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THE SECOND ANGLO-ICELANDIC COD WAR (1972–73)

Analysis of a Modern Sea Dispute and Implications for the South China Sea

Jeremy Thompson

British foreign policy is full of occasions when we've withdrawn from things. Normally we kill a lot of people first. There may be an example in history where we have withdrawn, retreated, capitulated the way we did over the fishing dispute, but I can't think of one. That doesn't mean we were wrong to do it, it just means it was historically unique.

ROY HATTERSLEY, LORD HATTERSLEY, BRITISH MINISTER OF STATE,
FOREIGN AND COMMONWEALTH OFFICE (1974–76)

Clearly the result of all the naval operations in Icelandic waters was that the cod caught by the British . . . during 1972–3 were undoubtedly the most expensive fish ever caught.

AMBASSADOR HANNES JÓNSSON
ICELANDIC AMBASSADOR TO THE SOVIET UNION (1974–80)

Ocean politics is an obscure but important subset of international relations that combines “a wide range of subject matter, from ocean boundary delimitation and disputes to fishery conservation and management to seabed mineral resources exploitation and exploration.”¹ The multidisciplinary, nuanced, and evolutionary nature of the field demands that scholars, businesspeople, diplomats, and politicians who are drawn to ocean politics by choice or by circumstance must understand the relationship among ocean-based economies; national and international politics; and international norms, law, and legal theory. No other

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phenomenon reveals the multidimensional aspects of ocean politics better than international sea disputes, and there may be no better case study than the Anglo-Icelandic fishery disputes that began in 1952 and finally were settled in 1976.²

There were four Anglo-Icelandic sea disputes, each sparked by new, larger claims by Iceland to

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exclusive fishing rights extending from its coast. The first dispute (1952–56) began when Iceland extended its claim from three to four nautical miles offshore, matching Britain’s recognition of Norway’s claim to a four-mile zone.³ Britain responded with diplomatic protests and sanctions against Icelandic fish imports from 1952 until 1956, and neither party resorted to the use of force in this first dispute. A new claim extending twelve miles offshore sparked the second dispute (1958–61), and the third dispute (1972–73) followed a claim extending out to fifty miles. The fourth dispute (1975–76) followed Iceland’s final claim, to an exclusive economic zone (EEZ) out to two hundred miles offshore.⁴ The second, third, and fourth disputes involved standoffs at sea and numerous violent (but nonlethal) interactions between the Royal Navy—augmented by civilian “defense tugs”—and the Icelandic coast guard. These are popularly known as the First, Second, and Third Cod Wars, respectively, although they more accurately are considered to be militarized disputes.

This article seeks to add to the field of ocean politics and contribute to understanding modern sea disputes by analyzing the political and legal contexts, balance of power, structural asymmetries, and strategies employed by the British navy and Icelandic coast guard during the third Anglo-Icelandic sea dispute, from September 1972 to November 1973, known as the Second Cod War. It illuminates how modern sea disputes, particularly those occurring subsequent to the international law of the sea regime’s rapid evolution following the Second World War, exist in the realm of competition for limited objectives, rather than that of warfare. The events that transpired in 1972 and 1973 on the cold waters off Iceland, in parliament and headquarters buildings, and in the pubs and ports of fishing villages in Britain and Iceland provide insight into why all participants—diplomats, politicians, fishermen, and sailors—should understand how the use of force can risk escalating a dispute from the peacetime competitive realm into undesirable open conflict, which jeopardizes the enduring legitimacy and recognition of their claims. Moreover, when a sea dispute escalates into conflict or when external legal and political constraints are great, the dispute’s structure and symmetry can be transformed, with—as Britain found—potentially deleterious effects to the necessary social and political support for pursuing the competition.

Nonetheless, the Cod Wars demonstrate that sea-dispute competitors cannot win merely by not losing; they *must* compete in the physical realm to establish, maintain, or expand their claim *de facto*, and cannot rely on the *de jure* rules, protections, or provision of access stipulated by international law. Ideally, competitors posture their enforcement and economic means to attain access and build physical facts to support legal bases for their objective, essentially staking their claims. But at a minimum they must apply persistent presence, and often-times they are compelled to militarize the dispute by employing physical but non-deadly force to compete for their objectives and, once achieved, to protect those achievements through arbitration or open conflict if the competition escalates.

Insights from the Second Cod War can inform and help in analyzing the high-stakes sea disputes unfolding in the Arctic Ocean and the East and South China Seas. Britain's and Iceland's respective approaches to their dispute can illuminate the strengths and pitfalls of competing methods among today's great powers to manipulate the economic and political costs to their rivals without diminishing their own bargaining power and legitimacy or their ability to posture for more-open confrontation if legal arbitration favors their competitors as they pursue objectives in contemporary sea disputes.⁵

BRITAIN'S LONG-DISTANCE FISHING INDUSTRY

Although the sea disputes in question occurred in the last half of the twentieth century, the undercurrent of conflict began to swell as seafaring technologies shrank the vast space of ocean and enabled fishermen to compete for resources far beyond their home waters. That far-seas competition accelerated substantially with the advent of the steam trawler in the late 1890s, leading to an explosion of long-distance fishermen traveling from continental Europe and the British Isles to distant fishing grounds such as Iceland. This provides salient context for the subsequent dispute between Britain and Iceland, as it changed British culinary habits and taste for certain fish and created new incentives that affected Britain's views on maritime territorial rights.

Britons began fishing in the waters adjacent to Iceland as early as the fifteenth century, when boats from major fishing ports such as Barking, Gravesend, Harwich, Scarborough, Whitby, and especially Yarmouth conducted long, sporadic summer journeys to the Icelandic fishing grounds to fill their hulls (see figure 1).⁶ The nature of long-distance fishing then was much different from today's. In the presteam era, the primary fishing method was with longlines—a laborious process of luring and catching fish with baited hooks (see figures 2 and 3).⁷ To preserve catches for the long journey home from distant fishing grounds, British fishermen cured fish by smoking them over wood-shaving fires for up to twenty days or by splitting them and packing them in barrels between layers of salt. British tastes adjusted to the expanded supply of dried and salted fish.⁸

In the 1880s, the steam-screw trawler augured a new era of long-distance fishing that achieved significantly greater catches. Trawling uses massive net systems with a much higher rate of catch and far greater overall take than longline fishing (see figures 4 and 5). Although trawling had existed for centuries, the origins of the Second Cod War can be traced directly to the impact of combining trawl nets with the power and endurance of steam-driven vessels that could manipulate the trawls much more effectively while hunting schools of fish. This put the fish off Iceland within reach of British fishermen, albeit only in the summer months. The first British steam trawler recorded off Iceland was *Aquarius* out of Grimsby in 1891,

FIGURE 1
TRAWLING PORTS OF THE BRITISH ISLES



Source: Robinson, *Trawling*, p. 41.

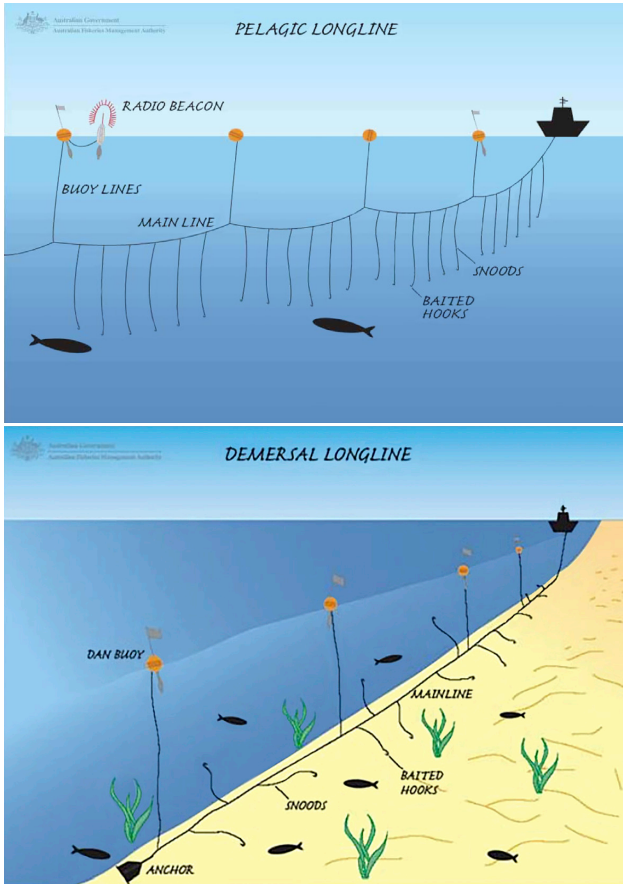
followed by nine others fishing off Iceland's southeast coast the next summer.⁹

By 1903, "between sixty and seventy Grimsby trawlers were visiting Iceland on a regular basis . . . and a further eighty Hull trawlers." The increased catch and speed of steam-driven, long-distance fishing vessels made fresh fish much more widely available in Britain's domestic market and led to a preference for fresh fish over preserved, which led to an increased demand for fresh fish and trawlers to hunt them in the rich fisheries on Iceland's continental shelf. By the Second Cod War in 1972, Britain took nearly half its total fish catch from the waters around Iceland.¹⁰

As market demands made distant fishing grounds—particularly those surrounding Iceland—more important to the British fishing industry, the British government's position toward maritime sovereignty and rights grew more liberal, setting up international

political disputes in the twentieth century. In the late nineteenth century, before this shift, the British government had considered encouraging its North Sea neighbors to limit fishing rights in those grounds. This was intended to protect the fisheries closest to Britain for the sake of conservation and sustainability, since the North Sea, as a global common, was subject to overfishing. However, as British fishing fleets became more reliant on fishing grounds closer to the shores of other countries than they were to those around Britain, the government realized that stricter territorial limits on economic rights could be detrimental to its emerging interests in those distant fisheries. The trawling trade's position was summarized well in 1908 by Charles Hellyer, a leading trawler owner from Hull: "[I]t is of paramount importance that the three mile limit [of territorial seas from a state's coast] be maintained . . . because we have to approach other people's shores to bring the fish to England." This sentiment—an ominous harbinger of the Cod Wars a half century later—was echoed by Britain's secretary of state for foreign affairs in 1952. "Our deep-sea fishing fleets take 90 percent of the British catch. Any general scramble to increase the area of exclusive jurisdiction

FIGURES 2 AND 3 LONGLINE FISHING TECHNIQUES



Source: "Longlining," Australian Fisheries Management Authority, afma.gov.au/.

over the high seas would probably lead to the exclusion of our deep-sea trawlers from some of their present fishing grounds.”¹¹

ICELAND GROWS COLD TOWARD BRITISH FISHERS

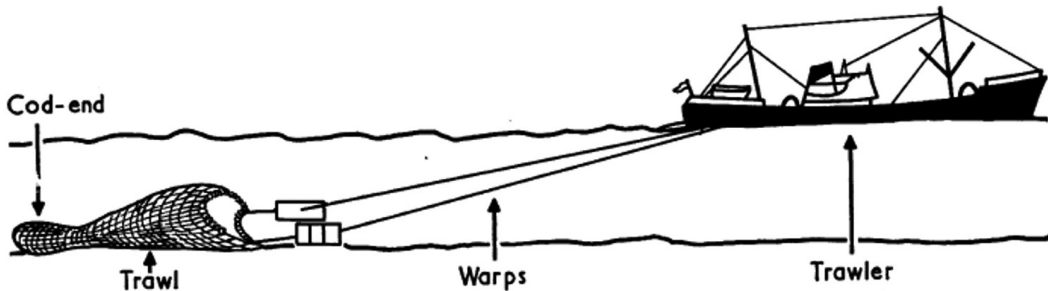
Native Icelanders were reluctant, if not antagonistic, hosts to the foreign trawler fleets that came to the island's adjacent waters to hunt cod and herring. Observers of Icelandic history typically explain in one of two ways the aversion that Icelanders had toward sharing the bounty with foreigners.

The first explanation emphasizes the observation that in 1944 Iceland emerged as an independent country from more than six hundred years as a semi-autonomous territory of larger Scandinavian states, unleashing a deep-seated Nordic identity that spurred nationalistic agendas for territorial independence

and international recognition. Britain's ambassador to Iceland during the first Anglo-Icelandic fishery dispute noted that “the Icelanders were governed by the Danes, not harshly but negligently. Always there was a longing for independence, a memory—a heightened and high-lighted memory—of the great days of the past.” A telling anecdote was a response from Iceland's prime minister Hermann Jónasson to an inference by the British ambassador to Iceland that defying the British government would invite Russian interference in Iceland's affairs: “What about the Germans? In 1938 they wanted airfields here. I was Prime Minister then for the first time. I told them to go to hell. It will be the same again—Russians, yes, Americans, yes, British, yes—all the same. . . . WE WILL ALL GO BACK TO EATING CODS' HEADS BEFORE WE WILL SUBMIT TO FOREIGN THREATS!”¹²

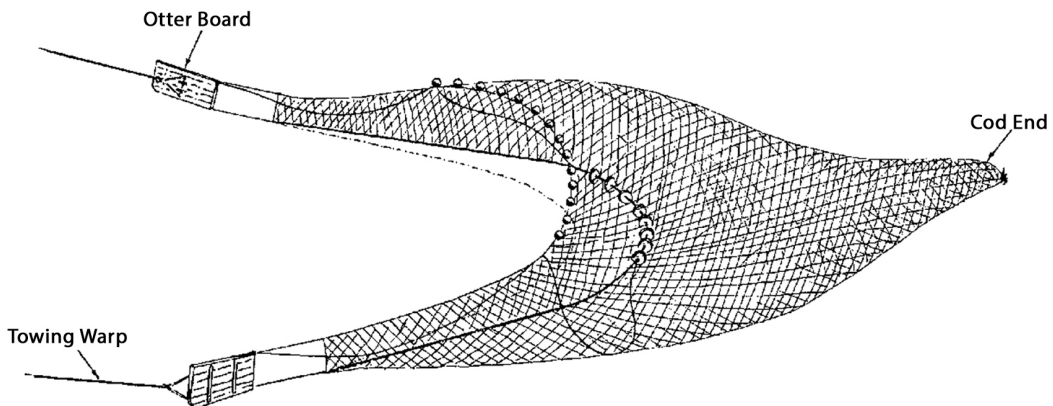
The second explanation for Icelanders' unwillingness to share the fisheries off their coast is that they sincerely believed the fish stocks were declining owing to

FIGURE 4
TRAWLING TECHNIQUE



Source: S. R. W. Moore, "The Occupation of Trawl Fishing and the Medical Aid Available to the Grimsby Deep Sea Fisherman," *British Journal of Industrial Medicine* 26, no. 1 (1969), p. 8.

FIGURE 5
DIAGRAM OF TRAWL SYSTEM (NOTE THE TOWING "WARP")



Source: Robinson, *Trawling*, p. 119.

overfishing—a “tragedy of the commons” scenario in which unregulated exploitation in the absence of property rights ultimately results in the destruction of natural resources. Although it was indisputable that the fishing industry was a major component of Iceland’s economy, the Icelandic government’s claim that the fish stocks were dwindling was debated heavily. Much of the jockeying during the Cod Wars involved innumerable scientific briefs by both the British and Icelandic governments to convince the international community that the fisheries were or were not threatened by overfishing.¹³ Sir Andrew Gilchrist, a British ambassador to Iceland, summed up his government’s sentiment on the scientific debates: “[Statistics] can always be disproved or discredited by some new form of calculation, based (for example) on a change in scientific opinion as to whether two-year-old cod are the best breeders, or whether they are more fertile at three years. And national interest or bias could not be eliminated.”¹⁴ British prime minister

Sir Edward Heath answered the question of the Icelandic fisheries' sustainability more pithily: "Don't make me laugh, there was no problem of conservation there, and all the fishermen knew it."¹⁵

Iceland's political objectives leading up to the Cod Wars merged the burgeoning national identity that motivated Icelanders to expunge foreign influences with concern over long-term economic interests, particularly the sustainability of "its" fisheries. Neither purpose was more important to the Icelandic people than the other—a point that is noteworthy when considering the multidimensional incentives of contenders in contemporary sea disputes. Lúðvík Jósepsson, the Icelandic fisheries minister who presented a convincing case on fish sustainability and the legal merit of Iceland's claims to the international community over the course of the fishing rights dispute, summed up Iceland's objective this way: "We are very few, we Icelanders, and we have fought for a long time for our independence in Iceland, and we have learned that the basis for our independence is economic independence. Therefore, we all realize that to prevent the fish stocks around Iceland from overfishing that means . . . everything for us in Iceland regarding our independence."¹⁶

By the 1950s, the government of Iceland was seeking opportunities to limit the British fishing fleet and assert its independence, and it found opportunity not solely in diplomacy or force (means-based approaches) but in the evolutionary nature of international law and legal theory (a theoretical and law-based approach). The Cod Wars were "lawfare" at its best.

MARITIME LEGAL THEORY AND SEA DISPUTES

In addition to the historical context of the Anglo-Icelandic fishing dispute, it is necessary to consider the rapid evolution of maritime law and legal theory in the lead-up to the Second Cod War. In international law, "legal theory seems to follow law as law seems to follow fact."¹⁷ In the field of ocean politics, world events and actions tend to shape national and international maritime law, which in turn shapes maritime legal theory. Over millennia, two competing maritime legal theories emerged whose normative and legal precedence remained unresolved at the advent of the Cod Wars.

The Ancient Theories: Mare Liberum and Mare Clausum

The older theory is *mare liberum* (free sea). It originated in Roman law and practice whereby "the sea was considered *communis omnium naturali juri*, namely, by nature common to all mankind and consequently not to be possessed like land." The second-century Roman jurist Marcianus made one of the earliest pronouncements on the legal status of the sea: "that the sea and the fish in it were open or common to all men."¹⁸ *Mare liberum* remained paramount for centuries and still applies to the large swaths of ocean considered *high seas* under current

international law—those seas beyond two hundred nautical miles from any claimant's shore.¹⁹

The other theory is *mare clausum* (closed sea). This theory began to form in the Middle Ages when kings and princes of coastal states started to claim sovereignty over waters adjacent to their land territories.²⁰ By the latter half of the nineteenth century, the colonial powers of Europe, as well as the United States, had adopted a three-mile territorial limit where the freedom-of-the-sea doctrine stopped and national sovereignty over coastal waters began.²¹

Modern Maritime Law Leading Up to the Second Cod War

Following the Second World War, some countries began to take unilateral or collective action in their national laws on the basis of closed-sea theory. Two legal precedents motivated the government of Iceland to extend sovereign rights over its surrounding waters: the 1945 Truman Proclamations and the Santiago Declaration of 1952.

Reacting to the critical strategic role that independent oil reserves had played during the Second World War, the U.S. government initiated the first significant break from freedom-of-the-seas doctrine by issuing the so-called Truman Proclamations in 1945. The first claimed jurisdiction over the natural resources of the seabed and subsoil of the continental shelf surrounding U.S. territory—an area that extends tens of nautical miles off its West Coast and over a hundred nautical miles from the East and Gulf Coasts.²² A second proclamation, released the same day (28 September), claimed the right to establish fishery-conservation zones in the high seas contiguous to the coast of the United States—without specifying a distance from landward baselines, other than to associate them with areas that had been or would be developed or maintained as fisheries.²³ This second proclamation is an early antecedent of what developed into the two-hundred-mile EEZ regime in the United Nations Convention on the Law of the Sea (UNCLOS). It also shares similarities with contemporary claims such as China's unilateral claim in the South China Sea (SCS) known as the “nine-dash line,” in that China broke from accepted precedent and did so with overly broad protocols and ill-defined boundaries and limitations of rights. The difference between the two, however, is that the Truman protocols preceded and informed the development of UNCLOS, while China's first assertion and explanation of its nine-dash-line claim, as presented in a *note verbale* to the United Nations in 2009, is inconsistent with the convention's limitations on a state's jurisdiction over its territorial sea and continental shelf.²⁴

The other major contribution to delimiting the high seas during the postwar period was the Latin American zone extension. In 1952, the governments of Chile, Ecuador, and Peru ratified the Santiago Declaration, which proclaimed

that each signatory possessed “exclusive sovereignty and jurisdiction over the sea along [its] coasts . . . to a minimum distance of 200 nautical miles” and that “this maritime zone shall also encompass exclusive sovereignty and jurisdiction over the seabed and the subsoil.” The declaration went on to specify that innocent and inoffensive passage of foreign vessels would be allowed and that the signatories would establish norms to regulate hunting, fishing, and resource exploitation in the zone.²⁵

THE FIRST COD WAR

Naturally, there cannot have been a *Second* Cod War without a *first* one. While many countries still supported the three-mile territorial sea that was standard in the early 1950s, Iceland saw opportunity in the U.S. and Latin American precedents toward extended territorial seas and the broader trend in international law favoring the principle of *mare clausum* to secure its economic independence through expanded maritime claims.²⁶ Risking war with Britain, the Icelandic government unilaterally extended Iceland’s fishery limits, first out to four miles, and then again out to twelve miles from its coast.

Iceland’s government first extended its fisheries rights in the 1950s with two legal maneuvers. First, it submitted a notice to Britain in 1949 terminating a 1901 agreement between Denmark and Britain that established a three-mile territorial sea around Iceland. After the required two-year notice for abrogating the agreement, it expired in 1951 *without* a noteworthy British response.²⁷ Second, the Icelandic government seized on the precedent of an Anglo-Norwegian fisheries case decided by the International Court of Justice (ICJ) at The Hague in Norway’s favor in 1951. In that case, Britain objected to Norway establishing straight baselines across its heavily indented coastline from which to extend its territorial maritime boundary.²⁸ However, the British did *not* object to Norway’s contemporaneous claim of a four-mile territorial sea limit, even though common practice was still three miles. After studying the court’s judgment, Iceland deemed that it also was entitled to a four-mile fishery limit (it did not claim an additional mile of territoriality, as Norway had) and straight territorial baselines across its coastal bays. Iceland enacted national regulations, to take effect 15 May 1952, prohibiting “[a]ll trawling . . . off the Icelandic coasts inside a line which is drawn four nautical miles from the outermost point of the coasts, islands and rocks and across the opening of bays.”²⁹

Britain’s effective recognition of Norway’s four-mile territorial sea left it with little legal room to object to Iceland’s claim. Nonetheless, Britain responded during this first Anglo-Icelandic fishery dispute with diplomatic protests and sanctions—banning all Icelandic fish imports from 1952 until 1956—but it did not employ any force.

In 1956, Hermann Jónasson, of Iceland's populist Progressive Party, became prime minister at the head of a coalition government with an eye toward extending fishing rights even further. The Progressive Party had significant backing from fish-processing and -export business interests and prioritized achieving economic stability by expanding Iceland's exclusive fishery access.³⁰ Having formed a coalition primarily on a platform to protect and extend Iceland's fisheries, Jónasson and the members of his government leveraged the emerging international law trends to issue another national regulation extending Iceland's fishery and territorial limits.

In 1958, the first United Nations Conference on the Law of the Sea (UNCLOS I) took place in Geneva. The conference ended that April without consensus among the eighty-six participating states on a territorial sea limit or exclusive fishing rights. But as the Canadian observers to the conference noted, "more than eighty nations voted for a twelve-mile fishing jurisdiction in one or other of the forms in which it was advanced in the various proposals put forward" at the conference.³¹ Later that year, Iceland leveraged this trend to justify a unilateral claim to a twelve-mile fishing limit. The British government—being committed out of its own economic interest to the "freedom of all nations to fish on the high seas"—saw the move as far more contentious than Iceland's previous four-mile fishery extension, considering it a grab for sovereign rights that did not (yet) exist.³²

The first of three "cod wars" ensued, pitting the Royal Navy (as it provided protection to British trawlers) against the Icelandic coast guard (as it sought to expel British trawlers from the newly claimed exclusive fishing zone). It was a war only in a sensationalist sense; nevertheless, the two North Atlantic Treaty Organization (NATO) allies engaged in a low-intensity conflict. The skirmishes involved aggressive maneuvering, intentional collisions between British trawlers and Icelandic coast guard vessels, law-enforcement operations (such as attempted boardings), warning shots, and presence patrols.³³ Many of the same tactics would be repeated in the Second Cod War.

In the end, Britain's objective in this first militarized fishing dispute was "to bring Iceland to an agreement so that British trawlers could continue to fish up to the old limits for as long as possible . . . until new limits were internationally agreed."³⁴ After three years of low-intensity conflict, this first cod war concluded with the Anglo-Icelandic agreement of 1961. The United Kingdom agreed to drop its objection to Iceland's twelve-mile fishing zone, and for a period of three years the Icelandic government would not object to British trawlers fishing within the outer six miles of that zone.³⁵ Ultimately, the agreement provided ten years of relative peace between Britain and Iceland.

THE SECOND COD WAR GETS UNDER WAY

The 1961 Anglo-Icelandic agreement was signed for Iceland by a conservative government coalition of the Independence Party and Social Democrats that

succeeded the Progressive Party in 1959 and governed throughout the decade between the First and Second Cod Wars. However, the peace was not to last. Several maritime law trends rapidly developed in the years following the agreement that opened the door for further fishery extensions. In March 1964, the governments of thirteen states, including Britain, signed the European Fisheries Convention.³⁶ The convention established a twelve-mile fishery limit for all the signatories, and therefore could be considered a *de facto* nullification of the 1961 Anglo-Icelandic agreement, since Britain now had its own twelve-mile limit.

Then, in 1968, the United Nations established a Seabed Committee to seek a “clear, precise, and internationally accepted definition of the area of the sea-bed and ocean floor which lies beyond the limits of national jurisdiction.”³⁷ New technologies that enabled extracting oil, natural gas, and minerals at greater water depths compelled most states to agree that sovereign rights should be extended to include exclusive extraction rights over the continental shelves surrounding their landmasses. This was a significant political and legal development for Iceland, whose continental shelf extends out more or less uniformly about fifty miles offshore.

Many coastal states used this trend to legitimize large coastal zones of exclusive sovereignty and jurisdiction similar to what the Latin American states had claimed with the zone extensions of 1952. The Montevideo Declaration was signed by Argentina, Brazil, Chile, Ecuador, El Salvador, Nicaragua, Panama, Peru, and Uruguay in 1970, claiming the right of coastal states to avail themselves of and explore, exploit, and conserve natural resources in the sea, seabed, and subsoil out to a distance of two hundred miles from the baselines of their claimed territorial seas.³⁸ They also claimed the right to establish limits of sovereignty and jurisdiction and to establish regulatory measures, without prejudice to freedom of navigation, in this zone. Similar ideas were supported by the Scientific Council of Africa, which recommended to the Organization of African Unity that its members adopt a twelve-mile territorial limit and a two-hundred-mile EEZ.³⁹

Iceland was involved heavily in these diplomatic and legal moves, often sending small groups of technocrats well versed in ocean politics, fishery protection, and maritime law to relevant international conferences. Although the Independence Party and the Social Democrats “were very much interested” in extending Iceland’s exclusive maritime claims while in power from 1959 to 1971 and engaged in protracted support campaigns for similarly minded states such as the Montevideo Declaration signatories, it was clear to the Icelandic people that the governing coalition “[was] not going to extend the fisheries limit of Iceland until after favourable conditions for a further extension had been created by the international community through further development of the Law of the Sea.”⁴⁰

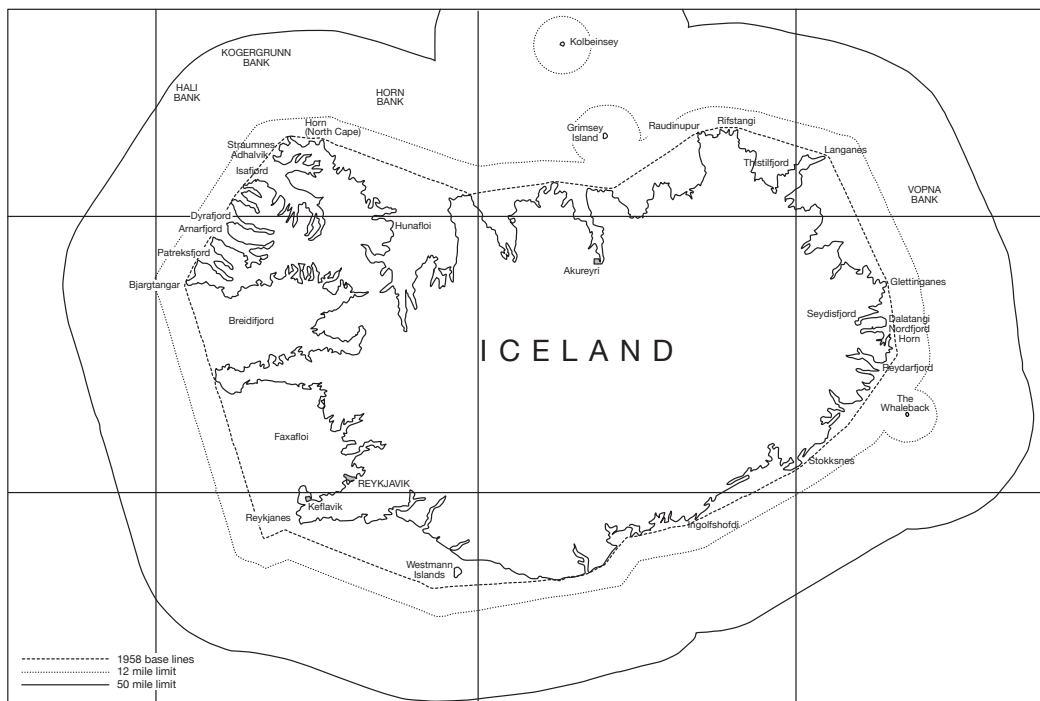
By 1971, Iceland's political climate had shifted and the fishery zone limits established by the 1961 diplomatic note exchange between Iceland and Britain were no longer acceptable to the Icelandic people. This likely was owing to the increase in Britain's catch from Icelandic waters, from 134,250 long tons in 1966 to 168,650 long tons in 1971.⁴¹ In 1971 the Progressive Party returned to power in a coalition with the People's Alliance and the Liberal Left Party on a platform pledge to extend Iceland's fishery claim without waiting for the third UN Convention on the Law of the Sea (UNCLOS III), scheduled for 1973 in Santiago, Chile.⁴² The political mood also was influenced by a communist base that appealed to the "growing spirit of self-regarding nationalism among the Icelanders . . . [and] also hoped that by involving the British in controversy . . . [the communists] would likewise create trouble for those allies of the British, the Americans, whose expulsion from Keflavik [air base] was their declared objective."⁴³

In early July 1971, the new coalition government again placed a bet that Iceland was aligned with a trend toward delimiting the seas even further and declared a fifty-mile exclusive fishing limit to take effect on 1 September 1972 (see figure 6). It argued that the extension "would not affect the freedom of the sea, because Iceland was not seeking to extend her territorial waters, only the fishery limits."⁴⁴ Iceland's legal approach to delimiting resource jurisdictions was novel on the international stage, based on the principle of jurisdiction over the seabed resources of a state's continental shelf. Iceland asserted that since demersal fish species such as cod relied on the seabed for subsistence and habitat, jurisdiction over fisheries in the waters above the seabed naturally should be extended to the coastal state.⁴⁵ This later proved to be a tenuous argument in international arbitration.

BRITISH NEGOTIATIONS AND THE INTERNATIONAL COURT

A few days after Iceland announced this new claim, the British undersecretary for foreign and commonwealth affairs, Anthony Royle, expressed to the House of Commons that the extension was contrary to international law and should be referred to the Law of the Sea Conference to be held in 1973. Royle elaborated that "[t]he proposed 50-mile limit would include virtually all the fishing grounds in the Icelandic area, and the exclusion of our vessels from them would deprive us of between one-fifth and one-quarter of all British landings of such species as cod, haddock, and plaice. The effect on our fishing industry as a whole and on supplies and prices would be serious, but for the distant water section of the fleet it would be calamitous, as between 40 percent and 60 percent of its catch comes from grounds which would be lost."⁴⁶ British cabinet papers during this period reveal that the foreign secretary, Sir Alec Douglas-Home, was pessimistic that the ICJ would restrain the Icelandic government from extending the country's fisheries limits and was concerned that "[w]e should then have little alternative

FIGURE 6
THE FIFTY-MILE EXTENSION



Note: Depths marked on original map omitted.

Source: Welch, *The Royal Navy in the Cod Wars*, p. 94.

to establishing a scheme of naval protection for our fishing vessels, which would inevitably lead to a series of acrimonious incidents.” The minister of agriculture, fisheries, and food, the Honorable James Prior, echoed this sentiment, expressing concern that a unilateral Icelandic extension—regardless of an ICJ ruling in favor of Britain—would erode Britain’s position at the upcoming Law of the Sea Conference in 1973.⁴⁷

Behind Prior’s concerns was a broader worry: that the fisheries dispute could have serious Cold War security implications. If Britain provided naval protection to its fishing fleet, relations between Iceland and Britain might so deteriorate that it could provoke the government of Iceland to denounce or, worse, renounce the agreement permitting NATO forces use of the air station at Keflavík as a base for maritime surveillance.⁴⁸ Keflavík was a key hub for tracking Soviet submarines entering the North Atlantic and a critical link in NATO’s ability to exercise sea control over the strategic Greenland–Iceland–United Kingdom (or GIUK) gap during the height of the Cold War. When Iceland announced the unilateral fifty-mile extension, it knew that the risk of NATO’s losing the base would be a major consideration for Britain, and one that also likely would mute key international support for Britain’s challenge, especially from the United States.

To mitigate these concerns without acquiescing to the devastation of Britain's long-distance trawling fleet, the British government engaged with Iceland in a yearlong negotiation before the fifty-mile extension went into effect. It offered to cede some of its annual catch to appease the Icelandic government's purported concern over conservation. This would minimize one of Iceland's principal anticipated arguments at the next Law of the Sea Conference and thereby reduce Iceland's leverage in future ICJ proceedings. While at one point Icelandic ministers indicated that they would be satisfied with a 25 percent reduction in Britain's overall take from 1971 levels (to 156,000 tons, by some calculations), sources differ on whether the British refused this offer or the Icelandic government retracted it.⁴⁹

Still, the British government decided to seek an interim judgment from the ICJ. The court, perhaps surprisingly, decided by fourteen votes to one in Britain's favor. It enjoined Iceland not to enforce the fifty-mile fishery limit, instructed Britain to restrict its annual catch to 170,000 tons, and urged both sides not to take steps that might aggravate the dispute.⁵⁰ The ICJ ruling effectively upheld the status quo and reinforced British access to fisheries up to the twelve-mile zone and permitted it roughly the same catch as Britain's trawlers had taken in 1971.⁵¹ Responding from what appeared to be a position of legal weakness, the government of Iceland declared that it did not accept the ICJ's jurisdiction in the case, in that the court "overstepped its authority by intending to bind a sovereign state [Iceland] to an agreement which that state claimed to have terminated [the 1961 Anglo-Icelandic exchange of notes]," as an Icelandic diplomat later wrote.⁵² After this, diplomatic relations between Iceland and Britain were frozen and the stage was set for the Second Cod War.

A MARITIME DAVID AND GOLIATH

With a significant contingent of countries still supporting a universal twelve-mile limit on a state's exclusive coastal fishing rights, a vastly superior navy, and a ruling by the ICJ in its corner, Britain sought "to ensure that the catch limit ordered by the International Court [was] complied with by British vessels . . . , taking only such measures to counter Icelandic interference as [were] essential to enable British vessels to catch up to the authorised limit." Such an objective would appear to have been easily achievable.⁵³ However, other strategic imbalances lent Iceland key advantages in the contest.

Asymmetric Attitudes

Andrew Mack's seminal etiology on asymmetric limited conflict argues that when a greater, democratic power is engaged with a lesser power in a prolonged conflict over limited objectives, there is significant potential to generate widespread social and political opposition within the greater power's society, effectively nullifying

its political ability to wage such wars. He explains that “[t]he causes of dissent lie beyond the control of the political elite; they lie in the structure of the conflict itself—in the type of war being pursued and in the asymmetries which form its distinctive character.” Mack makes a supporting point: that the opponent with lesser means for waging war often coalesces around its people’s social and psychological bonds found in the common hostility toward the external aggressor, specifically when that aggressor’s object lies within the lesser power’s indigenous or inherited territory.⁵⁴ Keeping in mind that the Second Cod War was one of four sea disputes in a two-decade competition over fishing rights between Britain and Iceland, understanding the strategic asymmetry between the two countries helps explain Britain’s ultimate capitulation.

For most Icelanders, the fight over fishing rights was much more existential than it was for the British. The former embraced a nationalism born out of their Nordic roots and seven hundred years of quasi-colonial rule. Regardless of the cause, the nationalistic fervor with which Icelanders tied their livelihoods to the fisheries was a powerful motivator for their coastguardsmen and politicians, demonstrated by the multiple political parties that came to power on promises to extend Iceland’s fishery limits. Over a prolonged period both preceding and following the Second Cod War, Iceland’s government, its oceanographic and legal technocrats, and a majority of the Icelandic people themselves embraced a *conditio sine qua non* narrative with respect to the fisheries—that is to say, without them Iceland could not subsist, and thereby would not exist as a nation. Although the Icelandic government’s political object was limited to enlarging the extent of the adjacent waters and seabed that it controlled (and perhaps later to limiting NATO influence and basing), its motivation to achieve it was very high.

In contrast with Iceland’s economic dependence on its adjacent fishing grounds, Britain’s take from long-distance fisheries—which also included those in Norway, Greenland, the Barents Sea, and the Faeroe Islands—comprised just 1 percent of its gross national product.⁵⁵ Britons as a whole were therefore much less enthusiastic about enforcing their government’s maximalist position on freedom of the seas than the Icelanders were about maximizing their exclusive rights to the waters off their coast. Although the cost of a plate of fish and chips in pubs and households in England would rise if the annual long-distance fishing take from Icelandic waters was lost, “no one was keen on providing protection for trawlers again. Memories of the first cod war were still strong and it was believed that naval protection would only make the Icelanders more difficult and render the possibility of successful negotiations even more remote.”⁵⁶

On the other hand, elite consciousness of Britain’s long history of dominion over the seas—a hangover from its empire’s broad naval control and access to the world’s maritime routes and resources—may help explain the government’s reluctance

to acquiesce to Iceland's claims. A confidential joint memorandum from 22 July 1952 to Britain's cabinet—signed by the secretary of state for the coordination of transport, fuel, and power, by the First Lord of the Admiralty, and by the minister of transport on the matter of territorial waters—urged that “the attitude of Her Majesty's Government on this subject should reflect the confidence of a world power whose policy looks to far horizons. We suggest it would be difficult to defend legislation which subordinated our wide naval, maritime, aviation, and fisheries affairs . . . [and we] propose that at present the United Kingdom should . . . strengthen its influence in attempting to secure internationally the narrowest possible interpretation of the new Hague Court principles and the shortest possible baselines.”⁵⁷

It is possible that this cognitive bias toward seeing themselves as stewards of a global sea power informed some British politicians and naval commanders when the dispute matured from negotiation to heated interactions among fishermen, the Icelandic coast guard, and the Royal Navy in the fall of 1972. But if British leaders initially were impelled by a spirit of maritime supremacy, their decisions later in the Second Cod War were grounded more on legal principle and resource access. Regardless, Britain's object was less central to its core national interests than Iceland's object was to its subsistence and survival. Furthermore, the two island nations' separation by the sea and the absence of any threat by Iceland to its home territory left Britain much less motivated to deny Iceland's fishery extension than Iceland was to achieve it.⁵⁸ The asymmetry between Iceland's more visceral attachment to the fishing grounds off its coast contrasted with Britain's mixed attitudes about the importance of its limited object—precisely the dynamic that Mack had in mind in his thesis regarding asymmetric conflict.

Political Elements

In the lead-up to the Royal Navy's provision of protection to Britain's distant trawler fleet, some naval commanders were reluctant to engage in a second fishery conflict with Iceland.⁵⁹ In contrast, the British fishing industry saw any extension of Iceland's fishery limits as a threat to its members' livelihood and took bold actions politically and on the water to influence the dispute's outcome. Led by the British Trawler Federation, those in the fishing industry pressured their representatives in Parliament to provide naval protection to their trawlers and challenge Iceland's government more vigorously.⁶⁰ The comparative pervasiveness of Iceland's fishing industry throughout Icelandic politics and daily life, however, gave the industry far greater influence over events than its British counterpart could muster.

In each of its four fishery disputes with Britain, Iceland used the NATO alliance and the U.S. naval air base at Keflavík as leverage against Britain's objections. Although the government never directly threatened to abrogate the basing agreement, worrisome official rhetoric was in no short supply. Remarks by Progressive Party general secretary Steingrímur Hermannsson are representative of the

implied threats communicated to NATO and Britain: “Although I recognised that we should not mix too much together our NATO membership and our fisheries limit, I find it extremely hard to tolerate that we Icelanders sit in co-operation with Britain in that organisation at the same time as they are inflicting such aggression on us in Icelandic waters.”⁶¹

Unsurprisingly—and no doubt as the Icelandic government had hoped—the United States reacted to veiled threats against its basing rights at Keflavík by putting its own veiled pressure on the British government. U.S. officials reminded their British counterparts that the NATO alliance and Keflavík had great strategic importance; one internal cabinet report relates that “the United States Secretary of State, Dr. Kissinger, had expressed . . . his anxiety about the future of the American base at Keflavik, although no suggestion had been made to [the British government] that [it] should change [its] stance in the fishing dispute.” The British government also feared that Iceland’s socialist and communist elements were exploiting the dispute to put pressure on their government to terminate the basing agreement. Concern over this issue also was felt at NATO headquarters, where a strategy review emphasized the importance of the base to the defense of the Atlantic area.⁶²

New Developments in Maritime Law and Legal Theory

Despite some momentum in favor of mare clausum and delimiting approaches to maritime law, this progressive school of thought was not accepted universally at the start of the Second Cod War. Thirteen European countries had signed onto the European Fisheries Convention of 1964, which delimited fishery rights at twelve miles. In the lead-up to UNCLOS III in 1973, only a handful of countries formally had issued national regulations or reached multinational agreements for territorial limits or fishing rights beyond twelve miles (see table 1). At the outset of the Second Cod War—especially in light of the ICJ interim ruling in favor of Britain in August 1972—the Icelandic government was making an enormous bet that it could continue to influence like-minded governments to adopt expanded exclusive fishing rights for coastal states.

The ICJ’s ruling in favor of Britain wrested some momentum away from Iceland’s efforts to build international consensus for greater resource-management rights. But Iceland retained a key advantage in the competition to shift ocean politics: its skilled technocrats and advocacy experts in fisheries management, international law, and maritime security. Icelandic officials and technocrats rotated frequently among government, industry, and academia—Ólafur Jóhannesson, prime minister during the Second Cod War, was also a law professor who taught, inter alia, international law at the University of Iceland—building relevant skills and expertise. In any forum where law of the sea issues were discussed—no matter how obscure—Icelanders advocated relentlessly for expanding the rights of coastal

TABLE 1
COUNTRIES CLAIMING A TWELVE-MILE OR LARGER TERRITORIAL SEA OR EXCLUSIVE FISHING ZONE BY 1964

Country	Territorial Sea	Exclusive Fishing Zone	Year of Enactment
1. Algeria	12 miles	—	1963
2. Belgium	—	12 miles	1964
3. Bulgaria	12 miles	—	1951
4. Canada	—	12 miles	1964
5. Chile	—	200 miles	1947
6. Colombia	—	12 miles	1923
7. Cyprus	12 miles	—	1964
8. Faeroe Islands	—	12 miles	1963
9. Greenland	—	12 miles	1950
10. El Salvador	200 miles	—	1950
11. Ethiopia	12 miles	—	1953
12. Gabon	12 miles	—	1963
13. Ghana	12 miles	—	1963
14. West Germany	—	12 miles	1964
15. Guatemala	12 miles	—	1934
16. Guinea	130 miles	—	1964
17. Indonesia	12 miles	—	1957
18. Iran	12 miles	—	1959
19. Iraq	12 miles	—	1958
20. Ireland	—	12 miles	1964
21. Italy	—	12 miles	1964
22. Korea	—	20–200 miles	1952–54
23. Libya	12 miles	—	1954
24. Madagascar	12 miles	—	1963
25. Netherlands	—	12 miles	1964
26. Norway	—	12 miles	1961
27. Romania	12 miles	—	1951
28. Saudi Arabia	12 miles	—	1958
29. South Africa	—	12 miles	1963
30. Sudan	12 miles	—	1960
31. Syria	12 miles	—	1964
32. Togo	12 miles	—	1964
33. Tunisia	—	12 miles	1962
34. Turkey	—	12 miles	1964
35. Soviet Union	12 miles	—	1909
36. United Arab Republic (Egypt)	12 miles	—	1958
37. United Kingdom	—	12 miles	1964
38. Venezuela	12 miles	—	1956

Source: Jónsson, *Friends in Conflict*, p. 112.

states. (For example, in November 1971 Hannes Jónsson, Iceland's secretary for press and information, and Steingrímur Hermannsson—who at the time was the director of Iceland's National Research Council, and went on to become minister of fisheries—were observers at a far-flung law of the sea conference held by the Scientific Council of Africa in Nigeria.)⁶³ The disparity in effectiveness between Icelandic ocean-policy advocates and their British counterparts not only informs lessons from the Anglo-Icelandic disputes but throws the importance of global norm building in current sea disputes into sharp relief.

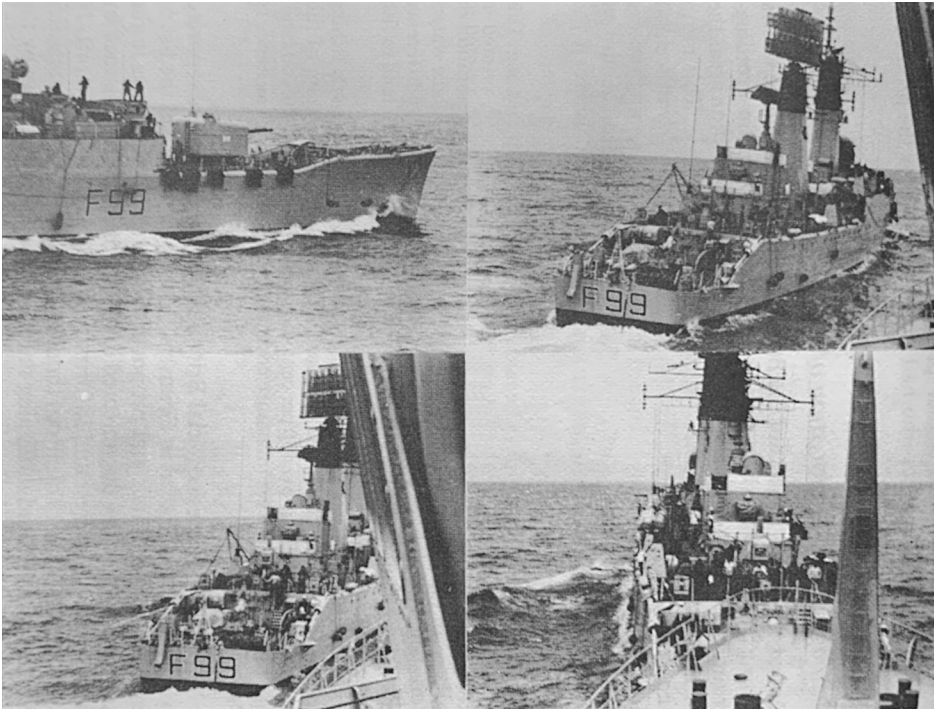
Iceland's ocean politics experts largely resided in the powerful Fisheries Association of Iceland, a nonpartisan organization charged with administrative, technical, and research work for which it received large government grants.⁶⁴ Often, depending on whether the political party that held power in the Althing (Iceland's legislature) supported assertive fisheries protection or expanding fishing rights (e.g., the Progressive Party during the Second Cod War), these same technocrats worked as officials in the Ministry of Fisheries. They attended law of the sea conferences in Colombia, Nigeria, India, and Japan, where they helped to shape the progressive school of thought for delimiting the sea.⁶⁵ These technocrats may owe their popularity with the Icelandic people and preeminence in the story of the Cod Wars to the fact that ultimately they played a significant part in winning the diplomatic and legal "war" with Britain while another nonlethal battle played out on the sea.

Sea Power

Sea disputes nearly all directly or indirectly involve resource rights, alongside other drivers such as *maritime access*, which the British considered to be "the greatest possible freedom of movement for shipping in peace and the widest freedom for the exercise of belligerent rights in war."⁶⁶ Even if a dispute were based exclusively on legal principle, prior agreements, or norms—which rarely, if ever, has occurred—ocean resources in superjacent waters (such as fish) and subsoil (such as oil and gas) naturally require the contending states to grapple with the involvement of civilian and commercial actors such as fishery unions, fishing companies, and their boats. In the Second Cod War, the British government was able to coordinate its naval forces (primarily frigates, auxiliary ships, and Nimrod maritime patrol aircraft; see figure 7) with a small contingent of contracted ocean tugs (so-called defense tugs) and the British trawlers themselves (see figure 8).

Iceland deployed its coast guard's six offshore patrol vessels and a handful of helicopters against Britain's trawlers, but still was wildly outclassed by the weight of British sea power. Discounting those trawlers but including their protective flotilla, Britain had a 3 : 1 advantage in the number of vessels, a 6 : 1 advantage in overall tonnage, and a 14 : 1 edge in personnel over Iceland (see tables 2 and 3).⁶⁷

Firepower, tonnage, and personnel all were greatly in Britain's favor, but the most important factor relevant to the opposed forces was speed. Although the

FIGURE 7

The frigate *Lincoln* (F 99) in action with Icelandic coast guard vessel *Ægir* on 17 July 1973.

Source: Jónsson, *Friends in Conflict*, p. 141.

FIGURE 8

The British trawler *Robert Hewett*.

Source: Jón Páll Asgeirsson, as published in Welch, *The Royal Navy in the Cod Wars*, p. 111.

TABLE 2
BRITISH FLEET PROTECTING BRITISH TRAWLERS INSIDE THE FIFTY-MILE FISHERY LIMIT, 1972–73, AS RECORDED BY THE ICELANDIC COAST GUARD

	Gross Tons	Horsepower	Speed (knots)	No. of Crew	Helicopters
I. FRIGATES					
<i>Ashanti</i> F-117	2,700	20,000	28	253	1
<i>Cleopatra</i> F-28	2,860	30,000	30	263	1
<i>Jaguar</i> F-37	2,520	14,400	24	235	
<i>Jupiter</i> F-60	2,860	30,000	30	263	1
<i>Lincoln</i> F-99	2,170	14,400	24	237	
<i>Plymouth</i> F-126	2,800	30,000	30	235	1
<i>Scylla</i> F-71	2,860	30,000	30	263	1
[Total]	18,770			1,749	
II. TUGBOATS (<i>estimated</i>)					
<i>Englishman</i>	574			15	
<i>Irishman</i>	451		13½	15	
<i>Lloydsman</i>	2,041		18	15	
<i>Statesman</i>	1,167			15	
[Total]	4,233			60	
III. AUXILIARY SHIPS					
<i>Miranda</i>	1,462	1,000	11½	15	
<i>Othello</i>	1,113	2,350		15	
<i>Ranger Briseis</i>	982	2,000	15	15	
[Total]	3,557			45	
<i>Grand total: 14 ships, 26,560 gross tons, 1,854 crewmembers</i>					

Source: Jónsson, *Friends in Conflict*, p. 216.

British frigates were the fastest platforms on the water (capable of twenty-four to thirty knots), the Icelandic coast guard vessels (twenty knots, nominally; see figure 9) were faster than both Britain’s civilian defense tugs (perhaps ten knots) and the British trawlers; the latter were rendered even slower and more vulnerable anytime they were towing their trawl nets.⁶⁸

Another key element of the sea power balance was seamanship skill. All the ships plying the waters around Iceland were crewed by professional sailors. The crews of the Icelandic coast guard vessels and the seventy or so British trawlers that fished regularly around Iceland were intimately knowledgeable about the local waters, weather, and fish havens when the Second Cod War began on 1 September 1972. On the other hand, the Royal Navy and the five contracted British defense tugs were unfamiliar with Icelandic waters, and it took time for them to orient themselves to the environment and to hone relevant noncombat skills in skirmishes with the Icelandic coast guard. As in the First Cod War, which had

TABLE 3
VESSELS USED BY THE ICELANDIC GOVERNMENT TO COUNTER BRITISH FLEETS, 1972–73

	Gross Tons	Horsepower	No. of Crew
I. SHIPS (COAST GUARD)			
<i>Ægir</i>	927	2 × 4,300	25
<i>Óðinn</i>	882	2 × 2,850	25
<i>Thór</i>	693	2 × 1,570	25
<i>Árvakur</i>	381	1,000	14
<i>Albert</i>	201	665	12
II. WHALE HUNTERS ON TEMPORARY LEASE CONVERTED TO COAST GUARD VESSELS			
<i>Hvalur 9 (Hvaltýr)</i>	611	1,900	19
<i>Hvalur 8</i>	481	1,800	19
[Total]	4,176		139
III. AIRCRAFT			
Fokker Friendship F27-200	TF-SÝR		
Sikorsky HH-52A	TF-GNÁ		
Bell 47J-3B	TF-HUG		
Bell 47J-3B	TF-MUN		

Source: Jónsson, *Friends in Conflict*, p. 217.

FIGURE 9



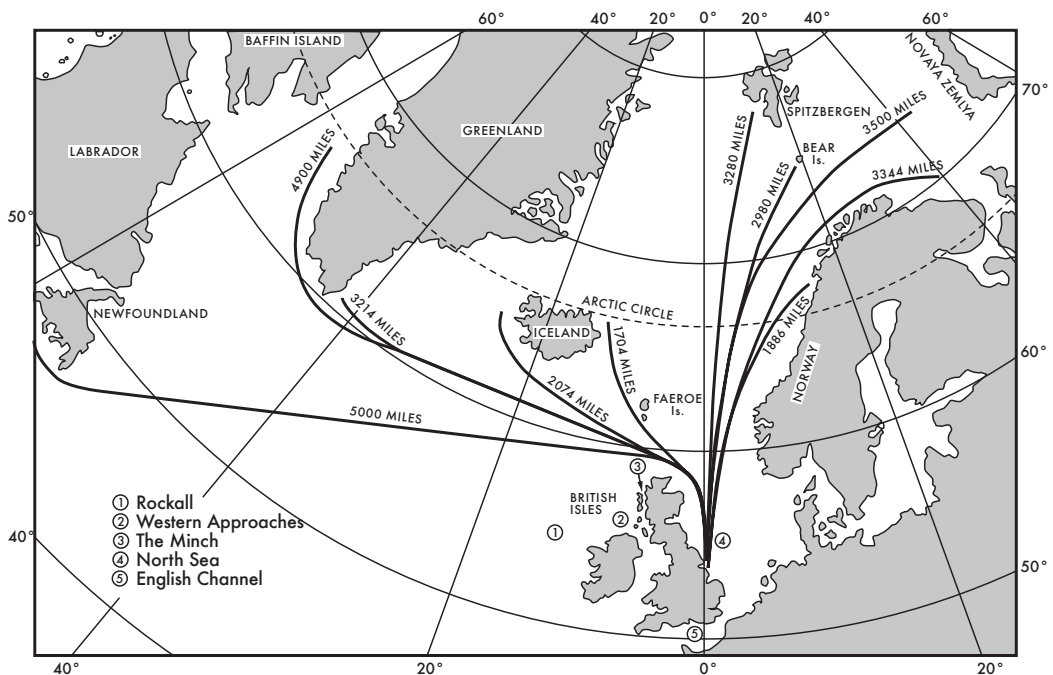
The Icelandic coast guard vessel *Árvakur*.

Source: Jón Páll Asgeirsson, as published in Welch, *The Royal Navy in the Cod Wars*, p. 110.

ended in 1961, the British ships were assigned on a rotational basis, but this time they were organized under the operational control of Flag Officer Scotland and Northern Ireland (FOSNI), headquartered at Pitreavie, just north of Edinburgh; the Fishery Protection Squadron that contended with Iceland in the First Cod War had been reorganized in 1967 to provide fishery protection exclusively off the British coast. FOSNI organized its forces into task groups, each typically consisting of two to four frigates, one auxiliary support ship, and one to three defense tugs, and led by the senior embarked officer as officer in tactical command (OTC).⁶⁹ Only one task group was deployed to Iceland at any time, and often ships were cobbled together into assigned groups as little as seven days before deploying.⁷⁰ The Icelandic coast guard took merciless advantage of this rotational arrangement of task groups by identifying new captains or ships and “testing the new kid on the block.”⁷¹

Finally, the asymmetry of the respective transit distances and the isolation of the conflict space had a substantial effect on the level of force the contenders were willing to use. If British ships or trawlers were damaged, they had to sail more than 1,700 miles back to their home ports in England, while the Icelandic vessels merely had to sprint a few miles back home (see figure 10).

FIGURE 10
DISTANCE TO FISHING GROUNDS (IN NAUTICAL MILES)



Source: Moore, “The Occupation of Trawl Fishing,” fig. 1.

STRATEGY AND TACTICS

The strategic balance between Iceland and Britain had much to do with their respective commitment to their objectives. For Iceland to achieve its political objectives—removing foreign influence and expanding the limits of its fisheries—it needed to apprehend, deter, or frustrate the trawlers operating within its claimed fifty-mile limit (i.e., to make it as costly as possible for them to fish there). With inferior sea power and no allies willing to supply forces in an isolated fishery dispute between NATO partners, Iceland had little choice but to adopt a strategy to frustrate the British trawlers while its technocrats continued to shape a consensus for the 1973 UNCLOS III in favor of its preferred *mare clausum* principles. The ultimately successful Icelanders therefore adopted a dual strategy of raising the political and economic costs to Britain (a means-based approach) while envisioning an endgame predicated on altering dramatically the long-held international consensus on the concept of freedom of the seas (a legal theory-based approach).

The British government was intent on promoting its view that the status quo in maritime law—based on the concept of freedom of the seas—was correct in principle and that it was committed to ensuring that Iceland's intransigence would not shape the attitudes or official positions of the delegations preparing for UNCLOS III. Enforcing the ICJ ruling limiting Britain to an annual trawling catch of 170,000 tons was incidental to promoting the territorial status quo, but relevant as a lesser included objective. It is important to note that Britain's political aim was not to assert that British trawlers had historic rights to Iceland's fisheries but to promote a freedom-of-the-seas regime—that is, not that British vessels possessed particular rights, but that Iceland did not have standing to exclude *any nation's* vessels from those fisheries. One former British naval officer noted, "Her Majesty's Government's aim, as laid down in the OpOrder [operations order] for Operation DEWEY, was to maintain the legal rights of U.K. fishing vessels *on the high seas* between 12 and 50 miles off Iceland."⁷² However, Britain's yearlong attempt to negotiate sea rights ahead of the Second Cod War shows that it was reluctant to engage in another conflict with Iceland, and perhaps that it feared blame should Iceland leave NATO or expel the U.S. military from Keflavík. The result was an incremental military strategy of increasing protective measures for British trawlers gradually, constrained by strict rules of engagement to mitigate undesired escalation.

For the first eight months of the conflict, the British trawlers were without naval protection, even though a handful of RN frigates lurked just outside the fifty-mile limit, ready to assist. The trawlers attempted to deceive and confuse the Icelandic coast guard by blacking out identification markings on their hulls and superstructures and using false names in radio communications.⁷³ In response,

Icelandic coast guard captains spoofed the British by recording and retransmitting trawler and RN communications to mask their own true locations.⁷⁴ Trawlers also were directed to work in pairs by the British Trawler Federation, an association of trawling company owners. A nonfishing trawler would station itself astern of the fishing trawler and, when challenged by the Icelandic coast guard, would attempt to fend it off by herding it away from the active trawler or by ramming it. Although this tactic produced some positive effects for the trawlers, it also reduced their take by half at least, since two vessels operating together deployed only one trawl net at a time.⁷⁵ Despite this success in initial skirmishes, no British trawler was ready for the secret weapon the Icelandic coast guard introduced on 5 September 1972: the warp cutter.

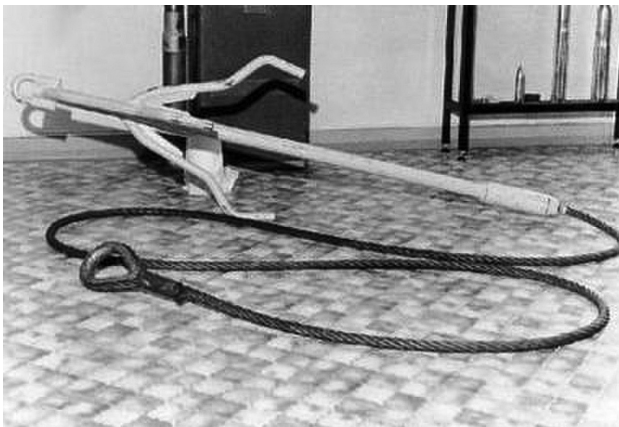
Iceland Escalates with Warp Cutting

The British trawler fleet possessed two critical capabilities, without which there would be no dispute to begin with: its range, and the massive trawl nets that could catch fish at sufficient scale to make long-distance fishing expeditions profitable. Iceland went directly for Britain's jugular by attacking those nets. Between the First and Second Cod Wars, Iceland's coast guard developed a crude but effective technology dubbed the trawl-wire cutter, better known as the warp cutter (*warp* being the name for the trawl net's tow cables). Adapted from minesweeping equipment, the warp cutter was modified to cut steel cables using road-grading blades welded to a steel frame. Icelandic coast guard vessels towed the cutter at a distance and then crossed astern of a trawler whose trawl was deployed. Trawl nets put immense strain on their warps, and when the cutters hit the cables they "snapped like violin strings."⁷⁶ This tactic proved incredibly effective at frustrating the trawlers, denying them their catch and their profits. By the end of the

Second Cod War, Britain claimed that eighty-two trawlers had their gear cut; Iceland claimed the figure was sixty-nine.⁷⁷

Every time a trawl was cut it required the affected trawler either to return to port early to fit a new trawl rig or, when feasible, to take at least eighteen hours to repair its gear and refit a new net at sea. The search for a defense against Iceland's warp cutters began almost immediately. Some British trawlers streamed ropes and wires behind them to foul the screws of

FIGURE 11



Iceland's secret weapon: the warp cutter.

Source: Jónsson, *Friends in Conflict*, p. 188.

approaching coast guard vessels, but the tactic proved ineffective; presumably the Icelandic vessels had propeller guards installed. In early 1973, the Royal Navy tested a trawl system that could be diverted away from warp cutters, but the rig proved too unstable. Britain's principal impediment to designing a solution was that it did not know what the warp cutters looked like, and the secrecy around them gave Iceland's coast guard an advantage against British countermeasures. Toward the end of the Third Cod War, in 1976, the British satisfactorily tested an explosive-charged "anti-warp-cutter cutter," a design once again based on mine-countermeasure equipment, but by the time it was fielded the Cod Wars were nearly finished.⁷⁸

The British government's more immediate response to the havoc wreaked on the trawling fleet by Iceland's warp cutters was to contract large, unarmed civilian tugs to defend the trawlers while RN frigates continued to monitor from outside the fifty-mile zone. The tugs were chartered by Britain's Ministry of Agriculture, Fisheries and Food (MAFF) and then transferred to the British register to avoid potential political complications stemming from complex ownership rights. (For example, the first tug to be placed in service was *Statesman*, in January 1973; previously, it had been American owned, Liberian registered, British crewed, and on long-term charter to the United Towing Company of Hull.) The tugs were captained by either a fisheries officer or a retired naval officer and given instructions to support and assist British trawlers to counter Icelandic harassment while abiding by the International Regulations for Preventing Collisions at Sea.⁷⁹ However, accounts differ between British and Icelandic sources on whether the tugs stuck to those constraints or were either tacitly or secretly encouraged by the MAFF to use more-violent tactics in the early months of their employment, such as ramming Icelandic coast guard vessels.⁸⁰ Regardless, the official constraints initially placed on the tugs' rules of engagement (ROE) were loosened on 19 May 1973 to match the Royal Navy's rules.⁸¹ The tugs had around a five-knot speed disadvantage in relation to the Icelandic coast guard vessels. To compensate, the tugs would interpose themselves between the Icelandic coast guard vessels and their quarry to frustrate their attempts to cut a trawler's warps. Another Admiralty-approved tactic had two or three trawlers fishing in echelon with a defense tug stationed on the quarter of the rearmost trawler, but trawler skippers disliked this tactic since it halved fishing efficiency.⁸²

By May 1973, the trawler captains had had enough. The skipper of *Northern Sky* sent a combined message to the trawler federation: "From all the British Trawlers. It is now impossible to fish off Iceland due to continuous [Icelandic coast guard] action. If naval protection is not forthcoming . . . it is the unanimous decision of all trawlers to leave Icelandic waters."⁸³ On 17 May, the entire trawling fleet operating in Icelandic waters gave up and departed across the fifty-mile limit.

The Royal Navy Moves In

Caving to pressure from the British Trawler Federation and intent on upholding its freedom-of-the-seas doctrine, the British government directed Commander-in-Chief Fleet and FOSNI to commence Operation DEWEY. FOSNI issued the execute order to HMS *Plymouth*, HMS *Cleopatra*, RFA *Wave Chief*, and—in a telling insight into the military-civilian component of sea disputes—the civilian tugs *Englishman*, *Irishman*, and *Statesman* (all now under naval command); together, they escorted around thirty trawlers back inside Iceland's fifty-mile limit, meanwhile playing the patriotic British tune "Land of Hope and Glory" over bridge-to-bridge radio.⁸⁴ It was just two days after the same trawlers had left. The unified front presented by the vessels of the British task group was demonstrative of the shared interests, coordination, and unified control among the military, civil government, and industry stakeholders that often is necessary to compete in sea disputes effectively.

The British task groups led by FOSNI were directed to abide by detailed ROE. Their purpose was to "attempt to frustrate harassment, allowing the use of force up to certain levels. These included placing armed parties onboard trawlers to prevent arrest [and] physically obstructing ICGVs [Icelandic coast guard vessels] attempting to get to a trawler," as well as the "use of searchlights, jamming of radar and radio, buzzing by helicopters, and counter-boarding of arrested trawlers[; the] use of gunfire was only permitted in self-defence." The ROE specified that additional authorization could be granted for use of gunfire under the principle of "clear warning and slow escalation to the minimum force necessary to disable [an Icelandic] gunboat's weapons." Control of this last measure was held by the Admiralty in Whitehall, but could be requested by FOSNI, the OTC, or an individual commanding officer.⁸⁵

Eventually, the violence of the skirmishes increased. Incidents of British defense tugs ramming Icelandic coast guard vessels and inflicting damage significant enough to force them back to port were reported, with protests lodged by the Icelandic government. Iceland recorded three ramming events by the British between October 1972 and April 1973, and eleven between the months of June and October 1973.⁸⁶ Meanwhile, Icelandic coast guard vessels damaged British trawlers, tugs, and warships alike. They began using both live and blank warning shots more frequently in attempts to scare off British trawlers or halt them ahead of boarding them.

In the lead-up to Britain's naval protection campaign, Iceland's ambition to seize trawlers and arrest their crews was already a tall order against stubborn trawler skippers, noncompliant crews, and boats rigged with nets and other obstructions.⁸⁷ When British frigates began arriving on scene, such arrests effectively became impossible.

Two egregious incidents had immediate deleterious effects on the political face of the conflict. First, the trawler *Everton* was shelled by the ICGV *Ægir* when it refused to stop for boarding on 25 May 1973. Per Welch, “The two skippers were in clear VHF communication. . . . When *Everton* refused to stop, *Ægir* fired blanks and then 57 mm solid shot across the bow. This was followed by solid shot from very close range, into *Everton*’s bow above the waterline. A crewman [from *Everton*] was allowed forward to inspect the damage. . . . [O]ver the next two hours, interspersed with orders to stop, *Ægir* fired seven shots into *Everton*, the most dangerous of which caused a 4-in x 10-in hole below the waterline and started to flood the lower hold.”⁸⁸ The boarding did not happen, and the Icelandic coast guard called off *Ægir* when *Everton* regained station with its protection task group. Both the British and Icelandic governments submitted formal complaints to the United Nations Security Council over the incident. The NATO secretary general subsequently paid visits to both countries and told Prime Minister Heath that “Britain was paying much too much attention to fishing and that it didn’t matter,” who replied, “It did matter, a great deal.”⁸⁹

The other serious incident was precipitated when the British trawler *Lord St. Vincent* was caught by *Ægir* fishing within twelve miles of Iceland’s coast, prompting *Ægir* to give pursuit and attempt an arrest. HMS *Sirius* and HMS *Plymouth* closed both vessels, resulting in a standoff while the British and Icelandic governments considered their options. Initially, the British Ministry of Defence (MOD) gave instructions not to interfere with the arrest, as the incident occurred within the twelve-mile Icelandic fishing zone that the British recognized, and disapproved a request by the OTC to place his frigates between the trawler and *Ægir*, and to return fire in self-defense should *Ægir* disregard warnings and fire on *Lord St. Vincent*. Eventually, the MOD approved this use of defensive gunfire, while Britain’s ambassador to Iceland proposed that financial reparations would be paid and the trawler’s skipper disciplined. The Icelandic prime minister rejected this offer and demanded the trawler put in to an Icelandic port for arrest, which escalated the situation significantly. Ultimately, Iceland called off *Ægir*’s pursuit when the coast guard assessed that an unopposed arrest was not possible, and the standoff ended.⁹⁰ The incident had rattled the governments sufficiently that both had involved themselves intimately in tactical control of their portions of the event, serving as a clear signal that the line between strategic competition and conflict was thinning. Overall, the political fallout accrued to Iceland’s advantage, with the dominant media theme being “Britain uses frigates to prevent a lawful arrest.”⁹¹

DIPLOMACY AND DENOUEMENT

Following the escalation of force and growing number of collisions, Iceland made several diplomatic and policy moves to frustrate Britain’s campaign and

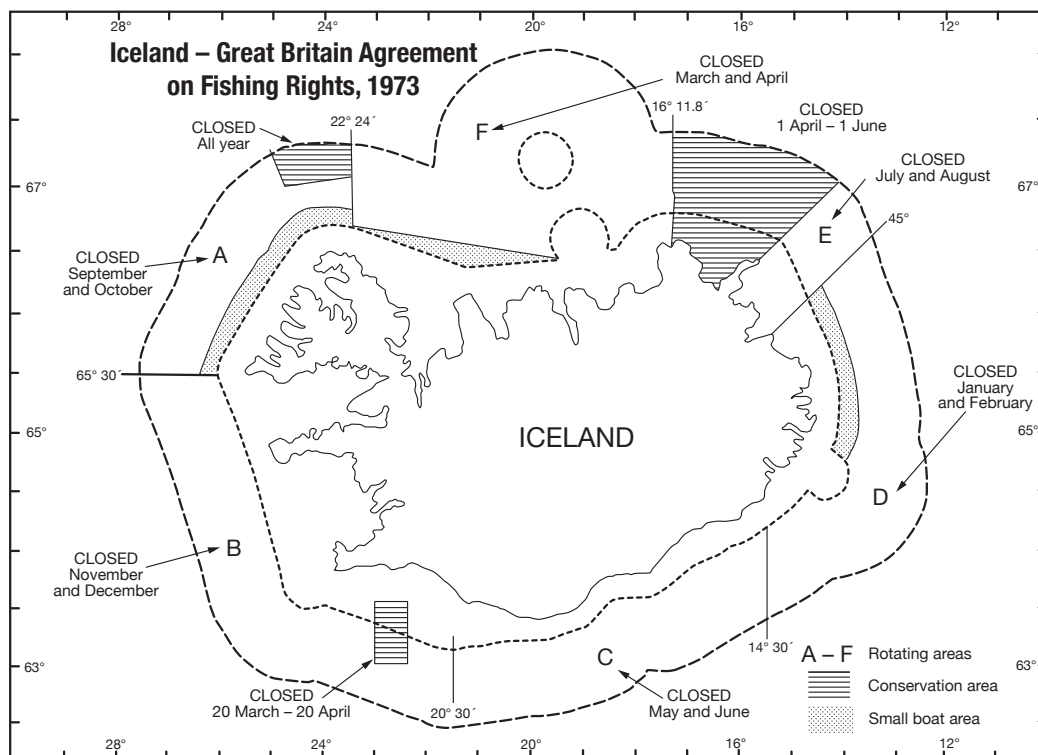
hasten a resolution. Iceland's foreign ministry informed the British government on 7 September 1973 that Icelandic authorities only would accept sick or injured persons from the fishing or naval fleets if they were brought ashore by boat. Any British trawler coming into an Icelandic port for aid that authorities had listed as a "poacher" subsequently would be interned on the spot. Iceland also forbade communication by Icelandic air traffic control to British Nimrod maritime patrol aircraft operating in support of FOSNI, nominally placing responsibility for any aerial accident squarely on the shoulders of the British government. Most importantly, the government of Iceland submitted a formal threat to break off diplomatic relations with Britain, close the British embassy in Reykjavík, and expel British diplomats.⁹²

Following these diplomatic maneuvers, plus another significant collision event between HMS *Lincoln* and ICGV *Ægir* that was captured on video and broadcast around the world, Prime Minister Heath proposed a *modus vivendi* to his Icelandic counterpart to reduce Britain's catch leading up to the 1973 UNCLOS III—"something between 130,000 and 150,000 tons was envisaged."⁹³ The Icelandic government, perhaps perceiving this direct communication from Heath as sign of a break in the British government's mettle, and therefore an opportunity, quickly passed another resolution to officially break off diplomatic relations by 3 October 1973 if British warships and defense tugs did not remove themselves beyond the fifty-mile limit. In response, the British government acquiesced, on the condition that an Icelandic delegation travel to London for negotiations. The FOSNI task group moved outside the fifty-mile limit and the subsequent negotiations took six weeks.

The key terms of the settlement ending the Second Cod War were as follows:

1. None of the freezer and factory trawlers (the largest boats) were allowed within the fifty-mile limit.
2. Rotating conservation areas were designated, and some areas were closed entirely to British trawlers (see figure 12 below).
3. The annual British catch was not to exceed 130,000 tons.
4. A list would be generated naming each trawler, and if Iceland's Ministry of Justice found any trawler in violation that vessel would be crossed off the list, and no other trawler could be added in its place—thereby engaging the interest of the British Trawler Federation in reinforcing the settlement terms.⁹⁴

The settlement was "universally welcomed in Britain," since the trawlers were able to continue fishing in Icelandic waters, even though the total annual catch was reduced to 130,000 tons from the much higher ICJ limit of 170,000

FIGURE 12
ICELAND–GREAT BRITAIN AGREEMENT ON FISHING RIGHTS, 1973

Source: Bruce Mitchell, "Politics, Fish, and International Resource Management: The British–Icelandic Cod War," *Geographical Review* 66, no. 2 (April 1976), p. 130, adapted from "Iceland–United Kingdom: Agreement concerning Fishing Rights," *International Legal Materials* 12, no. 6 (November 1973), p. 1318.

tons, or even Iceland's supposed offer of 156,000 tons at the beginning of the conflict.⁹⁵

The reality, however, was that both sides knew the agreement was temporary. UNCLOS III began in July 1973, and it was clear that a majority of countries now supported the idea of an EEZ that provided coastal states sovereign rights of resource management out to two hundred miles from their coastlines.⁹⁶ While the Royal Navy and Icelandic coast guard duked it out in the cold North Atlantic waters, Icelandic technocrats succeeded in building an international consensus around support for a large delimited resource zone. On 15 October 1975, the Icelandic government again extended its fishery limits (from fifty to two hundred miles offshore), precipitating a third, even more violent cod war that ended with Iceland's complete victory and the barring of all British trawlers from fishing within two hundred miles of Iceland's coasts. Ultimately, Britain adopted its own two-hundred-mile EEZ and reshaped its fishing industry in favor of coastal fishing over long-distance fishing. By the late 1970s, the British long-distance fishing industry effectively had ceased to exist.⁹⁷

Over four disputes across twenty-four years, the government of Iceland triumphed in a militarized dispute of attrition, “hoping that constant pressure, intermittent warp-cutting, trawler indiscipline, Royal Navy frustration, and international pressure would force the British Government to back down.”⁹⁸ The British government spent an incredible amount of money in this venture abroad over territorial rights—£86 million in 1976 currency (\$860 million in 2021 U.S. dollars) for the Second and Third Cod Wars.⁹⁹ Could Britain have done anything to counter Iceland’s attrition strategy without risking a change in objectives or a declaration of war by Iceland against its NATO ally? Anthony Crosland, Britain’s foreign secretary at the conclusion of the Third Cod War, did not think so: “What were the alternatives? There was in fact only one. That was to continue to pursue the Cod War, with the certainty of dangerous escalation, with international and especially NATO opinion moving sharply against us . . . with our moral position steadily eroding as nation after nation accepted the principle of 200 miles.”¹⁰⁰ That was an unacceptable choice.

But perhaps there was an alternative that Crosland and his colleagues did not consider: a permanent carve out for British fishermen within Iceland’s fisheries on the basis of historical rights. Britain’s policy proceeded from *mare liberum* principles, but, as Crosland noted, international law and legal theory were trending toward delimiting what previously had been considered the high seas, and therefore a global common free for exploitation quite close to the sovereign land of coastal states. Rather than attempting to maintain the status quo regarding maritime boundaries every time they were expanded, Britain might have succeeded in its objective to secure fishing rights if it had de-emphasized the importance of Iceland’s zone extensions while emphasizing a historic right for British fishermen to operate in Icelandic waters on the basis of their having done so for nearly a century already. International law recognizes two types of historic maritime rights: *exclusive* rights, which bestow complete sovereignty (e.g., historic waters and historic bays); and *nonexclusive* rights, which bestow usage but not sovereignty (e.g., historic fishing rights in shared seas).¹⁰¹ Simultaneous with Britain’s legal claim to its fishermen’s right to operate between twelve and fifty miles from Iceland’s coast, the Royal Navy could have imposed proportional, reciprocal costs on Icelandic fishermen—whenever a British trawler’s warps were cut by Iceland’s coast guard vessels, a British warship then would cut an Icelandic trawler’s warps, *because the British had as much of a historical right to fish there as the Icelanders*. As it happened, Icelandic fishermen went through the Cod Wars with little, if any, interference from the British squadrons. Perhaps such a policy and strategy match could have raised the costs of Iceland’s expanding claims sufficiently to force the Icelandic government to concede Britain a permanent annual fish catch. And

while the cause of *mare liberum* probably was lost in any case, more-forceful British intervention might have helped win broader international support to privilege historical fishing rights more liberally over sovereign rights in the use and demarcation of the seas.¹⁰²

Perhaps the greatest risk to placing costs on Iceland's fish take and jeopardizing its subsistence would have been to the U.S. base at Keflavík. It seems certain that Iceland would have used this diplomatic lever if the British had begun to cut Icelandic trawl warps. It is possible Iceland could have been dissuaded from such drastic measures if the British cut only one Icelandic net for each of their own nets cut, in a calculated and open form of competitive reciprocity. Such an approach would have been similar to the terms Iceland wrote into the settlement of the Second Cod War, which removed one British trawler from the authorized list for each violation of the settlement's terms.

THE SECOND COD WAR RECONSIDERED

The nature of modern sea disputes may be substantially similar to that of limited wars fought over access, resources, or territorial objectives. What the Cod Wars leave for contemporary ocean policy practitioners and naval strategists is the pattern of constraints on rivals in a sea dispute—the historical, theoretical, and legal influences on the dispute and the risks to objectives from escalating the dispute into open conflict if the rival parties choose to disregard those constraints. Economic linkages and a growing trend toward global governance weigh heavily on the minds of government leaders as they attempt to raise political and economic costs for their adversaries and competitors without jeopardizing their own moral position or threatening alliances. This is because every state in a modern sea dispute desires the permanence bestowed by legal legitimacy—as long as it is in their favor—and, in today's rule-based international system, that legitimacy is unobtainable through violent, deadly force escalating to open war.

Britain lost the Second Cod War in part because of its principled adherence to the legal status quo ante and its precise interpretation of the 1971 ICJ interim ruling in its favor during a period when ocean politics was progressing rapidly toward delimiting the seas. The balance of power was heavily in Britain's favor, but the balance of legitimacy, as a long-term trend, asymmetrically favored Iceland.¹⁰³ The temporal legitimacy granted to the British by the ICJ ruling was not enough to stymie the broader global trend toward *mare clausum* principles, which allowed Iceland the freedom to employ combinations of "lawfare," "alliancefare," and "tradefare" (so to speak) to impose unacceptable economic costs on Britain's long-distance trawling industry while constraining the country politically with the potential costs of fracturing part of the NATO alliance and the threat of losing access to Keflavík's air base, with all the strategic consequences that implied

at the height of the Cold War. These structural asymmetries are why the British government capitulated in the Second Cod War and ultimately lost the dispute outright a few years later. The asymmetries of this sea dispute seem to confirm Mack's thesis noted earlier: that the structural asymmetries are beyond the control of the political elites and have deleterious effects on a big power's ability to wage war for limited objectives.

However, where the Cod Wars depart from Mack's thesis is that the asymmetries did not appear to have an impact on British domestic politics or social attitudes to the extent that they influenced the British government toward either continuation or capitulation. Certainly, there were relatively small pockets of influence within the British Trawler Federation that pressured the government to compete, but by and large it appears that the prime minister and cabinet made decisions in a rational and principled fashion, including remaining sensitive to Britain's reputation within NATO and on the international stage. So it follows that British and Icelandic information campaigns across the disputes merit future research and attention to determine whether Iceland's media efforts had any impact on the British Parliament or cabinet, if not on the general public or trade industry.

In the end, Iceland won a hard-fought sea dispute because it understood these dynamics and played its structural hand magnificently well. Iceland exploited asymmetries in the NATO alliance; trends in ocean law; its technocrats' genius in the field of ocean politics; crude but effective technology targeting its adversary's critical capabilities; its ability to initiate reciprocal costs in the form of withholding safe harbor, preventing safety of flight, and withdrawing temporary fishing rights from rule breakers; and, most importantly, the nationalistic fervor of the Icelandic people themselves and their visceral attachment to their home waters.

IMPLICATIONS FOR CONTEMPORARY SEA DISPUTES

What insights can the Anglo-Icelandic sea disputes, and the Second Cod War in particular, lend to contemporary sea disputes, especially in a great-power context? There is no poverty of ongoing disputes to which they could be applied: the dispute among China, Taiwan, and Japan over the Senkaku Islands in the East China Sea; several disputes stemming from state seizures of commercial shipping vessels; and a dispute on the docket for arbitration (as of the time of writing) at the International Tribunal for the Law of the Sea (ITLOS) over the maritime boundary between Mauritius and the Maldives in the Indian Ocean. But only the aggregated disputes in the South China Sea rival—and perhaps exceed—the Second Cod War in legal and strategic complexity, asymmetry, and great-power and alliance implications.

The various South China Sea disputes revolve around overlapping or excessive claims to seas, zones, and a variety of exclusive access, jurisdictional, and resource

rights. No fewer than seven disputants (China, Brunei, Indonesia, Malaysia, Taiwan, Vietnam, and the Philippines) contend for their claims in this maritime space where \$3.4 trillion of global trade passes by ship annually and the geopolitical stakes are raised by China's regional economic, political, and military predominance.¹⁰⁴

Although some of the disputes involve multiple parties, most are binary affairs between the People's Republic of China (PRC) and one of the other claimants in question. Added to these dynamics, and elevating the SCS disputes to a competition on a much grander scale, is the interest of parties that are external to the claims themselves, such as the United States, Japan, and major European powers. These extraregional actors employ diplomatic and physical presence to ensure that freedom of navigation is maintained; the tenets of international law, especially UNCLOS, are adhered to; and global commerce will continue unabated while the disputes play out.

The value of comparing the Anglo-Icelandic and SCS disputes is resident in the level of detail below the question of which states were or were not great powers. Perhaps the greatest difference between the two sets of disputes lies with which of the respective states asserted or are asserting maximal claims. In the Cod Wars Iceland was a minor state enforcing claims against a major military and economic power, while in the South China Sea it is China—which may be in the process of displacing the United States in global military and economic predominance—that is seeking to assert claims against its much smaller regional neighbors. But evaluating the similarities and differences among the SCS stakeholders reveals the following three key structural elements of the disputes that shape the asymmetries among SCS disputants and inform the future of those disputes:

1. The existence of economic ties between China and the other claimants
2. The relative stability in the law of the sea regime brought by the 1982 UNCLOS, even while norms, rights, and territorial seas are being determined among competing states
3. The arrangement of alliances in the Pacific

First, the economic ties between China and other claimants, such as the Philippines, are strong in ways that transcend the sea disputes and the resources tied to them. China is the Philippines' foremost trading partner, with bilateral trade reaching close to \$50 billion in 2019, having grown at an average rate of 17 percent the previous five years.¹⁰⁵ This was not the case in the Second Cod War, during which Britain and Iceland's trade ties were marginal.

On its face, Southeast Asia's economic dependency on China is an asymmetry that favors China strongly. The balance of power by almost any definition—economic, political, or military—favors China in the SCS disputes with its neighbors

and produces hesitancy among those claimants. To contest China's claims, they must take a long view of minimizing economic damage from retaliatory or coercive Chinese tariffs or embargoes. This may be a crucial factor for external competitors in the SCS disputes interested in maintaining the tenets of UNCLOS, such as the United States—for disputants to be incentivized to compete at all, they must be reassured that in the long run they can reestablish economic ties with China. Perhaps the greatest countermeasure these smaller powers have against this economic constraint, at least in the long run, is information. Information is an asymmetry over which competitors have direct control; information campaigns can be waged effectively by a lesser power against a greater power, even one willing to toss around its economic weight. In the Cod Wars, Iceland waged an information campaign in international legal and political circles to emphasize resource scarcity, the threats to the fish stocks in Icelandic waters, and the importance of those fish stocks to Iceland's national diet and survival. Similarly, an information campaign by smaller powers in the SCS disputes would need to promote a victimhood narrative emphasizing that they are trying to protect their legal right to territorial seas, economic zones, and continental shelf resources, and thereby to ensure resource security for their people. This could be an effective foil to the economic asymmetry favoring China, as long as it allows room for relations to mend in the future, following each dispute's resolution.

The second structural element at play in the SCS disputes is the comparative stability in the evolution of the law of the sea that was brought about by ratification of UNCLOS in 1982. With the exception of a recent push by several states to create a new, binding instrument under UNCLOS to conserve marine biological diversity of areas beyond national jurisdiction, the main tenets of UNCLOS that govern territorial seas, the EEZ, the seabed and subsoil of the continental shelf, resource rights within those areas, freedom of transit, and innocent passage—most of which were unresolved during the Anglo-Icelandic disputes—remain unchanged, codified, and reinforced by several decades of global practice. What is more, the UNCLOS mechanisms for settling disputes are obligatory for the ratifying parties to the convention; these include the option to submit disputes to the ITLOS, the ICJ at The Hague, or other international bodies such as the Permanent Court of Arbitration (PCA). These mechanisms bolster the law of the sea regime's stability and have been largely successful at facilitating peaceful dispute resolutions over the last four decades. This contrasts sharply with the legal environment during the Second Cod War, when the law of the sea regime was evolving at a break-neck pace, driven in no small part by disputes such as the Cod Wars. Now that UNCLOS exists, there is no window of opportunity for states to push for

codification of revisionist legal interpretations and novel assertions of jurisdiction with respect to key convention tenets such as the territorial sea and EEZ.

Therefore, now that the rules are more or less set, the balance of legitimacy is an asymmetry that works against China's efforts to legitimate its claims to "sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof" within its infamous "nine-dash line" around the South China Sea.¹⁰⁶ The asymmetric advantage that the balance of legitimacy provides is a moral and legal one, because China is a ratifying party to the convention. It also provides opposing claimants the leverage to threaten China—while accepting some level of political and economic risk in the process—with arbitral proceedings, as the Philippines successfully managed, earning favorable rulings from the PCA against China's claims to and activity within disputed waters in July 2016.¹⁰⁷

Third, the SCS disputes lack the intra-alliance dynamics that constrained Britain in the Cod Wars. Iceland was able to use the critical NATO capabilities that it hosted as a diplomatic chip; the NATO alliance constituted a means Iceland could use to compete. Conversely, in the Pacific, alliances such as the U.S. Mutual Defense Treaty (MDT) with the Philippines act more as a hedge against the SCS disputes escalating too far than as leverage for a claimant to raise the costs of competition for other contenders. Even if the Philippines used the MDT as a backstop against open conflict to employ more-aggressive tactics against PRC incursions into its claimed areas, it still would serve as a threat against escalating into open conflict. Defense treaties and regional associations with broader mandates serve to contain sea disputes within the realm of competition through collective action, but the point here is that the competition proceeds regardless of those alliances.

There is, however, collective action beyond the standing alliances in the Pacific that could be a significant asymmetric advantage and enable contenders to compete more effectively: multinational naval task forces empowered to enforce claims. For China, this would require finding and enlisting like-minded states that agreed with the claims associated with the nine-dash line and perhaps also favored a revisionist approach to UNCLOS, whether based on historical claims or a *realpolitik*, might-makes-right perspective. Although this would accrue some legitimacy to China's efforts, the likelihood that it could assemble any such set of partners is slim. The most support China has enjoyed in its SCS disputes came in April 2016, when it announced that it had reached a four-point consensus with Brunei, Laos, and Cambodia that the SCS disputes should not be an issue for the Association of Southeast Asian Nations but rather should be addressed in direct bilateral dialogues and negotiations.¹⁰⁸ But these are not powerful countries with capabilities to provide maritime presence to observe and monitor compliance, let alone compete effectively outside their own home waters.

In contrast, a multinational task force with a mandate to provide presence and observe, and possibly enforce, law of the sea rulings against China's claims and activities in the SCS disputes is likely to be more achievable. There have been many calls from interested extraregional states to form such a task force using models from the European Union (EU), NATO, or the United Nations.¹⁰⁹ In recent months, Germany, France, and the United Kingdom have sent their naval forces on patrols through the SCS. France, Germany, the Netherlands, and the EU all have issued Indo-Pacific strategy documents in recent years, while the United Kingdom's 2021 security review describes the country's "tilt to the Indo-Pacific."¹¹⁰ If interested extraregional parties formed a maritime task force to support ITLOS or PCA law of the sea rulings, it could provide an asymmetric advantage to smaller claimants (with their invitation) competing against China's expansive claims. More importantly, a maritime task force of external parties may be the only way to coerce China successfully into recognizing ITLOS or PCA rulings against it, even tacitly. In the absence of formidable competition to support those rulings, there is great potential for China simply to disregard unfavorable ones, much as Iceland rejected the ICJ's interim ruling against it in 1972.

These three dynamics—economic ties to China, relative stability in the law of the sea regime, and arrangement of alliances—provide the SCS disputes their asymmetric structure. However, asymmetries themselves do not determine dispute outcomes, as they did not in the Second Cod War. Whatever asymmetries exist need to be not only established but acted on and exploited, because what matters—what really moves the needle in competition—is the activities that each disputant adopts and carries out to raise the cost to its adversaries of continuing the competition. Such activities must be conducted with vigor, cleverness, and conviction, and, in the case of the SCS, with the support of like-minded states.

HOW TO WIN COD WARS: LESSONS ON COMPETITION

What lessons do the Cod Wars provide for direct contenders and extraregional interested parties in today's sea disputes with great powers? Lesson number one is that to win, states must compete using lawfare, tradefare, and alliancefare, concurrent with naval posture-and-presence activities. Contenders cannot win simply by not losing.

The Cod Wars also demonstrate that activities that adhere strictly to the bounds of UNCLOS—such as freedom-of-navigation (FON) operations (FONOPs) that exercise the transit rights already inherent in UNCLOS—are insufficient to prevail in sea disputes. Although FONOPs and their accompanying assertions do dissuade extreme claims, such as any modern equivalent of ancient Rome's *mare nostrum* (our sea) claim of sole control over the Mediterranean Sea, they do not impact the SCS competitors' activities in the disputed waters directly, nor do they

raise the cost of competition.¹¹¹ For example, during the First Cod War the Royal Navy conducted presence patrols within twelve nautical miles of Iceland's coast, but Britain learned quickly that mere presence was insufficient to dissuade the Icelanders from fishing wherever they wanted, nor did it inhibit Icelandic coast guard operations against British trawlers.

When thinking about the nature of China's claims in the SCS, comparatively innocuous activities such as FONOPs likely have little meaningful long-term impact on China's competitive activities in disputed waters, regardless of its immediate reactions to FON transits. When China submitted its *notes verbales* of 2009 and 2011 to the United Nations with respect to its nine-dash-line claim and claims over the waters around the Spratly Islands, it specified those claims in terms of UNCLOS and did not claim sovereignty over the whole maritime area within the nine-dash line, as is popularly described in the media. China's 2009 note, responding to a joint submission to the Commission on the Limits of the Continental Shelf by Vietnam and Malaysia, asserted that it "enjoys sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof (see attached map [that is, the nine-dash line])."¹¹² Similarly, and notwithstanding the weakness of its sovereignty claim over Philippine land features, subsequently denied in the PCA's 2016 ruling, China claimed in its 2011 note that "China's Nansha [Spratly] Islands [are] fully entitled to Territorial Sea, Exclusive Economic Zone (EEZ) and Continental Shelf."¹¹³ Mere naval transits and presence outside twelve miles from claimed land features such as the Spratly Islands, while they may normalize maritime interactions and military activities in the SCS and may dissuade the Chinese from escalating their claims, neither pose any legal threats to nor impose any costs on China. In fact, when transits intentionally respect those twelve-mile maritime boundaries they even may provide implicit recognition of China's claims to those features.

What, then, does effective competition look like? What tactics can smaller or extraregional powers use against great powers such as China? The Second Cod War suggests four principal competitive strategies, listed here, that may be used in any combination. They are explored below in the context of the SCS disputes.

1. Establish mechanisms of competitive reciprocity.
2. Develop technologies that target a competing claimant's ability to compete.
3. Enable partners with arbitral mandates to posture in disputed areas.
4. Establish a neutral maritime task force to provide physical protection and monitor rule-following behaviors.

Game theory informs us that establishing reciprocity in a strategic relationship with iterative interactions forces cooperation; otherwise both parties in the

relationship stand to lose.¹¹⁴ In sea disputes, if both parties have positions from which they can impose precise and proportional reciprocal costs on each other, competitive advantages shaped by asymmetries are nullified, unless or until one side can establish a new relative advantage. This allows, even demands, new competitive means to replace the earlier ones, or to better compel the parties toward peaceful resolution. Toward the end of the Second Cod War, Iceland imposed reciprocal costs on rule-breaking British tugs, trawlers, and maritime patrol aircraft as well as Royal Navy frigates by withholding safe harbor for platforms experiencing emergencies and by preventing flight safety by not providing air traffic control guidance to military aircraft involved in the dispute. Iceland's coup de grâce was blacklisting trawlers that broke the terms given to them for temporary fishing rights in specified zones. The key part of this cost imposition was that when certain trawlers were blacklisted, Iceland did not allow Britain to replace them on the agreed-upon annual quota list of authorized vessels. It was a tit for tat, but with a hook that the reciprocal action would result in a new and permanent cost imposition on the rule breaker.

To establish similar mechanisms of competitive reciprocity in the SCS disputes, the weaker contenders first must establish positions from which to carry out the reciprocal actions. These could be remote fisheries or zones of seabed and subsoil exploration that overlap areas claimed by China and are frequented by the Chinese coast guard, Chinese long-distance fishing trawlers, and Chinese seabed and subsoil exploration platforms and companies. The second condition for competitive reciprocity is a legal mandate, such as the Philippines' favorable ruling from the PCA in 2016. Such rulings provide weaker claimants with a moral and legal position that possesses international legitimacy and puts leverage behind their enforcement efforts. The third element is to set the terms of these zones (potentially with some access rights for China), then allow the other claimants to enforce them as well, and to impose access costs against all Chinese violations, as Iceland did to Britain with its trawler blacklist in the Second Cod War. Over time, if rule breaking continues and is documented, the claimants politely could expunge the Chinese from temporary access agreements, employing a strategy similar to Iceland's.

The second set of activities to impose costs in sea disputes while keeping the dispute below thresholds for open conflict is to develop technologies that directly target an opponent's ability to exploit resources or gain access within the disputed areas, in much the same way that Iceland used warp cutters against British fishing gear. It is critical that these activities have a high probability of remaining nonlethal in execution; otherwise they risk unproductive escalation. In the SCS, net cutting is certainly one way to impose costs on China's fishing industry and could be carried out in a reciprocal and proportional way, as noted

previously. Other critical Chinese capabilities that could be targeted are seabed and oil exploration platforms. Technologies such as unmanned underwater vehicles (UUVs) capable of cutting electrical and control cables to Chinese undersea-exploration equipment operating in the claimant's zone improperly may be the most effective tactic for imposing costs on China in the SCS moving forward. Another option may be to use UUVs and similar technologies to disable Chinese dredges illegally building up artificial islands from which to posture military and industrial capabilities, such as those China constructed in the Spratly Islands.¹¹⁵ Also, interposed with a campaign of high-tech interference intended to frustrate and impose cost, technologies and tactics would need to be developed to provide air, surface, and subsurface protective measures for the weaker claimants to preserve their competitive advantage and protect their own critical maritime economic activity from Chinese retaliation. (This is also an area in which security guarantees from a stronger, extraregional partner such as the United States might be explored.)

The third category of competitive activity is enabling claimants to posture their regulatory, trade, and military capabilities in and around the disputed areas. For interested extraregional parties, helping claimants organize and normalize a vibrant ecosystem of this state power in the disputed waters is crucial for the successful realization of the claims. Much like Iceland in the Second Cod War, China has consolidated and expanded its maritime institutions by combining its marine surveillance, fisheries law enforcement, and maritime customs bureaucracies under a new coast guard and placed it under the Central Military Commission.¹¹⁶ The China Coast Guard now can perform maritime enforcement and exploitation activities at a great distance and take advantage of augmentation from the People's Liberation Army Navy. For the weaker contenders in the SCS disputes to compete against the weight of China's capabilities, they too must organize and deploy their maritime assets regularly and enforce their claims using nonlethal means as necessary. To be even more effective, a weaker claimant could build up its own land features in the disputed waters in much the same fashion as China has, then use them similarly to strengthen regulatory authority over the claimant's EEZ while improving maritime surveillance and enforcement. Claimants also could create fish conservation zones or exploitation zones around these sites and offer temporary or more permanent access to these zones to more-cooperative and -compliant neighbors. Assisting contenders to establish, nurture, and resource trade associations such as fishing federations also would help the ecosystem to flourish and enable the claimants to compete at sea. These investments and efforts, bolstered by extraregional investment and assistance, could go a long way toward ensuring the permanent effect of a legal ruling on behalf of claimants opposing China's creeping maximalism.

Lastly, defense alliances do not contribute directly to competition but do deter sea disputes from escalating to open conflict. However, establishment of a maritime task force by states that share common interests in the UNCLOS regime and are willing to provide physical protection and to monitor or enforce compliance with arbitral rulings may be an effective path. This method may be a way to ensure that international law is normalized over time and ensure that claimants such as China that are on the wrong side of UNCLOS come to recognize its terms over time. Such a maritime task force may be more successful if it does not threaten directly China's interests outside the dispute in question, so it might be better if its members are neutral external states, rather than countries such as the United States, which, even though it claims to take no side in the sovereignty disputes, nonetheless remains a Pacific power itself.

These four strategies should be mutually reinforcing and relentlessly coordinated, in much the same fashion that Iceland coordinated its campaigns in the Anglo-Icelandic sea disputes; any one of the four alone is insufficient to succeed against the structure and asymmetries of the SCS disputes. It also bears repeating that these activities are not viable competitive means if they lack the legitimacy provided by some internationally recognized mandate aligned with UNCLOS. Similarly, effective, legitimate participation and assistance from extraregional powers is predicated on a clear invitation and request from a claimant.

As the brief treatment above implies, even closer comparative analyses of the Anglo-Icelandic disputes and the sea disputes in East and Southeast Asia are warranted. The stakes are high, and one hopes that the competitive lessons from the Second Cod War will inform claimants and other interested parties and incline them toward more-peaceful and -effective paths to dispute resolution.

The Philippines case was chosen as illustrative because much of that country's dispute with China has been resolved—in the view of the UNCLOS regime—by the Permanent Court of Arbitration's 2016 ruling. To the extent that China ever had historic rights to resources in the waters under consideration, they were extinguished because they were incompatible with the EEZs provided for in the convention, which China ratified. The PCA also concluded that there was no legal basis for China to claim historic rights to resources within the sea areas falling within the nine-dash line; that none of the features China was claiming was capable of generating an EEZ; and that China had violated the Philippines' sovereign rights in its EEZ by interfering with Philippine fishing and petroleum exploration, constructing artificial islands, and failing to prevent Chinese fishermen from fishing in the zone.¹¹⁷

The basis for effective competition against China in the SCS disputes begins with an invitation from one of the rival claimants and the resulting mandate.

The Philippines is primed to meet those criteria if the country's next government (after the May 2022 general election) is more aggressive against the PRC's SCS claims than President Rodrigo Duterte was in office. Although the country's enforcement of the 2016 ruling has been anemic to date, the Philippines could request support for its claims from the United States, European states, or NATO. These actors ought to be ready to assist the Philippines and others in their competition against excessive Chinese claims in East and Southeast Asia.

The Anglo-Icelandic disputes are an imperfect analogy to the South China Sea disputes, owing to the distinct structural differences between the disputes and the asymmetries created by their respective structures. Nonetheless, the Anglo-Icelandic sea disputes provide lessons that should be carried forward to inform great and small powers alike about how to compete for limited objectives and win without fighting an open war.

NOTES

The epigraphs are taken from, respectively, Magnus Vidar Sigurdsson, dir., *Cod Wars* (London: BBC, 2000), and Hannes Jónsson, *Friends in Conflict: The Anglo-Icelandic Cod Wars and the Law of the Sea* (London: C. Hurst, 1982), p. 140.

1. James C. F. Wang, *Handbook on Ocean Politics & Law* (New York: Greenwood, 1992), p. xi.
2. A note on terminology: I use *sea disputes* throughout instead of *maritime disputes*, which may be more familiar to readers, as *sea dispute* is the normalized application in international law. The reason for this is that the United Nations Convention on the Law of the Sea (UNCLOS) holds the territorial sea as the preeminent legal basis for its existence. The airspace and seabed adjacent to the territorial sea are sovereign only because the territorial sea is sovereign. Other than addressing land features as special cases, UNCLOS does not address the sovereignty of land whatsoever, whereas the term "maritime" includes land within its more generalized definition, specifically within the littorals. Therefore, the term *sea dispute* is related, if not central, to this article, as the development of UNCLOS occurred in parallel with the competition between Britain and Iceland. United Nations Convention on the Law of the Sea, *opened for signature* 10 December 1982, 1833 U.N.T.S., p. 397 [hereafter UNCLOS].
3. Unless specified otherwise, distances stated in miles throughout refer to nautical, not statute, miles.
4. UNCLOS eventually defined the EEZ as a zone that "shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured," wherein the coastal state "enjoys sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters sup[e]rjacent to the sea-bed and of the sea-bed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds." *Ibid.*, pp. 418–19.
5. Modern sea disputes may involve civilian coast guards, maritime patrol forces, or state-contracted vessels to achieve quasi-military objectives even though they are acting in official, nonmilitary roles.
6. Robb Robinson, *Trawling: The Rise and Fall of the British Trawl Fishery* (Exeter, U.K.: Univ. of Exeter Press, 1996), pp. 7–8.
7. Longlines are set horizontally either on the ocean floor to catch bottom-dwelling fish (demersal longlines) or near the surface of the water (pelagic longlines). Longlines can be tens of kilometers long and carry thousands

- of hooks. Baited hooks are attached to the longline by short lines called snoods that hang off the mainline.
8. Robinson, *Trawling*, pp. 7–8.
 9. Andrew Welch, *The Royal Navy in the Cod Wars: Britain and Iceland in Conflict (1958–1976)* (Liskeard, U.K.: Maritime Books, 2006), p. 5.
 10. Robinson, *Trawling*, p. 5, table 8.
 11. *Ibid.*, p. 106.
 12. Sir Andrew Gilchrist, *Cod Wars and How to Lose Them* (Edinburgh, U.K.: Q Press, 1978), pp. 9, 13. Emphasis in original.
 13. Fishing contributed between 62 and 94 percent of Iceland's exports in the period 1881–1980 and between 15 and 20 percent of its gross national product (GNP). Conversely, Britain's fishing industry contributed to less than 1 percent of the country's GNP during the same period. See Jónsson, *Friends in Conflict*, p. 7 and table on p. 211. Both countries made several appeals to the European Fisheries Commission and the International Council for the Exploration of the Sea.
 14. Gilchrist, *Cod Wars*, p. 54.
 15. Sigurdsson, *Cod Wars*.
 16. *Ibid.*
 17. Philip Allott, "Mare Nostrum: A New International Law of the Sea," *American Journal of International Law* 86, no. 4 (1992), p. 764.
 18. Jónsson, *Friends in Conflict*, p. 31.
 19. It is important to understand the concept of *mare liberum* as not being merely "freedom of navigation." Although freedom of navigation would be considered a component of *mare liberum* theory, the concept is much broader and includes the freedom of exploitation and exploration of the seas as well.
 20. Jónsson, *Friends in Conflict*, p. 31.
 21. The three-mile limit was chosen on the basis of early nineteenth-century artillery ranges (the idea being that a state could police the seas only as far as it could shoot at a transgressor) and was upheld as a customary standard in the West until states began expanding their territorial-sea claims in the twentieth century. Welch, *The Royal Navy in the Cod Wars*, p. 8.
 22. At the time of Truman's proclamation there was no mechanism to determine the delimitation of the claimed shelf. Subsequently, UNCLOS delimited the extent of the continental shelf by defining the outer points of a state's shelf as sixty miles from the foot of the continental slope or at a location where the thickness of sediment is at least 1 percent of the shortest distance to the foot of the continental slope, or both. UNCLOS further delimited the shelf by specifying that it shall not exceed either 350 miles from a state's baselines or one hundred miles from the 2,500-meter isobath. Proclamation No. 2667, 10 Fed. Reg., p. 12305 (2 October 1945); UNCLOS, p. 428.
 23. Welch, *The Royal Navy in the Cod Wars*, p. 83.
 24. China's "nine-dash line" demarcates its claim to various rights in the South China Sea in an area roughly bounded by the coasts of China, Vietnam, Malaysia, Indonesia, the Philippines, and Taiwan. The area is derived from a map issued by China's Nationalist government before 1949 and submitted to The Hague that year without much attention or any dispute lodged. China attempted to clarify the nature of its claims within the nine-dash line with a *note verbale* submitted on 7 May 2009 to the United Nations in response to a joint submission by Vietnam and Malaysia to the Commission on the Limits of the Continental Shelf; in it China affirmed that it "has indisputable sovereignty over the islands in the South China Sea and the adjacent waters, and enjoys sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof (see attached map [that is, the nine-dash line])." Subsequently, in April 2011, China exchanged diplomatic *notes verbales* with the Philippines, China's note stating: "China's Nansha Islands [known elsewhere as the Spratly Islands] [are] fully entitled to Territorial Sea, Exclusive Economic Zone (EEZ) and Continental Shelf." Note that in the 2009 and 2011 *notes verbales*, China claimed sovereignty over the islands bounded within the nine-dash line and a territorial sea, EEZ, and continental shelf around the adjacent waters of those islands, citing China's historic title to those islands and the principle of *la terre domine la mer* (i.e., the land dominates the

sea in regard to jurisdiction and sovereignty). Although China never claimed sovereignty over the entire area encompassed by the nine-dash line in these notes—as is often ascribed to China—and article 15 of UNCLOS allows for variances (based on either historic title or other special circumstances) to the rule that the territorial sea between states with opposite or adjacent coasts must be delimited to the median between those states, the fact that the claims made are up to eight hundred nautical miles from China's mainland is incompatible with UNCLOS and the tenets of the EEZ, which is precisely what the Permanent Court of Arbitration ruled in 2016 against China and in favor of the Philippines in their sea dispute over the Spratly Islands. See Permanent Mission of China to the U.N., Note Verbale CML/17/2009 from the Permanent Mission of China to the Secretary-General (7 May 2009); and Permanent Mission of China to the U.N., Note Verbale CML/8/2011 from the Permanent Mission of China to the Secretary-General (14 April 2011).

25. It is not incorrect to think about the Santiago Declaration as an extension of the territorial sea rather than establishment of an EEZ, as the signatories did not specify that sovereign rights in the zone were limited to economic interests such as exploring, exploiting, conserving, and managing the natural resources of the waters, seabed, and subsoil within. They did imply this, however, as they point out in the declaration that their own former extension of a territorial sea and contiguous zone were inadequate to conserve, develop, and exploit natural resources to which they should be entitled as coastal states. Declaration on the Maritime Zone, Chile-Ecuador-Peru, 18 August 1952, 1006 U.N.T.S., p. 326.
26. At Iceland's initiative, the International Law Commission of the United Nations was asked to study for codification the rules of international law on the territorial sea limit. The commission received inputs from member states and published their positions in 1953. Seventeen states supported the three-mile limit either alone or with some form of contiguous zone for customs and sanitary control (these included Germany, the United Kingdom, and the United States); four states favored a four-mile limit (Finland, Iceland, Norway, and Sweden); fourteen states favored a six-mile limit; six states favored a twelve-mile limit; and ten states raised special claims concerning their continental shelves. Jónsson, *Friends in Conflict*, p. 42.
27. Secretary of State for the Co-ordination of Transport, Fuel and Power, First Lord of the Admiralty, and Minister for Transport, joint memorandum, "Territorial Waters," CAB 129/54/5, 22 July 1952 [hereafter "Territorial Waters," 1952], p. 1, The National Archives, Kew, U.K. [hereafter UKNA].
28. Present-day law of the sea defines normal baselines for the measurement of maritime zones as being drawn from the low-water mark along the coast; several other baseline-measurement categories fall beyond the scope of this paper.
29. Jónsson, *Friends in Conflict*, pp. 55, 59.
30. *Ibid.*, p. 80.
31. *Ibid.*
32. Gilchrist, *Cod Wars*, p. 45.
33. Jónsson, *Friends in Conflict*, p. 55.
34. Cabinet Office, "Territorial Waters," 1958, p. 4, CAB 128/32, UKNA.
35. Welch, *The Royal Navy in the Cod Wars*, p. 83. Also see Exchange of Notes Constituting an Agreement between Iceland and the United Kingdom of Great Britain and Northern Ireland Settling the Fisheries Dispute between the Government of Iceland and the Government of the United Kingdom of Great Britain and Northern Ireland, 11 March 1961, 397 U.N.T.S., p. 275.
36. Jónsson, *Friends in Conflict*, p. 110.
37. *Ibid.*, p. 115.
38. No universal distance for the breadth of the territorial sea had been accepted yet in international law, and therefore none was specified in the Santiago or Montevideo Declaration. This was owing in large part to the significant number of states that supported a territorial sea delimitation of three, four, or six nautical miles when the United Nations Convention on the Territorial Sea and Contiguous Zone of 1958 was signed. This convention did not specify a universal distance whatsoever for the territorial sea, and it remained the international statutory precedent until UNCLOS was signed in 1982, specifying a territorial sea of twelve nautical miles from a coastal state's baseline.

39. Jónsson, *Friends in Conflict*, pp. 118, 194.
40. *Ibid.*, p. 119.
41. Robinson, *Trawling*, p. 5, table 8.
42. Recall that the Progressive Party had issued the regulation extending the fisheries limit from four to twelve miles.
43. Gilchrist, *Cod Wars*, p. 45.
44. Jónsson, *Friends in Conflict*, p. 128.
45. Application Instituting Proceedings Submitted by United Kingdom, Fisheries Jurisdiction (U.K. v. Ice.), I.C.J. Pleadings, p. 1. See Ministry for Foreign Affairs [Iceland], "Government of Iceland's Aide-Mémoire of 31 August 1971," annex C, p. 24; Ministry for Foreign Affairs [Iceland], "Government of Iceland's Aide-Mémoire of 24 February 1972," annex H, p. 26; and Icelandic Ministry of Foreign Affairs, memorandum, "Fisheries Jurisdiction in Iceland," February 1972, enclosure 2 to annex H, pp. 27–28.
46. 821 Parl Deb HC (5th ser.) (1971) cols. 1408–18, UKNA.
47. "Oversea Affairs: Icelandic Fisheries Dispute," in Conclusions of a Meeting of the Cabinet . . . , 22 June 1972, CAB 128/50/32, p. 7, UKNA.
48. *Ibid.*
49. Jónsson, *Friends in Conflict*, p. 152; Secretary of State for Foreign and Commonwealth Affairs and Minister for Agriculture, Fisheries and Food [U.K.], "Fisheries Dispute between the United Kingdom and Iceland, 14 July 1971 to 19 May 1973" (draft white paper, 18 June 1973), CAB 129/170/10, p. 3, UKNA.
50. Welch, *The Royal Navy in the Cod Wars*, p. 95.
51. Robinson, *Trawling*, p. 5, table 8.
52. Jónsson, *Friends in Conflict*, p. 133.
53. Secretary of State for Foreign and Commonwealth Affairs and Minister for Agriculture, Fisheries and Food, "Fisheries Dispute," p. 5.
54. Andrew Mack, "Why Big Nations Lose Small Wars: The Politics of Asymmetric Conflict," *World Politics* 27, no. 2 (January 1975), pp. 175–200, esp. p. 182.
55. Robinson, *Trawling*, pp. 7–8.
56. Welch, *The Royal Navy in the Cod Wars*, p. 95.
57. "Territorial Waters," 1952, p. 3.
58. Julian Stafford Corbett, *Some Principles of Maritime Strategy* (Annapolis, MD: Naval Institute Press, 1988), p. 57.
59. Welch, *The Royal Navy in the Cod Wars*, p. 108.
60. At the beginning of the Second Cod War, Britain's long-distance trawling fleet produced nearly one and a half times the catch of the inshore fishermen who worked the English Channel and North Sea, giving the former great influence within the industry and politics. Robinson, *Trawling*, p. 5, table 8.
61. Jónsson, *Friends in Conflict*, p. 175.
62. "Oversea Affairs," in Conclusions of a Meeting of the Cabinet . . . , 2 October 1973, CAB 128/53/4, p. 1, under "Iceland," UKNA.
63. Jónsson, *Friends in Conflict*, pp. 118, 121.
64. Gilchrist, *Cod Wars*, p. 45.
65. Jónsson, *Friends in Conflict*, p. 118.
66. "Territorial Waters," 1952, p. 1.
67. Jónsson, *Friends in Conflict*, p. 140.
68. *Ibid.*, p. 216; Welch, *The Royal Navy in the Cod Wars*, p. 301; Sigurdsson, *Cod Wars*. I estimate that the British trawlers made a best speed of four to eight knots when their trawl nets were deployed.
69. Welch, *The Royal Navy in the Cod Wars*, pp. 89, 98, 117, 310, 312.
70. Admiralty, Captain, Fisheries Protection Squadron Operations Order 1-58: Operation WHIPPET, 1958, ADM 306/6, p. 2, UKNA.
71. Welch, *The Royal Navy in the Cod Wars*, p. 131.
72. *Ibid.*, p. 117. Emphasis added. Capt. Andrew Welch, RN (Ret.), captured the essence of Operation DEWEY in his history of the Cod Wars. Although no reference is provided in support of his overview of the British operation that directed British naval actions in the Second Cod War, it is possible that the source used was BR 1736 (57), the official Naval Staff History of the conflict entitled *The Cod War: Naval Operations off Iceland in Support of the British Fishing Industry (1958–76)*, which is referenced only in the front matter of his book. Regardless, the United Kingdom has not yet released officially the Admiralty records of the Second and Third Cod Wars; they, along with the official Ministry of Defence records of the Falklands War, remain concealed from public view.
73. Robinson, *Trawling*, p. 238.
74. Sigurdsson, *Cod Wars*.
75. Jónsson, *Friends in Conflict*, p. 137.

76. Comment by Cdr. Sigurdur Steinar Ketilsson, ICG (Ret.). Sigurdsson, *Cod Wars*.
77. Welch, *The Royal Navy in the Cod Wars*, p. 287.
78. Ibid., pp. 101–102, 106, 214.
79. Ibid., p. 107.
80. Jónsson, *Friends in Conflict*, p. 137.
81. Welch, *The Royal Navy in the Cod Wars*, pp. 115, 118; Jónsson, *Friends in Conflict*, p. 143.
82. Welch, *The Royal Navy in the Cod Wars*, pp. 107, 161.
83. Ibid., p. 113.
84. Ibid., p. 115. *Wave Chief* was a vessel of the Royal Fleet Auxiliary, operated by the Ministry of Defence to provide maritime logistical support.
85. Ibid., pp. 103, 118.
86. Jónsson, *Friends in Conflict*, pp. 143, 220.
87. Ibid., p. 146.
88. Welch, *The Royal Navy in the Cod Wars*, p. 120.
89. Ibid., p. 122.
90. Ibid., pp. 137–39.
91. Ibid., p. 139.
92. Ibid., pp. 147, 149.
93. Ibid., p. 155.
94. Jónsson, *Friends in Conflict*, pp. 152–53.
95. Welch, *The Royal Navy in the Cod Wars*, p. 161; Jónsson, *Friends in Conflict*, p. 152.
96. Welch, *The Royal Navy in the Cod Wars*, p. 61.
97. Robinson, *Trawling*, p. 248.
98. Welch, *The Royal Navy in the Cod Wars*, p. 142.
99. Gilchrist, *Cod Wars*, p. 113.
100. Jónsson, *Friends in Conflict*, p. 182.
101. Zou Keyuan, “Historic Rights in International Law and in China’s Practice,” *Ocean Development & International Law* 32, no. 2 (April 2001), p. 160.
102. While the imagined alternative British strategy for the Second Cod War is a hypothetical and presupposes that the British may have had a window of opportunity between the First and Third Cod Wars to convince a quorum of like-minded states to pursue historical-rights clauses in what eventually would become UNCLOS, the fact of the matter is that UNCLOS implies that signatories have given up historical rights in favor of the EEZ regime under Part V of the convention. Regardless, states such as China in the East and South China Sea disputes still make claims based on historical rights.
103. Jeremy Thompson, “Fly the U.N. Pennant over East Asian Waters,” U.S. Naval Institute *Proceedings* 141/9/1,351 (September 2015), p. 40.
104. China Power Project, “How Much Trade Transits the South China Sea?,” *Center for Strategic and International Studies*, 2 August 2017, chinapower.csis.org/.
105. “Philippines-China Business Relations,” *Philippine Board of Investments*, boi.gov.ph/.
106. Gilchrist, *Cod Wars*, p. 45.
107. Permanent Court of Arbitration, “The South China Sea Arbitration (*The Republic of the Philippines v. The People’s Republic of China*),” press release, 12 July 2016, pcacases.com/.
108. Michael Hart, “Brunei Abandons South China Sea Claim for Chinese Finance,” *Geopolitical Monitor*, 4 April 2018, geopoliticalmonitor.com/.
109. See David Van Dyk, “A First Time for Everything: The United Nations Maritime Task Force in Lebanon,” *Center for International Maritime Security*, 25 March 2019, cimsec.org/, and Thompson, “Fly the U.N. Pennant over East Asian Waters.”
110. Mirna Galic, “As China Poses Challenges, Europe Makes Its Presence Known in the Indo-Pacific,” *United States Institute of Peace*, 3 August 2021, usip.org/.
111. As opposed to *mare liberum* and *mare clausum*, *mare nostrum* was predicated on the acquiescence of ancient Rome’s protectorates. “While the Roman Empire accepted the legal status of the sea as common property for all, nonetheless it declared in the ‘Theory of Glasators’ [*sic*] that it exercised effective control, but not outright ownership, over the Mediterranean Sea [emphasis added]. This exercise of Roman jurisdiction over the adjacent sea was made for two purposes: to extend Caesar’s power onto the sea and to suppress piracy.” See Wang, *Handbook on Ocean Politics & Law*, p. 41.
112. Gilchrist, *Cod Wars*, p. 45.

113. From China's 2011 *note verbale* to the Philippines: "In addition, under the relevant provisions of the 1982 United Nations Convention on the Law of the Sea, as well as the Law of the People's Republic of China on the Territorial Sea and the Contiguous Zone (1992) and the Law on the Exclusive Economic Zone and Continental Shelf of the People's Republic of China (1998), China's Nansha Islands [are] fully entitled to Territorial Sea, Exclusive Economic Zone (EEZ) and Continental Shelf." See Nguyen-Dang Thang and Nguyen Hong Thao, "China's Nine Dotted Lines in the South China Sea: The 2011 Exchange of Diplomatic Notes between the Philippines and China," *Ocean Development & International Law* 43, no. 1 (January 2012), p. 45.
114. Christian Hilbe, Krishnendu Chatterjee, and Martin A. Nowak, "Partners and Rivals in Direct Reciprocity," *Nature Human Behaviour* 2, no. 7 (July 2018), p. 469.
115. The Asia Maritime Transparency Initiative aggregates the development of artificial islands, infrastructure, and construction in the South China Sea. Asia Maritime Transparency Initiative, "Occupation and Island Building," *Center for Strategic and International Studies*, amti.csis.org/. See Permanent Court of Arbitration, "The South China Sea Arbitration," for information on the legality of China's activities in the Spratly Islands from the PCA's 2016 ruling.
116. Shigeki Sakamoto, "China's New Coast Guard Law and Implications for Maritime Security in the East and South China Seas," *Lawfare* (blog), 16 February 2016, lawfareblog.com/.
117. Permanent Court of Arbitration, "The South China Sea Arbitration."