sea line, joining the Skomvar Lighthouse in Rost to the Kalsholmen Lighthouse in Tennholmerne before crossing the former line with arcs of circles in the pecked green line shown in charts 8 and 9 annex 35. II. This Norway, due to its historical title of fjords and sunlight, has the right to claim as inland waters to the water areas lying between the island outskirts and mainland Norway. In order to determine which areas should be considered as lying between the island outskirts and the mainland, the principles of Nos. (6) and (7) above, should be applied to indentations on the island outskirts and to indentations between the island fringe and the mainland of those areas that lie in the indentations of the nature of the bays, and within the proper closure lines of them, considered to lie between the island fringe and the mainland. At the end of his argument, the Norwegian agent presented on behalf of his Government the following views, which he did not change in his oral return: In terms of the fact that the Norwegian Royal Decree of 12 July 1935 does not contravene the norms of international law binding on Norway, and that Norway has, in any case, a historical name for all waters included within the limits established by this decree. , Let the court, in one single decision, reject all notions to the contrary, to rule and state that the delimitation of the fish zone established by the Norwegian royal decree of 12 July 1935 does not contravene international law. Should. The historical facts presented before the Court show that, as a result of the complaints of the King of Denmark and Norway in the early seventeenth century, refrained from fishing in Norwegian coastal waters for a long period, from 1616-1618 to 1906. In 1906, several British fishing vessels appeared off the coast of East Finnmark. Since 1908, they have been returning in larger numbers. They were trawlers equipped with improved and powerful equipment. The local population was outraged and the Norwegian Government had taken steps to define the limits within which foreigners were prohibited from fishing. The first incident occurred in 1911, when a British trawler was captured and convicted of violating these measures. Negotiations between the two governments have begun. They were interrupted by the war in 1914. Incidents have been repeated since 1922. Further conversations began in 1924. In 1932, British trawlers, expanding their range of activities, appeared in sectors off the Norwegian coast west of the Northern Cape, and the number of warnings and arrests increased. On 27 July 1933, the Government of the United Kingdom sent a memorandum to the Norwegian Government complaining that the Norwegian authorities had used unjustified baselines in the delimitation of the territorial sea. On July 12, 1935, a Norwegian royal decree was adopted, delineate the Norwegian fish area north of 66 28.8' North Latitude. The United Kingdom made an urgent submission in Oslo, during which the issue of bringing the dispute to the Permanent Court of International Justice was raised. Prior to the results of the negotiations, the Norwegian Government indicated that Norwegian fishing patrol vessels would be lenient towards foreign vessels fishing at a certain distance within the fishing range. In 1948, since no agreement had been reached, the Norwegian Government had refused to enforce the 1935 Decree softly; Incidents then became more frequent. A significant number of British trawlers have been arrested and convicted. It was then that the United Kingdom Government established the current proceedings. The Norwegian Royal Decree of 12 July 1935 on the delimitation of the Norwegian fishing zone sets out in the preamble the considerations on which its provisions are based. In this regard, it is a question of well-established national titles of law, geographical conditions existing on The Norwegian coasts, the protection of the vital interests of the inhabitants of the most northern parts of the country; it also relies on royal decrees of 22 February 1812, 16 October 1869, 5 January 1881 and 9 September 1889. The decree provides that the lines of delimitation to the high sea of the Norwegian fishing zone in relation to this part of Norway, which is located to the north of 66 28.8' North Latitude .... must run parallel to the straight baselines drawn between fixed points on the mainland, islands or rocks, from the end point of the border line of the kingdom in the easternmost part of the Varangerfjord and to tram in County Nordland. The application indicates fixed points between which the baselines are drawn. The subject of the dispute is clearly stated in paragraph 8 of the Initiation Statement: The subject of the dispute is validity or otherwise, in accordance with international law of the lines of delimitation of the Norwegian fishing zone set out by the Royal Decree of 1935 for this part of Norway, located north of 66 28.8 North Latitude. And further: ... the question in question between the Two Governments was whether the lines established by the Royal Decree of 1935 as the baselines for the delimitation of the fish area had been drawn up or had not been drawn up in accordance with applicable international law. Although the decree of 12 July 1935 refers to the Norwegian fishing zone and does not specifically mention the territorial sea, there can be no doubt that the zone delimitated by this decree is nothing more than a maritime area, which Norway considers its territorial sea. That is how the Parties argued on the matter, and that is how they presented it to the court for a decision. The materials submitted by the Agent of the Norwegian Government correspond to the subject of the dispute specified in the statement. The proposals formulated by the Agent of the United Kingdom Government at the end of his first statement and his revised at the end of his oral response under the heading conclusions are more complex in nature and should be considered in detail. Paragraphs I and 2 of these findings relate to the size of the Norwegian territorial sea. This issue is not the subject of the current dispute. In fact, during the proceedings, the United Kingdom recognized the 4-mile limit claimed by Norway. Paragraphs 12 and 13 appear to be real representations that are in accordance with the concept of United Kingdom international law, as they do not come out in accordance with paragraphs 3-11. Paragraphs 3-11 appear to be a set of proposals that, in the form of definitions, principles or rules, are designed to justify certain allegations and do not constitute an accurate and direct statement of claim. The subject of the dispute is very specific, the Court cannot consider the proposal of an agent of the Government of the United Kingdom at a meeting on 1 October 1951 that the Court should make a decision, which for the time being is limited to the judgement of definitions, principles or rules, which, moreover, was objected to by the agent of the Norwegian Government at the meeting on 5 October. , 1951. These are elements that may be grounds for support for the Solution, but cannot constitute a solution. What follows is that thus, these elements can only be taken into account as to what appears to be relevant to the solution of a single contested issue, namely, validity or otherwise, in accordance with international law of the lines of demarcation set out in the 1935 Ordinance. Paragraph 14, which seeks to reach a principled decision on Norway's obligation to compensate the United Kingdom for all arrests since 16 September 1948 of British fishing vessels in waters found to be on the high seas, should not be considered, as the Parties have agreed to leave the matter to a subsequent settlement if it arises. The United Kingdom Government's claim is based on what it considers to be general international law applicable to the delimitation of the Norwegian fishing zone. The Norwegian Government does not deny the existence of international law that this delimitation must comply with. He argues that the proposals made by the Government of the United Kingdom in its conclusions are not of the nature attributed to it by that Government. It also relies on its own system of demarcation, which it claims is in all respects in accordance with the requirements of international law. The Court, in turn, will consider these various aspects of the United Kingdom's claim and the protection of the Norwegian Government. The coastal area associated with this dispute is considerable length. It is located north of latitude 66 28.8' N, i.e. north of the Arctic Circle, and includes the coast of mainland Norway and all islands, islets, cliffs and reefs known as skj'regaard (literally, mountain shaft), along with all Norwegian inland and territorial waters. The coast of the mainland, which without taking into account fjords, bays and minor indentations is more than 1500 kilometers long, has a very distinctive configuration. Very broken along the entire length, it constantly opens into indentations, often penetrating long distances inland: the fjord Por Sanger, for example, penetrates inland for 75 nautical miles. In the west, the land configuration extends into the sea: large and small islands, mountainous in nature, islets, rocks and reefs, some always above water, others appear only at low tide, in fact, but the expansion of mainland Norway. The number of island formations, large and small, which make up skj'regaard, according to estimates of the Norwegian government, is one hundred and twenty thousand. From the southern tip of the disputed area to the northern cape, the skiargaard is located along the entire coast of the mainland; to the east of the Northern Cape, the squiargaard ends, but the coastline is still shattered by large and deeply receding fjords. As part of the skiargaard on every island island large and its small coves; countless sea, straits, canals and simple waterways serve as a means of communication for the local population, which lives on the islands, as well as the mainland. The coast of the mainland does not represent, as it happens in almost all other countries, a clear dividing line between land and sea. What matters is what the Norwegian coastline really is, it's the outer line of the skergaard. This whole region is mountainous. Cape North Cape, a sheer rock just over 300 metres high, can be seen from a considerable distance; There are other peaks rising more than a thousand meters, so the Norwegian coast, the mainland and skjaergaard, can be seen from afar. Along the coast there are relatively small shores, real underwater terraces, which make up fishing grounds, where fish are especially abundant; these lands were known to the Nor-Vegi fishermen and have been exploited since time immemorial. Since these banks are within sight of vision, the most desirable fishing grounds have always been located and identified by the alignment method (meds), at points where two lines stretched between points chosen on the coast or islands intersected. (p. 128) In these barren areas, coastal inhabitants are re livelihoodd mainly by fisheries. These are the realities that must be kept in mind when assessing the validity of the United Kingdom's assertion that the limits of the Norwegian fishing zone set out in the 1935 Ordinance are contrary to international law. Parties that agree with the four-mile figure for the width of the territorial sea have a problem with which base this latitude should be considered. The conclusions of the United Kingdom are clear on this point: the baseline should be a low water mark on permanently dry land, which is part of Norwegian territory, or a proper closure line for Norwegian inland waters. The Court has no difficulty in concluding that the measurement of the width of the territorial sea is a low water mark rather than a high water mark or the average level between the two tides, which has generally been adopted in the practice of States. This criterion is the most favorable for the coastal state and clearly shows the nature of territorial waters as an appendage to the land territory. The Court notes that the Parties agree with this criterion, but they disagree on its application. The parties also agree that in the case of low tidal height (drying of rock), the outer edge on low water of this low tidal elevation can be taken into account as a base point for calculating the width of the territorial sea. The United Kingdom Government's findings add a condition that Norway has not recognized, namely, that to be taken into account, drying the breed located within 4 miles of permanent land. However, the Court does not consider it necessary to consider this issue, as Norway has been able to prove, after both Parties have given their interpretation of the timetables, that in fact none of the dry rocks it uses as base points is more than 4 miles from the permanently arid lands. The Court considers itself obliged to decide whether the corresponding low water mark of the mainland or Schiaergaard is appropriate. Since the mainland borders in its western sector with skjaergaard, which is a whole with the mainland, it is the outer line of skjaergaard, which must be taken into account when delimitation of the belt of Norwegian territorial waters. This decision is dictated by geographical realities. Three methods were provided for the application of the low water rule. The simplest, apparently, is the method of parallel traces, which is to draw the outer boundary of the territorial belt, following the coast in all its sinusities. This method can be applied easily to a normal coast that is not too broken. Where the coast is deep and cut, as is the east Finnmark coast, or where it borders the archipelago, such as the skiargaard along the western sector of the coast, the base line becomes independent of the low-water mark and can only be determined by geometric design. In such conditions, the low water line can no longer be doubled, usually requiring the coastline to follow in all its sinuses. Nor could there be a very numerous deviations from the rule that would have been caused by such a harsh coastline: that rule would have disappeared in accordance with exceptions. Such a coast, considered as a whole, requires a different method; that is, a method of baselines that can reasonably depart from the physical coastline of the coast. Indeed, the experts of the Second Committee of the Second Committee of the Conference of 1930 on the codification of international law somewhat strictly formulated the rule of a low-weather sign (after all the sine coast). But at the same time they were obliged to accept many exceptions concerning bays, islands off the coast, groups of islands. In this case, this method of trace paralysis, which was applied against Norway at the Memorial, was left in a written reply and then in the oral argument of an agent of the Government of the United Kingdom. Therefore, this is no longer relevant. On the other hand, says the answer, the kurbe tangente or, in English, envelopes the arc circles method that the United Kingdom considers correct Arc circles method, which used to determine the position of a point or object in the sea, is a new technique in that it is a method of delineating the territorial sea. This method was proposed by the United States delegation at the 1930 Conference on the Codification of International Law. Its purpose is to enforce the principle that the territorial belt should follow the coastline. This is not legally binding, as was the admission of a lawyer for the United Kingdom Government in his oral response. In these circumstances, and while some of the United Kingdom's conclusions are based on the arc of circles, the Court considers that it should not consider these findings as long as they are based on this method. The principle that the territorial belt should follow the general direction of the coast allows to fix certain criteria valid for any delimitation of the territorial sea; these criteria will be clarified at a later date. At this stage, the Court will limit itself to the fact that, in order to apply this principle, a number of States have found it necessary to follow the direct basis method and that they have not encountered principled objections from other States. This method consists of selecting the appropriate dots at the low p 130 and drawing straight lines between them. This was done not only in the case of well-defined bays, but also in the case of minor curvature of the coastline, where it was solely a matter of providing a simpler form to the territorial belt. On behalf of the United Kingdom, it was argued that Norway could only draw direct lines across the bays. The court cannot share this view. If the territorial belt should follow the outer line of skj'rgaard, and if the method of direct baselines should be allowed in certain cases, there is no good reason to draw them only through the bays, as in East Finnmark, and not to draw them between islands, islets and rocks, through the sea areas separating them, even if such areas do not fall under the concept of the gulf. It is enough that they should be located between the island formations skjaergaard, inter fauces terrarum. The Government of the United Kingdom recognizes that direct lines, regardless of their length, can only be used on the condition established in paragraph 5 of its conclusions, as follows: Norway has the right to claim as -Norwegian inland waters, on historical grounds, all fjords and from the sun that fall under the concept of the bay, as defined in international law (see No (6) below) , whether the proper closure line is more or less than 10 miles long. A preliminary comment should be made in that regard. In the view of the United Kingdom Government, Norway has the right to historical all fjords and sun rays that have the character of a bay. It also has the right on historical grounds to claim as Norwegian territorial waters on all waters of the fjords and by the sun, which have the character of legal straits (Conclusions, paragraph 9), and, both internal and territorial waters, areas of water lying between the island edge and the mainland (paragraph 11 and second alternative withdrawal II). Historical waters usually refer to waters that are considered as inland waters, but which would not have such a character if not for the existence of a historical name. The Government of the United Kingdom refers to the notion of historical names for both territorial waters and inland waters, considering such names in both cases as deviations from general international law. In her view, Norway could justify the assertion that the waters were territorial or domestic in the language that it had exercised the necessary jurisdiction over them for a long period without opposition from other States, a kind of longi temporis, which meant that its jurisdiction over those waters should now be recognized, although it constituted a departure from the current rules. (p. 131) Norwegian sovereignty over these waters would be an exception, historical names justifying situations that would otherwise be contrary to international law. As has already been said, the Government of the United Kingdom recognizes that Norway has the right to claim as inland waters on all waters of the fjords and from the sun, which fall under the concept of the bay, as defined in international law, whether the final line of indentation is more or less ten nautical miles long. However, the Government of the United Kingdom recognized this only on the basis of a historical name; it must therefore be recognized that the Government has not abandoned its assertion that the ten-mile rule should be regarded as a rule of international law. In these circumstances, the Court considers it necessary to point out that, although the ten-mile rule has been adopted by some States in both their national law and their treaties and conventions, and while some arbitration decisions have applied it as between those States, others have adopted a different limit. Consequently, the ten-mile rule has not acquired the authority of the general rule of international law. In any case, the ten-mile rule did not appear to apply to Norway, since it had always opposed any attempt to apply it to the Norwegian coast. The Court is now approaching the question of the length of the baselines drawn through the waters between the various schiaergaard formations. Based on an analogy with the proposed 10-mile general rule the Government of the United Kingdom continues to hold this view that the length of straight lines should not exceed ten miles. In this regard, States did not condone the wording of any general rule of law. Attempts to subject groups of islands or coastal archipelagos to conditions similar to those relating to bays (the distance between islands not exceeding twice the width of territorial waters, or ten or twelve nautical miles) did not go beyond the proposal stage. In addition, in addition to any issue of limiting lines to ten miles, it may be that several lines may be provided. In such cases, the coastal State seems to be in a better position to assess the local conditions dictating the choice. The Court therefore cannot share the view of the United Kingdom Government that Norway, on the issue of baselines, now requires recognition of an exceptional system. As will be shown later, all the court can see in this is the application of common international law to a particular case. (p. 132) The United Kingdom's findings, paragraphs 5 and 9 to n, relate to waters between the base lines and the Norwegian mainland. The Court is asked to consider that these waters belong to Norway on historical grounds, but they fall into two categories: territorial and inland waters in accordance with two criteria, which are considered to be well-founded in international law, water, in accordance with the concept of the bay, which are considered inland waters, and those that have the nature of legal straits, are considered territorial waters. As the United Kingdom has recognized, Squiergaard is a unit with the Norwegian mainland; waters between the base lines of the territorial waters belt and the mainland are inland waters. However, according to the United Kingdom, some of these waters are territorial waters. These are, in particular, the waters followed by a navigation route known as Indrelia. It is argued that, since these waters are of this nature, some of the consequences arise from the definition of territorial waters at the end of this waterway, which is considered a sea spill. The Court must note that Indrelia is not a strait at all, but rather a navigation route prepared as such by artificial means for navigation provided by Norway. In these circumstances, the Court is unable to accept the view that Indrelia has a different status for the purposes of this case than other waters included in Skergaard. Thus, the Court, confining itself to the conclusions of the United Kingdom to date, considers that the Norwegian Government did not violate international law in establishing the baselines for the delimitation of the Norwegian fishing zone by decree of 1935. It does not mean that in the absence of rules that are technically accurate the United Kingdom Government's delimitation carried out by the Norwegian Government in 1935 is not subject to certain principles that allow it to be judged in accordance with international law. The delimitation of marine areas always has an international dimension; it could not depend only on the will of the coastal State expressed in its municipal legislation. While the act of delimitation was indeed a unilateral act, since only the coastal State was legitimate in carrying it out, the validity of delimitation in respect of other States depended on international law. (p 133) In this regard, some of the basic considerations inherent in the nature of the territorial sea will highlight certain criteria that, while not entirely accurate, can provide the courts with an adequate basis for their decisions, which can be adapted to the various facts in question. Among these considerations is the close dependence of the territorial sea on land. It is the land that gives the coastal state the right to water off its shores. It follows that, while such a State should be allowed the latitude necessary for it to be able to adapt its delimitation to practical needs and local needs, the drawing of baselines should not deviate significantly from the overall direction of the coast. Another fundamental consideration that is of particular importance in this case is the more or less close relationship that exists between certain marine areas and the land formations that divide or surround them. The real question raised in the selection of baselines is, in fact, whether certain marine areas within these lines are closely related to the land to which the inland water regime will be subject to. This idea, which is the basis for determining the rules concerning the bays, should be applied liberally in the case of the coast, the geographical configuration of which is as unusual as the idea. Norway. Finally, one consideration should not be overlooked, the extent of which goes beyond purely geographical factors: the interests of some economic interests characteristic of the region, the reality and importance of which clearly indicate long-term use. Norway is is putting forward the 1935 Decree as the application of the traditional system of demarcation, a system that it claims is fully in accordance with international law. The Norwegian Government referred in this regard to a historical name whose meaning was clearly published by a Norwegian lawyer at a meeting on 12 October 1951: the Norwegian Government does not rely on history to justify exclusive rights, to assert maritime areas that in common law will be denied; she refers to the story, other factors to justify the way it applies common law. This concept concept this name is combined with the Norwegian Government's understanding of the general norms of international law. In her view, those norms of international law take into account the diversity of facts and therefore recognized that the basic lines should be adapted to the specific conditions obtained in different regions. In her view, the 1935 system of demarcation, characterized by the use of straight lines, did not violate common law; it is an adaptation necessary in the local environment. (p 134) The Court must determine exactly what this proposed system of demarcation is, what its implications in the law are for the United Kingdom and whether it was applied by The 1935 Ordinance in accordance with international law. The parties say that the Royal Decree of 22 February 1812 is of cardinal importance in the matter of the existence of the Norwegian system. The Decree is as follows: We would generally like to state that whenever the question arises of determining the limit of our territorial sovereignty at sea, this limit is considered to be at a distance of one ordinary maritime league from an island or islet, the furthest from the mainland, not covered by the sea; that all relevant authorities should be informed in the crypt. The text did not clearly specify how the basic boundaries between islands or islets, the furthest from the mainland, should have been drawn. In particular, it does not explicitly state that lines should take the form of straight lines stretched between these points. But it can be noted that this is how the Decree of 1812 was invariably interpreted in Norway in the 19th and 20th centuries. The decree of 16 October 1869 concerning the delimitation of Sunnmore and the Statement on the Reasons for this decree are particularly revealing with regard to the traditional Norwegian concept and the Norwegian construction of the 1812 Decree. It was with reference to the 1812 Decree, and specifically based on the concept adopted by the decree, that the Ministry of the Interior justified the drawing of a 26-mile straight line between the two outer points of the Schiaergaard. The decree of September 9, 1889, concerning the delimitation of Romsdal and Nordmdra, used the same method, drawing four straight lines, respectively, 14.7 miles, 7 miles, 23.6 miles and 11.6 miles in length. Decree 1812 was also interpreted by the Territorial Water Boundary Commission (report of 29 February, 1912, p. 48-49), as was the case in the Memorandum of 3 January 1929 sent by the Norwegian Government to the Secretary-General of the League of Nations, which stated: The direction set out in this Decree should be interpreted in the sense that the starting point for calculating the latitude water should be a line stretched along the schiaergaard between the furthest cliffs and, where there is no squiargaard, between the extreme points. The decision of the Supreme Court of Norway in 1934 in the Saint-Austy case granted the final authority for such interpretation. This concept is consistent with the geographical features of the Norwegian coast and does not contradict the principles of international law. (p. 135), however, it should be noted that, although the 1812 Decree denoting as a base point an island or islet, the furthest from the mainland not covered by the sea, Norwegian government practice subsequently interpreted this provision as meaning that the limit should be taken into account with the most external islands and islets not permanently covered by the sea. The 1812 decree, although fairly general in its view, had, as its direct object, the establishment of a limit applicable to maritime neutrality. However, as soon as the Norwegian Government was spurred on by the circumstances for the delimitation of its fishing zone, it regarded the decree as established principles that should be applied for purposes other than neutrality. The statements on the reasons for 1 October 1869, 20 December 1880 and 24 May 1889 are final on this matter. They also show that the delimitation that took place in 1869 and 1889 is an charred application of a certain system applicable to the entire Norwegian coastline, and is not merely legislation of local interest to which any special requirements are imposed. In particular, the following passage from the Statement on the Reasons of the Decree of 1869: My Ministry assumes that the general rule mentioned above (namely, the four-mile rule, which is recognized by international law to determine the extent of a country's territorial waters, should be applied here so that the maritime zone within a line stretched parallel to the straight line between the two outer islands or the rocks not covered by the sea) should be applied here so that the maritime zone within a line stretched parallel to the straight line between the two outer islands or the rocks not covered by the sea , Pork in the south and Storholmen in the north, and one geographical league northwest of this straight line, should be considered Norwegian maritime territory . The 1869 Cause Statement cites all the elements that constitute what the Norwegian Government describes as its traditional system of demarcation: the base points provided by islands or islets closest to the mainland, the use of direct lines joining these points, the absence of any maximum length for such lines. The decision of the Norwegian Supreme Court in the Saint-Simply case upheld this interpretation and added that the 1812 Decree was never understood or

applied in such a way that the boundary followed the sinusity of the coast or that its position was determined by the circles drawn points of Skyardardard or the mainland the furthest a method that would be very difficult to adopt or enforce in practice, in terms of the special configuration of this coast. Finally, it has been established that, under the Norwegian system, the baselines must follow a common direction of the coast that is in accordance with international law. Equally important in this regard is the correspondence that took place between Norway and France between 1869-1870. On 21 December 1869, just two months after the publication of the decree of 16 October on the delimitation of Sunnmere, the French Government asked the Norwegian Government to explain the law. It did so on the basis of the principles of international law. In a second note dated 30 December of the same year, it indicated that the distance between the base points exceeded 10 nautical miles and that the line connecting those points had to be broken by following the configuration of the coast. In a note dated 8 February 1870, the Ministry of Foreign Affairs, also considering the matter from the point of view of international law, replied as follows: In the same note of 30 December, Your Excellency drew my attention to setting the fishing limit in the Sunmer archipelago by a direct line, not a broken line. According to your Government, since the distance between the islets of Pig and Storholmen is more than 10 nautical miles, the fishing limit between the two points should have been a broken line, following the configuration of the coastline and closer to it than the current limit. Despite the adoption in some treaties of a rather arbitrary distance of 10 nautical miles, it seems to me that this distance has not become a force for international law. Even less seems to be any basis in reality: one bay, due to the different formations of the coast and sea coast, may have a completely different character than that of another bay of the same width. It seems to me, rather, that local conditions and considerations of what is feasible and fair should be crucial in specific cases. The configuration of our shores is in no way similar to the coasts of other European countries, and only this fact makes it impossible to adopt any absolute rule of universal application in this case. I would venture to say that all these reasons are fighting in favor of the line set out by the Decree of October 16. A broken line, closely corresponding to the indentations of the coastline between Pig and Storholmen, would have meant that the border would have been so drawn and so fuzzy that it would not have been possible to supervise it.... Such language can only be interpreted as an expression of the legal concept considered by the Norwegian Government as compatible with the international Indeed, the French government did not deal with this issue. The note of July 27, 1870 states that, while maintaining its principled position, it was ready to adopt the delimitation set out by the Decree of October 16, 1869, as a practical study of the configuration of the coastline and living conditions of the inhabitants. Thus, the Court, which establishes the existence and constituent elements of the Norwegian delimitation system, further considers that the system has been consistently used by the Norwegian authorities and that it has not faced opposition from other States. However, the Government of the United Kingdom was keen to ensure that the Norwegian Government did not always respect the principles of delimitation that it claimed formed its system, and that it had recognized that some other method would be required to comply with international law. The documents to which the Agent of the Government of the United Kingdom mainly referred to at the hearings on 20 October 1951 relate to the period between 1906 and 1908, the period during which British trawlers first appeared off the Norwegian coast, and therefore deserve special attention. The Government of the United Kingdom indicated that the law of 2 June 1906 prohibiting fishing by foreigners simply prohibited fishing in Norwegian territorial waters, and it was clear from the most general nature of the reference that there was no specific system. The Court could not accept such an interpretation, since the purpose of the law was to prolong the ban on fishing and not to make an accurate distinction between the territorial sea. The second document on which the Government of the United Kingdom is based is a letter dated 24 March 1908 from the Foreign Secretary to the Minister of National Defence. The Government of the United Kingdom believes that the letter demonstrates Norway's commitment to the low water rule, which is contrary to Norway's current position. This interpretation cannot be accepted; It draws on the confusion between the rule of the low water sign, as is understood in the United Kingdom, which requires that all sinuosities of the coastline at low tide must follow, and the general practice of choosing a low tide sign rather than a tide to measure the extent of the territorial sea. The third document mentioned is a note dated November 1908, from the Norwegian Foreign Minister to the French Charge d'Affaires in Christiania, in response to a request to inform whether Norway had changed the limits of its territorial waters. In it, the Minister said: The translation of Norwegian rules in this matter, at the same time in accordance with the general rule of the Law of Nations, this Ministry expressed its opinion that from the coast should be measured by a low water mark and that each island, not permanently covered by the sea, should be considered as a starting point. The Government of the United Kingdom argued that, referring to the general rule of the right of nations rather than its own system of demarcation involving the use of direct lines, and in its statement that every island not permanently covered by the sea should be seen as a starting point, the Norwegian Government had completely moved away from what it called its system. (p 138) It should be remembered that the request for information to which the Norwegian Government responds is not related to the use of direct lines, but to the breadth of Norwegian territorial waters. The essence of the Norwegian Government's response was that Norwegian law had not been changed. Moreover, it was not possible to rely on a few words taken from a single note to conclude that the Norwegian Government had abandoned the position clearly stated in its previous official documents. The Court considers that too much importance should not be given to the few uncertainties or contradictions that the United Kingdom Government claims have been found in Norwegian practice. They can be easily understood in the light of the various facts and conditions that have prevailed over the long period since 1812 and are not to change the Court's conclusions. In the light of these considerations and in the absence of conclusive evidence to the contrary, the Court is obliged from 1869 until the time when the dispute arose, the Norwegian authorities applied their system of demarcation. From the point of view of international law, it was now necessary to consider whether the application of the Norwegian system had met with any opposition from foreign States. Norway was able to argue without contradiction that neither the adoption of its delimitation decrees in 1869, nor in 1889, nor their application led to any opposition from foreign states. Moreover, since these decrees represent, as has been shown above, the application of a clearly defined and unified system, it is this system that in itself reaps the benefits of a general tolerant provision, which is the basis of historical consolidation that would make it coercive towards all States. The general tolerance of foreign countries towards Norwegian practice is an indisputable fact. For more than sixty years, the United Kingdom Government itself has not challenged it in any way. The debate to which the Lord Roberts incident arose in 1911 cannot be considered as objections, since the disputes that arose in this regard concerned two issues, the four-mile border and Norwegian sovereignty over the Varangerfjord, both of which were not related to the position of the base lines. It appears that only in its Memorandum of 27 July 1933 that the United Kingdom appears to have formally and in protested on this issue. The Government of the United Kingdom asserts that the Norwegian delimitation system was not known to it and that the p 139 system therefore does not have the notoriety necessary to provide the basis for the historical title being applied against it. The Court could not accept that view. As a coastal State in the North Sea, which is very interested in fishing in the area, as a maritime Power traditionally concerned with maritime law and interested, in particular, in the protection of freedom of the seas, the United Kingdom could not help but be aware of the 1869 Decree, which immediately prompted a request from the French Government for clarification. Moreover, knowing this, she might be misled by the meaning of her terms, which clearly described her as part of the application of the system. The same observation applies to the 1889 Decree on the delimitation of Romsdal and Nordmore, which must have been re-enacted by the United Kingdom as a re-manifestation of Norwegian practice. Norway's position on the North Sea Fisheries Convention (police) of 1882 is yet another fact that should have immediately attracted the british attention. There is hardly any fisheries convention that is more important to the coastal States of the North Sea or of greater interest to the UK. Norway's refusal to accede to the Convention clearly raises the issue of the delimitation of its maritime area, particularly with regard to the bays, the question of their delimitation through direct lines, which Norway disputes the maximum duration of the Convention. In terms of the fact that a few years ago the delimitation of Sunnmore was presented as a Norwegian system by decree of 1869, it cannot be avoided to conclude that all elements of the Problem of Norwegian Coastal Waters have since been clearly identified. The steps subsequently taken by the United Kingdom to ensure Norway's commitment to the Convention clearly demonstrate that it knew and was interested in the issue. The Court notes that in relation to a situation that can only be strengthened over time, the Government of the United Kingdom refrains from making reservations. The knowledge of the facts, the general tolerance of the international community, the British position in the North Sea, its own interest in the matter and its prolonged abstention would in any case justify Norway's execution of its system against the United Kingdom. Thus, the Court finds that the the lines established in the Norwegian system were imposed by the peculiar geography of the Norwegian coast; that, even before the dispute, the method had been enshrined in permanent and sufficiently lengthy practice, in the face of which the position of Governments showed that they did not consider it to be contrary to international law. The question now arises whether the Decree of 12 July 1935, which in its preamble expresses itself as the application of this method, its drawing of baselines, or whether at certain points it is largely deviated from this method. The graph, encoded to the Decree of July 12, 1935, shows fixed points between which straight baselines are drawn. The Court notes that these lines were the result of a thorough examination initiated by the Norwegian authorities as early as 1911. The basic lines recommended by the Storting Foreign Affairs Committee for the delimitation of the fish area and adopted and promulgated for the first time by the Decree of 12 July, 1935, the same as those that are the so-called territorial waters of the border commissions, consistently appointed June 29, 19-11, and July 12, 1912, drew in 1912 for Finnmark and in 1913 for Nordland and Troms. The Court further notes that the 1911 and 1912 commissions defended these lines and thus constantly referred, as the 1935 decree itself did, to the traditional system of demarcation adopted by previous acts and, in particular, by decrees of 1812, 1869 and 1889. In the absence of conclusive evidence to the contrary, the Court cannot easily find that the lines adopted in these circumstances by the 1935 Ordinance do not conform to the traditional Norwegian system. However, there was a purely actual difference between the Parties with respect to the three basic points: No. 21 (Westerfalen-e-Haasan), No. 27 (Tokkebaan) and No. 39 (Nordboen). This difference is now devoid of object. A telegram dated 19 October 1951 from the Norwegian Hydrographic Service to a Norwegian Government agent, which was brought to the attention of an agent of the Government of the United Kingdom, confirmed that the three points were breeds that were not constantly submerged in the water. Since this claim has not been further challenged by the Government of the United Kingdom, it can be considered that the use of these rocks as base points is in line with the traditional Norwegian system. Finally, the Government of the United Kingdom asserts that some of the baselines adopted by the Decree are, whether they are in line with the Norwegian system or not, contrary to the principles stated by the Court above as governing any delimitation of the territorial sea. The Court will consider whether, in terms of these principles, baselines that have been criticized in some detail don't really have an excuse. The Norwegian Government recognizes that the baselines must be stretched in such a way as to respect the overall direction of the coast and that they need to be explored in a reasonable manner. The Government of the United Kingdom maintains that some lines do not follow or follow the common direction of the coast, or that they do not respect the natural link between certain marine areas and the land formations separating them or those around them. For these reasons, it is argued that the drawn line is contrary to the principles governing the delimitation of the maritime area. The Court notes that these complaints, which became very general in the written proceedings, were subsequently reduced. The Government of the United Kingdom has criticized, inter alia, two sectors whose delimitation is the extreme deviation from the overall direction of the coast: the Superaltavet sector (between base points n and 12) and the Lopfavet sector (between baselines 20 and 21). From this point of view, the Court will deal with the delimitation of these two sectors. The baseline between points n and 12, which is 38.6 nautical miles long, divides the super-olte waters between Cape Nordkin and Cape North Cape. The Government of the United Kingdom denies that such a delimitated pool has the character of a bay. His argument is based on geographical considerations. In his opinion, the calculation of the penetration of the basin inland should stop at the tip of the super-oltcluben peninsula. Thus, inland penetration is only n.5 nautical miles in relation to 38.6 miles of width at the entrance, it is claimed that the pool in question is not of the nature of the bay. The court cannot share this view. It believed that the pool should be considered in the light of all the geographical factors involved. The fact that the peninsula juts out and forms two wide fjords, the Laxefjord and the Porsangerfjord, cannot deprive the pool of character of the bay. It is the distances between the disputed base level and the innermost point of these fjords, respectively 50 and 75 nautical miles, that should be taken into account when assessing the proportion between inland penetration and the width of the estuary. The court concludes that Superholtavet has the character of a bay. The delimitation of the Lopfavet basin has also been criticized by the United Kingdom. As mentioned above, his criticism of the choice of basic paragraph 21 could be considered abandoned. The Lopfavet Basin is an indefinable geographical whole. This cannot be considered to have the character of a bay. It consists of a vast area of water dotted large islands that are separated by entrances that end in various fjords. The baseline was called into question on the grounds that it did not respect the overall direction of the coast. It should be noted that, however justified this rule may be, it is devoid of any mathematical accuracy. In order to apply the rule properly, the link between the deviation it complained about and what the rules should consider to be a general direction of coastal development must be appropriate. Therefore, one sector of the coast should not be limited to one sector of the coast alone, except in cases of blatant abuse; nor could one rely on an impression that could only be gathered from a large-scale diagram of the sector. In this case, the divergence between the base line and the land formations is not such that it is distorted by the general direction of the Norwegian coast. Even if the deviation in the sector in question was considered to be too pronounced, It should be noted that the Norwegian Government relied on the historical name clearly referred to the waters of Lopfavet, namely the exclusive privilege of fishing and hunting whales, granted at the end of the 17th century to Lieutenant Commander Erich Lorch under a number of licenses that show, in particular, that the water located in the vicinity of the sunken rock Gjesbaaen or Gjesboene relating to it, were regarded as falling solely within the limits of Norwegian sovereignty. However, it can be noticed that the fishing grounds mentioned herein consist of two banks, one of which, Indra Gesboene, is located between the baseline and the limit reserved for fishing, while the other, Itre Geesboene, is located further to the sea and beyond the fishing limit set out in the 1935 Decree. These ancient concessions usually support the Norwegian Government's assertion that the fishing zone reserved before 1812 was in fact much larger than the zone delimitated in 1935. It is proposed that all fishing banks from which the land could be visible, a range of vision that, as the United Kingdom Government acknowledges, is the principle of delimitation, having entered at the time. The Court considers that, while it is not always clear in which specific areas they are applied, the historical data obtained in support of this assertion by the Norwegian Governor give some weight to the idea of surviving the traditional rights reserved for the inhabitants of the Kingdom with respect to the fishing grounds included in the 1935 delimitation, especially in the case ofLopphavet. Such rights, based on the vital needs of the population and edited by very ancient and peaceful use, can be legitimately taken into account when line, which appears to have been maintained by the Court within what is moderate and reasonable. Reasonable. Westfjord, after an oral argument, its delimitation no longer represents the significance it had in the early stages of the proceedings. Since the Court found that the waters of Indrelea were inland waters, the waters of the Westfjord, like the waters of all other Norwegian fjords, could only be considered inland waters. In these circumstances, there can still be any difference between the views of the United Kingdom Government and the views of the Norwegian Government on this issue. It boils down to the question of whether the baseline between points 45 and 46, enshrined in the 1935 Decree, should be drawn, or whether the line should be closed at the Kalsholmen Lighthouse at Tenholmem. The Court considers that the issue is purely local in nature and of secondary importance and that its settlement should be left to the side of the coastal State. For these reasons, the Court, rejecting all notions to the contrary, by ten votes to two considers that the method used to delimit the fish area by the Royal Norwegian Decree of 12 July 1935 does not contravene international law; and by eight votes to four, that the basic lines enshrined in the Ordinance in the application of this method do not contravene international law. Made in French and English, the French text is authoritative, at the Palace of Peace, The Hague, on this eighteenth day of December, a thousand nine hundred and fifty-one, in three copies, one of which will be placed in the archives of the Court, and the other will be transferred to the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Norway accordingly. (Signed) Bazdevant, president. (Signed) E. Hambro, registrar. (p. 144) Judge Hackworth states that he agrees in the expeditious part of the judgment, but wishes to emphasize that he is doing so because he believes that the Norwegian government has proved the existence of a historic title in disputed areas of the water. Judges Alvarez and Hsu Mo, taking advantage of the right granted to them by article 57 of the Statute, are referring to the Court's decision to state their individual opinions. Judges Sir Arnold McNair and Reid, using the right granted them by article 57 of the Statute, attach statements to the Court about their dissenting views. (Originally) J. B. (Initialled) E. H. (p 145) INDIVIDUAL OPINION OF JUDGE ALVAREZ (Translation) I United Kingdom has filed a statement to the International Court of Justice challenging the validity of the Norwegian Decree of 12 July 1935, which delineated Norwegian fishing zones off the Norwegian coast. He believed that so-called delimitation was contrary to the principles of international law and asked the Court to issue the principles of international law to determine the baselines on which the Norwegian Government has the right to divide its fishing zones. During the oral proceedings, the Government of the United Kingdom presented some new findings, particularly on matters of law, and asked the Court to rule on these matters. In its counter-Memorial and Return and in its arguments before the Court, Norway argued that the delimitation of these fishing zones established in the 1935 Ordinance did not contravene international law and that it in any case complied with the historical rights it had long enjoyed and which it had indicated. The current trial is of great importance not only to the Parties to the case, but also to all other States. At the beginning of his statement to the Court, the Attorney-General stated: The general ground is that this case is not only very important for the United Kingdom and Norway, but that the Court's decision on it will be of the utmost importance to the world as a whole as a precedent, since the Court's decision in this case should contain important statements concerning international law relating to coastal waters. The fact that so many governments have requested copies of our requests in this case is proof that this is a common opinion. II In this case, I suggest that the method is different from what is usually adopted, especially with regard to the law. It is to shed light and preserve the basic facts, then to address the issues of law that dominate the whole case, and finally those that deal with every important issue. (p 146) The application of this method may, at first glance, seem somewhat academic; however, it is largely practical, as it has the capacity to provide direct answers to the questions before the Court. Moreover, this method is caused by the dual task that the Court now has: the resolution of the cases presented to it and the development of the law of nations. It is generally accepted that the current Court is an extension of the previous Court and that it must therefore follow the methods and jurisprudence of the Court. This is only partly true, for there was a world war between the courts, which has led to rapid and profound changes in international life and has greatly affected the law of nations. These changes underscored the importance of the Court's second function. For this is now happening with greater frequency than before, that no applicable commandments can be found on this topic, or that those that currently exist are gaps or appear to be obsolete, i.e. they no longer correspond to the new living conditions of peoples. In all such cases, the Court must develop the right of nations it must correct its shortcomings, adapt existing principles to these new conditions and, even if there are no principles, create principles in accordance with such conditions. The Court has already very successfully decided to establish the law in a case that will remain known in the annals of international law (Advisory opinion of April nth, 1949, on damages received in the service of the United Nations). In this case, the Court can effectively carry out the same task. The adaptation of the right of nations to the new conditions of international life, which is a modern necessity, is in stark contrast to the restaction advocated by Anglo-Saxon jurists as a means of ending the crisis in international law, which is merely to state the law in the way it has been created and applied to date, without being too preoccupied with any changes it may have recently undergone or may have undergone in the future. III I will not dwell on a detailed examination of the facts of the Parties and on the evidence presented by the Parties in support of their allegations, as the Court's decision examines them in detail. In the following pages, I will focus only on the issues of law raised in this case. For centuries, because of the vastness of the sea and the limited relations between nations, the use of the sea has not been limited; every state can use it as it is used. (p. 147) Since the end of the 18th century, publicists have proclaimed, and the law of nations has recognized, the exercise of sovereign powers by States over the area of the sea bordering their shores. The extent of this marine area, which was known as the Territorial Sea, was first recorded at a modern cannon range and then at 3 nautical miles. The question is really one for the domestic legislation of each country. Some Latin American countries have incorporated the provisions on this issue into their civil codes. As a result of the growing importance of the territorial sea issue, the World Conference was convened in The Hague in 1930 to ensure rules governing some of its aspects and to address two other issues. This Conference, which had such high hopes, has not issued any precept concerning the territorial sea. It made it clear that there were no well-defined rules on the subject, that there were only a number of conventions between some States, certain trends and certain customs and practices. The hearing alleged that a large number of States in the Conference agreed that the length of the territorial sea was three nautical miles long and also agreed that it was an established means of calculating that latitude; and that statement was There is no need to dwell on this issue for a long time, the issue, as has already been said, the Conference has not adopted any provision on this issue. In addition, international living conditions have changed considerably since then; it is therefore likely that the States, which in 1930 took a three nautical mile wide, will not accept it at present. IV What should be the position taken by the Court in these circumstances to resolve the current dispute? The parties have put forward a number of theories in their statements and oral arguments, as well as systems, practices and, indeed, the norms that they recognize as international law. The court considers that they should be taken into account. These arguments, in my opinion, marked the beginning of a serious distortion of the case. In accordance with the generally accepted doctrine, international judicial tribunals should apply general principles of law in the absence of convention principles or customary principles on the subject. This doctrine is explicitly confirmed in article 38 of the Statute of the Court. In this regard, it should be noted that international arbitration is now entering a new phase. It is not enough to emphasize the general principles of law recognized by civilized nations; it should also, as I said, learn about the changes these principles may have undergone as a result of the great changes that have taken place in international life, and principles must be adapted to the new conditions of international life; indeed, if there were no principles covering an issue, principles should be established to fit those conditions. Taking these general principles into account and their adaptation, it is all the more necessary in this case, since the United Kingdom has asked the Court to declare that the 1935 Norwegian Decree is contrary to the principles of international law that are currently in force. V What are the principles of international law that the Court should resort to and adapt if necessary? And what principles should he actually create? It should be noted, first, that the principles of the law of nations, conventions and some decisions of the Permanent Court of International Justice are often mentioned, but do not say what those principles were or where they could be found. There was therefore some clarification on that point. First, many of the principles, especially the great principles, have their origins in the legal conscience of peoples (psychological factor). This conscience is the result of social and international life; the needs of this social and international life naturally generate certain norms, which are considered necessary to rule the behaviour of States among themselves. As a result of the current dynamic nature of peoples' lives the law of nations is constantly being created, and they are undergoing more or less rapid changes as a result of the great changes taking place in this life. In order for the principles of law to be of any value to the legal conscience of peoples, they must have a tangible manifestation, i.e. they must be expressed by the authorized bodies. Until now, this legal conscience of peoples has been reflected in the conventions, customs and opinions of qualified jurists. However, there have been profound changes in this regard. Conventions continue to be a very important form of expression of peoples' legal consciences, but they tend to lay down only new principles, as is the case with the Genocide Convention. On the other hand, customs tend to disappear as a result of rapid changes in modern international life; and a new case strongly stated may be enough to make an outdated ancient custom. Therefore, the customary right to which such frequent references are mentioned in arguments should only be taken with caution. Other means by which the legal consciousness of peoples can be expressed at present are those of diplomatic assemblies, especially Those of the United Nations and especially of the decisions of the International Court of Justice. It is also necessary to referr to the recent legislation of some countries, the resolutions of great associations on the study of the law of nations, the work of the Codification Commission established by the United Nations and, finally, the views of qualified lawyers. These are the new elements on which the new international law will be based, which is still in the making. Thus, this law will have a character completely different as traditional or classical international law, which prevailed to this day. Let us now look at the elements by which common principles should be adapted to the prevailing conditions of international life and by which new principles should be created if necessary. The starting point is the fact that for the traditional individualistic regime on which social life has been founded so far, is increasingly being replaced by a new regime, a regime of interdependence, and that, consequently, the law of social interdependence replaces the old individualistic right. The characteristics of this law in terms of international law can be stated as follows: (a) this law governs not only the community of States but also the organized international community. (b) It is not exclusively legal; it also has aspects that are political, economic, social, psychological, etc. policy has been significantly changed now. (c) It not only delimits the rights of States, but also harmonizes them. It particularly takes into account common interests. (e) It also takes into account all possible aspects of each case. (f) In addition to rights, it sets out obligations towards the international community; and sometimes States have the right to exercise certain rights only if they have fulfilled their correlated responsibilities. (Section V of the Declaration of the Great Principles of Modern International Law, approved by three great associations dedicated to the study of the law of nations.) (g) It condemns abus de droit. (p 150) h) it adapts to the needs of international life and evolves side by side with it. What are the principles that, in accordance with the foregoing, should the Court bring to light, adapt, adapt, if necessary, or even establish in relation to the maritime area and, in particular, the territorial sea? They can be stated as follows: 1. In terms of the wide variety of geographical and economic conditions of States, it is not possible to develop uniform rules applicable to all, regulating the length of the territorial sea and how it should be considered. 2. Therefore, each State can determine the extent of its territorial sea and the manner in which it is calculated, provided that it exercises its control over the zone wisely and fulfils the obligations imposed by international law so that it does not violate the rights acquired by other States. that it does not harm the common interest and is not dbus de droit. When determining the breadth of its territorial sea, the state must specify the reasons, geographical, economic, etc., which give justification for this. In the light of this principle, there is no longer any need to discuss baselines, straight lines, closure lines of ten nautical miles for bays, etc., as was the case here. Similarly, if a State takes too large a sweep for its territorial sea, with respect for its territory and the needs of its population, or if the baselines it indicates appear to be arbitrarily chosen, it will represent abus de droit. States have certain rights to their territorial sea, in particular fishing rights; however, they will also perform certain responsibilities, particularly with regard to surveillance off their shores, facilitating navigation by building lighthouses, dredging in certain maritime areas, etc.4. States can change the size of the territorial sea they have recorded, provided that they provide sufficient grounds to justify the changes. States may record a larger or smaller area outside their territorial sea over which they can reserve for themselves law: Customs, police etc. 6. The rights mentioned above are of great importance if they are established by a group of States, and especially by all States of the continent. Latin American countries have individually or collectively reserved large areas of their coastal waters for specific purposes: neutrality, customs, etc., and, finally, for the exploitation of the wealth of the continental shelf. (p 151) 7. Any direct State may object to another State's decision on the extent of its territorial sea or beyond if it claims that the conditions above to define those areas have been violated. Disputes arising from such objections should be resolved in accordance with the provisions of the Charter of the United Nations. 8. Similarly, there can be no uniform rules for large bays and straits. The international status of each large gulf and strait should be determined directly by the coastal States concerned in terms of common interests. The position here should be the same as in the case of the great international rivers: each case should be subject to its own special rules. At the 1921 Conference on Navigable Waterways in Barcelona, I argued that it was not possible to set out common and unified rules for all international rivers, given the wide variety of conditions between them; and that view was accepted. In short, in the case of sea and river routes, it is not possible to provide for uniform rules; rules must be in line with the realities of international life. Instead of uniformity of rules, it is necessary to have diversity; but the general interest should always be taken into account. The principle, which should be taken special care, concerns the recipe. This principle, on behalf of historical rights, was discussed at length during the hearings. The concept of prescription in international law is very different from the one in domestic law. As a result of the important part that power plays in the formation of states, there is no pre-scenario .with regard to their territorial status. The political map of Europe underwent numerous changes during the 19th and 20th centuries; it is now very different from what it was before the Great War, without any application of the recipe principle. However, in some cases the recipe plays a role in international law and has certain important features. Recognized, in particular, in the case of the acquisition and exercise of certain rights. In support of the effect of the prescription in such cases, two very important academics should be mentioned, which accept the collective opinion of lawyers. The first is the Declaration of the Great Principles of Modern International article 20: No State has the right to oppose, in its own interest, the adoption of rules on an issue of common interest. (p 152) When, however, it exercises special rights for a long time, it is necessary to take this into account when making the rules. Another work studied is the Peacetime Territorial Sea Rules Draft adopted by the Institute of International Law at the 1928 session in Stockholm. Article 2 of the draft provides: the width of the territorial sea is 3 nautical miles. (Then it was thought that this was enough.) International use can justify the recognition of the width of more or less 3 miles. For the injunction to be in force, it is necessary that the rights that were claimed to be based on it are well established, that they be used continuously and that they comply with the conditions set out in the two above. International law does not provide for any specific period of time required for a prescription. Relatively recent use associated with the territorial sea may have a greater effect than insufficiently proven by ancient use. 10. Particular attention must also be paid to another principle that is much talked about: the right of States to do anything that is not expressly prohibited by international law. This principle, which was previously true in the days of absolute sovereignty, is no longer the case to this day: the sovereignty of States is no longer limited not only to the rights of other States, but also to other previously stated factors that constitute what is called the new international law: the Charter of the United Nations, the resolutions adopted by the United Nations Assembly, the responsibilities of States, the common interests of the international community and, finally, the prohibition of abus de droit. Any State, in asserting the principle of international law, must prove its existence; and those who argue that the principle of international law has been abolished or become ineffective and requires the resumption must also provide evidence of that claim. 12. An agreement between the Parties on the existence of the principle of law or its application, for example, on how the baselines defining the length of the territorial sea should be chosen, etc., cannot have any impact on the Court's decision on the matter. International law takes precedence over municipal law. The actions taken by the State in violation of international law are related to that State's responsibility. 14. The State is not obliged to protest against a violation of international law if it does not know or should not be aware of the violation; however, only the State concerned had the right to refer the matter to the relevant international body. (Article 39. 153 Declaration of the Great Principles of Modern права.) Vii Vii in accordance with the above considerations, I come to the following conclusions on the issues before the Court: (1) Norway, like all other States, has the right, in accordance with the general principles of the law of the nations that currently exist, to determine not only the breadth of its territorial sea, but also how it should be considered. (2) The Norwegian Decree of 1935, which delineated the Norwegian Territorial Sea, does not contravene any direct provisions of international law. It also does not contradict the general principles of international law, since delimitation is reasonable, it does not violate rights acquired by other States, does not harm common interests and does not constitute abus de droit. When the 1935 Decree was adopted, Norway simply had to meet the needs of the people of the areas concerned. 3) In view of the foregoing, there is no need to consider whether Norway has obtained the right by prescription to lay more than three nautical miles wide for its territorial sea and how its baselines should be chosen. 4) If Norway has the right to record the length of its territorial sea, as has already been said, it is clear that it may prohibit other States from fishing within that sea without having the right to complain about the violation of their rights. 5) The response to the disagreements between the Parties regarding the existence of certain regulations of the law of nations, which they believe is currently valid, has been given in previous pages. (Signed) A. Alvarez. (p 154) SEE ODINITION CSU MoD I agree with the Court's conclusion that the direct line method used in the Norwegian Royal Decree of 12 July 1935 for the delimitation of the fishing zone does not contravene international law. However, I regret that I cannot share the Court's view that all the direct baselines enshrined in the Decree are consistent with the principles of international law. It must be emphasized that the Norwegian method of delimitation of the belt of its northern territorial sea by drawing direct lines between point and point, island and island is a deviation from what I consider to be the general rule of international law, namely that, in addition to the cases of bays and islands, the territorial sea belt should be measured, in principle, from the coastline at low tide. International law allows for deviations from this general rule under certain circumstances. Where deviations are justified, they must be recognized by other States. Norway has the right to use the direct line method in connection with its specific geographical conditions and its consistent past practices, which are consistent with the international community as a whole. But for such physical and historical facts, the method used by Norway in its 1935 should be considered contrary to international law. Therefore, when considering the validity or invalid baselines actually drawn by Norway, it should be borne in mind that it should be taken into account not so much the direct application of the general rule as the degree of deviation from the general rule. In each case, the question arises: how far the line deviates from the configuration of the coast and whether such deviation should be recognized in accordance with a system correctly recognized by Norway as necessary and reasonable. Thus, the study of each baseline cannot be carried out without complete disregard of the coastline. Whatever the definition of the territorial sea belt, it is always true that the territorial sea owes its existence to land and cannot be completely separated from it. Norway itself recognizes that the baselines must be stretched in a reasonable manner and must be consistent with the overall direction of the coast. The expression to conform to the general direction of the coast, being one of Norway's own acceptances and making up one of the elements of the system created by it, should not be given an overly liberal interpretation, so liberal that the coastline is almost completely ignored. This cannot be construed as implying that Norway has the right to draw direct lines in any way it pleases, provided that they are not uniform to the deliberate distortion of the general contours of the coast, if viewed as a whole. It should be interpreted to take into account local conditions in each sector using a relatively large-scale diagram. If words to match the overall direction of the coast have any meaning in the law at all, they should mean that the baselines, straight as they are, should follow the configuration of the coast as far as possible, and should not unnecessarily and unreasonably cross large expanses of water without taking into account the land or islands located within them. Having studied the various sectors of the territorial sea under the 1935 Ordinance, I find two obvious cases where the baseline cannot be considered justified. I am referring to the baseline between points 11 and 12 that crosses the Scerserholtavet, and the baseline between points 20 and 21 that runs through Lopfavet. In the first case, the 39-mile baseline covers a large area of sea like the interior of Norway. The question that needs to be determined here is whether the line should be considered as the final bay line or whether it is just a line of attaching one base point to another. If this is the first question, it will be necessary to determine whether the area is a gulf in international laws. In my opinion, the area is a combination of bays, large and small, eight in total, but not a bay in itself. This is not a bay in itself simply because it has no form of bay. The attitude towards a number of adjacent bays as an entity, thereby completely ignoring their respective final lines, will lead to the creation of an artificial and fictitious bay that does not meet the requirements of the bay, either in the physical or legal sense. There is no international law that would allow such a bay to be created. A Norwegian government agent argued that the fact that the Svserholt peninsula was in the waters in question to form the two fjords of Laxefjord and The Porsangfjord could not deprive the waters of the nature of the bay. But geographically and legally it is the existence of this peninsula that makes the two fjords separate and separate bays, and it is this fact, combined with the protrusion of small peninsulas on either side of the two fjords, attached to this part of the coast (the section between points 11 and 12), not the nature of the bay , but only the nature of the curvature, the large concave formed by the closure of the lines of several independent bays. Nature, having created a number of bays, neighboring, but ebbing from each other, coastal states can not. if to exercise their sovereignty, turn them into one bay, having spent a stretch between the two most extreme points. If the baseline over the Superholtaget is not the final line of the bay, it should be just one of the straight lines, connecting one base point to another. In this case, I do not see how this line can be considered in accordance with the general direction of the coast. In order to follow the overall configuration of the coast, it must take into account at least some of the points that serve as the starting or terminal point of the final bay lines currently attached to the long line in question. Leave all the dots on land that enter between the two extremes Nos. 11 and 12, and apply all the concave by drawing one excessively long line, is tantamount to using a straight line method to extend the width of the sea by four miles of territorial sea. The use of the method in this way, in my opinion, cannot be considered as reasonable. In Lopfavet's case, the line connecting points 20 and 21, being 44 miles long, affects an area of water several hundred square miles. Norway does not claim that this space of water should be a bay, and, in fact, it cannot be considered as a bay for any part of the imagination. Since Lopfavet is not a bay, there is no legal basis for the base line to pass two important islands, Loppa and Fugley, each of which is a schiaergaard unit. Ignoring these islands, the baseline makes a distinctly excessive deviation from the general direction of the coast. For this reason, it cannot be regarded as During the oral proceedings, the Norwegian Government agent noted that the Lopfavet basin had led to Indrele, which should be regarded as the interior waters of Norway. I don't think Indrelia has anything to do with this region. For Indrelea, according to diagrams furnished by the Norwegian government, passes through the Kaagsund between the islands of Arnai and Kaagen and goes north and northeast between the islands of Loppa and Loppakalven on the one hand, and the mainland on the other, finally bending into Soroysund. It does not cut through Lopfavet outside the islands of Arnoy, Loppa and Seurouse. Consequently, it does not intersect with any part of the vast territory in this sector, enclosed by a long baseline, like Norwegian inland waters. So far, I have considered the validity or otherwise of two baselines, one affecting the Superaltavet, the other Lopfavet, solely in terms of their conformity or inconsistency with the overall direction of the coast. It remains to be seen whether Norway can base its claims against the two regions on historical grounds. In my view, despite all the documents it has produced, it has not been able to establish any historical name for these waters. In support of its historic title, Norway relies on the usual fishing by the local population and the ban on fishing by foreigners. With regard to the fishing activities of coastal residents, I must only point out that individuals, by undertaking enterprises on their own initiative in their own interests and without any delegation of authority by their Government, cannot confer sovereignty on the State, despite the passage of time and the lack of harassment by the people of other countries. With regard to the Norwegian Government's ban on fishing by foreigners, it was undoubtedly a State action that prevented Norway from adopting a recipe. But the correspondence on which she relied contained one fatal defect: a lack of accuracy. For they do not show any precise and well-defined areas of water in which the ban was to be applied and actually observed. And accuracy is vital to any prescriptive claims to water areas that might otherwise be open seas. As for the fishing licences issued three times by the King of Denmark and Norway, Erich Lorc, lieutenant commander of the Dano-Norwegian Fleet at the end of the 17th century, I do not think that this is enough to give Norway the historic title of Lopfavet. First, the granting of what was considered a special privilege by the Danish-Norwegian Sovereign to one of its subjects at the time could hardly be considered a convincing indication of the acquisition of a historic title. in relation to all foreign Stares. Secondly, concessions were limited to waters near some rocks and were not covered by the entire territory of Lopfavet. Finally, there is no evidence that concessions were used to exclude the participation of all foreigners for a long enough period of time so that the Norwegian Government could obtain prescriptive rights to Lopfavet. I have therefore come to the conclusion that neither the verification of the general direction of the coast nor on historical grounds can be considered, respectively, as justified principles of international law, the two basic lines stretching through Svergoltavet and Lopfavet. (Signed) Hsu Mo. (p 158) DISSENTING OPINION OF SIR ARNOLD McNAIR In this case, the Court must decide whether certain stretches of water off the coast of Norway are open seas or Norwegian waters, territorial or domestic. If they are on the high seas, then foreign fishermen have the right to fish there. If it is Norwegian waters, foreign fishermen have no right to fish there except with Norwegian permission. I sympathize with a small coastal fisherman who believes that his livelihoods are under threat from more powerfully equipped competitors, especially when these competitors are foreigners; however, the issues raised in this case con-cern the line separating Norwegian waters from the high seas and those issues that can only be resolved on the basis of the law. The preamble and the executive parts of the 1935 Decree are: On the basis of established national titles of law; Because of the geographical conditions on the Norwegian coasts; to protect the vital interests of the people of the northernmost parts of the country; and in accordance with the Royal Decrees of 22 February 1812 and 16 October 1809, 5 January 1881 and 9 September 1889, the lines of demarcation towards the high sea of the Norwegian fish zone were established in relation to this part of Norway, located north of 66 28.8' Northern latitude. These demarcation lines must run in parallel with the direct baselines drawn between fixed points on the mainland, islands or rocks, starting at the end of the kingdom's boundary line in the easternmost part of Varengerfjorden and reaching Traena in Nordland. The fixed points between which the baselines should be drawn are detailed in the graph attached to the Ordinance. No, no, no. The Norwegian agent and lawyer, Mr. Arnzen, told the Court (October 5) that: The 1935 decree is based on the following principles: the Norwegian territorial zone is four nautical miles wide. It is measured from straight lines that correspond to the general direction of the coast and are drawn between the outer islands, islets and so as never to lose sight of the earth. Although the 1935 Decree did not use the expression of the territorial sea, water or zone, it was undeniable that the current dispute concerned the Norwegian territorial sea. The Court's decision is decisive on this matter. The same point clearly follows from the United Kingdom's application for legal action and has repeatedly insisted on Norwegian written and oral arguments. Thus, on October 9, the Norwegian lawyer, Professor Burkin, said: What is the subject of dispute? This applies to the baselines, that is, to the lines from which four miles of the Norwegian territorial sea should be counted.... Again, in his oral reply, he said on 25 October: What (Norway) claims, apart from its historical name, is that the restrictions imposed by international law on the delimitation of its maritime territory have not been violated by the 1935 Ordinance and that the decree may be established against the United Kingdom without any need for any special consent on the part of the United Kingdom. One thing this dispute clearly isn't. It was not the right of the maritime State to declare a contiguous zone outside its territorial waters, in which zone it proposed to take measures to conserve fish stocks. An illustration of this can be found in President Truman's Eman proclamation on coastal fishing in some high seas, dated 28 September 1945 (American Journal of Interfaith Law, Volume 40, 1946, Official Documents, 46); suffice to quote the following statement: The nature of both the high seas areas in which such conservation zones are established and the right to their free and unhindered navigation are not affected in this way. This is not the case, for the question here is whether some disputed areas of seawater are parts of the high seas or parts of the territorial or inland waters of the coastal State. During the trial of the case, the United Kingdom made certain confessions or concessions, which can be summarized as follows: (a) that Norway has the right to a four-mile limit for the purposes of the case; (b) that the waters of the fjords and the sun (including the Varangerfjord and the Westfjord), which fall under the concept of the bay, are subject to a minor point affecting the status of the Westfjord, which I do not propose to discuss, Norwegian inland waters; and (c) that (as defined in the United Kingdom's findings) the waters between the island border and the mainland are Norwegian waters, territorial or internal. The parties are also in conflict on another minor issue, namely the status of waters in some parts of Indonesia. which I'm not suggesting No problem. Now I will summarize the relevant part of the law of territorial waters, as I understand: (a) to every state whose territory is anywhere, washed by the sea, international law attaches the appropriate part of the maritime territory, consisting of what the law calls territorial waters (and in some cases national waters). International law does not tell the state: You have the right to claim territorial waters if you want them. No maritime state can abandon them. The International Law imposes certain obligations on the maritime State and gives it certain rights arising from the sovereignty it exercises over its maritime territory. Ownership of this territory is not optional, does not depend on the will of the state, and is mandatory. (b) Although the de facto delimitation of territorial water boundaries is the responsibility of each State, since each State knows its coast best, the principles to be followed by this delimitation are in the realm of law, not the discretion of each State. As the United States Supreme Court stated in 1946 in United States v. State of California, 332 U.S. 19, 35: Rule three miles, but acknowledging the need that the government near the sea should be able to protect itself from the dangers of an incident in its place. It must have the power of dominion and regulation in the interests of its income, its health and the safety of its people from wars waged on or too close to its shores. And since a country asserts its rights under international law, regardless of what has value, can be found in the seas near its shores and within its protective belt, it will most naturally be appropriated for its use. But no matter what any country does on the high seas, which detracts from its overall usefulness to nations, or which another nation can charge it, is an issue for consideration between States as such, not their individual government units. (Cited and reconfirmed in 1950 in United States v. Texas, 339 U.S. 707, 718.) (p 161) (c) the method of delimitation of territorial waters is objective, and while the coastal State may make minor adjustments to its maritime boundary when required in the interests of clarity and its practical object, it is not authorized by law to manipulate its maritime boundary in order to ensure the realization of its economic and other social interests. There is an overwhelming view among maritime States that the baseline of territorial waters, whatever they may be, is a line that follows the coastline along the low water line, not a series of imaginary lines drawn to give effect, even within reasonable limits, to its economic and other social interests and other subjective factors. In 1894, Bonfils Bonfils International public, 491) described la mer juridictionnelle ou littorale as: la bande de l'oc'an qui entoure et enceint les c'ts du territoire continental ou insulaire et sur laquelle l'peut, du rivage que baignent les eaux de cette de mer, faire respecter sa puissance. Calculating the size of territorial waters from land is a common and natural solution; its calculation from the line drawn on the water is abnormal and requires justification, for example, by displaying that the line drawn on the water is taken from the final line of inland waters in a closed bay or historic bay or the mouth of the river, which will be considered later. The practical work of the territorial waters limit should not be overlooked. It is true that they exist for the benefit of the coastal state and not for foreign sailors approaching them. However, if he wants to respect them, it is important that their limit is drawn up so that once he knows how many miles the coastal state claims, he should be a fisherman or commander of a warship during the war be able to hold on to their sides, following the usual maritime practice in taking cross bearings from points on the coast, whenever it is seen or some other way. This practical aspect of this issue is borne out by the practice of award vessels seeking to determine whether the prize has been seized in neutral territorial waters or on the high seas; See, for example, the Anna Prize case (1818) in the United States Supreme Court, page 1012; Heina (1915), Fauchille, jurisprudence Francaise en mathier de prises, I, page 119; II, page 409, a Norwegian ship captured by a French cruiser in 1914 at a point four miles and five-sixths of the island, as part of the Danish Antilles; and decisions on illegal fishing in territorial waters, such as Ship May v. King, Canada Law Records, Supreme Court, 1931, page 374, or with other illegal entry into territorial waters, the Ship of the city queen against. King, ibid., page 387. (p 162) (e) should also be citing a statement made in the Territorial Waters Report, approved by the League Codification Committee in 1927 to refer to Governments for their comment, in particular, page 37 of the League C.196.M.70.1927.V., where, citing what it calls the maritime limit of the territorial sea, the Report continues to mention: The line that restricts the rule of the Riparian State should also be mentioned. This question is much simpler. The general practice of states, all codification projects and the prevailing doctrine agree that this line should be a low water mark along the entire coast. (f) In 1928 and 1929, a number of Governments sent answers to questions five, which made final preparations for the Hague Codification Conference of 1930 (League of Nations, C.74.M.39.1929.V., page 35 et sqq.). As I understand it, these responses are not always completely simple seventeen Governments have declared themselves in favor of the view that the baseline of territorial waters is a line that follows the coastline along the low water sign and against the view that the baseline consists of a number of lines connecting the outer points of the mainland and the islands. The latter governments took the latter opinion: Norway, Sweden, Poland, Soviet Russia and probably Latvia. (In this regard,

my analysis closely corresponds to paragraph 298 of the Counter Memorial.) It can be added that Poland regained sovereignty over its maritime territory only eleven years ago, at intervals of more than a century, and that Latvia became a state only in 1918. All States parties to the North Sea Fisheries Convention of 1882, Belgium, Denmark, France, Germany, the United Kingdom and the Netherlands, as far as I understand their responses, agreed to the low water rule following the coastline; the United States of America has done the same. Governments are not inclined to understate their claims. (g) It is also instructive to note the Danish response, since Denmark, together with Norway, was the joint author of the Royal Decree of 1812, on which the Norwegian Decree of 1935 is supposed to be based, and Denmark informed the Committee of the League of Nations that the 1812 Decree was still in force in Denmark. Denmark's reply states that: Article 3, Paragraph 2 of the rules introduced by the Royal Decree of 19 January 1927, which applies to the admission of vessels belonging to foreign powers into Danish ports and territorial waters in peacetime, contains the following provision: Denmark's internal waters include, in addition to ports, entrances to ports, road estates, bays and firs, waters located between islands, islands and reefs that are not flooded on a permanent basis. (The quote from the 1927 Decree ends.) Along the coast of low water the sign is taken as a basis in determining the latitude of territorial waters. The distance between the coast and the islands is not taken into account if it is less than twice the width of the territorial zone. (h) But while this rule of limit, following the coastline along the low mark, extends to both straight coasts and curved and retreating coasts, in the case of those retreating, which have such a configuration, both in depth and in width between their capes, whatever they may be called, there is an exception. It's usually convenient to call them byami, but it's not their label that matters, it's their shape. Recent recognition of the legal Gulfs can be found in the response of the United States of America, given in 1949 or 1950 by the Commission on International Law, published by the United Nations in A/CN.4/19, page 104 of 23 March 1950: The United States has taken the position from the outset that its territorial waters extend to one maritime league, or three geographical miles (almost 3J English miles) from the coast, except for waters or bays that are so landlocked to be beyond the jurisdiction of a neighbouring State. (Then follow a large number of links illustrating this statement.) There are two types of bay in which the sea belt is measured from the closing line stretched across it between its capes, that is, at the point where it ceases to have a bay configuration. The first category consists of bays, whose capes are so close that they can really be described as landlocked. According to the strict letter and logic of the law, the final line must connect the capes whenever the distance between them is no more than twice the agreed or allowed width of territorial waters, whatever that may be in the particular case. In practice, the slightly greater distance between the capes is often recognized as an excuse for closing the bay. There are a number of treaties that have taken ten miles, notably the Anglo-French Convention of 1839 and the North Sea Fisheries Convention of 1882, which was signed and ratified by Germany, Belgium, Denmark, France, the United Kingdom and the Netherlands. It is not yet possible to say that the ten-mile closure line is part of customary law, although there may not be any reasonable objection to this figure. In any case, Norway is not bound by such a rule. However, the fact that this figure is not agreed does not mean that there is no norm at all for the final curvature line, with the nature of the bay, and that the State can do with its bays what it likes; for the basic rule governing territorial waters is that they form a belt or gang-de-measures, following the coastline throughout its territory, and if any State argues that the belt should not be closed in a particular bay and follow its configuration, then it is the State's duty to show why this bay is an exception to this general rule. Another category of bays whose capes can be combined to shield from the waters on land, as inland water is a historic bay, and to create a historic bay is not enough to simply claim the bay as such, although such claims are not uncommon. Evidence of a long and consistent assertion of domination over the Gulf and the right to exclude foreign vessels, with the exception of permission, are required. This issue has been addressed The Privy Council in the Conception Bay case in Newfoundland Company v. Anglo-American Telegraph Company (1877) 2 Appeals Cases 394. The evidence on which the evidence was based in this case justifies the claim of a historic bay, it should be noted. Between the United States and Great Britain was an 1818 convention that excluded American fishermen from the Bay of Conception, followed by the British Parliamentary Act of 1819, imposing penalties on any person refused to leave the bay when required by the British governor. The Privy Council stated: Indeed, the Convention would bind only the two countries that were its participants, and therefore that, although a strong claim of british membership, the Convention, although significant, was not decisive. But the law is already mentioned.... goes on...... No stronger assertion of exclusive domination over these bays can be fully framed. (This law) is an unequivocal assertion by the British Legislature of exceptional domination over this bay as part of British territory. And since this claim of dominion was not in doubt for any nation from 1819 to 1872, when the fresh Convention was made, it would be very strong in the tribunals of any nation to show that this gulf by prescription is part of the exclusive territory of the UK.... (p165) Claims for fencing and relevant areas of the high seas by combining capes were made from time to time, but usually in the case of specific pieces of water, rather than on the careful scale of the 1935 Ordinance. There is a significant amount of legal authority to condemn this practice. This theory is that the coastal state has the right to draw a line connecting the capes on its coast, and claim the waters on the land side of this line, as its own waters are sometimes called the theory of cape or la th'ore or la doctrine des caps. There are two judge decisions called Bates in arbitrations between the United States of America and the United Kingdom in 1853 or 1854 (Moore's International Arbitrations, Volume 4, p. 4342-5): Washington captured while fishing within the line connecting the Capes of Fundy Bay, which is 65 to 75 miles wide and 130 to 140 miles long and has several bays on its coasts , and Argus, captured while fishing 28 miles from the nearest land and within the line connecting the two capes on the northeast side of Cape Breton Island; I don't know the distance between them. In both cases, seizures were convicted and compensation was awarded to the owners of the courts. In Washington, the judge said: It was strongly suggested on behalf of the British government that the coast, bays, etc., is understood to be an imaginary line, drawn along the coast from capes to capes, and that the jurisdiction of Her extends to three marine Beyond that line; thus closing all the bays on the coast or shore, and that a large body of water called the Bay of Fundy against the Americans and others, making the last British bay. This doctrine of capes is new, and received a proper limit in the Convention between France and Great Britain of August 2, 1839, which decided that the distance of three miles fixed as a limit for the exclusive right to fishing on the coast of the two countries, in respect of the bays of the estuary which do not exceed ten miles wide , be measured from a straight line drawn from the capes to the cape . Then, in 1881, Mr. Ewarts, the American Secretary of State, sent a letter to the American representative in Spain, which contained the following passage (Moore's Digest of International Law, i, p. 719): Whether the line that borders the three-mile zone, the indentations of the coast or extends from the cape to the cape is an issue to be discussed. The theory of capes, as it is called, was uniformly rejected by our Government, as the views of the secretaries mentioned above. On this issue, the following additional authorities can be cited: in the opinion of the judge of the London Commission of 1853, I think that he refers to Washington or Argus, 166 was held, that: It is not generally argued that countries have the exclusive right to fish over all adjacent waters within three miles of the adjacent sea line drawn from the cape to the cape. He concluded, therefore, that we can therefore consider it settled that, with regard to the east coast of North America, the department's position is uniformly that the sovereignty of the coast, as far as territorial authority is concerned, extends beyond three miles from the low point, and that the maritime boundary of this zone of territorial waters follows the coast of the mainland, expanding where there are islands to place the same belt around such islands. This inevitably precludes the position that the sea boundary should be drawn from cape to cape, and forces it to be closely monitored, at a distance of three miles, the boundary of the continent's shores or adjacent islands belonging to the Conti-Notal sovereign. And la th'ori des caps condemned Fauchille, Droit international, paragraph 493 (6), in words: elle ne saurait juridiquement prevaloire: elle est une atteinte manifesto a la liberte de mers. I am now exploring the 1935 Ordinance and direct attention to the results produced by a direct line base that lies down. It is difficult without the visual assistance of large-scale diagrams to convey the correct picture of the baselines and external lines of demarcation established by the 1935 Ordinance. The affected area begins in Traena on the northwest coast near the entrance to the Westfjord and runs around the Northern Cape to the border with Russia near The Grenses-Jakobselva, with a total length of about 560 nautical miles excluding fjords and other indentations. 48 fixed points between which baselines are drawn are often randomly selected. Twelve of these base points are located on the mainland or islands, 36 of them on rocks or reefs. Some rocks dry out stones, and some are constantly above water. The length of the baselines and the corresponding external lines varies greatly. In some places where there are two or more rocks at a turning point, the length of the baselines can only be a few cables. Elsewhere the length is very long, for example, between 5 and 6 .25 miles 7 0.19 8 9 .25 11 ,, 12 .39 12 13 .19 18 19 .261/2 p 167 19 and 20 .19.6 miles 20,,, 21 .44 21 22 .18 25 26 .191/2 27 28 .18 I lowered the baselines connecting base points 1 and 2 and base points 45 and 46, which, respectively, 30 and 40 miles, because they are the final lines of the Varangerfjord and the Westfjord, and these fjords, like the others, have been conceded by the United Kingdom to be Norwegian waters, provided there is little dispute as to the exact position of the final line of the latter. I also omitted the mention of all base lines less than 18 miles away. The baseline connecting base points 20 and 21 (44 miles) lies briefly at Westerfall in Hasana (21), drying rock eight miles from the nearest island, and then continuing, with an almost imperceptible bend, in the same direction another 18 miles to base point 22, drying rock; so between base points 20 and 22 we get an almost completely straight line of 62 miles. Again, the baseline, which connects base points 18 and 20, as above the water rocks, runs absolutely straight for 46.1 miles. In order to illustrate the distance between many parts on the outer lines and the ground, I take two sectors that I find particularly difficult to reconcile with the conventional concept of the sea belt, namely, which consist of base points 11 and 12 (39 miles apart), an area sometimes called Sv'reholthavet, and which consists of base points 20 and 21 (44 miles from each other) , an area sometimes called Sv'reholthavet, and which consists of base points 20 and 21 (44 miles apart) , an area sometimes called Lopfa. In each case I propose to spend along the outer line and take, at intervals of 4 miles, measurements in miles from the outer line to the nearest land on the mainland or on the island: Sv'reholthavet: Measurements on the mainland or islands from the outer line, at intervals of 4 miles, proceeding from the base point 11 to the baseline 12 As follows: 4 miles at base point 11, then 51/3, 81/3, 11, 13, 12 (or 11 from the lighthouse), 11 (or 9 from the lighthouse), 8, 6 and almost 5; Lopfavet: Measurements on the mainland or islands from the outer line, at intervals of 4 miles, 20 to 21, are: 4 miles at base point 20, then 6, 81/2, 12, 16, 16, 18, 17, 141/2, I21/2 (or 8 of base point 21, landst), 12 (or 5 of the base point 21). In addition, in each of the two areas, the Superaltavet and Lopfavet are in some sense represented by the configuration of the bay and include a large number of named and unnamed fjords and sunlight, which the United Kingdom has recognized as Norwegian inland waters within their proper closure lines. In one part of Lopfavet, the outer line is more than 20 miles from the fjord closure line. In the Court's view (see page 141), Lopfavet cannot be regarded as having the character of a bay; and I can refer to an additional circumstance that contradicts the view that all this large area of Norwegian waters : that is, that according to the (British Admiralty) Norway Pilot, Part III, page 607, the approach to the port of Hammerfest through Sdroysundet, which ends Lopphavet to Hammerfest , is the shortest and, in general, the best entrance to Hammerfest from the west, especially in bad weather; see Alleganean (Moore, International Arbitrations, iv, page 4332-4341, that it may not become a path from one nation to another as one of the conditions for holding the Chesapeake Bay to be closed by the historic Bay). Another questionable area is that it consists of lines connecting base points 24 and 26, with a total length of 36 miles. These three illustrations are among the extreme cases. A more normal baseline is that connects base points 5 (dot on the island of Reina) and 6 (Korsneset, Cape on the main ground); this 25-mile baseline runs in front of the Murfjord, Siltefjord and The Maxaufjord, which the United Kingdom has recognized as the inland waters of Norway, but the line does not pay attention to their closure; in any place, however, the distance between the outer line and the ground or the closure of the fjord line is more than six miles away. I pay particular attention to the fact that many, if not most, of the basic lines of the 1935 Decree are separated from many of the water areas that contain fjords or bays, and little attention is paid, if any, to their final lines; in the washington case mentioned above, the judge, rejecting the requirement to treat Fundy Bay as a closed bay, twice drew attention to the fact that it consisted of other bays within itself: it has several bays on its shores, and again it refers to an imaginary line.... thus closing all the bays on the shore. The result of the lines drawn by the Decree is the production of water, different shapes and sizes and different lengths and widths that are far from the formation of a belt or a gang of territorial waters, as is commonly understood. It is difficult for me to reconcile such a model of territorial waters with the almost universal practice of determining territorial waters in terms of miles, whether it be three or four or some other number. Why talk about three miles or four miles if the state has the power to draw lines that produce a sea belt three or four miles wide at base points and hardly anywhere else? Why talk about measuring territorial waters from a low point when it happens at 48 base points and hardly anywhere else? It is said that this pattern is an inevitable consequence of the configuration of the Norwegian coast, but later I will show that it is not. Norway sought to justify the 1935 Decree for a variety of reasons, the main ones being the following (A, B, C and D): A) that the State has the right to share its territorial waters in such a way as to protect its economic and other social interests. It's a novelty for me. It reveals one of the fundamental issues that divides the Parties, namely the distinction between subjective and objective views on the delimitation of territorial waters. In my view, the manipulation of territorial waters in order to protect economic and other social interests has no legal justification for it; moreover, the endorsement of such practices would be dangerous in the sense that it would encourage States to subjectively assess their rights rather than conform to the general international standard. (B) that the structure of the territorial waters emanating from the 1935 Decree is due to the exceptional nature of the Norwegian coast. Much has been said and written, presenting the Norwegian case for delimitation, made by the 1935 Decree of the Special Character of the Norwegian Coast, poverty and infertility of land in northern Norway and the vital importance of fishing for the population, and so on, and the scher and skj'regaard, which runs around the south, west and north coast and ends in North Cape (Norwegian oral argument, nth October). This appeal must be considered in some detail in terms of both fact and law. Norway has no monopoly on indentations or even on skerry. A look at the atlas will be shew that although Norway has a very long and heavily indent coastline, there are many countries in the world possessing areas of heavily indent coastline. There is no need to go beyond the British Commonwealth. The coast of Canada strongly indentates in almost every part. Almost all of the west coast of Scotland and much of the west coast of Northern Ireland are strongly indentate and bear great resemblance to the Norwegian Skerry is a word of Norwegian origin that abounds in Scotland as a skerry and as a sgeir (Gaelic form). The new Oxford Dictionary and any atlas of Scotland allow themselves a lot of illustrations. From this dictionary I extract two quotations: Scoresby, Journal of Whale Fisheries (1823), page 373: Islands, or skerries, which .... Skirt prohibiting the coast on the west side of the Hebrides; W. McIlwraith, Guide to Wigtownshire (1875) (southwest Scotland), page 62: Rocks stretch into the sea in sturdy ledges and skerries. The next passage takes place in the Encyclopedia Britannica (1947), Volume 20, subtitle Scotland, page 141: The West Coast of the Highlands intersects throughout the long narrow sea lakes or fjords. Mainland slopes steeply into the sea and fronted chains and groups of islands .... Scottish sea lakes should be considered in connection with western Ireland and Norway. All this north-west coastline in Europe is indicative of recent flooding. As demonstrated to the Court by diagrams, in response to the proposal contained in paragraph 527 of the Counter Memorial, the north-west coast of Scotland not only strongly indented, but it possesses, moreover, a modest island fringe, the Outer Hebrides, stretching from the butt of Lewis in the south-west direction of Barra Head at a distance of almost a hundred miles, the southern tip is about thirty-five miles from the lighthouse. Currently, the British line of territorial waters around this fringe island, inside and out, follows the coastline and islands in all without difficulty and not, except for the final lines of the lake does not exceed ten miles, include direct base lines of accession to the outer points of the islands. This also applies to the heavily indent and mountainous mainland of the north-west coast of Scotland, lying inside and opposite the Outer Hebrides. Another factor to be taken into account in assessing the relevance of the particular nature of the Norwegian coast is that not much of this special character remains after the confessions (mentioned above) made by the United Kingdom in oral proceedings. The main feature that remains is the jagged outer edge of the island fringe or skjaergaard. Assessing the impact of Skiargaard as a special factor, it should also be remembered that, running to the northwest, it ends at Cape North Cape, which is near base point 12. Another particular aspect of the Norwegian coast, which was highlighted in the Norwegian argument and mentioned in the Court's decision, is its mountainous nature; For example, Professor Burkin said on 5 October: The coast involved in the dispute is a sharp coastline that rises high above sea level; this fact has a great to our case. So it is the coast that can be seen from far away. A sailor approaching from the sea soon catches the eye of a mountain coast, like the Norwegian one. From now on, you can't compare such a coast with such a flat coast as, for example, in the Netherlands. The Norwegian argument also repeatedly insists that the basic indicators of the 1935 Decree were so drawn that the land is visible from all sides of the outer line. I do not see the relevance of this issue, because I am not aware of any principle or rule of law that allows a wider belt of territorial waters for a country with a mountainous coast such as Norway than a country with a flat coastline, such as the Netherlands. In short, for the following reasons, I cannot reconcile the 1935 Decree with the concept of territorial waters recognized as international law (a) because the delimitation of territorial waters by the 1935 Decree is inspired, among other things, by the policy of protecting the economic and other social interests of the coastal State; (b) Because, with the exception of the exact 48 base points, the four-mile limit is measured not from land, but from imaginary lines drawn at sea, which are paid little attention, if any, to the final lines of legally closed indentations, such as the fjords, with the exception of the Varangerfjord and the Westfjord; (c) Since the 1935 Decree, which has not yet sought to delineate the belt or gang of maritime territory attributed to international law to each coastal State, includes, within its limits, areas that are constantly changing distances from the outer line to land and bear little like a belt or gang; (d) Because the 1935 Ordinance ignores the practical need from time to time to determine, in a manner normal among sailors, whether a foreign vessel is within territorial waters or not. (c) The United Kingdom cannot object to the Norwegian system enshrined in the 1935 Ordinance as a result of previous agreement in the system. Assuming that such a peculiar system could be recognized in any part of the world and at any time as a legitimate system of delimitation of territorial waters, the question would arise as to whether the United Kingdom did not exclude itself from its objections by consent. The answer to this question includes two questions: when did the dispute arise? When, if at all, it is known whether the United Kingdom Government has become aware of the system or when it should have been aware, but p 172 for its own neglect; in English legal terminology, when does it receive an actual or constructive notification of the system? When did the dispute arise? Three dates are required for consideration: 1906, 1908 and 1911. I don't think it matters much that we accept. As for 1906, Chapter IV of the Counter-Memorial titled History of Controversy since 1906. The Storting Document No. 17/1927 (described later) states (p. 122) that in 1905 British trawlers began fishing in waters along northern Norway and Russia, and paragraph 91 of the Counter-Memorial states that British trawlers first appeared off the coast of East Finnmark in 1906. Some fears have occurred among the local population. On 2 June 1906, a law was passed prohibiting foreigners from fishing in Norwegian territorial waters, and since 1907 fishing vessels have been housed annually in the waters of Northern Norway (ibidem, paragraph 93). As for 1908, the Norwegian lawyer told the Court (25 October) that as early as 1908 Norway had organized its fisheries patrol service on the basis of the very lines that were subsequently enshrined in the 1935 Decree. It is strange that these lines were not brought to the attention of the United Kingdom in 1908. According to Annex 56 of the Counter-Memorial, a report by the Norwegian Navy Chief of Staff states: The instructions given to the Marine Fisheries Courts as far back as 1906 indicated two forms of action that needed to be taken against trawlers: prevention and arrest. The first warning after trawlers began to visit our Arctic waters was given in the summer of 1908 to the British trawler Golden Scepter. As for 1911, on 1 March of the same year, when the British trawler Lord Roberts was arrested in the Varangerfjord and the master was fined for breaking the law of 2 June 1906, a note exchange was exchanged between the British and Norwegian Governments, and the Norwegian Foreign Minister conducted an interview in London with the British Foreign Minister, Sir Edward Gray. In this interview, norwegian Minister M. Irgens insisted on the desirability of England at the wrong time, when she lodged a written protest (ibidem, paragraph 98 a), and in July, 1911, the British Government sent a protest to Norway (Counter-Memorial, Annex 35, No. 1), in which they claimed that they had never recognized the Varanger and the Westfjords as territorial waters and did not participate in any international agreement to grant the right of jurisdiction beyond the three-mile border from any part of the Norwegian coast. On 13 October 1951, Mr. Arnzen stated during his oral argument: The Norwegian Government is pleased to see the dispute that has lasted so long before the decision of the International Court of Justice. I think it may be appropriate to recall that Norwegian Foreign Minister M. Irgens, during his discussions with Sir Edward Gray in 1911, has already spoken of the possibility of arbitration as a solution to the dispute. In later years, many other trawlers were arrested, and the dispute widened, it was only during these proceedings that the United Kingdom recognized that the waters of the Varangerfjord within the line claimed by Norway were Norwegian waters. Between the arrest of Lord Roberts in 1911 and 5 May 1949, sixty-three British and other fishing vessels were arrested for fishing in alleged Norwegian waters, and many others were warned (see Counter-Memorial, Annex 56). I must now examine the decrees on which the 1935 Decree is supposed to be based, some of which were mentioned as evidence that the United Kingdom had acquired or should have been notified of the Norwegian system prior to the dispute. (i) Royal decree of 22 February 1812. The Storting Document No. 17/1927 states (p. 506, 507) that, after discussion between the Admiralty and the Ministry of Foreign Affairs of the Kingdom of Denmark-Norway, it was decided to ask the King for a royal resolution, and the Office determined that the question was whether territorial sovereignty or the point at which the sovereign right to protection was enshrined, should be measured from the mainland or from the highest point. The King of Denmark and Norway has since issued a decree, the translation of which will be found on page 134 of the Court's Decision. The Decree does not mention direct lines between islands or islets at all, nor about the connection of the mainland capes by any lines. This is the first of the decrees mentioned in the preamble as the basis of the 1935 Decree, and it was regarded by the Norwegian agent and lawyer as the basis and starting point of a series of decrees adopted in the 19th century and Decree No. 174 of 1935 as a kind of Magna Carta of liberties. The Court's decision gives it crucial importance. It therefore deserves careful consideration. To that end, I must refer again to Storting's document No. 17, 1927, which represents 1927, which represents the 1st section of the Advanced Committee on Foreign Affairs and the Constitution of the Norwegian Storting in April 1927, later translated into English, and then printed and published by Christoph B. W. Meyer in Leiden in 1937 under the title Expansion of Jurisdiction in the Coastal Waters by Christopher B. W. Meyer, Captain of the Royal Norwegian Navy. In pages 492 ff., this document examines a large number of 17th and 18th century ordinances and proclamations, among other things, that of June 9, 1691 (Annex 6, I, in counter-memorial), and another of June 13, 1691 (Annex 6, II), which will be seen to refer to the area between Naze in Norway and 13th century. He then refers to the 1812 Ordinance and tells us that it was not really intended to be more than regulation for actual purpose : prize cases on the south coast. Also, on page 507, we were told that the Royal has been handed over.... all the governors of Denmark and Norway, whose bordered by the sea, all prize courts in Denmark and Norway and the Royal High Admiralty Court. It has been passed on for information with an additional order: So far none of this should be published in print. Page 507 contains the following footnote: ( ) N.R.A. Chanc., drafts. As far as is known, the resolution was first printed in 1830 in Historisk underretning om landvaernet J. Chr. Berg. Dr. Rustad claims that he was little known until then and did not appear to have previously appealed in Denmark or Norway. Then follow a few quotes from Dr. Raestad's Kongens Stromme, commenting on the expression in all cases, which should be noted, because its interpretation in all cases is different from what is about to be quoted from this document, and because Dr. Rassad stated that, although the 1812 Ordinance was intended for issues of neutrality, the restriction of one league at the time was the actual limit of any actual limit to other purposes. We are then told (p. 509) that, in the light of recent investigations, it is quite clear that the term in all cases means only in all prize cases. The resolution of February 22, 1812, completed only the above-mentioned re-recordings of neutrality, Thus, the one-league limit of 1812 had no greater coverage than the one league limit mentioned in previous 18th-century Royal Resolutions, meaning it applied only to neutrality and was set out only under the guidance of national authorities rather than foreign powers. The relevance of these passages is that they shew: a) that the 1812 Decree was little known for about 18 years; (b) that it is for administrative purposes, not for the leadership of foreign countries; (c) that, in the opinion of some people, it applies only to prize-winning cases and even then, according to the document, only to drop cases on the south coast. Page 510 of the Report refers to the award rule of February 22, 1812. It is clear that between 1869 and 1935, the award rule of February 22, 1812, acquired a broader connotation, as we shall now see. It does not matter whether the views expressed in storting document No. 17/1927 on the meaning of the Royal Decree of 1812 are right or wrong. It is important from the point of view of the perceived notoriety of the Norwegian system that such views on the true importation of the Decree of 1812 and its connection with the Norwegian system may be held by responsible persons in Norway as early as 1927. (ii) The 1868 incident in Les Cuatre Freres. This French fishing vessel was detected from the Westfjord by Norwegian The French government protested that the Westfjord was not part of Norwegian territorial waters and served as a passage for navigation towards the North. Correspondence between the two governments began, and the Foreign Minister of Norway and Sweden stated on 7 November 1868 that the Westfjord was the inner sea that appeared to have closed the incident. (iii) The Royal Decree of 16 October 186 stipulated that a direct line stretched at a distance of one geographical league parallel to a straight line, going from Storhofinen Island to Pig Island, would be considered the limit of the sea belt for the Baileywick Sunnmore coast, within which fishing should be exclusively reserved for the inhabitants of the country. This, according to professor Burkina (October 6), was the first application of the Decree of 1812 to fishing. The direct baseline connecting the two islands was 26 miles long. The Counter-Memorial contains in Annex 16 the Statement of Reasons submitted by the Minister of the Interior to the Crown of 1 October 1869, about which several very concise comments should be made, firstly, it is the cry of a small man in an open boat against a large man in a deck boat. It says that the area has been overrun in recent years by a growing number of decked vessels, both Swedish and Norwegian boats, from which heavy-line fishing, etc., apparently, the Swedes started it in 1866, and the Norwegians followed suit. Another passage says that local fishermen complained bitterly that the intruders on the fishing grounds, which had previously been visited exclusively by Norwegians, were mostly foreigners swedes. It was also feared that fishing vessels from other countries, particularly France, could soon appear on fishing shores. In this regard, the Minister was asked to form an opinion on the possibility of approving them as Norwegian property. (The reference to France was probably caused by an incident in the Westfjord last year that would have been fresh in the departmental consciousness.) The statement of reasons refers to the precedent of the Decree of 1812. In addition, there is a letter dated 1 November 1869 (Annex 28 to the Counter-Memorial) from the Norwegian Minister of the Interior to the Swedish Minister for Civil Affairs informing him of the Decree adopted on the 16th (? ultimo) and contains a passage: It was desirable to bring this matter to the attention of the Royal Ministry so that the latter could publish information in those Swedish areas that are established by the fishing fleets. to the Norwegian coast. (There is no evidence that any notice of the Ordinance has been submitted to any other State.) The penultimate sentence in this letter is this: Moreover, if the fishing in these have been left open, there is reason to believe that fishermen in many foreign countries will visit them, as a result of the reduction of fishing products for all. The decree is a public document. Much of the Statement of Reasons is contained in the Norwegian report of the Territorial Water Delimitation Commission of 1912, but as far as I know, no statement has been issued on the reasons at the time of the decree's adoption. The French government is probably on the quivive because of the Westfjord incident last year became aware of the 1869 decree two months later, and a diplomatic paddock between the two governments ensued, in which the French government argued that restrictions on fishing between (Pork and Storholmen) should have been broken by a line, following the configuration of the coast that would bring it closer to that coast than the current limit. The last paragraph in this correspondence is a note from the French Charge d'Affaires in Stockholm to the Minister of Foreign Affairs of Norway and Sweden, dated 27 July 1870, which refers to the future consequences .... which may follow from our division into the principles set out in the Ordinance, and stated that this danger .... could easily have been avoided if it had been understood that the limit set by the Decree of 16 October was based not on the principle of international law but on a practical study of the configuration of the shores and living conditions of the inhabitants, and suggested that de facto delimitation should be recognized and to join the general survey of the shores, which would be entrusted to the two competent naval officers. It seemed that the French Government would like to protect itself from de jure recognition of the principle. Meanwhile, the Franco-Prussian war began on July 19, and since then the issue has been a problem. (iv) The Royal Decree of 9 September 1889 extended the limit set by the 1869 Decree to the north over the Romsdal and Nordmere regions by constructing a number of four direct lines connecting the islands with a total length of about 57 miles, so that two decrees of 1869 and 1889 would establish direct baseline lines with a total length of about 83 miles. The 1889 decree was also motivated by the Statement of Reasons submitted by the Minister of the Interior to the Crown, which was included in a publication entitled The DepartedS-Styende of 9 March 1890. This statement of reasons, which also refers to the 1812 Decree, points to the need for the prefect responsible for Nordmer and Romsdal to adopt rules prohibiting fishing vessels from anchoring at certain points on fishland in February and March. It made no mention of foreign courts. This raises the question of whether the two decrees of 1869 and 1889 affect the total length of the maritime boundary 83 miles, and connecting the islands, but not the capes of the mainland, should have been considered by foreign states when they learned of them, or should, but to default on their part, to realize, as it follows from the notice that Norway has adopted a peculiar system of delimitation of its maritime territory, which over time will be described as from the beginning of universal application across the coastline, equivalent (excluding the sinos of the fjords) to approximately 3,400 km (about 1,830 nautical miles), or these decrees can be appropriately considered as regulating the local and primarily internal situation. I do not see how it can be said that these two decrees have notified the United Kingdom of the existence of a system of direct baselines applicable to the entire coast. In the course of an oral argument. Counsel for the United Kingdom acknowledged that the United Kingdom had accepted the lines set out in the decrees as lines applicable to the areas they covered. (v) The decree of 5 January 1881 prohibits whaling during the first five months of each calendar year along the banks of Finnmark, at the maximum distance from the coast of one geographical league, calculating this distance from the outermost island or islet that is not covered by the sea. In the case of the Varangerfjord, the boundary of the sea of the prohibited belt is a straight line; from Cape Kibergnes to the Grense-Jakobsel river. It should be understood, however, that killing or hunting whales during the aforementioned period will also be prohibited outside the line, less than one geographical distance from the coast near Kibergnes. Thus, by directly fixing the direct baseline across the mouth of the Varangerfjord (which in this case is no longer disputed), the Decree makes no suggestion and gives no indication that it has introduced a system of direct baselines from the most external points on the mainland and islands and rocks in any other part along the banks of Finnmark. It is difficult for me to understand how one can say that the Decree issued a Norwegian system of direct baselines from Trenah in the west to the Russian border in the east. The Hague Conference of 1881 on fishing in the North Sea, resulting in the i/i Of the 1882 Convention. The Court refers to this incident and draws certain conclusions from it. The Conference was called in on the initiative of the United Kingdom to sign the North Sea Fisheries Convention. The following states were represented: Germany, Belgium, Denmark, France, Great Britain, Sweden, Norway, the last delegate M. E. Bretteville, a lieutenant of the Navy and the Chief Inspector of Herring Fisheries. The aim was for the Convention to act on the rather than in territorial waters, and therefore it is necessary to determine the extent of territorial waters in the affected area. Proca-verbo meetings can be found in the British White Paper C. 3238, published in 1882. The Northern Limit of the Convention was set by article 4 in parallel with the 61st degree of latitude, which in this case is south of the area in which the dispute is taking place. The second session of the Conference discussed the issue of territorial waters, and in pro-verbo: Norwegian delegate M.E. Bretteville could not agree to a proposal to limit territorial boundaries by 3 miles, especially with regard to the gulfs. He also believed that the international police should not prejudice the rights that specific Powers could acquire, and that the bays should continue to belong to the State to which they currently belong. Strictly speaking, the Norwegian delegate does not need to refer to the 1869 Decree, since the Convention concerns an area south of the parallel of the 61st latitude, but if in 1881 Norway had already adopted a system of direct baselines as a common application along the coast, it was surprising that he did not mention it at the Conference, where all states, primarily interested in fishing, were represented in the North Sea. , and as a result all, with the exception of Norway and Sweden, have adopted the provisions of Article II of the Convention, of which the following excerpt is given: Article II Fishermen of each country enjoy the exclusive right of fishing at a distance of 3 miles from the low water mark throughout the coast of their respective countries, as well as dependent islands and banks. As for the bays, the distance of 3 miles is measured from a straight line drawn across the bay, to the part closest to the entrance, to the first point, where the width does not exceed 10 miles. The Convention was eventually signed and ratified by all the States represented, with the exception of Norway and Sweden. This incident, to which I attach particular importance, prompts me to ask two questions: (a) if the Norwegian system of delimitation of territorial waters by direct baseline has existed since 1869 (only 12 years ago), can the Norwegian delegate, the Chief Inspector of Herring Fisheries, find a better opportunity to disclose its existence than the Conference of Governments interested in fishing in the North Sea? In fact, could he have failed to do so if the system had existed, for it would have provided a compelling case for not participating in the 1882 Convention? (b) Can any of the Governments that have ratified the Convention know that Norway claims four miles of territorial water and fjords, like inland waters, will be affected by Norway's abstinence with a notice of the existence of a system that will one day in the future reveal long straight (p 180) base lines drawn along a stretch of coastline about 560 miles long (excluding fjords and other indentations), and which applies to the entire coast? Paragraph 96 of the Counter-Memorial, discussing the events of 1908, states that one may ask why Norway did not use force in all its territorial waters from the outset to enforce existing laws relating to foreign fishermen... In this regard, it should be remembered that Norway, but recently acquired a separate diplomatic service, after the collapse of the alliance with Sweden in 1905. It may well explain that this may explain the lack of any categorical assertion of the Norwegian direct baseline system as a system of universal application along Norwegian shores and notification of the system to foreign countries. But even if this is an explanation, it is difficult to understand why it should be the reason why foreign States should be affected by the notification of the system and prevented from protesting against it when it is applied against them. In these circumstances, I do not believe that the United Kingdom knew or should have, but for the default on its part to understand the existence of a Norwegian system of long straight baselines connecting the outer points, prior to the beginning of this dispute in 1906 or 1908 or 1911. I must refer very briefly to some of the incidents that have occurred since the beginning of the dispute, although they have nothing to do with the issue of connivance. Some of them are considered in the Court's decision or in other individual opinions. In 1911, the Norwegian government appointed a Commission on the Boundaries of Territorial Waters in Finnmark, which reported on February 29, 1912. A copy of the first part, the general, was translated into French and sent informally to the Government of the United Kingdom. The next passage takes place on page 20 of this part I: En g'eral, dans les cas particuliers, na prendra le plus surment une d'cision en conformite avec la vieille notion juridique norv'gienne, si l'on consid're la ligne fondamentale comme tant p 181 tire entre les points les plus extr'mes don't il pourrait. It is worth noting the tense times of verbs. On the same day, the Commission submitted report No. 2 of the Special and Confidential Section, which proposed some fixation of the baselines around Finnmark (Counter-Memorial, paragraph 104). In 1913, a confidential report was prepared on the proposed base lines on the coasts of the other two concerned provinces, Nordland and Troms (ibidem, paragraph 105). It seems (ibidem) that the base points these confidential reports contain those that were eventually adopted by the 1935 Ordinance; confidential reports were only disclosed in 1950, when they appeared as applications 36 and 37 Counter-Memorial. The Court's decision refers to the decision of the Norwegian Supreme Court in the St. Petersburg case of 1934, in which the British vessel was convicted of fishing in territorial waters under the 1906 Act. This is certainly a decision of high authority. Since 1934, Norway has made a final decision on the meaning of the 1812 Decree and its consequences, regardless of whether it was applied specifically to a part of the coast by later decrees. However, this Court, while bound by the interpretation of the Norwegian domestic law decision, is not excluded from the international implications of this law. The established rule is that a State can never request that its domestic law or the act or inaction of its executive power be protected from accusations that it has violated or lacks international law. This was decided in the Geneva arbitration of 1870-1871 on the issue of Alabama's claims, when the British government stated that it exercised all the powers it had under its current legislation in order to prevent Alabama from leaving the British port and cruising against the federal American shipping, a omission that cost the UK a large sum of money. St. A simple solution is important in the sense that, once a decision is taken, the existence of the Norwegian system of direct baseline indicators cannot be denied either in Norway or internationally. Only eight years ago there was a case of Deutscheland (the case of the German ship's attempt to sell contraband spirits) (annex 9 to the Memorial and annex 47 to the Counter-Memorial and Annex 31 to answer), in which the Supreme Court of Norway, a majority of 5 to 1, overturned the conviction of the Lower Court of Appeal. In the German case, which has now been overturned by Saint-Juste, a prominent Norwegian lawyer as the late Dr. Rustad (much cited by both Parties in this case) could say in a conclusion given to him at the request of the public prosecutor that: However, the question arises whether the extent of the sea territory on the islands should be determined in this case. stretched between two islands, islets or reefs and, if necessary, how these baselines should be drawn. There is a need to make a distinction. On the one hand, there is a question as to whether, under international law, a State has the right to state that certain areas of the adjacent sea fall under its sovereignty certain certain On the other hand, the question might arise as to whether a State was entitled, in accordance with international law, or by virtue of its own laws to believe that its national legislation in that particular case applied to the same parts of the adjacent sea when it was not yet established that its sovereignty extended so far. The state may have a certain competence without using it. and later neither the letters of the patent (i.e., in fact, the 1812 Decree), nor, if they exist, additional customary law prescribe, as between which islands, islets or stones of the base lines. must be drawn.... It doesn't matter if Dr. Raedad's views are right or wrong. It is important, from the point of view of the notoriety of the Norwegian system of direct baselines, that in 1926 the lawyer of his position and his knowledge of the law governing Norwegian territorial waters should provide possible alternative methods of drawing baselines, since the Norwegian assertion is that the United Kingdom should be aware for a long time about the Norwegian system of direct baselines connecting the external points on the mainland The next passage takes place in the Deutschland case in the decision of Judge Bonnevi, who issued the first decision as a member of the majority: It is also a matter of general knowledge that the state authorities have argued, since time immemorial, some areas, such as the Westfjord and the Varangerfjord, as Norwegian territorial waters in full, and that territorial boundaries should be drawn on the basis of straight lines in the estuary. , no matter that very large areas outside the four-mile border are thus included in Norwegian territory. However, no more precise provisions have been produced on much of the country's vast coastline, with the exception of the coast of County More, for which the two royal decrees of 1869 and 1889 mentioned above are mentioned. The United Kingdom has repeatedly asked the Government of Norway to provide them with information on their fishing limits in northern Norway; See the Storting Foreign Affairs Committee report of 24 June 1935 (Memorial, Annex 15), which states that the British Government has repeatedly requested that the exact limit for this part of the coast be set so that it can be brought to the attention of the trawler's organizations. The Norwegian response to these requests is that the matter is still before the Commission or otherwise, for example, in a letter from the Norwegian Ministry of Foreign Affairs dated 19 August 1931, has not yet taken a position on the final marking of these lines in detail. It seems that what the argument of this case has been called the Norwegian system has been in gestation since 1911, that the 1934 Saint Street decision (germany's excessive decision) marks its first public statement as a system applicable to the entire coast, and that the 1935 Decree is its first concrete application by the Government on a large scale. I find it impossible to believe that it was in existence as a system during the deutschland decision of 1926. (d) Another reason on which the Norwegian lawyer tried to justify the 1935 decree is that in any case the waters along the outer lines enshrined in the Decree are within the ancient fishing grounds of Norway, to which it has long since acquired its historical title. I think it is true that waters that would otherwise have been granted high seas status can be acquired by the State through historical title, at any rate if they are related to territorial or national waters; see Lord Stowell's Twee Gebroeders (1801), 3 Christopher Robinson Admiralty Report 336, 339. But, as he said in this case: Strictly speaking, the nature of the lawsuit brought in this regard goes into the persuasion of the law; for it is a claim of private and exclusive property, on the issue where the general, or at least the general use should be intended. This is a claim that can arise on parts of the sea, or on rivers flowing through different states .... In the sea, from the range of gun shot, universal use is assumed.... Parts of the sea are pres-cribed for.... However, the general presumption is clearly opposed to such exclusive rights, and this right of ownership must be established by those who claim it, just as all other legal requirements must be substantiated by clear and competent evidence. Another rule of law, which I believe to be relevant to the question of historical law, is that there is usually some evidence of state jurisdiction and that the independent activities of individuals are irrelevant unless it is proven that they acted in accordance with a licence or by some other body obtained from their Governments, or that in some other way their Governments have asserted jurisdiction through them. When the documents submitted in this case in support of the historical name are considered, it seems to me that, with one exception, which I will mention, they are marked by a lack of accuracy with regard to the waters that have been the subject of fishing. We get expressions like near our fortress Varshus, off the coast of Finnmark, the water off the coast of this country, next to the ground, the fish is quite to the coast, the coast, fishing, which they practice in some settlements, the waters of Finnmark, the fjords or the surrounding waters, whaling in the waters that wash the coast of Norway and its provinces, in particular Iceland and the Faroe Islands, etc., etc. In 1688 he received a fishing license in, among other things, water .... the sunken rock of Giesben; in 1692, he obtained a whaling licence; in 1698 he received another license to hunt whales, which mentions, among other things, water .... the sunken rock of Gyesben. The last two licenses state that all strangers and unlicensed persons are prohibited from preparing whales in fjords or adjacent waters in ten leagues from the ground. I do not know exactly where the rock called Gjesbaen or Gjes-baene is, behind the statement in paragraph 36 of the Counter Memorial that it is next to the word Alangstaran, which is marked on the Norwegian chart 6 (annex 75 to Rejoinder) as on the outer Norwegian line of the 1935 Decree. On the same graph of the region known as Lopfavet, apparently two fishing banks called Ytre Gjesboene and, to the south of it, Indre Gjesboene, formerly located outside the outer line of the 1935 Decree and the last between the outer line and the baseline of the decree. It is not clear what the size of the fishing banks is. The base line (point 20 to 21) that runs in front of Lopfavet is 44 miles long, so even if the licenses formed sufficient evidence to prove the fishing bank's historical name from the sunken hesben cliff, they could not affect an area as vast as Lopfavet. These three licences cover a period of ten years, and there is no evidence of the duration of the fishery or its subsequent history. In these circumstances, I believe that the delimitation of territorial waters made by the Norwegian Decree of 1935 is in conflict with international law and that its effect will contribute to the mutilation of the principle of freedom of the seas and to encourage further encroachment by coastal States on the high seas. I therefore regret that I cannot reach the Court's decision. (Signed) Arnold D. McNair. (p 186) DISSENTING OPINION OF JUDGE J. E. READ While I agree with most members of the Court in making Norwegian allegations against Indrelea and the Westfjord, I cannot agree with some parts of the decision that relate to other parts of the coast in question. I therefore need to learn the reasons that led me to conclude that the establishment of certain baseline lines by the Royal Norwegian Decree of 1935 did not comply with international law. Teh The United Kingdom relies on the rule or principle of international law, which is called the tide-mark rule or coastline. The assertion is that the territorial belt should be measured from the coastline in the broadest sense of the word: from the low tide on the continental coast and on the islands; and from the outer limit of inland waters. It is noted that the point of departure of the base lines can be the outer fringe of the schiaergaard. The Government of Norway states that the coastal State has the right to establish its belt or zone of territorial waters, as measured by straight lines stretched between the outermost islands, rocks or points of the mainland, without restrictions on the length of the lines. Norway allows for some limitations: geographical, such as visibility and conformity to the general direction of the coast; and others of a political, social or economic nature, such as the needs of the coastal population and the location of fishing banks. Norway further argues that even if international law recognizes the coastline rule, it does not apply to the Arctic coast of Norway, as this rule does not apply and cannot apply to disturbed coastlines, and especially to the unique Norwegian coast. Some facts need to be examined before considering the legal aspects of the dispute. Norway, in 1935, claimed large areas of the seas off the coasts of Finnmark, Troms and parts of Nordland. The outer limit of these areas is shown in the Norwegian charts, 3-9, a heavy blue line, which can be called the blue line. This is parallel and 4 nautical miles, far from the base lines connecting points 1-48. The United Kingdom is second to Norway's right to a marginal belt of 4 miles, measured from the coast at low water and from the final lines of fjords and sunlight and other inland waters. The degree of water thus missed is indicated on the pecking p 187 green line on these graphs, which can be called the green line. This line will require minor changes to ensure accurate alignment with the pecked green line marked on the British charts. A substantial adjustment of the 5-9 timetables will also be required in the light of the Court's decision on Indrelea and the Westfjord, but this can now be ignored. Parts of the sea between the Blue Line and the Green Line are in dispute. They are shown in the British diagrams used during oral procedures by yellow spots. The United Kingdom claims that they are on the high seas; Norway that they are territorial waters. It will be convenient to call them disputed areas. Returning to the legal aspects of this problem, I have no doubt that the coastline rule is an established rule of international law. Collapse claims for sea domain based on mare and similar doctrines, including doctrines approved by the Kingdom of Denmark and Norway, led to the liberum mare regime, the freedom of the seas; under which the seas are open to all people of all peoples for all purposes. The pressure of the warring parties in the naval war destroyed the old claims; however, the need for defence and neutrality has forced States, even under the new regime, to assert new exclusive rights to coastal belts or zones. Recognition of such zones by warring parties is closely linked to the ability of the coastal State to exercise effective control, and from the outset it has been confined to areas within the cannon range of fortified points. Over time, it was expanded to cover all areas capable of being covered by gun shot, regardless of whether they were fortified or not. It was an easy step from the gun's range to the 3-mile border: the territorial waters belt of the 1st Marine League wide, subject to the exclusive power of the coastal state and from which foreign belligerent operations were excluded. Some countries claim wider areas or larger areas; however, for a very long time no one had challenged the right of the coastal State to assert sovereignty over the territorial belt measured from the coast. (p 188) During the 19th century, it became necessary to give further attention to the bays. The creation of a territorial belt, as measured by the coast, meets most of the defence and security needs of coastal States. Such waters were in their very nature part of the sea. The bays, however, presented a particular problem. They infiltrated the country and were largely surrounded by their capes. Applying the concept of a fixed-width territorial belt to larger bays will lead to the aspiration of the sea, both the high seas and the territorial sea, into the heart of the country. It will treat waters that are inland by their nature as part of the high seas, and will bring smugglers and foreign warships and fishermen into the interior of the coastal state, with damage to its security and vital interests. The solution to this problem has evolved in two different directions. First, there is a tendency to recognize the right of the coastal state to claim as inland water bays that penetrate the coast, despite the fact that the distance between the capes is more than twice the width of the marginal belt, for example, more than 6 or 8 miles. Records of State practice embodied in documents prepared for the 1930 Hague Conference indicate that most States are prepared to accept such claims over bays no more than 10 miles wide. However, there are maritime powers that have defended the right to claim to be bays of greater width, or even claim to all bays, regardless of the distance between the capes; but there was no indication that broader claims were recognized by the international community. In addition, there are some States that adhere to the six-mile limit. Second, it was recognized that, regardless of latitude, the coastal State could consider the bays over which they exercised sovereignty as inland waters without any problems for a long time. This is the doctrine of historical waters, and it is not limited to bays, but can be applied to the assertion of rights to historical waters that do not have all the characteristics of the bay. In this case, the rights of the coastal state are fully supported by customary law. With regard to these three types of waters, the territorial belt, 10-mile bays and historic waters do not exist where a claim by a coastal State has been successfully challenged after the North Atlantic Fisheries Arbitration Court. They can therefore all be regarded as established by customary international law. The question of whether claims to bays of greater breadth, in addition to historical factors, could not be considered in

this case. It should also be noted that in the case of all types of bays or historic waters, the territorial water limit is measured from the outer limit of inland waters. In this case, Norway defends the right to measure a 4-mile belt not from the shoreline, but from long straight base lines. These lines depart from the coastline in East Finnmark, as well as from the outer edge of the Schiaergaard line between Cape and the Westfjord. The Court is concerned about this question: does customary international law recognize the right of the coastal State to use direct baselines to delimitate its territorial belt in such a way as to move away from the coastline and encroach on the high seas, thereby depriving other States of the rights and privileges to which they had previously been entitled under international law. It is claimed that such a claim can be derived from the sovereignty of the coastal State, but I do not see what it can be. In this regard, we are not dealing with the exercise of State sovereignty in its sphere. We are dealing with the actions of a State that expands its scope and seeks to exclude all other States from the high seas. We are dealing with the expansion of the maritime sphere aimed at depriving other States of the rights and privileges they have had the right to enjoy and exercise in accordance with international law. In these circumstances, I will have a great deal of difficulty justifying the Norwegian system as exercising the powers inherent in State sovereignty. The question remains: can the actions of the State, encroaching on the high seas and depriving other states of their rights and privileges, international law. The true legal nature of the problem was clouded. This issue is seen as the existence or non-existence of customary international law restricting the exercise of sovereign power by coastal States. It is envisaged that the United Kingdom should establish such a restrictive rule in order to challenge the validity of the 1935 decree. It was suggested that the UK's case should fail unless it was proved that such a restrictive rule was based on customary international law. The real legal problem we are concerned about is different. By decree of 1935, Norway tried to expand the Norwegian maritime area and encroach on vast areas of the high seas, seizing and condemning foreign vessels. Accordingly, we must consider whether such a course is justified. Ignoring the historical factor at present, we must begin by examining the scope of the powers to delimitate our maritime area, which has been transferred to the coastal State by international law. Here, I have no doubt about the position. The Powers of the State to delimit its maritime area are the same as its powers to delimit any other part of its area. It can expand its scope in any way without infringing on the rights of other States or the international community: for example, it cannot occupy no man's land, res nullius; or it could annex the occupied territory with the consent of the territorial sovereign. It cannot go beyond its existing sovereignty if such a course undermines the rights or privileges granted to other States by international law. No issue of res nullius or annexation arises in the case of the sea. All countries enjoy all rights and all privileges throughout the sea and over the entire sea beyond territorial waters. It follows that the power of the coastal state to mark its maritime area cannot be used to encroach on the high seas and infringe on these rights and privileges. Its powers are limited to marking areas already subject to its sovereignty. Accordingly, the actual extent of Norwegian territorial waters, recognized by customary international law before the 1935 Ordinance, should be examined. It certainly consisted of a territorial belt 4 nautical miles wide: but the question is to determine the starting points from which the belt should be measured. Few states have noted their maritime possessions, and the course followed by Norway was unusual in 1869, 1881, 1889 and 1935. In general, the issue remains on the side of national courts, courts, arbitration courts and diplomatic procedures in the countless cases that have arisen and have been dealt with in State practice. Over the past century and a half, there have been many hundreds of when foreign court vessels coastal authorities. They originated in the naval war, in smuggling, in fisheries protection and in other matters. They have created legal problems, both national and international. The demarcation of territorial waters or customs zones or the establishment of distance from the coast were almost always in question and decided by national courts or international tribunals or settled by diplomatic negotiations. During the naval war, commanders were instructed and arrests were dealt with by the courts in prize cases. (p 191) Ordinary international law is a generalization of the practice of States. This cannot be established, citing cases where coastal States have made extensive claims but have not retained their claims by actual assertion of sovereignty over invading foreign vessels. Such claims may be important as starting points, which, if not challenged, may eventually mature in the historical name. The only conclusive evidence of State practice is the seizure of the coastal State's assertion of its sovereignty over the waters in question, arresting a foreign vessel and maintaining its position in diplomatic negotiations and international arbitration. It is necessary to exclude exemptions made by Norway at the beginning of the dispute and from the moment it began. They met with immediate protest from the United Kingdom and should therefore be ignored. Seizures made in the bays should not be taken into account, as there is a common basis that coastal States can measure the territorial belt from direct baselines joining Cape Bays. Leaving aside these cases, which are not relevant to the present issue, state practice can be considered. To begin with, the record in this case shows that Norway has maintained a four-mile limit for territorial waters since 1745. For part of the time this was only used for neutrality and prize; but most of the time it was applied to fishing. Throughout the period from 1747, foreign fishermen have been fishing off the Norwegian coast; Expats in the north, and, for the last eighty or ninety years, French and Swedish fishermen in the south. In addition, there have been many naval wars in which Norway has been neutral, and the record shows that violations of neutrality and incursions by individuals were a serious threat to the country. It should be noted that there is no case in which Norway has asserted sovereignty in any of the disputed areas or, indeed, over waters measured from long baselines in other parts of the country by capturing a foreign poacher or by taking action against an intruder, prize or military person. Same situation and in the case of other coastal states. Neither side has cited a single case of coastal coastal ship and justified and supported capture, on an international aircraft, relying on long baselines departing from the direction and sinuosities of the coast. It was a universal practice in diplomatic negotiations, in prize courts, in national tribunals (in the application of international law) and in international tribunals to rely on measuring the territorial belt from the nearest land (or inland waters). There have been unsuccessful attempts to justify seizures on the basis of long straight baselines departing from the line and direction of the coast. There are moray ferta cases in which the courts have upheld exemptions related to local law, but this position has thus been left internationally by the Government of the United Kingdom. There are also cases cited in Moore (Internatur law Digest, Soap Theory, Vol. I, page 785-788), where attempts to justify exemptions on this basis have been thwarted, either through diplomatic negotiations or international tribunals. The practice of States in the actual approval and execution of territorial waters claims is clear, unambiguous and consistent. It was based on the measurement of the territorial-Tory belt from the nearest land. I am compelled to conclude that Cape Theory, the coastal State's claim to the territorial belt, measured from long baselines departing from the coastline, has no support in customary international law. I do not think that the Court is called upon to announce the various methods by which hydrographers have developed the limits of territorial waters on the charts. However, I must note that the so-called arcing method is no more or less a technical expression used to describe how the coastline rule has been used in international practice over the past century and a half. In the early days, the gun on the coast, when traversed, traced the arc to the surge of their shots. Later, the imaginary gun traced the imaginary arcs that crossed and marked the limit based on the cannon shot. Then, as now, an imaginary cannon mounted in the minor conciliation of the coast was wasted because their arcs were within the intersection of gunshots mounted on small capes. Replacing a limit of 3 or 4 miles doesn't matter. Fisherman, smuggler, builder and cruiser captain all fixed the limit of territorial waters by measuring from the nearest land. Countless national courts, international tribunals and prize courts have settled these limits in the same way. Air patrols followed the same course. Everyone achieved the same result; and it doesn't matter where there was a problem or what was the nationality of the courts. Moreover, everyone has achieved exactly the same result as the hydrographer gets by drawing circles on the graph. Before addressing the historical aspect of this problem, I must look into Norway's assertion that, even if international law recognizes the rule of the coastline, it does not apply to the disturbed coastline or, in any case, to the unique coastline in question. It is unrealistic to assume that Norway's northern coast is unique or exceptional in that it has a broken coastline in East Finnmark, or because West Finnmark, Troms and Nordland are bordered by a coastal archipelago, deeply indentated from fjords and sunlight. Other parts of the world use different names, but there are many other cases of broken coastlines and archipelagos. The court heard the west coast of Scotland on timetables prepared for the hearing. There are coastal archipelagos, deep retreating bays and broken coastlines on the northern, southern, eastern and western coasts of Canada, in the young corners of Alaska, in South America and, of course, in other parts of the world. The structure of international law could not be more dangerous than ignoring the general norms of positive law and making a decision on the basis of real or imagined exceptionality or uniqueness of the case. I cannot ignore the fact that the abandonment of the Theory of Capes by positive international law was largely based on the precedents set in Moore's International Digest above. They originated on the coast of Nova Scotia and Prince Edward Island, the coastline, deep indentation and broken by bays and other bays, fringed in many places by groups of islands, rocks and reefs, a coast to which the terms exceptional and unique could easily be applied. I have therefore come to the conclusion that international law, which under comparable circumstances applies to other countries in other parts of the world, should apply to the Norwegian coast. Concluding that the Norwegian claim to measure the territorial belt from the long straight baselines departing from the coastline has no support in customary international law, the historical name should be considered. This aspect of the problem has arisen in two ways, both of which relate to decisions on the same basic issues of fact. Both are related to the existence and application of the Norwegian system. The Norwegian system assumes Norway's assertion of sovereignty over all fjords and suns, as well as over the 4-mile belt of territorial waters, measured from the base lines connecting the points on the mainland, or on the most external islands, islets or rocks not permanently submerged by the sea. The system includes the evaluation and selection of basic Norway, taking into account the social and economic needs of the local population. The length of the lines is not limited. On the other hand, it is recognized that they must be reasonable and correspond to the general direction of the coast. General guidance refers to a fictional direction related to the country as a whole, rather than to the coast sector in which the consideration is under consideration. The system does not allow the need to correspond to the real direction of either the outer edge of the skergaard or the mainland coast. The first way in which the historical aspect of the problem arises concerns the doctrine of historical waters. If it can be proven that the Norwegian system has indeed been applied to disputed areas, it can be seen as historic waters, and the British case fails. The second way to do so relates to the general doctrines of international law. If it can be proved that the Norwegian system has been recognized by the international community, it follows that it has become a doctrine of international law applicable to Norway, both special and regional law, and the British case fails. In both cases, Norway must prove the following facts: 1st place, when the Norwegian system was oved under Norwegian law; in that it became known to the world in such a way that other countries, including the United Kingdom, knew about it, or should be considered to have had knowledge; and third place by the consent of the international community, including the United Kingdom. On the question of historic waters, another point is mentioned above, namely, that it is necessary to prove that the system was indeed applied to disputed areas. In the second case, considering the System as a special or regional law, it would be sufficient to demonstrate that Norway had stated its competence to apply its provisions to the shores of Norway as a whole, including disputed areas. However, it would be necessary to make it felt that the 1935 Decree met the requirements of the system. Thus, this case includes the date when the Norwegian system appeared as a system: part of Norwegian public law; Applicable or applicable to the coast in question; Known to the world; and agreed with the international community. It would be useful to begin by considering whether the system had been applied to disputed areas prior to the dispute. If not, Norwegian assertions fail with regard to the doctrine of historical waters in the strict sense of the word. Since the Court's decision in this sense does not rely on a historical name, it can be summarized. To that end, consideration could be given to the coast sector, where there is much evidence of a disputed area between base points 5 and 6 in East Finnmark. Teh whether the Norwegian system applies to this disputed area so that it becomes the subject of the doctrine of historical waters. Norway's highest court ruled in the Saint-Simply case that the application of the Norwegian system to the sector meant the approval of exclusive Norwegian rights to a four-mile-wide water belt, measured from the baseline between points 5 and 6. The incontrovertible evidence provided by the Norwegian agent proves that the Norwegian Foreign Ministry, defending the capture of Kanuk in 1923, relied on measuring Norwegian territorial waters from the harbakken-Kavringen base level (9.4 miles) rather than the Norwegian system. This is evidenced by the Norwegian note of February 1924, confirmed by the testimony of Mr. Esmarch, Secretary-General of the Norwegian Ministry of Foreign Affairs (Counter-Memorial, Annex 41). In 1930-1931, diplomatic correspondence between Sir Charles Wingfield and Mr. Esmarch, resulting from the capture of Lord Weir, strongly supported this position. This does not contradict any of the evidence presented in the record. Sir Charles Wingfield's statement was questioned by a Norwegian agent who gave no evidence to the contrary. The statement was that the land relied on the justification for the capture of Lord Weir was that on the night of September 15 she was fishing in a place 3.6 nautical miles outside the Haabrandnesset-Klubbespiret line: i.e. more than 4 nautical miles from the nearest land. The Norwegian agent had access to court documents in Norway. Diplomatic correspondence was set out in Memorial, Annex 10. He had four opportunities to obtain contradictory evidence: at the Counter-Memorial, in Return and in two stages of oral proceedings. He has not made up his mind, and in these circumstances I am compelled to accept Sir Charles Wingfield's statement. This proves: (1) that in 1930-1931 the Norwegian judicial and police authorities measured territorial waters from the Haabrandnesset-Klobbespiret baseline (the same final lines of siltefjord that were subsequently adopted in reply on page 248); (2) that in 1930-1931 Norway did not apply the Norwegian system to the coast of East Finnmark; 3) that Sir Charles Wingfield made specific requests for information on the nature and extent of The Norwegian claims; 4) that Mr. Esmarch's response did not respond, and even at that late date, he did not provide any information that would enable the British Government to assess the nature and scope of the Norwegian system. Evidence of incidents in Kanuk and Lord Weir clearly indicates that the Norwegian system was not approved and applied in the disputed area in 1923, 1930 or 1931. On the other hand, it is equally clear that the Norwegian system has been used 1933. This matter is settled by unanswered evidence arising from the capture of the Holy One on November 3, 1933. In this case, St. Just was captured, prosecuted and convicted of being caught within a territorial belt 4 miles wide measured from the line connecting base points 5 and 6. These basic points were not then approved by the 1935 Ordinance. One can only assume that between August nth, 1931, and the seizure, the Norwegian government decided to begin approving and executing the claim to the territorial belt measured from long baselines connecting the outer mainland points, islands, etc. In other words, during this period the Norwegian government decided to enact the Norwegian system. Thus, it is clearly established that the Norwegian system was in fact applied to disputed areas only after August 1931. This date was long after the dispute arose, and the Norwegian assertion fails, as regards the historical name in the strict sense of the word. With regard to the assertion that the disputed areas are historic waters in the strict sense of the word, the question remains whether the Norwegian system can be regarded as a doctrine of special international law, which is approved by Norway and recognized by the international community. There is no need to show that it was indeed used in disputed areas until 1933 or 1935. It would be sufficient to prove that Norway had consistently and persistently defended the right to apply the System to the Norwegian coast as a whole and that the international community had accepted that assertion. From the outset I have to explain that I do not consider older historical data to be important. I think that Norway proved sufficiently that at the end of the 18th century, and under international law at the time, Norway was defending exclusive rights to the water belt, which, with regard to fishing rights, was based on a wide range of views. This belt was much more extensive than the one marked by the 1935 Decree. The marine area at that time and for fishing purposes went beyond the blue lines and certainly included almost all disputed areas. These extensive Norwegian rights are not much different from those of other countries, where exclusive rights to fishing based on a wide range of views are recognized in early international law. One may ask: how and when did Norway lose these rights? They disintegrated or fell in desuetude in Norway in the same way as in other maritime countries. In Norway, as elsewhere, it is difficult to point to a specific decree or special government measures, marking the end if they are to come to an end. However, it is safe to point out today. In the 18th century, the only foreigners They were excluded from league one water belt from the coast; however, it is permissible to fish in those that at the time were considered to be Norwegian waters above that limit, when paying for all at all, which covered both fishing and coastal privileges. These arrangements were based on diplomatic negotiations and the 1747 census. Over time, however, it has been widely accepted that fishing by the Russians outside the 4-mile border is correct and does not depend on the permission of the Norwegian authorities. The Royal Commission, established between 1825 and 1826 to examine the measures related to The Finnmark's economic development, considered fishing outside the I-League as a special concession given to Russian fishermen. The Royal Legislative Commission took a different view and expressed the view that fishing outside the i-League limit was not, in principle, restricted. The Finnmark Commission has proposed, in article 40, its draft proposal for a trade law in both East and West Finnmark, specific words that would make it clear that Russian fishing outside the I-League is permissive. These words were not included, and in article 40 of the Act of 1830, the use of the phrase read: If the Russians, because of the kind of fishing they indulge in outside League 1 from the shore, should wish to come ashore, then there should be no place where they land... It is therefore clear that the views of the Royal Legislative Commission have prevailed. (See. Rejoinder, apps, page 31-32.) This position is confirmed by a statement in the Territorial Boundaries Commission Report of 29 February, 1912, which can be called the 1912 Report, p. 18: Whatever the subject of correspondence, however, legal practice was soon established, under which contributions were paid for land-based stays and fishing outside League 1 million (1 million) was considered to be fishing on the high seas. Therefore there can be no doubt about the date. By 1830 there was some recognition that fishing beyond the 4-mile border should be seen as fishing on the high seas. The ancient exclusive rights of marine fisheries beyond this limit have disappeared in the case of Finnmark. It was not clear whether this situation had been received in other parts of Norway. There was no reason to believe that there was any difference in other parts of the country; however, by 1862, a four-mile limit had been imposed for the entire coast and for all purposes, including fishing. (See Counter-Memorial, Appendix 14.) It was therefore now necessary to consider how and when the Norwegian system was within Norwegian public law. The origin of some elements of the Norwegian four miles limit, and claims for fjords and sunds and skjaergaard can be found in the 18th century or before: but the use of long straight baselines departing from the coast is a modern invention. The basis of the baseline doctrine was attributed to the Royal Decree of 1691, which prohibited seizures within sight of our shores, which are calculated as four or five leagues of lying stones. I cannot agree with this view because I think this decree meant what he said. Four or five leagues from distant cliffs meant a distance measured from rocks rather than from imaginary baselines many miles into the sea from distant cliffs. Within sight of the coast meant a range of vision. The range of vision, from its very nature, must be measured from something visible, rock or coastline. It is inconceivable that the Ordinance would mean measurement from imaginary baselines, invisible at short ranges, and, fortiori, invisible at a distance of four or five leagues. There is nothing in the language used in subsequent laws or decrees, between 1691 and 1868, indicating any change from the old, traditional practice of measuring from the coastline and the outer rocks, reefs and islands. This view is supported by the fact that prior to the dispute there was not a single case in which Norwegian water claims, as measured by direct baselines (except, of course, from the bays), were applied to poaching or illegal entry of a foreign vessel under decrees 1691 1745, 1747, 1756 or 1812, or in accordance with the law of 1830. The first sentence of the baseline doctrine can be found in the Statement on the Causes of the Ministry of the Interior, which led to Sunnmere's 1869 decree, and in norwegian note No. 4 in diplomatic correspondence with France, 8 February 1870. The Norwegian system has a great deal of restimization, and the implementation of these two documents has been amended and defined and possibly even supplemented, but the heart of the System must be found in these two documents. Therefore, although this question is not free of doubt, I will proceed from the assumption that the Norwegian system appeared in 1869. It is not enough to prove that the Norwegian system has emerged to establish it as a special doctrine of international law. It must be proved that it was known to the world in such a way that other countries, including the United Kingdom, knew or should have known about it. Norway's first attempt to rely on this doctrine was in the Sunnmore Decree of 1869. There is no text of the Decree (or a similar decree of 1889) in the protocol of this case. In these circumstances, it is necessary to rely on the quotation contained in paragraph 59 of the Counter-Memorial, which does not publish the entire text of the Decree, but which probably does so, and which reads: 59. A royal decree of 16 October 1869 stipulates that a direct line at a distance of one geographical league, parallel to the direct accession line of Storholmen Island and Pig Island should be regarded as the limit of the sea belt from bailiwick to Sondmore, under which fishing should be exclusively reserved for indigenous people. The text of the Decree is unequivocal. It establishes a demarcation line for the Norwegian coast sector away from the disputed areas (the same applies to the 1889 Decree). It doesn't mention the coasts of Finnmark, Troms or Nordland. It does not pretend to set out any general application principles. It itself has nothing to do with the case. On the other hand, it has laid a long-line baseline connecting the two remote islands. The question to be resolved is whether the adoption of one Decree, limited in scope and applicable only to the specific coast of Sannebre in 1869, was followed by a similar Decree on the continuation of the line and the use of long straight baselines for the particular coast of Romsdal in 1889, on the existence of the Norwegian system. The concession to the United Kingdom that the waters covered by Sunnmore and Romsdal are the historic waters of Norway justifies the conclusion that these decrees are well known, but they have made no claims beyond the two settlements. On the other hand, neither the Norwegian Note of France nor the Statement of Reasons have been brought to the attention of other Governments and certainly not to the attention of the British Government. The Norwegian lawyer considered the reasons why the British knew the Norwegian system. He testified that the decrees of 1869 and 1889 were published in a newspaper called the Bulletin of Ministries and in books such as Fulton and reports from the Institute of International Law. He was well aware that the decrees were well known to the world, but he did not point to a single case in which neither the Statement of Reasons nor the Note of France, No. 4, had been brought to the attention of the British Government or, indeed, to any other foreign Government. In these circumstances, I cannot conclude that the British Government, or indeed any other foreign Government except France, had any reason to believe that the Norwegian system was in 1869-1889 or that the decrees were nothing more than local special measures. I do not intend to review all official acts and public statements by the Norwegian Government or to study the texts of laws and decrees dividing Norwegian waters, whether for fishing, bonuses or other purposes. For their part, suffice it to say that they cover a long period of that they indicate: 1st place, that there is no Norwegian system under which exclusive fishing rights in disputed areas would be approved; Second, that the Norwegian Government's public actions during this period were in line with claims to a four-mile-wide territorial belt measured off the coast; The third is that there was nothing in these public acts and documents that would lead to the British, or any other foreign government, to believe that Norway claims to disputed areas; or right, as far as the whole country is concerned, to measure territorial waters with long baselines departing from the line and direction of the coast. These circumstances greatly increase the difficulties I face when I am asked to discover that the British Government is constructively notified of the existence of the Norwegian system or of such claims by the Norwegian Government. In most cases, it can be assumed that the British Government was aware that Norway might in the future test a course in other parts of the coast similar to that observed in the Sannmore and Romsdal decrees. It cannot be ignored that the evidence clearly shows that the United Kingdom Government was not aware of the Norwegian system or the nature and scope of the rights claimed by Norway. A reference has already been made to Sir Charles Wingfield's attempt to obtain information and to Mr. Esmarch's refusal to give any real indication of the nature and scope of the Norwegian claims. There are other cases of requests, and the Norwegian agent has given an exhaustive list of answers (Statements in court, page 175-176). A study of these replies indicates that no information was provided to the Government of the United Kingdom at any time prior to the dispute, which could be seen as a factual or constructive notification that Norway is advocating the right to establish a territorial belt measured from long baselines departing from the coastline. There is one of the replies referred to by a Norwegian agent who requires special consideration, namely the 1912 report. It was a report by the Norwegian Commission, intended for the information and leadership of the Norwegian executive and legislative bodies. It contained extensive quotations from the decrees of 1869 and 1889; it showed that the commissioners favoured a method of measuring territorial waters from long straight baselines; and he put forward specific proposals similar to those adopted in Decree 1935 in Annex 1 (supplemented by a later report by another committee in 1913 on the fight against memorials, annexes 36 and 37). The Norwegian Government withheld these documents in order to government to understand the extent of the claims. However, there is ample evidence in the body of the 1912 report that Norway may be claiming the right to measure its territorial belt from long straight baselines. Accordingly, the question arises as to whether this report of 1912 was a notification to the British Government of the existence of the Norwegian system; and, if so, was there agreement on the part of that Government to ensure that the claims that made up the system would be matured into customary international law. In this regard, without going into the question of whether the report is an adequate warning of the existence of the System, I will consider whether the failure of the British Government to make specific protests in connection with the receipt of the 1912 report and the Norwegian note of 29 November 1913 as recognition of the Norwegian claims can be considered. The circumstances surrounding this communication are quite obvious. Controversy over the extent of Norwegian waters arose as a result of the capture of the British trawler Lord Roberts in the Varangerfjord in March 1911 (Counter-Memorial, Annex 38). The difference between the two governments, as was understood at the time, was stated in the British Minister's note dated 22 August 1913 as follows: The points of view of the two governments can be summarized as what, while His Majesty's Government argues that in the absence of any specific agreement to the contrary, jurisdiction cannot be exercised in waters within a distance of three nautical miles from the low water mark Norway claims that within its territorial jurisdiction all waters up to four nautical miles away, as well as the entire area consisting of some fjords. The Minister proposed modus vivendi and in his proposal made it clear that His Majesty's Government should insist on leaving the issue of principle untouched, and could not accept that, without understanding, the Norwegian Government had the right to arbitrarily settle the dispute in its favour. (p. 203) The Norwegian Foreign Ministry's note of 29 November 1913 referred to the proposal in reference to the 1912 report: The Reasons Put forward by Norway in support of its delimitation of its territorial waters are outlined in the Commission's 1911 report. Several copies of the French translation of the report were informally forwarded to you at the time by my predecessor, Mr. Irgens. It sets out these principles of international law, which the Norwegian Government considers to favour its point of view, along with the specific circumstances of obtaining the question of Norwegian territorial waters, including recognition in which foreign powers are directly or indirectly. The Ministry further proposed changes to the proposal. these negotiations, presumably because of the intervention of the war. The 1912 report was passed and adopted by the Norwegian Ministry of Foreign Affairs as an application for the principles of international law that supported Norway's position. However, this was done during the negotiations on the creation of modus vivendi. By its very nature, modus vivendi implies reservation and the preservation of the legal positions of both parties in the conversation. If nothing had been said, it would have been necessary to imply the intention of both Parties to recognize nothing and to keep their legal positions intact. In this case, however, the negotiations were conducted on the basis of a clear position to leave the issue of principle untouched. In these circumstances, I think the British government was justified in respect of all aspects of the negotiations, including the 1912 Report and the Note of November 29, 1913, as covered by the main reservation. The omission to make a specific reservation or objection at this stage cannot be considered as proof of consent or acceptance of the Norwegian system. In addition, from the time of Lord Roberts's capture in 1911 to the present day, the Parties have been wrangling over the extent of Norwegian waters and the rights of British vessels in areas considered by the British Government as part of the high seas. Parts of the controversy were settled by British concessions on the four-mile border, fjords and sunlight, as well as the recognition of the outer edge of the skergaard as a coastline. In addition to these concessions, the British Government has never recognized the right to measure territorial waters from long baselines departing from the coastline, or skiergaard, and throughout the approval has argued that water should be measured by low water. The 1912 report was transmitted after the beginning of the dispute. The Parties' position on knowledge of Norwegian claims or notification of the existence of the Norwegian system can be summarized. Shortly after the beginning of the dispute in correspondence exchanged in 1913 and referred to above, the British Government received some indication that Norway may be making extensive claims regarding the demarcation of territorial waters, but no definite information on the extent of the claim; and, as I have already noted, in such circumstances it was reported that the rejection of immediate protest could not be considered consent, even if the extent of the claim had been indicated. In 1923-1924, at the time of the Kanuk incident, both the British Government and the Norwegian Ministry of Foreign Affairs were there regarding the nature and scope of the claims are now being considered to be involved in the Norwegian system. The late Sir Francis Lindley was informed by the British Government that the Norwegian Government was relying on the application of the 10-mile rule for the Musefjord. Norway's Ministry of Foreign Affairs says it is relying on the Harbakken-Kavringen closure line for the 9.4 nautical mile fjord. A report by the Norwegian Ministry of Foreign Affairs to the Secretary-General of the League of Nations in March b informed the world that Norway was defending the right to exchange the territorial belt from long straight baselines, although even at that late date it was not yet clear that Norway was defending the right to use baselines that departed from the line and direction of the coast or the outer edge of the squis. There have been notable changes in the correspondence resulting from Lord Weir's capture. Sir Charles Wingfield's note makes it clear that the British Government had by then learned that Norway was defending the right to use long straight baselines and that it suspected that the Norwegian claim might be even greater than the claim that was linked to the final line of siltefjord on which the Norwegian authorities then relied. The British Government requests for some information on the nature and scope of Norway's claim. Mr. Esmarch's note makes it clear that the Norwegian Ministry of Foreign Affairs was aware at the time that there were now much broader claims, but it was still not possible to provide any real information on the nature and extent of the claims. The British memorandum to the Norwegian Government of 27 July 1933, set out in the Counterream Memorial, annex n, shows that even then the Government was still waiting for an authoritative statement on the Norwegian claim. It is therefore clear that the British Government, despite repeated requests, was unable to obtain any definite information about the true nature and nature of the Norwegian system prior to the saint-Simply case and the publication of the Royal Norwegian Decree of 1935. In these circumstances, I cannot fail to conclude that it has not been proven that the Norwegian system was known to the world in a timely manner and in such a way that other countries, including the United Kingdom, were aware of it or should be considered to have constructive knowledge. There is perhaps one qualification for the aforementioned opinion. The protocol of exemptions and warnings of trawlers shows that Norway began to defend and enforce exclusive rights in the contested waters in 1923. There is an isolated warning of the British trawler Caulonia in 1913, at a point outside the Green Line; but no other case of either capture or warning at a point outside that line, Between 1923 and 1949, there were 24 seizures and twenty-three warnings of trawlers at points in disputed areas. There can therefore be no doubt that Norway has vigorously defended and granted broad exclusive rights since 1923. On the other hand, it was too late to support the assertion that the Norwegian system existed as a doctrine of customary international law binding on the United Kingdom. The first of the seizures, Kanuck in 1923, was the subject of diplomatic nego-tiation. While it would be perfectly correct to attribute to the United Kingdom Government the knowledge that Norway had been making very broad claims about the extent of territorial waters between 1923 and 1933, all of this occurred after the current dispute had arisen. It is too late for the special or regional doctrine of international law to come into force, which is binding on the Government of the United Kingdom. I do not intend to comment on the various sectors of the coast or to elaborate on parts of the disputed areas that are open to objections because they have not been delimitated in accordance with the principles of international law. In East Finnmark, I believe that the disputed areas between base points 5 and 12 are open to serious objections, and there I believe that the Green Line rightly points to the extent to which the blue line is not in accordance with international law. Between base points 12 and 35, while there are places where the blue line departs from the line and direction of the outer edge of the skergaard, the green line p. 206 is unsatisfactory for two reasons: (i) because it must be corrected in accordance with the British alternative view; and (2; because further correction would be necessary to take into account the penetration into the periphery of skj'rgaard, which in fact have the characteristics of the bay enclosed by groups of islands. Between base points 35 and 48, although this issue is not free of doubt, I am not inclined to doubt the blue line. established by the Norwegian Royal Decree of 12 July 1935, does not conform to the norms and principles of international law. (Signed) J.E. Reed. 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