

PREM19

49

ENERGY

(UK/Australia
nuclear safeguards
agreement)

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UK / Australian Nuclear Safeguards Agreement.

ENERGY

June 1979

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
4.7.79							
5.7.79							
12.7.79							
<p>PREM 19/49</p>							



Energy 2



Foreign and Commonwealth Office

London SW1A 2AH

12 July 1979

Dear Bryan,

Prime Minister

SM

13/7

UK/AUSTRALIA NUCLEAR SAFEGUARDS AGREEMENT

In your letter of 4 July you asked that we should make it clear to the Australians, for Mr Fraser's benefit, that Commission acceptance of the UK/Australia safeguards agreement was achieved as a direct result of the Prime Minister's personal intervention with Mr Jenkins. The High Commission subsequently took action to make this point to Mr Fraser's office.

You should know that the Press Statement issued by the Australian Prime Minister on 7 July, in which he welcomed the fact that this safeguards agreement could at last become a reality following formal clearance for it from the European Commission, included the following paragraph:-

"Mr Fraser said that in his discussions with the British Prime Minister in Canberra last weekend, he had emphasised the importance of an Australia/United Kingdom agreement and was grateful that, as a result of these discussions, Mrs Thatcher had personally intervened with the President of the European Commission, Mr Jenkins."

and H

I am copying this letter to Bill Burroughs (Department of Energy).

Tom
Walden

(G G H Walden)

B G Cartledge Esq
10 Downing Street

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12 JUL 1979

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DESKBY CANBERRA 052330Z

DESKBY UKREP BRUSSELS 060830Z

FM FCO 051941Z JUL 79

TO IMMEDIATE CANBERRA

TELEGRAM NUMBER 308 OF 5 JULY

INFO IMMEDIATE UKREP BRUSSELS

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M I P T: U K/AUSTRALIA NUCLEAR SAFEGUARDS AGREEMENT.

1. TEXT OF PRESS ANNOUNCEMENT BY NO 10 IS AS FOLLOWS:-

U.K./AUSTRALIA NUCLEAR SAFEGUARDS AGREEMENT

THE EUROPEAN COMMISSION INFORMED THE BRITISH GOVERNMENT ON WEDNESDAY THAT THEY HAD NO FURTHER OBJECTIONS TO THE SIGNATURE OF A NUCLEAR SAFEGUARDS AGREEMENT BETWEEN THE UNITED KINGDOM AND THE AUSTRALIAN GOVERNMENTS WHICH BOTH PARTIES INITIALLED LAST YEAR.

THIS FOLLOWS A PERSONAL INTERVENTION BY THE PRIME MINISTER WITH THE PRESIDENT OF THE COMMISSION, FOLLOWING HER DISCUSSIONS IN CANBERRA LAST WEEKEND WITH THE PRIME MINISTER OF AUSTRALIA. THE AGREEMENT, WHICH OPENS THE WAY TO THE SUPPLY OF URANIUM FOR THE U K CIVIL NUCLEAR PROGRAMME, IS EXPECTED TO BE SIGNED SHORTLY.

NOTES FOR EDITORS

THE COMMISSION RAISED CERTAIN PROBLEMS IN CONNECTION WITH THE AGREEMENT WHEN IT WAS SUBMITTED TO THEM UNDER THE PROCEDURE LAID DOWN IN THE EURATOM TREATY (ARTICLE 103), IN JULY 1978. DISCUSSIONS IN THE MEANTIME BETWEEN THE U K AND AUSTRALIAN GOVERNMENTS AND THE U K AND THE COMMISSION HAVE PRODUCED A SATISFACTORY CLARIFICATION OF THE LEGAL ISSUES RAISED BY THE COMMISSION. THESE WILL BE INCORPORATED IN AN AGREED MINUTE TO BE ANNEXED TO THE AGREEMENT. THE TERMS OF THE AGREEMENT ITSELF DID NOT NEED TO BE MODIFIED. THE COMMISSION HAS IN ADDITION ASKED THAT THE U K AND AUSTRALIAN GOVERNMENTS AGREE TO RECONSIDER THE AGREEMENT BEFORE THE END OF 1982 IN THE EVENT OF THERE BEING NO SAFEGUARDS AGREEMENT BETWEEN THE COMMUNITY AND AUSTRALIA BY THEN. THIS POINT WILL BE DISCUSSED WITH THE AUSTRALIAN GOVERNMENT BUT NO DIFFICULTIES ARE ANTICIPATED.

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| SUPPLEMENTARY

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SUPPLEMENTARY QUESTIONS

1. WHY HAS IT TAKEN SO LONG TO OBTAIN COMMISSION AGREEMENT?

THE COMMISSION RAISED POINTS OF LEGAL INTERPRETATION RELATING TO THE FREE MOVEMENT OF MATERIALS WITHIN THE COMMUNITY AND TO THE ROLE OF THE EURATOM SUPPLY AGENCY. IT HAS TAKEN TIME TO ACHIEVE A MUTUALLY ACCEPTABLE FORMULATION WHICH FULLY MEETS THE CONCERN OF ALL THREE PARTIES. THE DIFFICULTIES HAD NOTHING TO DO WITH THE ADEQUACY OF U K SAFEGUARDS OF SAFETY MEASURES.

2. HAS THE COMMISSION INSISTED ON A TIME LIMIT TO THE AGREEMENT?

THE COMMISSION HAS LIFTED THEIR OBJECTIONS TO THE AGREEMENT SUBJECT TO THE U K AND AUSTRALIA AGREEING TO RECONSIDER THE AGREEMENT IN 1982 IF THERE IS NO EURATOM SAFEGUARDS AGREEMENT BY THEN. IT WAS ALWAYS ENVISAGED THAT THE U K/AUSTRALIA AGREEMENT WOULD BE OF AN INTERIM NATURE, PENDING CONCLUSION OF A SAFEGUARDS AGREEMENT BETWEEN AUSTRALIA AND EURATOM. THE U K/AUSTRALIA AGREEMENT SPECIFICALLY STATES THAT ITS PROVISIONS WILL, WHERE APPROPRIATE, BE SUPERSEDED BY THE PROVISIONS OF A SAFEGUARDS AGREEMENT CONCLUDED BETWEEN AUSTRALIA AND EURATOM. WILLINGNESS TO RECONSIDER THE AGREEMENT IN 1982 IF THERE IS NO EURATOM AGREEMENT BY THEN IS VERY MUCH IN LINE WITH THAT APPROACH AND CAUSES US NO PROBLEMS. WE BELIEVE THAT IT IS ALSO LIKELY TO BE ACCEPTABLE TO THE AUSTRALIANS.

3. WILL THE AGREEMENT BE PUBLISHED?

THE AGREEMENT, TOGETHER WITH THE AGREED MINUTE WILL BE PUBLISHED ON SIGNATURE AND LAID BEFORE PARLIAMENT IN THE NORMAL FASHION.

CARRINGTON

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FILES

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PS/LPS
PS/MR BLAKER

PS/PUS
SIR A DUFF
MR CORTAZZI
MR P. H. MOBERLY
MISS BROWN

COPIES TO
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MR NEUBERGER } D/ENERGY
MR WADDAMS BNFL

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DESKBY 052330Z CANBERRA
DESKBY 060830Z UKREP BRUSSELS
FROM F C O 051940Z JUL 79
TO IMMEDIATE CANBERRA
TELEGRAM NUMBER 307 OF 5 JULY
INFO IMMEDIATE UKREP BRUSSELS.

Handwritten:
K... ma.
HM
6/7

UK/AUSTRALIA NUCLEAR SAFEGUARDS AGREEMENT.

1. M.I.F.T. CONTAINS TEXT OF A PRESS ANNOUNCEMENT TO BE MADE BY NO 10 AT 1000Z ON 6 JULY. THIS FOLLOWS ISSUE OF A PRESS STATEMENT, BY THE COMMISSION ON 5 JULY, THAT THEY HAD DECIDED TO LIFT THEIR OBJECTIONS TO THE BILATERAL.

2. THE AUSTRALIAN AUTHORITIES WILL HAVE BEEN INFORMED OF THESE DEVELOPMENTS BY THE HIGH COMMISSION TO WHOM WE HAVE GIVEN THE GIST OF THE ANNOUNCEMENT. PLEASE INFORM YOUR CONTACTS OF THE TIMING OF ITS RELEASE.

3. THE COMMISSION ANNOUNCEMENT INCLUDED THE MISLEADING STATEMENT (WHICH WE HAVE ENDEAVOURED TO CORRECT) THAT THE PROVISIONS OF THE AGREEMENT HAVE BEEN MODIFIED TO THE COMMISSION'S SATISFACTION. YOU MAY THEREFORE NEED TO DRAW ATTENTION TO THE TERMS OF THE NOTES FOR EDITORS IN ORDER TO CORRECT ANY IMPRESSION THAT THE TERMS OF THE AGREEMENT ITSELF HAVE BEEN MODIFIED AT THE BEHEST OF THE COMMISSION.

CARRINGTON

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- PS/PUS
- SIR. A. DUFF
- MR CORTAZZI
- MISS BROWN

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- MR MANLEY
- MR NEUBERGER } D/ENERGY
- MR WADDAMS, BNFL

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cc/D/W
CO
Energy
JS

10 DOWNING STREET

From the Private Secretary

4 July 1979

Dear Paul,

UK/AUSTRALIA SAFEGUARDS AGREEMENT

Bill Burroughs in the Department of Energy provided, with his letter of 2 July to Mike Pattison, background and speaking notes on which the Prime Minister could draw in pursuing her intention, in the light of her discussions with Mr. Malcolm Fraser in Canberra on 1 July, to telephone the President of the European Commission about the UK/Australia Safeguards Agreement in advance of the Commission's final consideration of this problem today.

The Prime Minister spoke to Mr. Jenkins on the telephone at 1900 yesterday evening, 3 July. The Prime Minister strongly emphasised the very great difficulty which the Commission's objections to the Agreement were creating, not only in the UK's relations with her foremost supplier of uranium but also, potentially, in domestic UK political opinion towards the EEC. Mr. Jenkins said that he was anxious to be helpful and that the Commission would not insist on the incorporation of a time limit in the UK/Australia Agreement provided that the Agreement could be accompanied by an exchange of letters making clear its provisional character. The Prime Minister said that she doubted whether the Australians could agree to anything more restrictive than an undertaking to review the Agreement after a stated period; alternatively, the exchange of letters could say that the Agreement would lapse on the conclusion of an agreement between Euratom and Australia. Mr. Jenkins said that this latter alternative would not be sufficient to get round the Commission's legal problem; the Commission could not risk being taken before the European Court for failing to observe the Treaty. The time limit in the exchange of letters could, for example, be eighteen months which would have the advantage that it would expire during the lifetime of the present Commission; in that case he would give the Prime Minister a personal undertaking that he would regard himself as committed to renewal. A more extended time limit of, for example, three years could also be considered but its expiry would then occur during the lifetime of the next Commission.

/The Prime Minister

The Prime Minister told Mr. Jenkins that a time limit of only eighteen months would be useless and that the Australians would not accept it. She would be willing to contemplate an exchange of letters containing an undertaking to review the agreement before the end of 1982. Mr. Jenkins said that his preference would be for a formula saying that the Agreement should be "reconsidered for possible renewal". He did not believe that there would, in practice, be any difficulty about renewal; a Euratom/Australia agreement would probably be concluded before very long in any case. The Prime Minister proposed the formula: "This Agreement should be reconsidered for renewal by the end of 1982 if a Euratom/Australia agreement has not been concluded". In further discussion, the alternative formula "..... should be reconsidered and would need renewal before the end of 1982....." was mooted. When the Prime Minister had again emphasised the political difficulties which would be created for her if a satisfactory form of agreement could not be arrived at, she and Mr. Jenkins agreed on the following formulation:

"This Agreement would need to be reconsidered before the end of 1982 if no Euratom/Australia agreement had been concluded in the meantime".

The Prime Minister and Mr. Jenkins agreed that they would consult their respective experts overnight; Mr. Jenkins said that, subject to this, he would do his best to get this formulation through the Commission on the following day.

I subsequently asked Mr. Alston of the Joint Nuclear Unit to find out whether the formulation provisionally agreed between the Prime Minister and Mr. Jenkins would be acceptable to our own experts and to the Australians. He informed me this morning that it would be and I therefore telephoned Mr. Tickell in Brussels, before the Commission met, to confirm that this was a formulation which the UK could accept. Mr. Tickell was at first disposed to argue that Mr. Jenkins and the Prime Minister had agreed on two alternative formulations, one of which would contain a reference to "renewal" of the Agreement rather than simply to "reconsideration". He eventually accepted that the formula set out above, containing no reference to "renewal", was the only one on which the Prime Minister and Mr. Jenkins had definitely agreed: but warned me that his preliminary soundings of the Commission lawyers indicated that it would be very hard to get it through the Commission. He telephoned me later to say that the draft letter from the Commission to the UK Government which the Commission would be considering later this morning would be to the following effect:

"/introductory passage thanking the UK for their efforts to meet the Commission's difficulties/ But, as the Government of the United Kingdom are aware, events have moved on since the Commission's comments made on 21 July, 1978, and the Commission is obliged to take into account

/the ruling

the ruling of the European Court on 14 November 1978. The Commission therefore consider it necessary to set some time limit for those provisions of the Agreement referred to in the agreed minute and which are common to a future Euratom/Australia agreement. In this way, the provisional character of the Agreement would be confirmed.

"In these circumstances, the Commission would make no further objection to the Agreement between the UK and Australia, subject to a binding understanding on both sides that the Agreement would need to be reconsidered before the end of 1982 if no Euratom/Australia agreement has been concluded in the meantime."

Mr. Tickell subsequently telephoned me again to say that the draft letter which he had read to me had been approved by the Commission at their meeting this morning, the legal opposition to it having melted away.

I should be grateful if you would arrange for the Australians to be informed, making it clear for Mr. Fraser's benefit that this outcome was achieved as a direct result of the Prime Minister's personal intervention with the President of the Commission.

I am sending copies of this letter to Bill Burroughs (Department of Energy) and Martin Vile (Cabinet Office).

Yours ever,

Bygas Lawrence

Paul Lever, Esq.,
Foreign and Commonwealth Office.

3.7.79

see Marker
of Euro Pol. Brief. May 79

P.A. G.M.
4/7

TRANSCRIPT OF A TELEPHONE CONVERSATION BETWEEN THE PRIME MINISTER
AND MR. ROY JENKINS

PRIME MINISTER: I am sorry to have kept you waiting for a moment. We had another telephone call in.

MR. JENKINS: No, not at all.

PRIME MINISTER: First, I am in very great difficulty about the Safeguards Agreement with Australia. Malcolm Fraser spoke to me about it when I was over there. Doesn't understand why it isn't going through because we have in fact done everything possible to make it compatible with the Treaty and doesn't understand why we can't go ahead and is pretty bitter about it. I am going to have difficulty over here and am just wondering how we can get it through.

MR. JENKINS: Well, I would like to get it through very much and am very anxious to try and be helpful on this. The difficulty is that, although we seem to have met the objections raised last July, inevitably things have changed somewhat since this court judgement which we had in November last year, and had we not had these judgements in July, we would really find it almost impossible to approve it, but we think we could approve it without laying ourselves open which we might otherwise do to other Member States going through the same thing and if we try to stop them possibly be taken to court, or we might indeed be taken to court on approving your Agreement unless we can put a time limit in it. Now we wouldn't insist on the time limit being in the Agreement if there could be an exchange of letters making it provisional with the hope that you share that we can have a EURATOM/Australia Agreement in the meantime. We could then approve it and we must do something about it tomorrow and our intention tomorrow would be to say, Yes we will approve, subject to there being either in the Agreement or in the exchange of letters, a time limit, the exact extent which we could discuss.

PRIME MINISTER: Yes. Could the time limit be to the effect that after a period of X years, it will be reviewed because I think that unless it is in those terms, I really don't think the Australians will go ahead. Alternatively we could say that this Agreement

/will lapse

will lapse when an Agreement between Europe and Australia has been concluded.

MR. JENKINS: Yes, I don't think honestly that would be enough from the point of view of our legal position. As you understand it, we are bound as a Commission to follow ~~the~~ the rule of law in the Community and we would be in an impossible position if we were taken before the court for not observing the Treaty.

PRIME MINISTER. Yes. There is some doubt about it isn't there?

MR. JENKINS: ... observing the Treaty. So I think we would have to have a time limit which would be a time limit in figures rather than a time limit saying it would lapse when there was Euratom / Australia Agreement. But so far as that time limit is concerned, I mean there could be various possibilities. There could be a time limit which could, of course, be reviewed and in my view subject to, I very much hope there will be a Euratom Australia Agreement, and in ~~xxx~~ general effect you are holding that up, we are very very near to one, but we could either have a time limit which would be short, say, 18 months. Now the advantage of that...

PRIME MINISTER: We shan't get it in 18 months. Absolutely useless.

MR. JENKINS: I know it's not useful from the actual point of view of delivery of supplies. The advantage of 18 months, but I'm not saying it must be 18 months, but the advantage of 18 months from your point of view would be that it would be within the lifetime of the present Commission and I would give you a private, personal undertaking that I would regard myself as committed to get it renewed. If we had not got Euratom/Australia Agreement by that stage, or you could go for a longer one, say, three years, but you would then be in the lifetime of the next Commission.

of such an Agreement would probably take a reasonable view but, obviously I can be more committed about something within

PRIME MINISTER: I don't think the Australians would accept such a short period. The thing just wouldn't go ahead and I should then be in acute difficulty and either have to do something very drastic indeed or duly explain to my people why it is not going ahead because he is pretty bitter about it. The only thing that I could do is to have an exchange of letters undertaking to review the Agreement before the end of 1982. But if that doesn't go through it will put me in an acute anti-European difficulty and I don't want to be in it. Because here we are a Tokyo Communique, things might have changed since the judgement, here we are all signing a Tokyo Communique saying nuclear must go ahead.

MR. JENKINS: We are all in favour of that, I assure you.

PRIME MINISTER: And then we are, I think, slow up at the last moment.....

MR. JENKINS: Nuclear going ahead from the Community point of view isn't helped by tearing the Euratom Treaty to tatters.

PRIME MINISTER: Oh I think it would be as a matter of fact. But still.

ROY JENKINS: But still, you ^{will} appreciate that we have to accept.

PRIME MINISTER: But you will appreciate that I have a political problem.

ROY JENKINS: Yes I do. Yes.

PRIME MINISTER:.... and it will break not only here but in Australia and it just won't do.

ROY JENKINS: End of 1982

PRIME MINISTER: Yes. To be reviewed.

ROY JENKINS: The end of 82 is 3½ .

PRIME MINISTER: Well, 2½. End of 82.

ROY JENKINS: A review

PRIME MINISTER: Yes. That's all I can do because you don't just embark on this sort of investment on the basis of 18 months or on the basis of anything.

ROY JENKINS: Now I realise that 18 months in itself does not enable supplies to be delivered. Now as I say, the advantage of 18 months is that it would be within the lifetime of this Commission and I am as sure as I could be that if we did not have, ^{I mean} we are agreed that if there is Euratom/Australia Agreement, that supersedes it.

PRIME MINISTER: Well you can hardly review before the end of 1982 or conclude it if superseded by a Euratom/Australia Agreement.

ROY JENKINS: Yes, that we are agreed on but we would like it to be superseded but that in itself is not enough. But you could wear the end of 1982.

PRIME MINISTER: Reviewed. An exchange of letters between ourselves and Australia undertaking to review the Agreement before the end of 1982.

ROY JENKINS: Review before the end of 1982.

PRIME MINISTER. Yes.

ROY JENKINS: What I would say should be reconsidered for possible renewal. But I would like to stick between those two if I could.

PRIME MINISTER: Reconsidered for renewal.

ROY JENKINS: For possible renewal. Yes. I think there would honestly be no difficulty about renewal in practice. If there was not a Euratom/Australia Agreement, which I believe there will and should be by then. Should and will be. The other way round.

PRIME MINISTER: This Agreement should be reconsidered for renewal by the end of 1982 if a Euratom/Australia Agreement has not been concluded.

ROY JENKINS: Should be reconsidered for renewal. Should be reconsidered and would need renewal before the end of 1982. And would need renewal.

PRIME MINISTER: To be reconsidered and would need renewal before the end of 1982.

ROY JENKINS: Let me just. That is 3½ years.

PRIME MINISTER: If a Euratom/Australia Agreement had not by that time been concluded.

ROY JENKINS: Yes.

PRIME MINISTER: I'll go back and consult whether Australia would wear that and the Foreign Office.

ROY JENKINS: Well I hope

PRIME MINISTER: Somehow I want it through because I will be an acute European embarrassment.

ROY JENKINS: I am very keen that we, I mean, you know it can be extremely tiresome from both our points of view if get fouled up in this tomorrow. I think I could live with that if you could. But it's straining it a bit to be honest, as it is for you. And it is also straining it for me.

PRIME MINISTER: Yes, but they are being jolly difficult if I might say so. I mean my legal information that your advice is not quite the same as yours, but let's not get into that.

ROY JENKINS: That, alas, is often the case.

PRIME MINISTER: Yes.

ROY JENKINS: From different points of view. I mean our fear, to be honest, is that if we did not feel committed by discussions we had last July, if the British come up afresh with this after the November judgement, we couldn't have done it. So we are really leaning over to try and do it. But we did put objections to you which you have largely met. And therefore we feel to that extent committed to be as helpful as possible which in any event on practical grounds, I would like to be.

PRIME MINISTER: Can I just repeat that. We undertake to consider the Agreement for renewal before the end of 1982 if by such time a Euratom/Australia Agreement has not been concluded.

ROY JENKINS: To consider, to reconsider the Agreement before the end of 1982.

PRIME MINISTER: Just one moment, let me take it down. To reconsider the Agreement before the end of 1982.

ROY JENKINS: The Agreement would need to be reconsidered, would need to be reconsidered, I would like to have in, before the end of 1982. Should be reconsidered for renewal if no Euratom/Australia Agreement in the meantime.

PRIME MINISTER: This Agreement would need to be reconsidered before the end of 1982.

ROY JENKINS: And if no Euratom/Australia Agreement.

PRIME MINISTER: If no Euratom/Australia Agreement has been concluded in the meantime.

ROY JENKINS: This Agreement would need to be considered before the end of 1982 if no Euratom/Australia Agreement in the meantime.

PRIME MINISTER: This Agreement would need to be reconsidered before the end of 1982 if no Euratom/Australia Agreement had been concluded in the meantime.

ROY JENKINS: Yes.

PRIME MINISTER: Let me see what I can do with that.

ROY JENKINS: Well let me too consider, because we both have to consider.

PRIME MINISTER: Yes. I am just in the position of saying I don't care what we do so long as it is acceptable and is concluded. Because otherwise I am going to have a very nasty anti-European time.

ROY JENKINS: Yes, I'm going to have quite a lot of difficulty getting that through the Commission but I will try hard to get that through the Commission.

PRIME MINISTER: You tell them they are expert at turning friends into enemies.

ROY JENKINS: If we can both live with that. Well we do our best not to.

PRIME MINISTER: Yes.

ROY JENKINS: You have been a great friend if I may say so.

PRIME MINISTER: I was appalled at the way ^{in which} other people ratted on the thing. While you are on the telephone, can we get the budget thing through to the September meeting of Finance Ministers?

ROY JENKINS: As you know, we have two stages in this. We have the objective report and we have the proposals for remedy. We could certainly I think get the objective report by the September meeting.

PRIME MINISTER: And then their proposals but I fear that if it not until October, there won't be time to get proposals to be considered by other Governments in time for November in Dublin.

ROY JENKINS: Well I don't want to be too late with them. I don't, to be honest, want to be too early either with proposals because I don't want there to be too many months for people to take up hard positions, and the rats to eat at the stack of corn.

PRIME MINISTER: But if it doesn't....

ROY JENKINS: I think we were both agreed, we would both slightly have preferred not to have had the Council of Economic and Finance Ministers put in as the intermediate stage but we had to accept it and get what we did.

PRIME MINISTER: Yes.

ROY JENKINS: And I don't want it to be mulled over too long by too many other Councils before we get it to Dublin..

PRIME MINISTER: Yes, but you have to put the proposals to Dublin in time for conclusions with the November meeting. I am not quite sure what time the October Council is.

ROY JENKINS: The October Council is probably about the 20th of October.

PRIME MINISTER: It would'nt.....

ROY JENKINS: Actually it is the 15th.

PRIME MINISTER: After that you have to formulate proposals in time for decisions to be taken at Dublin.

ROY JENKINS: I myself would like to see us put forward the objective statement of the position for the September one, if I can.

PRIME MINISTER: Yes, yes.

ROY JENKINS: But I do not want to put forward proposals too early nor too late.

PRIME MINISTER: Yes, that I accept.

ROY JENKINS: In order that people can start tearing them apart.

PRIME MINISTER: What I accept is the reference paper that they need.

ROY JENKINS: Well I will try to do the reference paper in time for the September meeting, but I'm not too keen to do the proposals too early from the point of view of our joint interests.

PRIME MINISTER: Yes.

ROY JENKINS: It is bound to be a matter of judgement and I could be wrong, but that is for the moment my judgement.

PRIME MINISTER: All right.

ROY JENKINS: But I am very happy to keep in touch with it and try to do it

PRIME MINISTER: All right. I will go back to the Foreign Office and talk about the other thing. Would you let me know when you are at home for a weekend, and then I thought you might try to come along to Chequers and have some lunch.

ROY JENKINS: I'd love to do that. I was talking to Woodlows..... I would like to do that very much indeed. When would be a possibility from your point of view.

PRIME MINISTER: Well, I'm there this Sunday. I shall be there, one moment. Can I just let you have a list of weekends I shall be there.

ROY JENKINS: I am actually in England a good deal in July and would love to come.

PRIME MINISTER: I haven't got this week's diary here. I know I'm down there this Sunday.

ROY JENKINS: Could our offices get in touch tomorrow to see what the possibilities are?

PRIME MINISTER: Yes. One moment. Let me look at my diary. I shall certainly be there Saturday and Sunday the 21st and 22nd July.

ROY JENKINS: That day is not possible for me, alas because I'm at the University of Wales to get a degree.

PRIME MINISTER: Yes. I think our offices will get in touch.

ROY JENKINS: Shall we exchange two live dates. I am very grateful and would love to work out one. I'm sure we can.

PRIME MINISTER: Yes I'm sure we can.

ROY JENKINS: Well, I have about three possibilities but it will be easiest if our offices do it tomorrow morning.

PRIME MINISTER: All right. I'll get the office to ring yours, early tomorrow morning.

ROY JENKINS: For a Saturday or a Sunday.

PRIME MINISTER: Yes.

ROY JENKINS: Good. How was your Australian visit? You are not too tired, I hope?

PRIME MINISTER: It was all right. In Canberra two days. I had lots of long talks with Malcolm Fraser and the entire Cabinet arranged a major Cabinet the whole of Sunday afternoon. And this thing came up and also which you can imagine is a very difficult one for me. And their general relations with the Community etc. What is your

ROY JENKINS: Somewhat better now. There is no doubt at all that that they have been put on to a slightly better basis and certainly people like Peacock say this very strongly. I think ^{Malcolm} Fraser says this too, but certainly Peacock does. And Peacock is very anxious to work with us.

PRIME MINISTER: Yes. It would be helpful if everything goes through. As you know, Malcolm Fraser isn't the cosiest person.

ROY JENKINS: I know.

PRIME MINISTER: So you have to work quite hard.

ROY JENKINS: Yes, I agree.

PRIME MINISTER: And he hasn't the most open and flexible mind either.

ROY JENKINS: Peacock is much more flexible.

PRIME MINISTER: Yes.

ROY JENKINS: And Fraser tends rather to, well he sort of, he shouts a little if but it doesn't necessarily get him anywhere.

PRIME MINISTER: No it doesn't. But it makes life difficult for me.

ROY JENKINS: Perhaps on this UK/Euratom/Australia thing, how shall we leave it? I would try and get that through the Commission tomorrow. We can't go further than that.

PRIME MINISTER: If there is any difficulty, I will get my office to phone to ring yours first thing tomorrow morning.

ROY JENKINS: Okay, because we will have to take this during the day tomorrow.

PRIME MINISTER: Yes. What time is first thing Brussels time? Is it 9.30 or 10.00?

ROY JENKINS: We start at the Commission at 10 o'clock Brussels' time, which is 9 o'clock London time.

PRIME MINISTER: Nine o'clock London time.

ROY JENKINS: I'm not sure we need take it at the beginning of the morning, although I would like to take it in the morning if

we can. We meet in the morning and in the afternoon.

PRIME MINISTER: Nine o'clock London time. All right.

ROY JENKINS: Nine o'clock London time we start. But that is not an absolute deadline though it would be helpful to know.....

PRIME MINISTER: Yes. All right.

ROY JENKINS: Thank you.

PRIME MINISTER. Thank you. Goodbye.

PRIME MINISTER

A.O. Jhu
4/7

UK/Australian Safeguards Agreement

You said that you would like to telephone Mr. Jenkins in Brussels before the Commission take up their final position on the UK/Australian Safeguards Agreement tomorrow. Would you be prepared to do this immediately after the Signature, at 1800 this evening, of the Joint Communique and Cultural Agreement with the Colombians? If so, I shall try to find out whether Mr. Jenkins would be available at, say, 1900.

You already have a speaking note indicating the line which you might take on the Safeguards Agreement question. You should know that, according to reports received from Brussels this morning, Mr. Tickell (Mr. Jenkins' Chef de Cabinet) is putting it about that conversations in Tokyo showed that British Ministers are in fact very relaxed about the Safeguards Agreement, and are unlikely to press their case. As you know, this is quite untrue: Lord Carrington did have a brief word with Mr. Jenkins in Tokyo, but to the effect that we took strong exception to the Commission's position.

At the end of your conversation with Mr. Jenkins about safeguards, it would be very useful, if you can fit in it, to tell him that you hope that the Commission will produce its reference paper on the Community Budget in time for discussion at the September meeting of the Finance Council, in order to allow sufficient time for its proper consideration and discussion before the European Council Meeting in Dublin. The reason for mentioning this is that

we have heard that the Commission may be aiming to produce its paper only at the October Council Meeting, which we think would be much too late.

Bms

3 July, 1979.

PRIME MINISTER

This agreement is the subject of a special meeting of the Council. It is a bilateral agreement.

UK/Australia Safeguards Agreement

P.A. 1/11 4/11

We have made arrangements for you to speak to Mr. Jenkins about the UK/Australia Safeguards Agreement at 7 p.m. this evening.

When I was speaking to Mr. Jenkins' office Mr Tickell, Mr. Jenkins' Chief de Cabinet, told me that Mr. Jenkins was very anxious that the Commission should give the green light to the UK/Australian Agreement. Their concern, however, was that such an agreement would allow other members of the Community to enter into bilateral arrangements which they would describe as provisional pending the approval of a mandate for the ^{European} ~~United~~ Agreement but which would in practice be permanent. When such agreements were eventually taken to the European Court, it was likely that the finding would be that the Commission ^{had} acted illegally in originally approving the UK/Australian Agreement. Mr. Jenkins was likely to take the line that the one way of getting over this difficulty was to make the UK/Australian Agreement manifestly provisional by including in it a time limit. This suggests that although you will no doubt wish at the start of your conversation with Mr. Jenkins to press him to seek to obtain acceptance for the agreement as it stands, you may need to move to the fall back position and offer to explore the possibility of an exchange of letters between the UK and Australian Governments undertaking to review the agreement before the end of 1982.

Vertical lines in left margin

There is a call not to be... Write to... - to be...

JMK.

3 July 1979

I attach a note from the Department of Energy giving some further information about the UK/Australian Agreement.

This agreement with you is an essential part of the... & Australia has been concluded

PRIME MINISTER

1.



You asked for a speaking note for use when you talk to Mr Jenkins.

SECRETARY OF STATE FOR ENERGY

THAMES HOUSE SOUTH
MILLBANK LONDON SW1P 4QJ

01-211 6402

MPD
2/vii

2 July 1979.

Mike Pattison, Esq.,
Private Secretary to the
Prime Minister,
10 Downing Street,
London SW1.

Dear Mike,

As requested in your letter of earlier today, I attach a speaking note for the Prime Minister's intended discussion with the President of the Commission concerning the UK/Australian safeguards agreement.

This includes a confidential background note on a possible fall-back position. Our advice, agreed with the PCO and UKREP, is that the Prime Minister should go no further than to press the Commission to accept the agreement as it stands without imposing new conditions. Our most recent advice from UKREP is that the Prime Minister should maintain a firm line as the Commission's resolve is in doubt. If, however, in the course of her conversation with Mr. Jenkins it becomes clear that, with no concession on the time limit point, the Commission will definitely reject the agreement at its Wednesday meeting, the Prime Minister may choose to indicate to Mr. Jenkins that, rather than be faced with this extreme situation, we are willing to explore the fall-back position with the Australian Government.

Since Sir Donald Maitland has been in close touch with the Commission on this issue, he has asked that you advise him as soon as practicable on the outcome of the Prime Minister's conversation with Mr. Jenkins.

I am sending a copy of this letter to Paul Lever (Foreign and Commonwealth Office) and to Martin Vile (Cabinet Office).

Yours sincerely
Bill

W.J. Burroughs,
Private Secretary.

Encl.

P.O.
4/7

UK/AUSTRALIA BILATERAL SAFEGUARDS AGREEMENT

Because of the risks of proliferating nuclear weapons capability by trade in nuclear materials and equipment, nations wishing to undertake such trade normally draw up "safeguards agreements" setting out the non proliferation safeguards they regard as necessary. The UK and Australia initialled a bilateral safeguards agreement in June of last year. However signature of the agreement was prevented by the European Commission which was concerned that it might impede the operation of the Euratom Treaty. Since then, UK and Australian officials have drafted an "agreed minute" which offers no concessions but simply answers the specific legal objections raised by the Commission by stating the common interpretation of both parties of the relevant provisions of the agreement. It would be attached to and form part of the agreement, which would remain otherwise unaltered. The agreed minute has now been approved by UK and Australian Ministers.

Background on safeguards agreements

The UK/Australia safeguards agreement is a standard inter-governmental agreement which offers mutual assurances that:-

- a nuclear material/equipment etc exported in either direction shall be used for peaceful purposes only;
- b such material shall be subject to IAEA and Euratom safeguards inspection in verification of (a) above;
- c | both Governments will apply an adequate level of physical protection to the material at all times;
- d material will be transferred to a third country only if the latter offers similar assurances on all these points.

In addition the UK/Australia agreement leaves open the possibility that Australia may seek further conditions relating to the enrichment or reprocessing of uranium they supply. This possibility is envisaged in other safeguards agreements eg that between Euratom and Canada.

UK/AUSTRALIAN BILATERAL

SPEAKING NOTE

(for use by the Prime Minister in speaking to Mr Jenkins)

1 I am very disturbed at the situation which exists over the UK/Australia Safeguards Agreement that has been submitted to the Commission under the Treaty. Having spoken to Mr Fraser on this subject last week I am anxious to ensure that you yourself are aware of our views.

2 We have gone to much trouble, with the Australians, to meet the objections which the Commission raised to the original draft on the grounds of possible conflict with the provisions of the Treaty. The 'agreed minute' now submitted to the Commission does, I believe, fully meet those objections by making clear that no conflict will arise.

3 In these circumstances I find it difficult to understand why the Commission cannot now accept the agreement, on the basis clearly understood from the beginning that it will be largely superseded by the Euratom/Australia agreement as soon as this is concluded.

4 I am told that the Commission is now asking that the agreement be subject to a fixed time limit. I can see no legal basis for this suggestion since it cannot arise from any consideration of the agreement's compatibility with the Treaty. It can reflect only the Commission's political concern that the existence of one bilateral agreement may lead to pressure for further bilaterals and so make it more difficult for a mandate to be approved for the Euratom agreement.

5 Such an attitude seems to me wholly unjustified. The UK needs Australian uranium, and we need to be sure that the safeguards arrangements required by the Australians are in place by the time deliveries begin to be made under any new contracts we place. Neither we nor the Australians can reasonably be expected to risk finding that our safeguards arrangements expire with nothing to replace them when deliveries are due.

6 The UK has given every support to the discussion on the mandate for the Euratom agreement, and has made it very clear that it wants this to be settled quickly. It would be entirely wrong, and very badly received by public opinion here, if, in those circumstances, the Commission again frustrated our attempts to conclude arrangements with Australia that are indispensable to the security of future uranium supplies.

7 From my recent conversation with Mr Fraser, I know that Australia finds it difficult to understand why we in Europe seem to be putting obstacles in the way of negotiations about the supply of Australian uranium to the Community. The Australians have patiently cooperated in finding a way of meeting the Commission's original objections to the bilateral agreement. If a totally new, political, objection is now introduced, you put at risk, at a time of energy crisis, the development of Australia as a major and reliable new source of uranium for the Community.

8 I very much hope therefore that at the Commission's meeting tomorrow all this potential resentment and conflict will be avoided by acceptance of our agreement. I can again assure you that if the agreement is accepted, we will continue to use our influence to

/secure...

secure acceptance both of a satisfactory mandate for the main Euratom agreement and, in due course, of a satisfactory Agreement.

FALL BACK POSITION (CONFIDENTIAL BACKGROUND NOTE)

[to be used at discretion]

It is to be hoped that Mr Jenkins will be persuaded by these arguments that the Commission should reconsider its position. The Prime Minister should be aware, however, that a possible fall-back position has been evolved, in agreement with Australian officials, to meet the Commission's latest objection to the bilateral agreement. This envisages an exchange of letters between the UK and Australian Governments undertaking to review the safeguards agreement before the end of 1982. The review would cover possible amendment of the agreement or, if appropriate, formal acknowledgement that parts of it had by then ceased to have effect, having been superseded by a Euratom safeguards agreement. Such a review would be largely cosmetic but could be a way of responding to the Commission's wish to see a time limit.

If the Prime Minister judges, from the reaction of Mr Jenkins, that it would be wise to float this possibility she could speak as follows:-

9 We are anxious to make progress. I regret that you continue to see difficulties, but am prepared to discuss with the Australian Government an exchange of letters under which the two Governments agree to review their bilateral agreement at, say, the end of 1982.

Extract PMVS(79)8

PM's briefing for Australia 30 June-1 July.

We are hopeful that it will be possible after INFCE to work towards a political consensus aimed at avoiding proliferation

SAFEGUARDS

13. PLEASE SEE OPPOSITE PAGE.

(Retyped from FCO to Canberra Tel no 293)

14 The Euratom/Australia safeguards agreement, which would supersede the bilateral agreement, continues to be held up. The Council has not yet been able to agree on a mandate to enable the Commission to open negotiations. This is due to French worries about the extent of Community involvement in this area; these worries will be strengthened if the Commission rejects the bilateral UK/Australia agreement for a second time.

There will be further discussions with the Commission and it is not yet clear how soon the Australian Government can be told of where this matter stands.]

13. With the approval of Australian Ministers the UK submitted to the Commission an agreed minute which answers in full the two specific legal objections raised by the Commission to signature of an interim UK/Australia bilateral Safeguards Agreement designed to facilitate long-term uranium supply contracts between the UK and Australia, and to be superseded in due course by a Euratom/Australia Agreement. Mr. Jenkins has said that the Commission would not endorse signature of a bilateral agreement unless we accepted a time limit whose length was negotiable and might be extended. The Commission's main concern is that approval of the bilateral will lead to signature of bilaterals by other states, and the collapse of attempts to negotiate a Euratom/Australia Safeguards Agreement. The concern may be exaggerated.

We are extremely concerned that the Commission has raised fresh political objections to signature, after the earlier legal objections have been satisfied. Further delays risk reinforcing the political objections in Australia to the mining of uranium. UK Ministers are pressing the Commission hard to get Commission acceptance of the Agreement without a time limit. It is too soon to say if this will succeed, but the Commission may be unwilling, on general political grounds, to object a second time.

If the Commission remain adamant we may have to consider a device, perhaps an exchange of letters, which would provide for periodical review of the Agreement by the two parties (not the Commission). Australian officials' preliminary reaction to this was not hostile. But we should first wait to see the Commission's reaction to our further efforts.

We do not favour letting the matter go to the European Court because it tends to support the Commission against Member States. If we signed in defiance of the Commission - something which the Australians might be both to agree to - the Commission could take us to Court and might feel politically obliged to do so.

Opinions are divided within the Commission on this issue. (Commissioner Brunner supports the UK position). Disclosure of this problem would force the Commission to take up a rigid position in public and would not help our case.

CONFIDENTIAL

cc FCO
CO
HE
BF 2/7/79



10 DOWNING STREET

From the Private Secretary

2 July 1979

ENERGY
FCO
CABOFF

Following her discussions in Canberra about the UK/Australia Nuclear Safeguards Agreement, the Prime Minister intends to speak to the President of the European Commission on the telephone some time before 4 July when, she understands, the Commission's final decision on the matter is to be taken.

I would be grateful if you could prepare a short speaking note for this conversation with Mr. Jenkins, taking account of the most recent developments. Could this please reach me by close of play tonight.

I am sending a copy of this letter to Paul Lever (Foreign and Commonwealth Office) and to Martin Vile (Cabinet Office).

M. A. PATTISON

Handwritten initials/signature

Bill Burroughs, Esq.,
Department of Energy.

CONFIDENTIAL

XX 0948 A. Pattison,
No 10 Downing St

NO DISTRIBUTION

DWF 6 76/02
LXE 198/02

OO FCO DESKBY 020900Z

GRS 100

[Received 02 1000Z]

CONFIDENTIAL

DESKBY 020900Z

FM BAHRAIN 020820Z JUL 79

TO IMMEDIATE FCO

TELEGRAM NUMBER 138 OF 02 JULY

ADVANCE COPY
IMMEDIATE

FOLLOWING FOR PATTISON, NO. 10, FROM CARTLEDGE WITH PRIME
MINISTER'S PARTY.

NUCLEAR SAFEGUARDS.

1. FOLLOWING PRIME MINISTER'S DISCUSSIONS IN CANBERRA ABOUT THE UK/AUSTRALIA NUCLEAR SAFEGUARDS AGREEMENT, THE PRIME MINISTER WISHES TO TELEPHONE THE PRESIDENT OF THE EUROPEAN COMMISSION SOME TIME BEFORE WEDNESDAY 4 JULY WHEN, SHE UNDERSTANDS, THE COMMISSION'S FINAL DECISION ON THE MATTER IS LIKELY TO BE TAKEN.
2. GRATEFUL IF YOU WOULD ASK THE DEPARTMENT OF ENERGY, IN CONSULTATION WITH THE FCO, TO PREPARE A SHORT SPEAKING NOTE FOR THIS CONVERSATION WITH MR JENKINS TAKING ACCOUNT OF THE MOST RECENT DEVELOPMENTS.

WALKER

NNNN

9

LDW 773/27

LDX 165/27

FDW 6204/27

OO TOKYO DESKBY 280030Z

GRS 550

CONFIDENTIAL

DESKBY 280030Z

FM FCO 271541Z JUN 79

TO IMMEDIAD
TOKYO (FOR PS/PUS)

TELEGRAM NO 292 OF 27 JUNE.

FOLLOWING TELEGRAM NOW REPEATED TO YOU AT REQUEST OF DEPARTMENT

WAS SENT TO UKREP BRUSSELS TELEGRAM NO 589 OF 26 JUNE.

MY I.P.T.: UK/AUSTRALIA BILATERAL SAFEGUARDS AGREEMENT

FOLLOWING IS TEXT OF LETTER APPROVED BY MINISTERS.

BEGINS:

UK/AUSTRALIA: NUCLEAR SAFEGUARDS AGREEMENT

I WAS GLAD TO HAVE THE OPPORTUNITY IN STRASBOURG TO

SPEAK TO YOU ABOUT THE UK/AUSTRALIA NUCLEAR SAFEGUARDS

IMMEDIATE
CYPHER

AGREEMENT AND THUS TO EMPHASISE TO YOU THE SERIOUS CONCERN
OF THE BRITISH GOVERNMENT THAT THE COMMISSION SHOULD NOW BE
RAISING AN ENTIRELY NEW OBJECTION TO THE INCLUSION OF THIS
AGREEMENT.

AS YOU ARE AWARE THE AGREEMENT WAS ORIGINALLY SUBMITTED
TO THE COMMISSION IN JUNE 1978 UNDER THE PROVISIONS OF
ARTICLE 103 OF THE EURATOM TREATY. AFTER CONSIDERATION
DR BRUNNER TOLD SIR DONALD MAITLAND THAT, WHILE THE
COMMISSION WOULD NOT WISH TO ASK FOR ANY CHANGES TO THE TEXT
OF THE AGREEMENT ITSELF, THEY HAD PROBLEMS OVER TWO
PROVISIONS OF THE AGREEMENT (ARTICLE VIII AND ARTICLE XII)
AND THAT, ALTHOUGH HE HAD RECEIVED FROM US ADEQUATE ORAL
CLARIFICATION TO MEET THE SUBSTANCE OF THE COMMISSION'S
OBJECTIONS, NEVERTHELESS, AS A MATTER OF FORM, IT WAS
NECESSARY FOR THOSE CLARIFICATIONS TO BE INCORPORATED IN A
WRITTEN TEXT. IT WAS MADE CLEAR BY DR BRUNNER THAT, IF THESE
OBJECTIONS COULD BE MET IN THAT WAY, THE COMMISSION WOULD BE
PREPARED FOR THE AGREEMENT TO BE CONCLUDED.

WHILE THE BRITISH GOVERNMENT DID NOT, AND DOES NOT,
ACCEPT THAT THESE OBJECTIONS WERE JUSTIFIED, THE TWO POINTS
AT ISSUE WERE TAKEN UP WITH THE AUSTRALIAN GOVERNMENT AND
THE TEXT OF AN AGREED MINUTE WAS NEGOTIATED TO MEET THE
COMMISSION'S OBJECTIONS. THAT AGREED MINUTE WAS SUBMITTED TO
THE COMMISSION ON 5 JUNE. SIR DONALD MAITLAND HAS BEEN TOLD
BY DR BRUNNER AND I MYSELF UNDERSTOOD FROM YOU THAT IT IS

NOT IN DISPUTE THAT THE AGREED MINUTE MEETS FULLY THE
OBJECTIONS EARLIER RAISED BY THE COMMISSION.

I APPRECIATE, AND SHARE, YOUR WISH TO SEE A EURATOM
NUCLEAR SAFEGUARDS AGREEMENT NEGOTIATED WITH AUSTRALIA. I
CAN ASSURE YOU THAT THE BRITISH GOVERNMENT SUPPORTS, AND WILL
CONTINUE TO SUPPORT, THE CONCLUSION OF SUCH AN AGREEMENT. MY
GOVERNMENT ALSO ACCEPTS, AND HAS SO NEGOTIATED THE UK/
AUSTRALIA AGREEMENT, THAT THOSE PROVISIONS OF IT WHICH COVER
COMMON GROUND TO A FUTURE EURATOM/AUSTRALIA AGREEMENT WILL BE
SUBSUMED BY THE LATTER WHEN IT ENTERS INTO FORCE; THUS THE
INTERIM NATURE OF THE BILATERAL AGREEMENT AND ITS LIMITATION
IN TIME ARE CLEARLY AND UNEQUIVOCALLY ESTABLISHED.

IN THESE CIRCUMSTANCES, I FIND IT HARD TO UNDERSTAND
WHAT JUSTIFICATION THERE CAN BE FOR NOT NOW AGREEING TO THE
CONCLUSION OF THE AGREEMENT, SUPPLEMENTED BY THE AGREED
MINUTE. I HOPE THAT, AFTER FURTHER REFLECTION AND IN THE
LIGHT OF THE ASSURANCES WHICH I HAVE GIVEN HERE, THE
COMMISSION WILL COME AT TO A SIMILAR CONCLUSION.

IF WE IN EUROPE NOW REBUFF THE AUSTRALIANS YET AGAIN,
AFTER THE EARLIER OBJECTIONS TO THE BILATERAL HAVE BEEN MET,
WE RUN, IN MY VIEW, REAL RISKS OF REINFORCING THE POLITICAL
OBJECTIONS IN AUSTRALIA TO THE MINING OF URANIUM. TO HAZARD
SUPPLIES OF URANIUM TO THE COMMUNITY IN THIS WAY SEEMS TO ME
TO BE A RISK WE MUST AVOID.

ENDS.

CARRINGTON

DAB

LDW 772/27

OO TOKYO DESKBY 280030Z

GRS 200

CONFIDENTIAL

DESKBY 280030Z

FM FCO 271540Z JUN 79

TO IMMEDIATE TOKYO

TELNO 291 OF 27 JUNE 79.

FOR PS/PUS

FOLLOWING TELEGRAM NOW REPEATED TO *you*
8 AT REQUEST OF DEPT

WAS SENT TO UKREP BRUSSELS TELNO 588 OF 26 JUNE.

AND TO CANBERRA

ONFO IMMEDIATE VIENNA (FOR MANLEY).

IMMEDIATE
CYPRER

YOUR TELNO 3294 : UK/AUSTRALIA BILATERAL SAFEGUARDS AGREEMENT

1. MY I.F.T. CONTAINS A TEXT, THE BROAD LINES OF WHICH HAVE BEEN APPROVED BY MINISTERS.

2. IN THE LIGHT OF THE ADVICE GIVEN BY TICKELL AND REPORTED IN YOUR TUR TO AVOID AT THIS STAGE ANY FORMAL WRITTEN COMMUNICATION, YOU HAVE DISCRETION TO HANDLE THIS AS YOU THINK BEST, DRAWING ON THE POINTS MADE IN THE LETTER AND IN PARA 4 OF YOUR TUR WHEN YOU SEE BRUNNER.

3. (FOR CANBERRA). PLEASE INFORM THE AUSTRALIAN AUTHORITIES OF THIS FURTHER ATTEMPT WE ARE MAKING TO GET COMMISSION ACCEPTANCE OF THE AGREEMENT WITHOUT A TIME LIMIT. YOU SHOULD ALSO ASK THEM FOR A REACTION TO THE SUGGESTION IN PARA 5 OF UKREP BRUSSELS TUR FOR AN EXCHANGE OF LETTERS AGREEING TO A UK/AUSTRALIA REVIEW OF THE BILATMPAL AGREEMENT AFTER, SAY, THREE OR FIVE YEARS. THE PURPOSE OF THE REVIEW WOULD BE TO DECIDE WHETHER TO COMMENCE UNDERLINING MAINTAIN CEASE UNDERLING (NOT RENEW, SEE ARTICLE XIII OF THE AGREEMENT), AMEND OR TERMINATE THE AGREEMENT.

CARRINGTON

NNN

1807/27

IMMEDIATE

LDW 742

OO TOKYO DESKBY 271400Z /

CYPHER

GR 960
CONFIDENTIAL
DESKBY 271400Z
FM UKREP BRUSSELS 271125Z JUN 79
TO IMMEDIATE TOKYO
TELEGRAM NUMBER 1 OF 27 JUNE

REFERENCE UKREP BRUSSELS 3321.

FOLLOWING SENT AS REQUESTED FOR PS/PUS.

BEGINS:

CONFIDENTIAL
FM UKREP BRUSSELS 252050Z JUN 79
TO IMMEDIATE FCO
TELEGRAM NUMBER 3294 OF 25 JUNE
INFO IMMEDIATE PARIS CANBERRA

UK/AUSTRALIA BILATERAL SAFEGUARDS AGREEMENT

1. TICKELL (PRESIDENT JENKINS'S CHEF DE CABINET) TOLD US TODAY THAT IF WE COULD MAKE AN ACCEPTABLE PROPOSAL AS TO A TIME LIMIT, BRUNNER WOULD BE ABLE TO SECURE COMMISSION APPROVAL FOR THE AGREEMENT AT ITS MEETING ON 27 JUNE. TICKELL EMPHASIZED THE SCOPE FOR FLEXIBILITY IN THE LENGTH AND THE FORMULATION OF THE TIME LIMIT, MAKING IT CLEAR THAT A PERIOD LONGER THAN 2 YEARS WOULD BE ACCEPTABLE AND THAT MEANS COULD BE FOUND OF AVOIDING AMENDMENT OF THE BILATERAL AGREEMENT ITSELF. HE ADVISED STRONGLY AGAINST A WRITTEN RESPONSE TO THE COMMISSION; THIS WOULD PROVOKE A WRITTEN REPLY ON THEIR PART AND WOULD HARDEN ATTITUDES.
2. THE COMMISSION'S HANDLING OF THIS AFFAIR IS INTOLERABLE. ONE COURSE MIGHT BE TO IGNORE THEIR VIEW AND SIGN THE BILATERAL AS IT STANDS. I CANNOT JUDGE HOW THE AUSTRALIANS MIGHT REACT TO SUCH A PROPOSAL, BUT THERE WOULD CLEARLY BE A RISK OF OUR BEING TAKEN TO THE COURT BY ONE OF THE SMALLER MEMBER STATES IF NOT THE COMMISSION. IN THIS CASE WE COULD NOT COUNT ON A JUDGEMENT IN OUR FAVOUR.
3. THE COMMISSION'S PROPOSAL FOR A TIME-LIMIT IS NEVERTHELESS OBJECTIONABLE ON SEVERAL GROUNDS. ABOVE ALL THE SITUATION WOULD BE OBSCURE IF OUR AGREEMENT WERE TO EXPIRE BEFORE CONCLUSION OF A EURATOM/AUSTRALIA AGREEMENT. MR JENKINS CANNOT COMMIT A FUTURE COMMISSION. (IT IS HOWEVER ARGUABLE THAT A FORMAL FINDING UNDER ARTICLE 103 THAT AN AGREEMENT COMPRISING A TIME LIMIT WAS IN CONFORMITY WITH THE TREATY WOULD BIND A FUTURE COMMISSION IF THEY WERE CONFRONTED WITH RENEWAL OF THE AGREEMENT WITH A NEW TIME LIMIT, AND IF NOTHING ELSE HAD CHANGED).

4. I SUGGEST THAT AS THE NEXT STEP I MIGHT BE INSTRUCTED TO MAKE THE FOLLOWING POINTS IMMEDIATELY TO COMMISSIONER BRUNNER (IN MR JENKINS'S ABSENCE IN TOKYO):

(A) WHEN WE CONSULTED THE COMMISSION UNDER ARTICLE 103 LAST YEAR, THEY PUT FORWARD TWO LEGAL OBJECTIONS WHOSE VALIDITY WE DID NOT ACCEPT. NEVERTHELESS, WE AND THE AUSTRALIANS NEGOTIATED IN GOOD FAITH AN AGREED MINUTE WHICH MEETS IN FULL THE COMMISSION'S CONCERNS. WE WERE THEREFORE GRATIFIED, BUT NOT SURPRISED THAT BRUNNER'S INITIAL REACTION WAS THAT THE AGREED MINUTE REMOVED ANY IMPEDIMENT TO APPROVAL OF THE BILATERAL.

(B) YOU MADE CLEAR TO MR JENKINS IN STRASBOURG, WE WERE HOWEVER CONCERNED BY THE COMMISSION'S REACTION, WHICH WE FIND DIFFICULT TO UNDERSTAND IN EITHER LEGAL OR POLITICAL TERMS. AS TO LEGALITY, WE DO NOT UNDERSTAND THE RELEVANCE OF A TIME LIMIT TO THE COMMISSION'S OBLIGATIONS UNDER ARTICLE 103: NOR CAN WE SEE THE PURPOSE OF INSERTING A TIME LIMIT IN AN AGREEMENT WHICH IS SPECIFICALLY OF AN INTERIM NATURE, DESIGNED TO BE SUBSUMED IN A EURATOM/AUSTRALIA AGREEMENT WHEN THAT IS CONCLUDED.

(C) WE THEREFORE URGE THE COMMISSIONER IN THE LIGHT OF THIS TO PERSUADE HIS COLLEAGUES TO RECONSIDER THEIR POSITION AND AGREE TO APPROVAL OF THE BILATERAL AS IT STANDS. THE POLITICAL CONSEQUENCES OF CONTINUED OBSTRUCTION, GIVEN FRENCH ATTITUDES TO EURATOM AND POSSIBLE EFFECTS ON AUSTRALIAN SENTIMENT, MUST SERIOUSLY WEIGHT WITH THE COMMISSION.

5. IF INSTRUCTED IN THIS SENSE I WOULD OF COURSE REPORT BRUNNER'S REACTION. HIS PERSONAL INCLINATION WILL BE TO ACCOMMODATE US. BUT IF HIS COLLEAGUES REACT ADVERSELY IT MAY BE NECESSARY TO CONSIDER ALTERNATIVE COURSES OF ACTION. ONE POSSIBILITY WOULD BE TO TELL THE COMMISSION THAT WE INTEND TO CONSULT THE AUSTRALIANS ABOUT THE POSSIBILITY OF AGREEING E.G. IN AN EXCHANGE OF LETTERS, TO REVIEW THE AGREEMENT AT THE EXPIRY OF A GIVEN PERIOD. WE WOULD DECIDE THEN IN THE LIGHT OF CIRCUMSTANCES OBTAINING AT THAT TIME, WHETHER TO RENEW, AMEND OR TERMINATE THE AGREEMENT. AN EXCHANGE OF LETTERS ON THESE LINES WOULD UNDERLINE THE INTERIM NATURE OF THE AGREEMENT AND WOULD COMPRISE A TIME LIMIT (CHOSEN BY US) BUT WOULD RESERVE TO US, NOT THE COMMISSION, THE DECISION WHETHER THE AGREEMENT SHOULD CONTINUE. THE STATUS OF THE EURATOM/AUSTRALIA NEGOTIATIONS WOULD CLEARLY BE A MAJOR FACTOR. GIVEN THEIR PROTESTATIONS OF FLEXIBILITY THE COMMISSION WOULD FIND IT DIFFICULT TO FIND CREDIBLE GROUNDS FOR REJECTING SUCH A FORMULATION.

FCO ADVANCE TO - HANNAY, THORP
D/EN - MRS GITTELSON

(ALL DESKBY 262800Z)

ENDS

MAITLAND

NNNN

LGV

14252/27

LDW 744

OO-TOKYO DESKBY 271400Z JUN

GRS: 600

CONFIDENTIAL

DESKBY 271400Z FCO, CANBERRA, TOKYO.
FM UKREP BRUSSELS 271111Z
TO IMMEDIATE FCO
TELEGRAM NUMBER 3321 OF 27 JUNE
AND TO IMMEDIATE CANBERRA, TOKYO (FOR PS/PUS)
INFO IMMEDIATE PARIS.

IMMEDIATE
CYRILIC

YOUR TELNOS 588 AND 589: UK/AUSTRALIA SAFEGUARDS AGREEMENT.

1. I CALLED ON COMMISSIONER BRUNNER THIS MORNING.
ACTING ON THE DISCRETION GIVEN TO ME IN YOUR TELNO 588.
I MADE THE FOLLOWING POINTS ORALLY.

A. WHEN WE CONSULTED THE COMMISSION UNDER ARTICLE 103 LAST YEAR, THEY PUT FORWARD TWO LEGAL OBJECTIONS WHOSE VALIDITY WE DID NOT ACCEPT. NEVERTHELESS, WE AND THE AUSTRALIANS NEGOTIATED IN GOOD FAITH AN AGREED MINUTE WHICH IN OUR VIEW MEETS IN FULL THE COMMISSION'S CONCERNS. WE WERE THEREFORE GRATIFIED, BUT NOT SURPRISED, THAT BRUNNER'S INITIAL REACTION WAS THAT THE AGREED MINUTE REMOVED ANY IMPEDIMENT TO APPROVAL OF THE BILATERAL. LORD CARRINGTON ALSO UNDERSTOOD FROM THE PRESIDENT OF THE COMMISSION, WITH WHOM HE DISCUSSED THIS QUESTION IN STRASBOURG, THAT IT IS NOT IN DISPUTE THAT THE AGREED MINUTE MEETS FULLY THE OBJECTIONS EARLIER RAISED BY THE COMMISSION.

B. THE BRITISH GOVERNMENT SUPPORTS AND WILL CONTINUE TO WORK FOR THE CONCLUSION OF A EURATOM NUCLEAR SAFEGUARDS AGREEMENT NEGOTIATED WITH AUSTRALIA. WE ALSO ACCEPT, AND HAVE SO NEGOTIATED THE UNITED KINGDOM/AUSTRALIA AGREEMENT, THAT THOSE PROVISIONS OF IT WHICH COVER GROUND THAT IS COMMON TO A FUTURE EURATOM/AUSTRALIA AGREEMENT WILL BE SUBSUMED BY THE LATTER WHEN IT ENTERS INTO FORCE. THUS THE INTERIM NATURE OF THE BILATERAL AGREEMENT, AND ITS LIMITATION IN TIME, ARE ALREADY CLEARLY AND UNEQUIVOCALLY ESTABLISHED.

C. I HAD THEREFORE BEEN ASKED BY MY GOVERNMENT TO URGE THE COMMISSIONER, IN THE LIGHT OF THIS, TO PERSUADE HIS COLLEAGUES TO RECONSIDER THE COMMISSION'S POSITION AND APPROVE THE BILATERAL AGREEMENT AS IT STANDS. THE POLITICAL CONSEQUENCES OF CONTINUED OPPOSITION, GIVEN FRENCH ATTITUDES TO EURATOM AND POSSIBLE EFFECTS ON AUSTRALIAN SENTIMENT, SHOULD SURELY WEIGH SERIOUSLY WITH THE COMMISSION. IF WE IN EUROPE NOW REBUFF THE AUSTRALIANS YET AGAIN, WE RUN THE RISK OF REINFORCING THE POLITICAL OBJECTIONS IN AUSTRALIA TO THE MINING OF URANIUM. TO HAZARD SUPPLIES OF URANIUM TO THE COMMUNITY IN THIS WAY, AND AT A TIME SUCH AS THE PRESENT WHEN THE EUROPEAN COUNCIL HAS JUST GIVEN A STRONG FRESH IMPETUS TO NUCLEAR PROGRAMMES, IS A RISK WE SHOULD AVOID.

2. BRUNNER SHOWED NO SURPRISE OR DISMAY. HE COMMENTED MERELY THAT HE WOULD PUT OUR POINTS TO HIS COLLEAGUES AT THEIR NEXT MEETING ON 4 JULY. HE ALSO ASKED THAT WE SHOULD INFORM MR JENKINS IN TOKYO OF WHAT HAD BEEN DONE. I HAVE THEREFORE ASKED FOR YOUR TELEGRAMS UNDER REFERENCE AND MY TELEGRAM 3294 TO BE COPIED TO TOKYO, FOR PS/PUS. I SHOULD BE GRATEFUL IF JENKINS OR HIS CHEF DE CABINET COULD BE INFORMED AS SOON AS POSSIBLE OF THE POINTS I MADE TO BRUNNER.

FCO PASS ADVANCE COPIES TO:-

FCO HANNAY (ESSD) THORP (JNU)
D/ENERGY MRS GITTELSON

MAITLAND.

1451/27

NNNN

END

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Archives (TNA) in London

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