

PREM 19/206

Confidential Filing

The future of BIOC
Proposed sale of BP assets
Petroleum and Submarine Pipelines Bill

ENERGY

PART 1 : July 1979

PART 3 : Dec 1979

308

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PART 4 begins:-

S/S Energy to PM 4.7.80

Energy



Treasury Chambers, Parliament Street, SW1P 3AG

Rt Hon David Howell MP
Secretary of State
Department of Energy
Thames House South
Millbank
London SW1

B2416

20 June 1980

Dear Secretary of State,

BNOC: OVERSEAS EXPLORATION VENTURES

Thank you for your letter of 15 June about BNOC's proposals for exploration ventures with Shell for acreage on the French side of the English Channel and with Atlantic Richfield for a three-year seismic option onshore in Dubai.

First, I am glad to have your assurance that the proposals will not raise PSBR problems. As you say, the expenditure in the current year of some £600,000-£700,000 can be accommodated within the Corporation's exploration budget and would be within their revised external financing requirement for the year, which is now within the figure published in the White Paper on Public Expenditure. BNOC's share of expenditure on exploration to end 1982 amounts to a further some £2½m and this would have to be offset against whatever capital expenditure we agree for those years.

More generally, I note your view that approval of the two ventures would not prejudice our decisions on the Corporation's long term development, whatever decisions are reached on its future structure. I also note that the FCO see no foreign policy problems with the two projects. As you indicate, Dubai is an unpredictable area and no doubt you will ensure that the Corporation is given whatever information is appropriate about prospects there so that it can take decisions against an informed background.

So to sum up, provided the cost of the proposals can be accommodated within whatever capital expenditure budget and external financing requirements are agreed for the Corporation, I do not object to your proposal to grant BNOC the statutory consent needed.

I am sending a copy of this letter to the Prime Minister and the Foreign and Commonwealth Secretary.

Yours sincerely,
A. Biffen

JOHN BIFFEN

[Approved by the Chief Secretary
and signed in his absence]



23 JUN 1961

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SECRETARY OF STATE FOR ENERGY
THAMES HOUSE, FORT
MILBANK, LONDON, W1P 1PT

01 211 6402

The Rt Hon John Biffen MP
Chief Secretary to the Treasury
HM Treasury
Parliament Street
SW1P 3HE

16 June 1980

Dear John

BNOC: OVERSEAS EXPLORATION VENTURES

In recent months BNOC has received a large number of invitations to participate in overseas exploration ventures. Two have emerged which are of particular commercial interest and which I believe it would be sensible for the Corporation to follow up. I am therefore writing to let you and the Foreign Secretary know that I propose to grant BNOC the statutory consent needed. The ventures are as follows:-

a) Offshore France

Proposed application with Shell for acreage on the French side of the English Channel. BNOC would probably acquire some 30% of the licence and, on that basis, BNOC's share of expenditure to end 1982, could be £1 to £1½ million. This amount would allow for a contribution to seismic costs and the drilling of one well.

b) Onshore Dubai

A proposal from Atlantic Richfield (ARCO) for a three year seismic option over some 750,000 acres onshore Dubai. BNOC's interest might be between 20% and 33½% and the Corporation could incur expenditure of some £1½ million by end 1982 on initial obligations which include seismic work and at least one exploration well by August 1983. BNOC have told us that production from any commercial discoveries should be available for export.

Compared to the potential benefits the expenditure involved is minimal. In the current year only some £600,000 - 700,000 is likely to be disbursed on both projects combined. This is a sum which can be fully accommodated within the Corporation's exploration budget and therefore raises no PSBR problems.

I understand from my officials, who have consulted FCO officials, that no foreign policy problems are raised by these projects. Naturally my Department will keep in close touch with BNOC to ensure that questions concerning the dividing line between British and French waters in the Eastern part of the Channel are borne fully in mind in relevant negotiations with the French licensing authorities. Dubai must be regarded as unpredictable but this should not overshadow the fact that the

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geological prospects are most interesting: moreover the authorities there are at present very favourably disposed towards BNOC. In present circumstances opportunities for British investment in the Middle East oil sector are likely to occur only rarely; and those involving potentially worthwhile acreage clearly justify very serious consideration and support.

As well as offering the prospect of oil and revenue from eventual commercial discoveries which would accrue at a time when production from the UKCS will be falling these two ventures will provide an indication of our intention to secure the Corporation's long-term development - a most important point whatever decisions are reached on its future structure.

I am also copying this letter to the Prime Minister and the Foreign and Commonwealth Secretary.

D A R Howell

Gen e
D A R

16 JUN 1961

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Energy

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

21st May, 1980

J.W. Stevens, Esq.,
Private Secretary to the
Chancellor of the Duchy of Lancaster

MBM

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Mr John,

BURMAH SHAREHOLDERS ACTION GROUP/BP SHARE CLAIM

.....
Following exchanges between the Chancellor of the Duchy and Mr. Dennis Skinner on 15th May your office have asked for briefing on the Government's attitude to Burmah's claim against the Bank of England. This has again come into prominence recently following a circular to Burmah shareholders by the Burmah Shareholders Action Group. I attach briefing as requested.

.....
Mr. Skinner also obliquely raised the Prime Minister's position, in view of Mr. Thatcher's connections with the company. While I should not suggest that the Chancellor of the Duchy volunteer any amplification, the question could well be raised again in a more measured way; in which case it might seem desirable that the Prime Minister's position be made clear to the House, as it has been to the Action Group (see Tim Lankester's letter of 14th May, attached). We have accordingly provided a response on this point in the attached brief.

This is however principally a question for No.10, and I should be grateful if you could check the line with Nick Sanders, to whom I am copying this letter.

TIM
yours
1/5

Yours ever,

M.A. HALL



10 DOWNING STREET

From: the Private Secretary

14 May 1980

Dear Mr Stone,

The Prime Minister has asked me to thank you for your letter of 9 May with which you enclosed a letter to all Burmah Shareholders from the Burmah Shareholders Action Group.

The Prime Minister hopes you will understand that, since Mr Thatcher was once an employee of Burmah and is still on the Board of one of its subsidiaries, she does not feel able to comment on the Action Group's letter. She has noted that copies of the letter have gone to Sir Geoffrey Howe as well as to other members of the Government, and she has asked Sir Geoffrey to write to you in reply.

Yours faithfully,

Tim Lasham

J M L Stone, Esq

BURMAH SHAREHOLDERS ACTION GROUP/BP SHARES CLAIM

BACKGROUND

Mr Dennis Skinner raised during Business on 15 May Burmah's claim against the Bank of England, about which the Burmah Shareholders Action Group (BSAG) recently circulated all Burmah shareholders.

A key element of Burmah's rescue in 1975 was the sale to the Bank for £179 million of Burmah's shareholding in BP, at what later turned out to be a trough in the market (the shares are now worth over £1 billion). In 1976 Burmah instituted a legal action against the Bank for the return of the BP stockholding on the grounds (among others) that the Bank had acted unconscionably, irregularly and unreasonably, and in breach of a suggested "duty of fair dealing". The Bank are resisting the claim.

The BSAG circular reports certain statements apparently favourable to Burmah's claim alleged to have been made by certain present Ministers (not including Treasury Ministers) while in Opposition; it concludes that these Ministers have responded in a negative fashion and that BSAG's only course of action is to bring the matter into the public eye.

The Government is not a party to the legal action, and believes the legal processes should be allowed to run their course. This is reflected in the Chancellor's reply of 16 May to a PQ from Mr Joel Barnett. The BSAG circular also mentions the role of the Attorney General; this is a side issue, concerned with the protection of public interest documents.

Lastly, Mr Skinner also raised the position of the Prime Minister. Since Mr Thatcher was once an employee of Burmah and is still on the Board of one of its subsidiaries the Prime Minister has concluded that these questions must be left entirely to the Chancellor, and has told the Action Group that she will not comment on their circular.

BURMAH SHAREHOLDERS ACTION GROUP/BP SHARES CLAIM

LINE TO TAKE

Will the Government intervene?

The Burmah Oil Company has instituted legal proceedings against the Bank of England for relief in respect of this sale. The Government would not consider it proper to intervene between the parties to these proceedings, which should be allowed to run their course in the normal way.

└─ Text of Chancellor of the Exchequer's
answer to PQ from Mr Joel Barnett,
16 May. ─┘

Why then is the Attorney General intervening?

You refer to the role of the Attorney General in Burmah's claim for the production of certain documents. While this claim arises from the main action it is a quite separate and distinct matter. I am advised that the Attorney General intervened as part of his normal public duties in order to protect on recognised legal grounds documents of certain classes, the production of which would as a general principle be contrary to the public interest. But the Crown is not and never has been in any capacity a party to the main action.

What is the Prime Minister's position?

In view of Mr Thatcher's connections with the company the Prime Minister has left these questions entirely to my Rt. Hon. Friend the Chancellor of the Exchequer.



21 MAY 1980

Energy

Tel: 211 6402

The Rt Hon John Biffen MP
Chief Secretary to the Treasury
H M Treasury
Parliament Street
London SW1P 3HE

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14/5

19 May 1980

Dear John

BNOC: PROPOSED UKCS FARM-IN

Thank you for your letter of 8 May, responding to mine of 6 May, about BNOC's proposal to negotiate the purchase of Santa Fe's interest in the Halibut Group. I carefully considered the short-term PSBR implications of this proposal before putting it forward to you and accept that they have to be balanced against the longer term benefit that would accrue to our UKCS policies from increasing the British stake in the UKCS, irrespective of what policy decisions we reach on the future of BNOC, and enhancing our security of supply. However since you do regard the short term PSBR considerations as over-riding then this rules out the Santa Fe deal and I am informing BNOC accordingly.

Two points in your letter have an important bearing on the national interest arguments. You suggest that we might sound out other possible British participants. If the wish on the part of Santa Fe to dispose of its interest were publicly known, then we would have no difficulty in approaching other possible British companies. But to our knowledge Santa Fe is not thus far seeking bids outside its existing partners, and in these circumstances any attempt to interest other British companies would risk criticism that we were abusing both commercial confidence and our North Sea regulatory role. There is thus no direct analogy with the general soundings and encouragement of British interests we make at the time of licensing rounds - when the initiative to issue licences is ours anyway - or the recent Viking Oil Co. takeover when once the fact that Viking was contemplating bids became publicly known my Department informally tried to interest a British company in making a bid.

Incidentally your further point about whether this deal would indeed have improved our security of supplies is not in fact correct. This is because in this particular case Santa Fe would continue to meet its existing participation option obligations on the whole of its original licence interest out of the oil arising on the part of the interest it retains. This enables it in effect to farm out an interest which is free

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of participation rights. If BNOC had acquired this licence interest and it had then been decided to put BNOC's upstream assets (including this interest) into a privatised company, BNOC would have secured an option for BNOC (Trading) over 51% of the oil arising from the interest (as it would similarly do in respect of all its equity interests). In this way, had BNOC acquired the Santa Fe stake it would have secured more than 51% of the oil arising from Santa Fe's original interest and thus an addition to our security of supplies - whatever scheme for privatisation we might adopt. This is prima facie a curious result and demonstrates the complexity of the whole question !

I am copying this letter to the Prime Minister.

Yours
David
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D A R HOWELL

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19 MAY 1980

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CST

12 May 1980

BNOC: Proposed UKCS Farm-In

The Prime Minister has read your Secretary of State's letter of 6 May on the above subject and the Chief Secretary's reply of 8 May. She has asked me to say that she very much agrees with the Chief Secretary that BNOC should not be allowed to open negotiations with Santa Fe with a view to purchasing a further stake in the Halibut Group.

I am sending a copy of this letter to Michael Richardson (Lord Privy Seal's Office).

TPL

W.J. Burroughs, Esq.,
Department of Energy.

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John Dymally

Treasury Chambers, Parliament Street, SW1P 3AG

Prime Minister
The Chief Secretary is refusing to let Mr Howell give BNOZ the go-ahead to purchase a further stake in the Halibut field. (You were unhappy about BNOZ's purchase of a stake in the Beatrice field last autumn).

Rt Hon David Howell MP
Secretary of State
Department of Energy
Thames House South
Millbank
London SW1

8 May 1980

Dear David,

David

BNOC: PROPOSED UKCS FARM-IN

FWA

Thank you for your letter of 6 May in which you seek my agreement to your telling the Chairman of BNOZ, Mr Utiger, that there are no absolute impediments to his negotiating with Santa Fe for the purchase of their stake in the Halibut Group.

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As you say in your letter, this proposal presents us with a difficult decision both because it may be seen as an extension of the public sector at a time when we are seeking to reduce it, and because of the public expenditure implications.

To take the public expenditure point first, as you will now know from my letter of 6 May on BNOZ's capital expenditure for 1980-81, your proposal causes me difficulty here. As I said in that letter, BNOZ's latest financing returns show their external financing requirement for the year to be some £60m above the forecast published in the Public Expenditure White Paper, Cmnd 7841. I recognise that the Corporation is not subject to an external financing limit in the way that the other nationalised industries are and that the £60m excess is largely caused by the prospect of reduced production at the Ninian field because of technical difficulties. But this cannot avoid the conclusion that the Corporation expect to exceed the public expenditure forecasts in the White Paper by £60m; the £10m expenditure on the purchase from Santa Fe would contribute to that excess; and since it is unlikely that offsetting savings could be found from elsewhere in the nationalised industries' expenditure, the cost of the acquisition would ultimately have to come from the Contingency Reserve. Given the pressures on the Reserve I could not recommend its use for what would essentially be optional expenditure.

Then there is the general political point to which you drew attention. You say that the proposal may be seen as an extension to the public sector. The fact is that it would be an extension

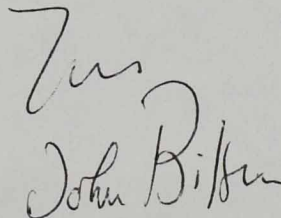
and surely would be difficult to reconcile with our general policy towards BNOC, described in your statement to Parliament on 26 July, of giving the Corporation a much more limited role than at present. Our policy ought to be to leave such developments to the private sector. I am most surprised that no British company seems to be interested in acquiring Santa Fe's stake in the Halibut Group. Has anyone taken soundings with likely British participants? Cannot your Department try to stimulate some interest in a British company just as they do with the licensing rounds?

Nor do I accept that our refusal to agree to the deal would necessarily prejudice successful privatisation. Indeed, there can be no confidence that BNOC's costs in acquiring Santa Fe's stake and in subsequent development would be recouped through higher sales proceeds when the Corporation is privatised.

Finally, there is the question of security of supply. It does not necessarily follow that an increased stake by BNOC in the Halibut Group would represent an addition to our secure supplies of oil. This will depend on whether the privatised BNOC is free to sell oil to whoever it so chooses as you indeed proposed in your paper to E Committee. If the privatised BNOC is free to sell the oil to whom it chooses, BNOC's acquisition of a further stake in the Halibut Group would not represent an addition to our secure supplies.

→ U So to sum up, I must regard the public expenditure argument as overriding. Since the conclusion cannot be escaped that the cost of the acquisition would almost certainly fall ultimately on the Contingency Reserve, I cannot see that we could agree to the proposal however successful BNOC were in their negotiations. I therefore think that you must tell Mr Utiger that the Government would not be willing to agree to further acquisitions by BNOC at this stage and that the Corporation should not open negotiations with Santa Fe.

I am sending a copy of this letter, together with a copy of my letter to you of 6 May, to the Prime Minister and the Lord Privy Seal.



JOHN BIFFEN



SECRETARY OF STATE FOR ENERGY
THAMES HOUSE SOUTH
MILLERS LANE LONDON SW1P 4QP

The Rt Hon John Biffen MP
Chief Secretary to the Treasury
Treasury Chambers
Parliament Street
LONDON SW1

6 May 1980

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Dear John

BNOC: PROPOSED UKCS FARM-IN

Since writing to you on 25 April about BNOC's capital expenditure programme for 1980/81 I have been notified by BNOC that they may have an imminent opportunity to increase their stake in the Halibut group (ie Block 211/18a, other than the Thistle field). One of the existing licensees, the US company Santa Fe, is proposing to dispose of half its 22.5% interest in this group in order to raise urgently needed cash. BNOC is already a partner in this group (indeed is operator for it and for the adjacent Thistle field) and as such is in a good position both to assess the worth of the stake on offer and to negotiate for it. However, before opening negotiations, the Corporation's Chairman has sought an assurance from me that there are no absolute impediments in principle to a deal being concluded.

As you know, in my letter of 25 April, I suggested that BNOC should have some discretion to undertake small farm-ins, but should be asked to clear larger cases with us on an individual basis. I consider that this particular case falls into the latter category; although BNOC appear confident that they can get their proposed partner in this deal, the Swedish company Axel Johnson, to finance most of the front-end payment to Santa Fe in return for a new profits interest, they might still have to contribute around £10m to the cost of the farm-in in the current financial year. BNOC's share of any development costs in respect of this interest might be of the order of £40m, although the major part of this would be expended from 1984 onwards. This proposal undoubtedly presents us with a difficult decision both because it may be seen as an extension of the public sector at a time when we are seeking to reduce it, and because of the public expenditure implications. But there are strong national interest reasons for welcoming such a deal:

- (a) Security of supply. Any oil eventually attributable

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to BNOC's increased stake will represent an addition to our secure supplies.

- (b) British stake. We know of no other British companies interested in acquiring this stake; if we rule out BNOC then there is every likelihood its ownership will remain in foreign hands, thus losing us an opportunity to increase British interests on the UKCS.

Moreover we are publicly committed to the introduction of private capital into BNOC's upstream side; the precise scheme for achieving this is still to be decided but farm-in activity such as this is bound to be part of its normal operations as it is for the existing private sector companies; neither private sector shareholders nor we as Government would want to see the company wither due to inability to acquire new potential developments in order to stem the decline that will otherwise occur in the late 80's.

While I recognise the general PSBR constraints, the amount of money involved is relatively small, and can be accommodated within the proposed provision of £25m for unspecified expenditure. In my view it is a matter of weighing quite important national interest benefits, and the need not to prejudice successful privatisation against the PSBR considerations, and I doubt whether, given their size, these latter should predominate.

I believe therefore that we should not deter BNOC from opening negotiations with Santa Fe, although we should only contemplate giving our approval to a deal if and when we are satisfied in the light of the economic evaluation that the terms represent value for money both for the nation and for BNOC and a fitting use of funds allocated to the Corporation under the unspecified heading.

I therefore hope that you will agree to my telling Mr Utiger that there are no absolute impediments to his negotiating with Santa Fe; but that any proposals which emerge from these will have to be looked at very critically, and without commitment, by the Government.

I am copying this letter to the Prime Minister and the Lord Privy Seal.

Jan e
Jard
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D A R HOWELL



6 MAY 1980

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Treasury Chambers, Parliament Street, SW1P 3AG

Rt Hon David Howell MP
Secretary of State
Department of Energy
Thames House South
Millbank
London SW1

6 May 1980

Dear David,

Rgls

BNOC CAPITAL EXPENDITURE 1980-81

Thank you for your letter of 25 April in which you seek approval for BNOC's capital expenditure budget of £309.1m in 1980-81. This would include a provision of £25m for unspecified items. You suggest that of this sum BNOC should be able to spend up to £15m on certain projects, including small UKCS farm-ins, without reference to the Department. The remaining £10m, which would cover, among other things, small overseas farm-ins and further work in Malaysia, could only be spent with your agreement.

First, I accept that the allocation of £220m for existing projects, £5m for proposed projects and £49m for exploration and appraisal are reasonable estimates and, subject to what I say below about the need for the utmost economy in the Corporation's budget, should be approved. It is the unspecified provision of £25m which provides the difficulty.

As you say in your letter, BNOC's programme provides for an external financing requirement of -£191m compared with -£200m in Cmnd 7841. But the latest returns from the Corporation show an external financing requirement of -£140m for the year. This increase of £60m is almost entirely due to the prospect of reduced production at the Ninian field because of technical difficulties. I accept that the enormous uncertainty of the North Sea makes it impossible to be confident at this stage that such an excess will materialise, but it is what the Corporation expect. I am therefore bound to treat it as a prospective claim on the Contingency Reserve unless offsetting savings can be found elsewhere in the nationalised industries' expenditure, which seems unlikely. Expenditure from the £25m unspecified provision will, of course, contribute to the £60m excess. Against this background you will see my difficulty in giving approval to any items for optional expenditure within the £25m unspecified provision.

You will recall the correspondence last Autumn about the Beatrice farm-in, the expenditure for which could, of course, be found from within the then approved and proposed capital expenditure ceilings for the Corporation. The Prime Minister was far from happy with that deal. She regarded the purchase as a clear contradiction of the Government's decision that BNOC should be slimmed down. She was also concerned about the public expenditure implications. I think that similar arguments can be deployed against your proposal for expenditure on farm-ins in 1980-81.

Could I therefore suggest that the proposals in your letter should be re-examined to see how the expenditure indicated there might be cut so as to reduce the prospective excess of £60m in the Corporation's forecast external financing requirement. Two obvious areas for cuts are the £15m of the unspecified provision (ie the £25m less the £10m for the additional work on Ninian etc) and the £11m capital expenditure on administration referred to in the annex to your letter. It might also be possible to achieve savings in other parts of the Corporation's capital budget, though I recognise here that many of their decisions are determined by majority decision of partners.

John Biffen

JOHN BIFFEN

Subject

Energy

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Note for the Record

c.c. Sir Robert Armstrong
Mr. David Wolfson
Mr. John Hoskyns

The Secretary of State for Energy called on the Prime Minister this evening to discuss BNOC.

Mr. Howell said that he would like to have a steer from the Prime Minister on how he should proceed with his plans for BNOC. He recalled that Ministers had decided that the Corporation should be split into a trading company and an operating company, with 100% public ownership of the former and some private sector participation in the latter. His intention had been to announce that the operating company would have at least 51% private ownership. But he was beginning to have doubts about proceeding on this course.

His main concern was political. If the Government were now to announce a "private sector solution", there was a real risk that the Opposition would elevate this into a major election issue in the run-up to the next election; and they might well announce that they were going to renationalise, if elected, at the price at which the Government sold the shares. This could well have considerable electoral appeal, given the likely continued rise in the value of oil shares; and a commitment of this kind by the Opposition would be likely to jeopardise the success of any sales operation. In addition, although there was a good deal of support for private ownership of BNOC in the Tory Party, there were some Tories who regarded oil as "magic", and a commodity which should remain within the public sector.

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There were also other arguments in favour of retaining at least a majority public sector stake. First, there was the security of supply factor. Our EEC obligations limited the extent to which we could direct private sector oil supplies to the United Kingdom, whereas with BNOC this could be done more easily. Secondly, if we were to announce that we were intending a 51% private stake, the profits of BNOC (Operating) would no longer contribute to reducing the PSBR.

There was, on the other hand, the important point that with continued public majority ownership, BNOC (Operating) would not be subject to the same financial disciplines as the private companies. On balance, he had come to the view that it would be better to proceed cautiously, and not to go for majority public ownership for the time being. He therefore proposed to announce that, while there would be some private sector participation, BNOC (Operating) would remain in the public sector. His long-term aim continued to be to go for majority private ownership. But a decision on this could be taken, say, in three years time.

The Prime Minister said that her basic aim, like Mr. Howell's, was to push BNOC into the private sector. But she agreed with his arguments, particularly the political and PSBR arguments, and that therefore it would be best to defer majority privatisation of BNOC (Operating).

After the meeting, Mr. Howell told me that he would consult the Chancellor, and then minute other colleagues.

23 April, 1980.

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C O N F I D E N T I A L



SECRETARY OF STATE FOR ENERGY
THAMES HOUSE SOUTH
MILLBANK LONDON SW1P 4QJ

01 211 6402

T Lankester Esq
Private Secretary to the
Prime Minister
10 Downing Street

23rd April 1980

Dear Tim,

I am attaching a short agenda notice which my Secretary of State has prepared for his meeting with the Prime Minister on BNOC, now due to take place at 5.00 pm today.

My Secretary of State feels it is important to have a political steer on how we should proceed on BNOC before we put in hand further detailed work on this.

Yours ever,

Denis

Denis Walker
Private Secretary

SECRETARY OF STATE MEETING WITH PRIME MINISTER - 23rd APRIL 1980

1. Aim: Discuss what we really want out of BNOC in a world oil situation which will remain very unsettled.
2. Timetable: For legislation next session decisions needed by around mid summer. The time taken for the actual restructuring of BNOC (up to a year) suggests that this timetable would permit an initial share sale towards the end of 1981, if Ministers so decided. If decisions are deferred until after the summer recess, then legislation could not be ready for the early part of next session; and the sale options would probably slip into 1982/3.
3. Basic Question: BNOC is two operations - a North Sea oil company and a trading operation with highly political overtones. Are we definitely prepared to see BNOC split and the independence from Government of the upstream operating part clearly established.
4. Once decided, timing of sale into private sector can certainly be phased or prolonged as we wish. But if eventual goal is to remove BNOC from public sector we have to decide and say so at the outset of legislation and sales programme.
5. Alternative: is to bring private capital in to N.S. arm of BNOC but to retain reserved rights. Conceivably we could leave things like this for several years and then introduce a new policy in our second term. But is this desirable?
6. Chairmanship



CONFIDENTIAL

DEPARTMENT OF INDUSTRY

ASHDOWN HOUSE

123 VICTORIA STREET

LONDON SW1E 6RB

TELEPHONE DIRECT LINE 01-212 3301

SWITCHBOARD 01-212 7676

Secretary of State for Industry

8 April 1980

The Rt Hon Sir Geoffrey Howe QC MP
 Chancellor of the Exchequer
 HM Treasury
 Parliament Street
 London SW1

I can Geoffrey.

BNOCPRIVATISATION AND THE PSBR

I am in general agreement with your minute of 7 March to the Prime Minister about how the proceeds of a sale of shares in BNOCP (Operating) would be treated for the purposes of the PSBR. I am in complete agreement that the essential feature must be our demonstration that the public sector is relinquishing control; and that, once that has been made clear, the logical consequence must be that there will be no general arguments for retaining a shareholding that would allow us to exercise control. But I think that we should always define our policy, both immediately after an initial flotation and thereafter in terms of control rather than by reference to the precise level of the Government's shareholding. In many circumstances, a holding of less than 50% does confer effective control: what matters is the size of the major shareholder in relation to other shareholders. This is widely recognised, and any attempt on our part to place stress upon 50% is therefore likely to run counter to our objective of gaining widespread acceptance for the reality as well as the accounting of our privatisation measures. In any case, the more we attach importance to the precise level of shareholding the more difficult it may be to persuade the financial world that we are actually giving up control in these cases, such as British Airways, where the initial position will be a majority Government shareholding.

I therefore suggest that rather than stating the ultimate intention as being to sell "at least 51% of the shares", it should be not to exercise control, regardless of shareholding. The impression I should like us to give is that we are thinking in terms of a low percentage shareholding; not that we shall be satisfied with - or attach much importance to - a reduction to 49% Government shareholding.

/To this ...

CONFIDENTIAL



at least in some cases

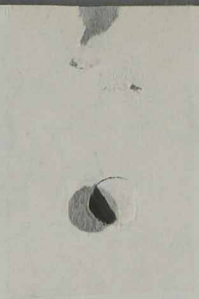
To this end the ultimate intention should be to reduce Government's shareholding to a point where it was neither a majority nor a controlling interest, and finally to eradicate it, always bearing in mind political or other restraints.

I am copying this letter to the recipients of your minute.

Enver

Kear

- Copies to
- Minis
- Secretary
- Mr R Cooper
- Mr Deaving
- Mr Lightman
- Mr Croft
- Mr Nieduszynski
- Mr Farrow
- Mr McCarthy
- Mr Treadgold
- Mr Owen
- (on file)



- 9 APR 1980

Blay

SECRETARY OF STATE FOR ENERGY
 THAMES HOUSE SOUTH
 MILLBANK LONDON SW1A 2AL

01 211 6402

R 2/4

Rt Hon Sir Ian Gilmour Bt MP
 The Lord Privy Seal
 Foreign and Commonwealth Office
 Downing Street
 London
 SW1A 2AL

3rd April 1980

Dear Sir

BP/BNOC OIL SALES

Thank you for your letter of 28th March.

I believe the concern you express may be the result of a misunderstanding about the nature of the clawback arrangements. What we are doing is to ensure that some of the extra oil which BNOC are supplying to BP, or equivalent volumes, can be made available for use in the UK in a supply crisis falling short of the 7% trigger point at which internationally agreed sharing arrangements would come into effect. Neither we nor BP see any difficulty about this and the clawback will be effected, as earlier agreed, by BP diverting additional supplies into the UK rather than disturbing the flows of UKCS crudes to EEC affiliates, so as to reduce the risk of detection and challenge. The arrangements for clawback necessarily contain the ultimate sanction of cutting BP's supplies, but it is highly unlikely in a sub-trigger shortfall that BP would be unable to fulfil its supply obligations in the UK by other means.

The side letter, which relates specifically to the claw-back arrangements, is accordingly directed at BP's ability to meet its supply commitments in Europe and is drawn up in a form which both BP and we believe is likely to provide the best defence, namely that we have satisfied ourselves that BP would expect to be able to continue to meet their European commitments. This is the point on which we agreed in our correspondence at the end of January. But as I made clear then, this whole agreement is conditional upon the extra oil at BP's disposal which is the subject of the bilateral agreement with Government in the last resort being available to meet UK needs in a supply crisis. We have agreed to consult before this ultimate right is exercised.

(2)

I do sympathise with your views about the elaboration of Government involvement in the new arrangements negotiated with BP, but there is as you say no alternative if we are to be certain that we shall be in a position to act effectively and quickly to protect UK interests in any supply crisis. It would not make sense to have an agreement in general terms, only to find in a crisis that further time consuming negotiation and definition was required before it could be brought into operation. Our preferred solution of an agreement which would have given BNOC an unqualified right to terminate supply, leaving the circumstances undefined, was simply not negotiable in the event.

As I made clear in my letter of 26th March I believe the arrangements as negotiated meet our objectives and are generally in accordance with the Attorney General's advice. I accordingly propose to authorise my officials to proceed on the basis of the agreements as drafted.

I am copying this letter to the Prime Minister, the Chancellor of the Exchequer, other members of OD(E), the Attorney General and Sir Robert Armstrong.

D A R Howell

*Yours**David*

APR 3 1980





Craxie
Zaffer

Foreign and Commonwealth Office
London SW1

28 March 1980

Thames

To David,

BP/BNOC OIL SALES

Thank you for sending me a copy of your letter of 26 March to the Chancellor with which you enclosed the detailed contractual provisions for implementing the new oil supply arrangements between BNOC and BP.

I am concerned that the arrangements as they now stand do not incorporate some of the basic features which we agreed would be essential if the risk of legal challenge from the Community were to be minimised. I accept the proposals for ringfencing. But the provisions for clawback do not entirely correspond with what we agreed in our correspondence earlier this year. In particular, we agreed that the right to terminate supplies from BNOC to BP would be so exercised as not to affect UKCS crude supplies from BP to their affiliates in EC countries or to other EC destinations; and that this should be put on record informally either in a letter from BP to the Department of Energy or from BNOC to BP. The draft of the side letter from BP which purports to do this does not in fact seem to address itself to what the company would do if clawback were triggered. It merely states

/that

The Rt Hon David Howell MP
Secretary of State for Energy
Department of Energy
Thames House South
Millbank
London SW1P 4QJ

that in a period of supply difficulties BP would endeavour to maintain supplies to its Community affiliates while at the same time trying to supply the nominated UK companies. It does not state what the company would do if it were unable to supply the nominated UK companies and if you were therefore forced to trigger the clawback provisions. This undermines the basis for our agreement to the concept of clawback in the new arrangements : namely that it should only be exercised if it did not restrict supplies of UKCS oil to BP affiliates in EC countries or other flows of UKCS oil from BP to EC destinations. (This latter element does not appear at all in the side letter.) My view is that BP's side letter should be amended to make this point absolutely clear.

It is unfortunate that the proposed agreement between yourself and BP on the operation of clawback brings the Government so much into the centre of these new arrangements. It had always been our objective to keep the Government involvement to a minimum and to reduce the potential target which we offer to our EC partners. I accept, however, that there may be no alternative. Nevertheless it does make it all the more unfortunate that the agreement is so explicit about the circumstances in which clawback would be invoked. This is contrary to our original intention (OD(E)(79)43) and to Michael Havers' advice in his letter of 10 December. I would be grateful if you could arrange for this aspect of the agreement to be amended so as to refer to the issue in more general terms.

I am sending copies of this letter to the recipients of yours.

your ✓
lan



28 MAR 1960

CONFIDENTIAL



Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

28 March 1980

The Rt. Hon. David Howell, MP

Dear Secretary of State,

BP/BNOC OIL SALES

Thank you for your letter of 26 March about the new oil supply arrangements between BP, BNOC and the Government.

I have not had long to consider these arrangements, and I do not wish to comment on the detailed provisions in the Agreements attached to your letter. However the broad principles have been exhaustively discussed between Departments and I welcome the achievement of agreements which are within the guidelines laid down by the Attorney General and in accord with the other general principles we have agreed.

Others may propose refinements to the arrangements you propose. It goes without saying that any suggested modifications must not prejudice the receipt this financial year of BP's forward oil sale payment, which you have assured me will be made this week.

I am sending a copy of this letter to the Prime Minister, the Lord Privy Seal, the Attorney General, the other Members of OD(E) and to Sir Robert Armstrong.

Yours sincerely,

Mark Hall (Private Secretary)

f.p. GEOFFREY HOWE

*[approved by the Chancellor of the Exchequer,
and signed in his absence]*

CONFIDENTIAL



28 MAR 1960

CONFIDENTIAL



D. G. G. G. G.
to glance.

2

MSM

(too detailed!)

SECRETARY OF STATE FOR ENERGY
THAMES HOUSE SOUTH
MILLBANK LONDON SW1P 4QJ 211 6402

12
27/3

Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the Exchequer
Treasury Chambers
Parliament Street
London SW1

26 March 1980

Dear Sir

BP/BNOC OIL SALES

You will be pleased to know that my officials and BNOC have now concluded negotiation of the detailed contractual provisions for implementation of the new oil supply arrangements between BP, BNOC and the Government set out in the Principles of 31 October.

These arrangements fall into five parts. BP and BNOC have agreed that the forward payment will be made available this week and we are also aiming to conclude all the other arrangements in the same time scale. The agreements providing for sale to BP oil of royalty oil and the new oil sales agreement under which BNOC makes substantial new oil sales to BP are in conventional form and require no further comment.

The provisions in the Principles for "clawback" were the subject of further correspondence between myself and Ian Gilmour; in the form now negotiated there would be an agreement between the Government and BP under which the company can be obliged to provide oil supplies to nominated recipients in the UK in the event of a supply shortfall under defined terms. Supplies to BP from BNOC under the new sale agreement would not be affected provided BP fulfilled their obligations; if they fail I may instruct BNOC to reduce those new supplies accordingly. The company has also provided a side letter giving a broad measure of assurance that supplies to their affiliates, in particular those in the EEC, will not be affected if they have to meet their obligations under the agreement.

I am advised that this proposed arrangement is within the guidelines laid down by the Attorney General in his letter of 10 December; the optimal solution he proposed, of an unfettered power for BNOC to reduce the new supplies, was not negotiable with BP. Given the importance to UK security of supply of the "clawback" provisions as now expressed, my judgement is that the new form of arrangement is satisfactory, given the necessity of government involvement in some form to secure the operation of these arrangements in the national interest and to fulfil the provisions of the Principles.



-2-

The other area of interest is the "ring fencing" arrangement under which BP dedicates its available UKCS production to meeting the needs of its UK refining and marketing affiliate BP Oil. This will give an important element of supply security. The new arrangements involve internal changes in BP's corporate structure through the creation of a new trading affiliate, BP Oil Trading, to handle UKCS crude, but the flows of BP's UKCS crude to its EEC affiliates will not be affected. BP Oil's needs for foreign crudes will be secured through exchange arrangements. BP have satisfied themselves about the new arrangements in relation to EEC risk. There will be no direct government involvement, as advised by the Attorney General, but my officials will be satisfying themselves that the detailed contractual arrangements meet the objectives of ring fencing as expressed in the Principles.

The sensitive parts of these arrangements will be kept confidential by the parties and I do not intend to make any statement beyond acknowledging that new supplies have been made available to BP by BNOG.

I believe the arrangements as negotiated and set out in the attached drafts meet the objectives of the Principles and are generally in accordance with the Attorney General's advice. It would be desirable if all the arrangements could be signed together later this week and I therefore propose to authorise my officials to proceed subject to BP satisfying them on their internal ring fencing arrangements.

Copies of this letter and the associated documents go to the Prime Minister, the Lord Privy Seal, the Attorney General and Sir Robert Armstrong and copies of the letter only to other members of OD(E).

D A R Howell

Howell
J and
S

26 MAR 1960

10 11 12
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8 7 6 5 4

This Agreement is made the _____ between
THE SECRETARY OF STATE FOR ENERGY (hereinafter called "the Secretary")
for and on behalf of Her Majesty of the one part and THE BRITISH
PETROLEUM COMPANY LIMITED of Britannic House, Moor Lane, London
EC2Y 9BU (hereinafter called "BP") of the other part

WHEREAS

- (1) The parties hereto (together with The British National Oil Corporation ("BNOC") BP Petroleum Development Limited and BP Oil Development Limited) entered into a Participation Agreement dated 1st June 1977 which together with the Crude Oil Agreements of even date therewith and annexed thereto provided for supplies of crude oil to BNOC to the equivalent of up to 51% of BP's UK crude oil produced from commercial oil fields on the UK Continental Shelf and owned by BP or its said affiliates.
- (2) And it is the intention of the parties that the arrangements provided by the Participation Agreement and the Crude Oil Agreements should continue but in view of information made available by BP to the Secretary and BNOC and representations made thereon by BP, the Secretary and BNOC have agreed at the request of BP that for the period of 1980-82 BNOC would increase its supply commitments to BP in the terms of the New Crude Oil Agreement hereinafter referred to.
- (3) And the UK Government has as its objective the taking of necessary effective measures to ensure the security of supplies of crude oil and products in the UK.

.../

- (4) In connection with such objective the Secretary is concerned to do what is necessary to attain such objective and in so doing will exercise his powers in a manner consistent with all relevant legal obligations.
- (5) In pursuance of such objective and taking into account the New Crude Oil Agreement hereinafter referred to it is the requirement of the Secretary that BP enters into this Agreement for the supply of crude oil and products in circumstances of Shortfall as hereinafter defined on the terms and conditions hereinafter contained and BP has agreed so to do.

NOW THEREFORE IT IS HEREBY AGREED AS FOLLOWS:

1. Definitions and Interpretation

Words and expressions which have been defined in Clause 1 of the Crude Oil Agreement 1977-1981 made between The British National Oil Corporation (BNOC) of the one part and BP of the other part dated 1st June 1977 as continued pursuant to the Crude Oil Agreement 1982-1989 between the same Parties and of the same date ("the Crude Oil Agreement") shall (unless the context otherwise indicates) have herein the meanings therein ascribed to them.

The term "Shortfall" shall mean the existence of circumstances as determined by the Secretary after consultation with BP and BNOC as hereinafter provided in which the supplies of crude oil and products in the market in the United Kingdom are insufficient to meet the demand for such crude oil and products and in which

.../

no International Energy Agency or European Economic Community allocation scheme, in relation to crude oil or products, affecting the United Kingdom has come into effect.

The term "New Crude Oil Agreement" shall mean the Agreement of even date herewith between BNOC and BP Oil Trading Ltd and supplemental to the Crude Oil Agreement.

2. Duration

This Agreement shall be deemed to have come into force with effect from 1st January 1980 and shall continue in effect for the duration of the New Crude Oil Agreement or until the New Crude Oil Agreement is terminated upon the happening of which event this Agreement shall also terminate.

3. SALES OF CRUDE OIL AND PRODUCTS

(a) Determination of Shortfall

(i) If at any time the Secretary considers there is or is likely to be a shortfall he may serve notice on BP and BNOC to enter into consultations with the Secretary forthwith.

(ii) The purpose of the consultations shall be to assist the Secretary in determining whether or not a shortfall does or is likely to exist. The Secretary shall take account of relevant information which either party or BNOC may make available.

- (iii) Information relevant to the consultations shall include
(without prejudice to the generality of the foregoing)
- (aa) Supplies of crude oil and products into the
UK
 - (bb) Demand for crude oil and products in the UK
 - (cc) The export of crude oil and products from the
UK.
 - (dd) Any fluctuations in the supply of crude and
products to the UK and, where ascertainable,
the reasons therefor.
 - (ee) The stocks of crude oil and products held in
the UK
- (iv) The collation of information ascertained in accordance
with the above categories shall, to the greatest
extent practicable, conform to the methods adopted
by the International Energy Agency in similar cir-
cumstances.
- (v) The consultations shall be concluded, not later than
15 days after receipt of the notice specified in
(i) above, by the Secretary, after taking such con-
sultations into account, determining whether or not
a shortfall does or is likely to exist. Such determin-
ation shall be binding upon BP and, subject to (f)
below, may be changed only in accordance with the
preceding provisions of this Clause.

(b) Provision of Estimates

Not later than five days after commencement of consultations BP shall supply to the Secretary its estimate of

- (i) BP's UK crude oil production for the following three calendar months
- (ii) the refining requirements of BP Oil Limited to meet its normal market in the UK for the following three calendar months. Such estimates shall take no account of any existing or anticipated temporary inability to carry out processing at any of that company's refineries where such inability is due to circumstances beyond the control of that company.

(c) Notice of Sale and Deliveries

- (i) If the Secretary, in accordance with (a)(vi), makes a determination that a Shortfall does exist or will exist within the next ninety days of the date on which he serves notice as specified herein then, 15 days after the receipt by BP of the notice specified in (a)(i) above, and, provided the Secretary is then able to make a determination, every thirty days thereafter the Secretary may serve notice on BP requiring it to commence or continue as the case may be the sale and delivery to the Secretary or his nominee(s) into the UK of crude oil or products. Any such sale and delivery shall be in accordance with the terms hereinafter provided.

.../

(ii) Such notice shall specify

(aa) the amount of the Shortfall expressed in barrels of crude oil per day

(bb) the amount of crude oil which BP is required to supply, which amount shall not exceed the quantity specified in (iii) below.

(cc) a period not exceeding thirty days and expressed in number of days and not by reference to dates.

(iii) The quantity referred to in (ii)(bb) above shall be the amount of crude oil expressed in barrels per day which is equal to BP's UK crude oil production less the sum of the crude oil necessary to meet BP Oil Limited's refining requirements as defined under (b)(ii) above and the net supplies of crude oil by BP to BNOG under the Crude Oil Agreement and the New Crude Oil Agreement and shall be established in accordance with the estimates provided in accordance with (b) above for the first calendar month for which such estimates have been provided in respect of the first notice and the relevant subsequent estimates in respect of any further notice.

(iv) BP shall have the right to deliver the quantities in (ii)(bb) above specified in a notice issued by the Secretary in terms of:

.../

- (aa) Either a grade or grades of crude oil comparable to the average UK Barrel which means a barrel of crude oils capable of being refined in typical UK refinery capacity would yield products comparable to the Average UK Barrel for the period in question as defined in Annex A to this Agreement, or
- (bb) the products themselves in such proportions as defined in said Annex A, or
- (cc) any combination of (aa) and (bb) above provided that, to the extent consistent with BP's rights and obligations hereunder and normal industry practice, BP shall take account of the requirements of the recipients of such crude oil or products.
- (v) Within fifteen days of the end of the month in question BP shall supply the actual figures for BP's UK crude oil production and BP Oil Limited's refining runs and shall take account of actions taken or to be taken by BP to overcome any temporary inability to process in the UK and deliveries by BP shall be adjusted in accordance therewith and the notice in (ii) above shall be deemed to have been amended so that amount of crude oil specified in (ii)(b) had been calculated by reference to such actual figures.

.../

(vi) BP shall be entitled to an operational tolerance in any calendar month of \pm ten per cent or 50,000 tons whichever is the greater. Such entitlement may be taken in any month but the cumulative total thereof at any one time shall not exceed 50,000 tons or \pm ten per cent of the most recent monthly supply obligation whichever is the greater.

(vii) To the extent that BP supplies any part of the quantity specified in (ii)(bb) above in products rather than crude oil as hereinafter provided a conversion factor of 93 per cent shall be applied to the volume of crude oil not so supplied in order to determine the amount of products to be supplied in substitution therefor.

(d) Meeting the Shortfall

(i) Forthwith upon the service of a notice by the Secretary under (c)(i) above the Secretary shall consult with BP over a period not exceeding fifteen days, during which he will inform BP of his reasons for making the determination under (a)(v) above, to establish

(aa) the extent to which BP is able to supply the quantity specified in (c)(ii)(bb) above in crude oil or products to BP Oil Limited and BP Oil Limited is able to market in the UK supplies additional to its adjusted pre-Shortfall requirements, and

(bb) the extent to which deliveries of crude oil and products will have to be supplied to third parties insofar as BP Oil Limited is unable to accept the quantity so specified.

(ii) To the extent that BP Oil Limited is able to accept deliveries as aforesaid BP shall, not more than 60 days from receipt of the notice specified in (c)(i) above, complete deliveries of crude oil and products.

(iii) To the extent that the refining requirements of BP Oil Limited have been satisfied as provided in (i) above and BP Oil Limited is unable to accept any additional deliveries the Secretary of State shall consult forthwith with BNOC and BP (and separately, although the Secretary may invite BNOC and/or BP to attend such consultations, with such other third parties as the Secretary may decide) in order to establish within 30 days from the service of notice referred to in (c)(i) above a plan which can be implemented by BP, taking into account its rights and obligations herein contained as well as good oil industry practice and which is acceptable to the Secretary for the supply of the balance of crude oil or products which BP Oil Limited is unable to accept.

(iv) (aa) Forthwith upon the Secretary notifying BP of acceptance and details of the said plan

- (i) in respect of crude oil specified in the plan which was not originally supplied to BP by BNOC under the terms of any agreement between BP and BNOC and to the extent that the said plan provides for the supply of products BP shall commence, and seek to complete within five days thereafter, negotiations in good faith with such party or parties as the Secretary may nominate for the sale, in accordance with the said plan, of such crude oil and products at prices which shall be the realisations defined at Annex B to this Agreement relating thereto BP shall keep the Secretary informed of the progress of negotiations.
- (ii) in respect of crude oil specified in the plan which was originally supplied to BP by BNOC under the terms of any agreement between BP and BNOC the Secretary shall procure BNOC
- (aaa) to commence, and seek to complete within five days thereafter, negotiations in good faith with such party or parties as the Secretary may nominate for the sale, in accordance with the said plan, of such crude oil;

- (bbb) keep BP informed of the progress of negotiations; and
- (ccc) pay to BP the realisation defined in Annex B for crude oil sold as a result of such negotiations.
- (iii) the terms of any agreement resulting from the above negotiations shall be in accordance with good oil industry practice, the price being as provided in (iv)(aa)(i) above, and the conditions of such agreement shall conform to BP Trading Limited's General Conditions of Sale to the greatest extent practicable, due regard being paid to the objective of this Agreement and the circumstances of the negotiations relating to such agreement.
- (bb) If any of the negotiations do not culminate in agreement by the fifth day thereof the Secretary may on that day nominate another party or other parties with whom negotiations shall take place. If the Secretary does so nominate the provisions of (aa) shall apply thereto.
- (cc) If the Secretary does not so nominate or if any of the negotiations following such nomination do not culminate in agreement by the fifth day thereof then there shall be no obligation on

BP or BNOC to deliver the crude oil or products which would otherwise have been deliverable had the Secretary so nominated and/or such negotiations had culminated in agreement.

- (v) Forthwith upon successful completion of negotiations with any nominated party BP shall commence deliveries of crude oil or products to such party in accordance with the provisions of the agreement relating thereto which shall include a provision that deliveries of the relevant quantity shall be completed within sixty days of service of the notice specified in (c)(i) above.
- (vi) For the avoidance of doubt BP shall look to such party or parties and/or BNOC as appropriate for payment of the price and the Secretary shall have no financial liability or financial obligations whatsoever therefor or arising out of or in connection with the negotiations, sales or supplies of crude oil and/or products referred to in (d)(v) above.
- (e) Consultations during any period of Shortfall
- (i) In the event that the Secretary serves notice in accordance with (c)(i) above then at intervals of not more than thirty days commencing with the thirtieth day following the service of notice referred to in (a)(i) above the Secretary shall consult with BP and BNOC in like manner to (a) and (b) above.

(ii) At regular intervals of the parties shall meet together to review the implementation of the plan of supplies to BP Oil Limited and the agreements entered into by BP or BNOC with third parties as well as BP's plans for the future implementation thereof. Notwithstanding the foregoing BP shall inform the Secretary of any inability to fulfil such implementation as soon as it becomes aware of such inability or of any material change in its ability so to fulfil.

(f) Cessation of Shortfall

Forthwith upon the determination by the Secretary that, after taking into account all deliveries made or to be made by BP, a Shortfall has ceased or will cease to exist, the requirement imposed on BP by a notice or notices served under (c)(i) above hereof for the period of that Shortfall shall terminate without prejudice to BP's obligation to complete all deliveries taken into account above by the Secretary in determining that a Shortfall had ceased to exist.

4. Failure to Supply

(a) If, for any reason, BP does not deliver, or if BP advises the Secretary that it is not to be able to deliver in accordance with its obligations arising under this agreement, all or part of the crude oil or products provided for in Clause 3 hereof, then the Secretary may instruct BNOC to reduce forthwith supplies of crude oil under the New

.../

Crude Oil Agreement by an amount equivalent to that which BP has not delivered, or has advised the Secretary that it is not able to deliver, pursuant to a notice served under Clause 3(c) hereof.

- (b) To enable BNOC to act upon any instruction which the Secretary may give to BNOC in pursuance of the right granted to the Secretary hereunder the scope of Clause 15 of the Crude Oil Agreement has been widened so as to include such instructions insofar only as they relate to the New Crude Oil Agreement. The Secretary undertakes to BP that he will not give any instructions, other than instructions given to BNOC in pursuance of (a) above, to BNOC which if acted upon by BNOC would, but for the widening of the scope referred to above, have caused BNOC to be in breach of its obligations under the New Crude Oil Agreement.

5. Further Consultation

It is agreed and declared that the provisions of this Agreement are an integral part of the arrangement for supplies of crude oil from the Secretary and BNOC to BP and vice versa. If for any reason the intentions of the Parties cannot be implemented as expressed in the provisions of this Agreement the Secretary, BNOC and BP shall forthwith review the arrangements and determine how best to fulfil the intentions of the Parties in the light of such inability and the circumstances causing it. The Participation Agreement and the Crude Oil Agreement do not constitute part of the arrangements referred to above for the purposes of this Clause and shall continue in full force and effect notwithstanding the provisions of this Clause.

.../

6. Performance by BP Group

BP undertakes that in so far as any obligation hereunder falls to be performed by any member of the BP Group not a party to this Agreement, BP shall in accordance with its lawful powers procure the performance of that obligation by the relevant member of the BP Group.

7. Notices

Any notice or other communication required to be given hereunder shall be in writing and shall be sufficiently made if sent by pre-paid first class post or telegraph or telex or by delivery the same day by hand addressed to the party to be served at Thames House South, Millbank, London SW1P 4QJ (in the case of the Secretary) and at Britannic House, Moor Lane, London EC2Y 9BU (in the case of BP) and shall except in the case of delivery by hand and save for evidence to the contrary be deemed to have been made on the day on which such communication ought to have been delivered in due course of postal, telegraphic or telex communications.

8. Applicable Law

The construction, validity and performance of this Agreement shall be governed by English law.

9. Confidentiality

(a) The parties shall keep the Agreement and any information made available to each other under Clauses 3(a)(ii), (iii), (iv), 3(b), 3(c)(v), 3(d), 3(e) and 3(f) confidential

between themselves and shall not disclose its contents to any Third Party except BNOC or any Minister or Servant of the Crown without the agreement of the other party, such agreement not to be unreasonably withheld.

(b) The foregoing obligations of confidentiality shall not apply to information which

(i) is or subsequently becomes published by a third party or otherwise generally available to the public, or which

(ii) is in the recipient's possession at the time of disclosure and which, at the time of disclosure, the recipient is not obliged to keep confidential, or which

(iii) has been or subsequently is lawfully communicated to the recipient by a third party so that it is not subject to restriction upon disclosure known to the recipient.

(c) Notwithstanding anything hereinbefore contained, the Secretary and BNOC shall be entitled to disclose to any nominated party referred to in Clause 3(d)(iv) information as may be necessary to ensure the implementation of the plan referred to in Clause 3(d)(iii), subject to first obtaining from such nominated party a written undertaking to keep such information confidential.

.../

IN WITNESS WHEREOF the Corporate Seal of the Secretary of State
and the Common Seal of the British Petroleum Company Limited have
been hereunto affixed on the day and year first above written

The Corporate Seal of the Secretary)
of State for Energy hereunto affixed)
was authenticated by:)
)
an authorised by)
the Secretary of State)

The Common Seal of the British)
Petroleum Company Limited was)
hereunto affixed in the presence of:)

DRAFT SIDE LETTER FROM BP TO SECRETARY OF STATE

In entering into the Agreement dated 'X' ("the Agreement") concerning the supply of oil to the UK during a supply shortfall we have given consideration to the fact that it was only by entering into the Agreement dated 'X' that we have been able to secure the execution of the new Sales Agreement between BNOC and ourselves and an estimated additional supply over the years 1980/82 of 39 m tons. It is our view that taken overall these arrangements will increase the oil availability of our Associate companies (including those in the EEC).

It would be our intention, under many of the circumstances which may exist at a time when our obligation to supply you with oil is invoked under the Agreement dated 'X', to seek to cover Group requirements in terms of the supply of crude and/or products through operational flexibility including drawing from stock and/or additional purchases on the open market.

You will appreciate it is not possible to foresee the circumstances which may arise in future supply crises and therefore it will be necessary for us to decide in the light of circumstances then prevailing, what measures we should adopt. It must, however, be likely that in any world supply crisis which was sufficiently limited in extent as not to trigger the IEA emergency sharing mechanism, that we would be able to procure the additional supplies involved, thus avoiding any reduction in the volume of supplies to our Associate companies (including those in the EEC) in any of the above circumstances.

This letter shall be accorded the same degree of confidentiality as the agreement to which it relates.

ADVANCE PAYMENT AGREEMENT

THIS AGREEMENT is made the _____ day of _____ 1980 BETWEEN
THE BRITISH NATIONAL OIL CORPORATION of the one part and
THE BRITISH PETROLEUM COMPANY LIMITED whose registered office is at
Britannic House, Moor Lane, London EC2Y 9BU of the other part

WHEREAS:

- (a) By an agreement dated 1st June 1977 and made between the parties hereto (which agreement as the same may have been amended or supplemented is hereinafter referred to as the "C.O.A.") the parties entered into certain option and cross-purchase arrangements in respect of crude oil.
- (b) The parties have now agreed upon arrangements hereinafter contained whereby an advance payment shall be made by BP and credited against payments due from BP to BNOC and therefore desire to supplement the C.O.A. as hereinafter provided.

NOW THEREFORE IT IS HEREBY AGREED AS FOLLOWS:

Clause 1 - Definitions

All terms defined in the C.O.A. shall have their defined meanings when used herein.

For the purpose of Clause 2 hereof the term "Oil" shall mean 140,000 barrels per day of the UKCS crude oil to be delivered by BNOC to BP during the 12 month period commencing on 1st April 1980 pursuant to Clause 4(a) of the C.O.A.

Clause 2 - Advance Payment

The C.O.A. shall be and is hereby amended by the addition of the following new sub-clause to be numbered 11(e):

" (e) In respect of deliveries of the Oil (as such expression is defined in Clause 1 of the Agreement between the Parties dated 1980):

- (i) BP shall transfer to BNOC on or before 28th March 1980 two hundred and eighty-five Million Pounds Sterling (£285,000,000) hereinafter referred to as "the Forward Payment."
- (ii) The Forward Payment shall be made by BP to BNOC for value on such date without deduction, discount, set-off or counter-claim and at the expense of BP.
- (iii) Subject to the provisions of paragraph (iv) below the Forward Payment shall in no circumstances be otherwise available to BP to discharge other costs, dues, expenses or other payments which may be due by BP to BNOC or for offsetting payments due on each side as contemplated under Clause 11(a) hereof.
- (iv) In consideration for BP making the Forward Payment BNOC undertakes that on each and every occasion when an amount ("the Relevant Amount") would otherwise be due and owing by BP to BNOC for the Oil under Clause 11(a) above then payment for each shipment shall be deemed to be satisfied by the application of an amount equivalent in value to the Relevant Amount against the Forward Payment until the aggregate of the sums so applied shall equal 100 per cent of the Forward Payment in which event payment by BP for such volumes of Oil (or part thereof) as remain to be delivered as at such date shall be effected in accordance with the provisions of Clause 11(a) to (d) hereof and the provisions of this Clause 11(e) shall no longer have effect."

Clause 3 Option

BNOC shall have the option to require from BP a further forward payment of up to Three Hundred Million Pounds Sterling (£300,000,000) in respect of a quantity of UKCS crude oil to be delivered during the 12 month period commencing on 1st April 1981. Unless otherwise agreed such quantity shall be 230,000 barrels per day. The said sum shall be paid by BP to BNOC on or before 31st March 1981 and be credited in a manner similar to that set out in Clause 2 above. Such option shall be exercised by BNOC giving written notice to BP on or before 31st October 1980.

BP shall be under no liability to make such further forward payment hereunder to BNOC unless and until it has received:-

- (i) confirmation in writing that Her Majesty's Government concurs;
- (ii) confirmation that such forward payment is a requirement contained in other agreements for the sale of crude oil by BNOC and is the result of the general application of such a measure in the context of public expenditure planning by Her Majesty's Government.

Clause 4 - Other Terms and Conditions

Except as otherwise provided herein all other terms and conditions shall be in accordance with the C.O.A.

IN WITNESS WHEREOF THIS AGREEMENT has been entered into the day
and year first above written.

Signed for and on behalf of)
THE BRITISH NATIONAL OIL)
CORPORATION)

Signed for and on behalf of)
THE BRITISH PETROLEUM)
COMPANY LIMITED)

THE BRITISH NATIONAL OIL CORPORATION

AGREEMENT FOR SALE OF ROYALTY CRUDE OIL

THIS AGREEMENT is made the _____ day of _____ 1980
BETWEEN the Parties:

1. THE BRITISH NATIONAL OIL CORPORATION ("the Seller") - acting as agent for The Secretary of State for Energy for and on behalf of Her Majesty, and
2. BP OIL LIMITED, a company incorporated in England, ("the Buyer").

NOW IT IS HEREBY AGREED between the Parties as follows:

1. Definitions and Interpretation

Words and expressions which have been defined in Clause 1 of the Crude Oil Agreement 1977-1981 made between the Seller and The British Petroleum Company Limited dated 1st June 1977 as continued pursuant to the Crude Oil Agreement 1982 - 1989 between the same Parties and of the same date ("the Crude Oil Agreement") shall (unless the context otherwise indicates) have herein the meanings therein ascribed to them.

The term "Operational Agreement" shall mean the agreement made between the Seller and The British Petroleum Company Limited dated 27th October 1978.

The term "Royalty Oil" shall mean the petroleum from commercial oilfields which the Secretary of State for Energy for and on behalf of Her Majesty has by notice in writing required BP to deliver to him under the provisions of a production licence in which BP has an interest and as provided for in Model Clause 11 of Schedule 2 Part II of The Petroleum and Submarine Pipe-lines Act 1975.

Headings are inserted herein for convenience only and shall be ignored in the construction of this Agreement.

2. Sale and Purchase

The Seller shall deliver and sell and the Buyer shall receive in bulk and buy crude oil on the terms and conditions set forth in this Agreement.

3. Duration

This Agreement shall be deemed to have taken effect from 1st January 1980 and shall continue in force until 31st December 1982. Such termination shall be without prejudice to the rights and obligations of the Parties as accrued at the date of termination.

The period for deliveries of the crude oil shall commence on 1st January 1980.

4. The Crude Oil

(a) The crude oil to be delivered in each quarter shall be equal in volume to the Royalty Oil taken in respect of that quarter.

(b) The quality of such crude oil shall be as follows:-

(i) in respect of Royalty Oil of Forties grade the Seller shall deliver back to the Buyer in each quarter not less than one-third of the quantity of Royalty Oil (being Forties grade), the exact quantity being at the Seller's option subject to the Seller retaining out of such Royalty Oil in each quarter a maximum of 40,000 barrels per day and a minimum of 30,000 barrels per day, or if the total availability of such Royalty Oil is less than 30,000 barrels per day, such total availability;

(ii) in respect of the balance of Royalty Oil of Forties grade, the Seller shall deliver to the Buyer grades comparable to Forties grade on the basis set out in Clause 6(a) of the Crude Oil Agreement. However, the Seller shall have the right to propose to the Buyer an exchange whereby other low-sulphur UKCS grades are delivered to the Buyer, the terms of such exchange to be

agreed between the parties and to be fixed for periods of six months. In the event that the Seller and the Buyer are unable to agree in good faith the terms applicable to such an exchange, then the quantities in question shall be delivered in terms of grades comparable to Forties grade on the basis set out in Clause 6(a) of the Crude Oil Agreement;

(iii) in respect of Royalty Oil of grades other than Forties grade, the Seller shall deliver to the Buyer the same grades.

(c) In respect of the comparable grades referred to in (b) (ii) above, consultation between the parties and the Seller's subsequent notifications in respect thereof shall, so far as is practicable, be in accordance with, and contemporaneous with, the procedures laid down in the Crude Oil Agreement.

5. Loading Terminal/Delivery

The crude oil shall be made available to the Buyer and the Buyer shall take delivery f.o.b. at the appropriate loading terminal for the grade in question or, in the case of Forties grade and subject to the Secretary of State's approval, at the Buyer's option into the Buyer's pipeline at Kinneil. Except in the case of a tankship loading a full cargo but made up of a part cargo being delivered under this Agreement as well as a part cargo or part cargoes from third parties or from BP's own availability, all deliveries hereunder f.o.b. loading terminal shall, unless specifically requested by the Buyer and agreed to in writing by the Seller, be given and taken in full cargo lots.

The Buyer shall nominate in accordance with the provisions of the Operational Agreement and at the time of accepting such nomination the Seller shall advise the Buyer as soon as practicable of any adjustment necessary to such nomination to ensure that the quantity shall be equal in volume to the Royalty Oil.

6. Price

For the period up to and including 31 December 1980 the Buyer shall pay to the Seller for each barrel of crude oil delivered f.o.b. the loading terminal or at Kinneil a price established for the grade of crude oil in question in accordance with the provisions of the

Crude Oil Agreement. For any period of not less than six months after the 31 December 1980 the Secretary of State may, after consultation with the Buyer and the Seller, prescribe the alternative basis, to that established by the Crude Oil Agreement for calculating price.* Until, however, the Secretary of State, after such consultation as aforesaid, prescribes the alternative basis the price will remain as established in accordance with the Crude Oil Agreement.

(* BP have requested additional wording here).

7. Payment

Payment for each cargo shall be made by the Buyer to the Seller in accordance with the provisions of Clause 11 (as amended) of the Crude Oil Agreement 1977 - 1981 without deduction, discount, set-off or counter-claim and the provisions for offsetting payments referred to in the said Clause 11 shall not apply.

8. Other Terms and Conditions

Except as otherwise provided herein, all other terms and conditions shall be in accordance with the Crude Oil Agreement and the Operational Agreement as such Agreements may be amended from time to time as if crude oil deliverable hereunder was part of the Seller's availability of UKCS crude oil.

9. Law

The construction validity and performance of this Agreement shall be governed by the Laws of England.

AS WITNESS the hands of the duly authorised representatives of the parties the day and year first above written.

SIGNED for and on behalf of
THE BRITISH NATIONAL OIL CORPORATION by:

.....

SIGNED for and on behalf of
BP OIL LIMITED by:

.....

AFT 11.2.80

AGREED AT MTS 12.2.80
BP/BNOC ENERGY

To: BP Oil Ltd

With reference to the Notices served by the Secretary of State on BP Oil Development Ltd dated the twenty-eight day of June 1979 and the eighteenth day of December 1979 and to the Notices served by the Secretary of State on BP Petroleum Development Ltd dated the twenty-ninth day of June 1979 and the eighteenth day of December 1979 and requiring the delivery of crude oil to him under the terms of Licences granted under the Petroleum (Production) Act 1934, I am writing to inform you that the British National Oil Corporation (BNOC) will be acting on behalf of the Secretary of State in taking delivery of and disposing of any crude oil delivered to him under the terms of such Licences, until further notice is given to you. I am also to inform you that the Secretary of State is aware of and approves of the arrangements for the sale of the crude oil to BP Oil Ltd for the period 1st January 1980 to 31st December 1982 (inclusive) contained in the Royalty Sales Agreement dated the and made between BNOC and BP Oil Ltd.

The Secretary of State approves of the arrangement that for the period up to and including 31 December 1980 BP Oil Limited shall pay to BNOC for each barrel of crude oil delivered f.o.b. the loading terminal a price established for the grade of crude oil in question in accordance with the Crude Oil Agreements made between BNOC and the British Petroleum Company Limited. For any period of not less than six months after 31st December 1980 the Secretary of State reserves the right (as provided in Clause of the Agreement) after consultation with BNOC and BP Oil Limited, to prescribe an alternative basis to that established by the Crude Oil Agreements for calculating price. Any such alternative basis would be generally applicable to

sales of oil delivered to the Secretary of State under the terms of licences granted under the Petroleum (Production) Act 1934, and not restricted to sales of such oil to BP Oil Limited.

AN AGREEMENT dated the _____ day of _____ 1980 between
THE BRITISH NATIONAL OIL CORPORATION of the one part and
whose registered office is at Britannic House, Moor Lane, London EC2Y 9BU
("BPOT") of the other part

WHEREAS the parties wish to enter into an agreement for the sale of
crude petroleum supplemental to the Crude Oil Agreements entered into
pursuant to the Participation Agreement between the Secretary of State
for Energy for and on behalf of Her Majesty, The British National Oil
Corporation, The British Petroleum Company Limited, BP Petroleum Development
Limited and BP Oil Development Limited dated 1st June 1977, which Crude
Oil Agreements are referred to in Clause 1 hereof

NOW THEREFORE IT IS HEREBY AGREED AS FOLLOWS:-

Clause 1 - Definitions

In this Agreement, unless the context otherwise requires, the terms set
out in Clause 1 of the Crude Oil Agreement 1977-1981 between BNOC and
The British Petroleum Company Limited dated 1st June 1977 as continued
pursuant to the Crude Oil Agreement 1982-1989 between the same parties
and of the same date ("the Crude Oil Agreement") shall, if used in this
Agreement, have the meanings attributed to them in the said Clause 1;
and the term "port of loading" or "loading port", if used in this Agree-
ment, shall be interpreted as prescribed in the Operational Agreement
between the same parties dated 27th October 1978 ("the Operational
Agreement").

Clause 2 - Scope

Subject to the terms and conditions contained herein BNOC shall deliver
and sell and BPOT shall receive in bulk, purchase and pay for the quantity
of crude petroleum established as hereinafter provided.

Clause 3 - Duration

This Agreement shall be deemed to have come into force with effect from
1st January 1980 and shall continue thereafter until 31st December,
1982.

Clause 4 Quantity

(a) The quantity of crude petroleum deliverable hereunder in each quarter specified in the following table shall be such that, subject to (b), (c) and (d) below, the net quantity of crude petroleum delivered by BP to BNOC in that quarter, resulting from sales under the Crude Oil Agreement, less the quantity delivered hereunder, is equal to the quantity for the quarter in question specified in the table and referred to therein as the overall net quantity:-

| <u>Quarter</u> | <u>Overall net quantity</u> <u>Barrels per day</u> |
|-------------------|---|
| 1st quarter 1980 | 119,000 |
| 2nd quarter 1980 | 122,000 |
| 3rd quarter 1980 | 84,000 |
| 4th quarter 1980 | 81,000 |
| 1st quarter 1981 | 35,000 |
| 2nd quarter 1981 | 35,000 |
| 3rd quarter 1981 | Nil |
| 4th quarter 1981 | Nil |
| Each quarter 1982 | Nil |

(b) (i) The overall net quantity for each quarter in 1980 and 1981 specified in the table in (a) above shall be subject to adjustment, depending on estimates of production of BP's U.K. crude oil and actual such production, as set out in (ii) and (iii) below.

(ii) By the 45th day of the quarter preceding the quarter in question BPOT shall notify BNOC in writing of the estimate of such production and thereafter shall advise BNOC of any significant changes in such estimate as they occur and actual such production figures for the quarter in question as they become available.

(iii) The adjustment referred to in (i) above shall be made for each quarter as follows:-

(aa) in the first instance, by application of the following formula:

(Overall net quantity for quarter specified in table) $\times \frac{\text{[estimate of such production in that quarter, expressed in barrels per day]} \div 540,000}{\text{[adjusted overall net quantity for quarter (to the nearest 1000 barrels per day)]}}$ =

when BPOT advises BNOC of such estimate for the quarter in question and when BPOT advises BNOC of any significant changes in such estimate pursuant to (ii) above;

(bb) finally, by application of the following formula

(Overall net quantity for quarter specified in table) $\times \frac{\text{[actual such production in that quarter, expressed in barrels per day]} \div 540,000}{\text{[adjusted overall net quantity for quarter (to nearest 1000 barrels a day)]}}$ =

when BPOT advises BNOC of actual production figures for the quarter in question pursuant to (ii) above:

provided, however, that if within the said estimate and changes advised thereto the relevant operator expects significant fluctuations in monthly production during the quarter in question, BPOT shall so inform BNOC and the quantity deliverable hereunder during each month of the quarter in question shall be subject to proportional adjustment to take account of such fluctuations.

(c) Any overlift or underlift in any quarter resulting from the adjustments provided for in (b) above shall be compensated as soon as practicable thereafter, the price and payment terms in respect of any compensating quantity lifted being determined with regard to the actual date of completion of loading.

- (d) In the event that royalty in respect of production of BP's U.K. crude oil in any quarter is not taken in kind, or taken only partially in kind, the quantity of crude petroleum deliverable hereunder in that quarter pursuant to (a) and (b) above shall be increased by a quantity equivalent to 51 per cent of such royalty not taken in kind.

Clause 5 - Quality

- (a) Subject to (b) and (c) below, the grades of crude petroleum shall be:-

(i) the grades of BP's U.K. crude oil delivered by BP to BNOC pursuant to Clause 3, and retained by BNOC pursuant to Clause 5, of the Crude Oil Agreement; and

(ii) the grades of non-UKCS crude oil delivered by BP to BNOC pursuant to Clause 4(b) of the Crude Oil Agreement.

- (b) BNOC shall use its best endeavours to deliver the quantity deliverable hereunder:-

(i) in each quarter of 1980, in terms of non-UKCS crude oil of the grades and in the proportions thereof delivered by BP to BNOC as aforesaid in the same quarter;

(ii) in each quarter of 1981 and 1982, in terms of BP's U.K. crude oil and non-UKCS crude oil of the grades and in the proportions thereof delivered by BP and retained by BNOC as aforesaid and delivered by BP to BNOC as aforesaid respectively in the same quarter.

In so far as BNOC is unable so to deliver the quantity deliverable hereunder, any quantities of alternative grades it notifies for delivery shall be comparable on the basis set out in Clause 6 of the Crude Oil Agreement.

- (c) Consultation between the parties as to the grades of crude petroleum

and the quantity of each to be delivered hereunder, and BNOc's subsequent notification thereof to BPOT, shall be in accordance with and so far as possible contemporaneous with procedures laid down in the Crude Oil Agreement.

Clause 6 - Delivery

- (a) BNOc shall give and BPOT shall take delivery, unless otherwise agreed, in accordance with the provisions of the Crude Oil Agreement as appropriate to the grade in question, provided that, in the case of any comparable grade of UKCS crude oil becoming deliverable pursuant to the last sentence of Clause 5 (b) hereof in any quarter up to the end of 1981, if such appropriate delivery is ex ship then delivery shall be subject to the operational guarantees set out in Appendix I to the Crude Oil Agreement.

- (b) Within each quarter delivery of each grade of crude petroleum hereunder shall so far as practicable be given and taken at an approximately even rate having due regard to the provisions of Clause 4 hereof.

Clause 7 - Price

BPOT shall pay to BNOc for the quantity of each shipment a price f.o.b. loading terminal equal to the price established (or which would be established) for the grade of crude petroleum in question as provided in the Crude Oil Agreement.

Clause 8 - Payment

Payment for each shipment shall be made in accordance with Clause 11 of the Crude Oil Agreement.

Clause 9 - Other Terms and Conditions

Except as otherwise provided herein, all other terms and conditions shall be in accordance with the Crude Oil Agreement and the Operational Agreement as such Agreements may be amended from time to time and the provision of clause 15 of the Crude Oil Agreement shall, for the purposes of this Agreement only, be read as if the reference and direction included instructions which the Secretary of State may give to BNOc as if all supplies of crude oil hereunder were supplies of UKCS crude oil

IN WITNESS WHEREOF THIS AGREEMENT has been entered into the day and year first above written.

Signed for and on behalf of
THE BRITISH NATIONAL OIL CORPORATION

Signed for and on behalf of
.....

THE BRITISH NATIONAL OIL

CRUDE OIL SALES AGREEMENT

THIS AGREEMENT is made the _____ day of _____ 1980
BETWEEN the Parties:

1. THE BRITISH NATIONAL OIL CORPORATION (the "Seller")
2. BP OIL TRADING LIMITED, a company incorporated in England, ("the Buyer").

NOW IT IS HEREBY AGREED between the Parties as follows:

1. Definitions and Interpretation

Words and expressions which have been defined in Clause 1 of the Crude Oil Agreement 1977-1981 entered into between the Seller and The British Petroleum Company Limited on 1st June 1977 as continued pursuant to the Crude Oil Agreement 1982 - 1989 between the same Parties and of the same tenor ("the Crude Oil Agreement") shall (unless the context otherwise indicates) have herein the meanings therein ascribed to them.

The term "Operational Agreement" shall mean the agreement made between the Seller and The British Petroleum Company Limited dated 27th October 1978.

2. Sale and Purchase

The Seller shall deliver and sell and the Buyer shall receive in bulk and buy crude oil on the terms and conditions set forth in this Agreement.

3. Duration

This Agreement shall be deemed to have come into effect from 1st January 1980 and shall continue in force until 31st December 1982. Such termination shall be without prejudice to the rights and obligations of the Parties as accrued at the date of termination.

The period for deliveries of the crude oil shall commence on the date of commencement of commercial production of crude oil from the Beatrice Field.

4. The Crude Oil

- (a) The crude oil to be delivered in each quarter shall be equal in volume to fifty one per cent (51%) of BP's entitlement to crude oil produced from the Beatrice Field.
- (b) The quality of such crude oil shall be at the Seller's option Beatrice grade and or any other grade or grades of UKCS crude oil of comparable or better quality.

The parties shall meet ninety (90) days prior to the anticipated date of commencement of commercial production of crude oil from the Beatrice Field to agree a definition of grades of comparable or better quality.

5. Loading Terminal/Delivery

The crude oil shall be made available to the Buyer and the Buyer shall take delivery f.o.b. at the appropriate loading terminal for the grade in question.

6. Price

The Buyer shall pay to the Seller for each barrel of crude oil delivered f.o.b. the loading terminal a price established for the grade of crude oil in question in accordance with the provisions of the Crude Oil Agreement.

7. Payment

Payment for each cargo shall be made by the Buyer to the Seller in accordance with the provisions of Clause 11 of the Crude Oil Agreement 1977 -1981 without deduction, discount, set-off or counter-claim.

8. Other Terms and Conditions

Except as otherwise provided herein, all other terms and conditions shall be in accordance with the Crude Oil Agreement and the Operational Agreement as such Agreements may be amended from time to time.

9. Law

The construction validity and performance of this Agreement shall be governed by the Laws of England.

AS WITNESS the hands of the duly authorised representatives of the parties the day and year first above written.

SIGNED for and on behalf of
THE BRITISH NATIONAL OIL CORPORATION by:

.....

SIGNED for and on behalf of
BP OIL TRADING LIMITED by:

.....

Energy

fuels. The findings of these studies indicate that prospects for the technical exploitation of biomass from the sea to produce fuel at an economic price compared with other fuels available are not sufficiently attractive to merit mounting a full-scale R. & D. programme. As with all our programmes to develop renewable sources of energy, my Department is keeping this area of work under review and is prepared to reconsider priority levels if new information comes to light which shows the biomass from sea resource to have more promise.

Gasoline from Natural Gas

Mr. Skeet asked the Secretary of State for Energy whether his Department has made a study of the New Zealand Government's project to provide gasoline and its co-product, olefins, from natural gas through the use of zeolite catalysts for the dehydration of methanol; and if he will make a statement.

Mr. Gray: My Department has details of the New Zealand Government's project for the production of gasoline from the Maui gas field, using the Mobil process, and is keeping a close watch on its progress.

Fluidised Bed Combustion Boilers

Mr. Skeet asked the Secretary of State for Energy when the first commercial fluidised bed combustion boiler is likely to be available in the United Kingdom for industrial use.

Mr. John Moore: I am aware that several companies are making encouraging progress on fluidised bed boilers and that a number of plants are already operating in industrial premises.

North Sea Gas

Mr. Nicholas Winterton asked the Secretary of State for Energy how many platforms are presently producing natural gas off the United Kingdom coastline; how many platforms are being developed in the same areas; and when the supply of gas from each platform will run out.

Mr. Gray: There are currently 32 registered gas-producing platform installations on the United Kingdom continental shelf, excluding platforms used

for the production of both gas and oil. No further production platforms are currently under construction. Production from each installation will cease when it is uneconomic to continue, but all those now in service are expected to remain so until at least the 1990s.

Energy Conservation (Information Officers)

Mrs. Renée Short asked the Secretary of State for Energy how many information personnel specialising in conservation are currently employed by his Department; and how this compares with the figures for 1977, 1978 and 1979.

Mr. David Howell: The numbers of information class staff engaged in specialist work on energy conservation on these dates were:

| | |
|--------------|---|
| 1977 | 5 |
| 1978 | 7 |
| 1979 | 7 |
| Today | 8 |

In addition, four information officers devote a significant proportion of their time to energy conservation activities.

Mrs. Renée Short asked the Secretary of State for Energy what effect the proposed staff cuts will have on information personnel specialising in conservation.

Mr. David Howell: Final decisions have not been taken, but I do not anticipate that proposed staff cuts will have any effect on information personnel specialising in conservation.

British National Oil Corporation

Mr. Mudd asked the Secretary of State for Energy when he plans to introduce legislation to allow for private sector participation in the British National Oil Corporation's North Sea operations.

Mr. David Howell: I have already announced Government policies for BNOC following our review of its activities, and our intention to seek any powers necessary to implement these policies including private sector participation in BNOC's North Sea operations. In view of the full parliamentary timetable it is not possible to introduce legislation this Session, but we will do so just as soon as possible.



5 Energy

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

The Rt Hon William Whitelaw MP
Secretary of State for the
Home Department

21 March 1980

M.M.M.

P. 1/3

See Willi

THE BURMAH ACTION AGAINST THE BANK OF ENGLAND

I should be grateful for your view on how we might respond to the proposal from the then Deputy Governor of the Bank of England, Sir Jasper Hollom, that he should hold a secret exploratory discussion with Sir Alastair Down, Chairman of Burmah, to find out the sort of figure at which his Company's action with the Bank of England concerning their holding in BP might be settled out of Court. Further details are in Sir Jasper Hollom's note attached. The Attorney General's advice on the proposal is in his letter of 20 February also attached.

*All attached.
...
... will sign if required*

First, I should explain that I am writing to you and other senior colleagues on this subject because the Prime Minister has said that she does not feel able to express a view since Mr Thatcher was once an employee of Burmah and is still on the Board of one of its subsidiaries.

The amounts at stake in the action are very large. The memorandum attached to Sir Jasper Hollom's letter puts the difference between the cost of the shares and their revaluation on 29 November at over £1,000m and dividends received on these shares since their acquisition, which Burmah are also claiming, amount to approximately £100m. They are also seeking an unquantifiable amount of damages.

The enormity of these sums suggests that if there were doubts about the soundness of the Bank's legal case, it would be no more than prudent to safeguard our interests by seeking a reasonable settlement. But there is clear legal advice that Burmah do not have any real prospect of success. Obviously this does not guarantee success in the Courts, but there is nothing in the legal advice which suggests that we should pay substantially for an out of Court settlement with Burmah.

/The



The cost of a settlement would be high. Sir Jasper Hollom's guess is in the order of £75m-£100m. The Attorney doubts whether any settlement could be achieved for less than £100m. I agree. The Attorney says in his letter that we cannot appear to refuse to consider any suggestion from Burmah for some minimal settlement and suggests that any such proposal at a figure around £5m could well be considered as worthwhile for disposing of the action. It seems inconceivable that Burmah would agree to a settlement on these terms in view of the vigour with which they have pressed the action, the amounts at stake, and the pressure upon them from the Burmah Shareholders' Action Group. Indeed, the only way in which Sir Alastair could present a settlement of £5m to his shareholders would be by a frank admission that despite previous statements, their legal advice was that their action was not well founded (a line of argument which would make it harder for us to explain why we had agreed to settle at this figure).

There are no present plans for a sale of BP shares. If such a sale was ever contemplated, it would be more easily done if the former Burmah holding was firmly in the Government's hands brought about by the early settlement of the action. The Government's shareholding would then be some 45 per cent. This is well above the 25 per cent holding necessary to be certain of blocking special resolutions amending the provisions in the Company's Articles giving the Government the right to appoint two directors with powers of veto etc. (In practice, a somewhat lesser holding should be sufficient to block such resolutions.) But as I said earlier, we have no plans for a further BP share sale and our advice is that Burmah do not have any real prospect of success in their action. I therefore do not think that the possibility of a further sale of BP shares is a factor which ought to be taken account of in our decision on Sir Jasper Hollom's proposal.

My conclusion from this is that it would only be worthwhile authorising the Bank of England to have exploratory discussions with Sir Alastair if the Government were willing to pay out some £100m and perhaps more for a settlement. The payment could not be concealed. It would appear on the Treasury Vote and would represent a claim on the Contingency Reserve. Bearing in mind the firmness of the legal advice (which, as the Attorney mentions in his letter, is known to his predecessor) I do not think this could be justified. I therefore propose to tell the Bank that - to use the words in the penultimate paragraph of their note - since Ministers feel that they must anyway rule out a settlement which involved a substantial payment to Burmah, we would not want them to undertake the exploratory discussions with Sir Alastair Down.

/David

S E C R E T



David Howell has already told me that he agrees with this approach and I should be glad to know that you agree.

I am sending a copy of this minute to the Secretaries of State for Foreign and Commonwealth Affairs, Industry, Employment, Trade and Energy and to the Attorney-General, and to Sir Robert Armstrong for information.

GEOFFREY HOWE

A handwritten signature in black ink, appearing to read "Geoffrey Howe", with a horizontal line underneath.

Chazy

CONFIDENTIAL



B/K 26.3.80
P. J. Sanders
JS

10 DOWNING STREET

From the Private Secretary

21 March 1980

BNOC: STATEMENT

The Prime Minister has seen your letter to Tim Lankester of 20 March. She is entirely content with the amendment you suggest.

I am copying this letter to Paul Lever (FCO), Martin Hall (HM Treasury), Petra Laidlaw (Chancellor of the Duchy of Lancaster's Office), and to David Wright (Cabinet Office).

N: J. SANDERS

Denis Walker, Esq.,
Department of Energy.

TGR



1

PRIME MINISTER

SECRETARY OF STATE FOR ENERGY
THAMES HOUSE SOUTH
MILLBANK LONDON SW1P 4QJ

01 211 6402

T Lankester Esq
Private Secretary to the
Prime Minister
No 10 Downing Street
LONDON SW1

Are you content, subject
to the views of colleagues,
that Mr Howell should
sound hopeful about
20 March 1980
early legislation on BNOC

Dear Tim,

As out. (draft overleaf)?
ms

BNOC: STATEMENT

Thank you for your letter to Bill Burroughs here of 17 March conveying the comments of the Prime Minister on the draft statement about the postponement of legislation for BNOC which Bill Burroughs circulated under cover of his letter to you of 14 March.

On reflection we would prefer a slight amendment at the end of the statement, following the Prime Minister's amendment. The change we wish to see made is underlined in the attached draft.

My Secretary of State intends to make this statement on Tuesday 25 March.

I am sending copies of this letter to Paul Lever (FCO), Martin Hall (Chancellor of the Exchequer), Petra Laidlaw (Chancellor of the Duchy of Lancaster) and to David Wright (Sir Robert Armstrong's Office).

Yours ever,

Denis

Denis Walker
Private Secretary

Q. TO ASK THE SECRETARY OF STATE FOR ENERGY WHEN HE PLANS TO INTRODUCE LEGISLATION TO ALLOW FOR PRIVATE SECTOR PARTICIPATION IN BNOC'S NORTH SEA OPERATION?

A. I have already announced Government policies for BNOC following our review of its activities, and our intention to seek any powers necessary to implement these policies including private sector participation in BNOC's North Sea operations. In view of the full Parliamentary timetable it is not possible to introduce legislation this session but we will do so just as soon as possible.



20 MAR 1980



FILE

Energy RH

B/FA 3-80
for Hansard

17 March 1980

BNOC: Statement

You wrote on 14 March enclosing a draft statement about the postponement of legislation for BNOC. The Prime Minister has seen this, and is content subject to the second sentence being amended as follows - "In view of the full Parliamentary timetable it is not possible to introduce legislation this session".

I am sending copies of this letter to Paul Lever (FCO), Martin Hall (Chancellor of the Exchequer), Petra Laidlaw (Chancellor of the Duchy of Lancaster) and to David Wright (Cabinet Office).

J. P. LANKESTER

W J Burroughs Esq
Department of Energy

KRB



SECRETARY OF STATE FOR ENERGY

THAMES HOUSE SOUTH
MILLBANK LONDON SW1P 4QJ

01 211 6402

1
Ami Amish

Shall we omit

"rightfully" ?

Stewart, seems ok.

T Lankester Esq
Private Secretary to the
Prime Minister
No 10 Downing Street
LONDON SW1

See amendment
not.

14 March 1980

T2

14/3

Dear Tim,

BNOC: STATEMENT

At E Committee on Tuesday this week my Secretary of State was asked to revise his draft statement about the postponement of legislation for BNOC in the light of the discussion, and to clear it with the Prime Minister, the Foreign Secretary and the Chancellor of the Exchequer. I am accordingly attaching a draft answer which my Secretary of State would give in response to a written Parliamentary Question. He has it in mind to issue this as soon as possible. I should be glad to know whether you are content with a statement in this form.

I am sending copies of this minute to Paul Lever (FCO), Martin Hall (Chancellor of the Exchequer), Peter Laidlaw (Chancellor of the Duchy of Lancaster) and to David Wright (Sir Robert Armstrong's Office).

Yours sincerely,

W.J. BURROUGHS
PRIVATE SECRETARY

114 MAR 1955





Q. TO ASK THE SECRETARY OF STATE FOR ENERGY WHEN HE PLANS TO INTRODUCE LEGISLATION TO ALLOW FOR PRIVATE SECTOR PARTICIPATION IN BNOC'S NORTH SEA OPERATION ?

A. I have already announced Government policies for BNOC following our review of its activities, and our intention to seek any powers necessary to implement these policies including private sector participation in BNOC's North Sea operations. In view of the full Parliamentary timetable ~~the Government have [regretfully] decided that~~ it is not possible to introduce legislation this Session. I aim to do so as soon as Parliamentary time permits thereafter.

SECRET

Five

4

Energy

13 March 1980

Yesterday I wrote to you to say that the Prime Minister did not wish the Government's shareholding in BP to fall below 25 per cent, and that if BP were to issue new shares, the Government ought to buy a sufficient number to keep its shareholding at 25 per cent.

The Chancellor and the Prime Minister discussed this matter at their meeting this morning, and the Prime Minister has now concluded that - in view of the public expenditure implications - it would not be right for the Government to subscribe to additional shares. She is therefore content for the Chancellor to tell BP that Ministers have no objection to their using their existing un-used authorised share capital to finance acquisitions, as proposed in his minute of 6 March.

I am sending copies of this letter to Bill Burroughs (Department of Energy) and Bill Beckett (Law Officers' Department).

T. P. LANKESTER

Martin Hall, Esq., M.V.O.,
H. M. Treasury.

SECRET

ABO

SECRET



3
Energy

10 DOWNING STREET

From the Private Secretary

12 March 1980

Dear Martin,

The Government and Bank of England Holdings in BP

The Prime Minister has now considered the Chancellor's minute of 6 March on the above subject, and she has also seen the Secretary of State for Energy's minute of 11 March.

As regards the Burma action against the Bank of England, the Prime Minister has asked me to say that she must leave this question entirely to the Chancellor. She does not feel able to express a view because Mr. Thatcher was once an employee of Burma and is still on the Board of one of its subsidiaries.

As regards the use of BP's unissued authorised share capital, she has no objection to the issue of new shares as such. But she believes that - notwithstanding the existence of the Bank's holding - the Government's holding ought to be kept at at least 25%; and that - if necessary - the Government ought to buy sufficient new shares to keep the share holding at this level.

I am sending copies of this letter to Bill Burroughs (Department of Energy) and Bill Beckett (Law Officers' Department).

Yours
w.

Tim Larkish.

Martin Hall, Esq.,
HM Treasury.

T&K

SECRET

SECRET

Prime Minister

THE GOVERNMENT AND BANK OF ENGLAND HOLDINGS IN BP

I have seen Geoffrey Howe's letter of 6 March to you on

- i) exploring with Sir Alastair Down the possibility of an out of Court settlement with Burmah, and
- ii) Sir David Steel's indication that BP may wish to issue unused authorised share capital to finance acquisitions, thereby diluting the Government's holdings in the company.

I agree with Geoffrey's proposed line on both issues.

Copies of this minute go to Sir Geoffrey Howe and Michael Havers.

JH

SECRETARY OF STATE FOR ENERGY

11 March 1980

SECRET



11 MAR 1980
 1 2 3 4 5 6 7 8 9 10 11 12

B

A

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Ref. A01649

PRIME MINISTER

BNOC: Private Sector Participation

(E(80) 22)

Minutes by the Foreign Secretary to you of 5th March
and the Chancellor of the Exchequer to you of 7th March
are also relevant/

BACKGROUND

The present paper by the Secretary of State for Energy is an expanded version of the minute he sent to you on 28th February which you asked should be discussed in E Committee. The essential point is that, the opportunity for legislation this Session having been lost, Mr. Howell wants to make a statement, in the next two weeks, announcing the Government's intention to legislate at "the earliest opportunity next Session" on the future of BNOC and to spell out the contents of the legislation so far as this has already been agreed. He also seeks in his paper to resolve a further point about the future relationship between BNOC (Trading) and BNOC (Operating) whereby the latter would be under an obligation only to sell 51 per cent of its oil to Trading on the analogy of other companies' participation agreements with BNOC.

2. In other words, the Secretary of State wants to commit the Government now and as tightly as possible not only to the division of BNOC and the privatisation of its operating interests but also to the introduction of legislation early next Session.

3. The Foreign and Commonwealth Secretary's minute to you of 5th March points to the unanswered questions about the future arrangements for BNOC, the risk of complications with the EEC "if we are not able to explain fully what we have in mind" and a recent letter he has had from David Owen pointing to the inevitability of the Opposition raising legal issues in discussing Mr. Howell's proposals which "might direct attention to aspects of our North Sea arrangements which are vulnerable in terms of Community law". The conclusions Lord Carrington draws from these elements are that the Government " would be well advised to postpone any full announcement until we are ready to field all

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the questions likely to be put to us"; that "there is nothing to be gained from risking two rounds of debate"; and that, consequently, "we should not volunteer any statement on this subject for the time being. If David Howell is asked about it, he could simply say that legislation will be introduced in the autumn".

4. The minute to you from the Chancellor of the Exchequer of 7th March discusses the complex interrelationship between privatisation and the PSBR and concludes that "if we are to have a credible case for counting the proceeds from a BNO C (Operating) share sale as reducing the PSBR" it will be necessary "to make clear our intention that the Company should act completely independently of BNO C and of the Government and our intention to sell ultimately at least 51 per cent of the shares".

5. The essential questions for the Committee are these:

- (a) Is the Government prepared now to commit itself (as Mr. Howell suggests) to introducing legislation on BNO C at the "earliest opportunity next Session"? Such a promise would be made before the Government's legislative programme for next year had been considered and problems of priority resolved. Technically while it is perfectly proper for E Committee to agree to 'early legislation' the question of whether any particular Bill should be in next Session's programme is for QL to advise upon later in the year.
- (b) Is the Government prepared to commit itself now to the main elements of the legislation or would it be prudent to defer a public tying of hands until nearer the time for the legislation to be introduced? The Foreign and Commonwealth Secretary's minute of 5th March is directly relevant here - and argues for deferment of a statement for the time being.
- (c) Is the Government prepared to say now that its intention is "ultimately to reduce the public sector stake" in BNO C (Operating) to a minority shareholding? There was a disinclination at your earlier meetings on this subject to take decisions on the scale of the private sector element - not least because of uncertainties about the most beneficial financial balance of present gain and future loss. But the Chancellor's minute

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argues at least for a statement of intent ultimately to sell at least 51 per cent of the shares in BNOC (Operating) in order to satisfy the PSBR conventions.

- (d) Is the proposal that BNOC (Operating) should be committed to sell only 51 per cent of its oil to BNOC (Trading) acceptable? It means losing control of part of the equity oil currently at the disposal of BNOC - and therefore at one remove under Government control.

- (e) Is there any real need for, or advantage in, an early statement?

Mr. Howell will argue that he is under pressure. From whom, and does it matter? Again the Foreign and Commonwealth Secretary's minute is relevant, as are tactics vis-a-vis the European Council at the end of the month. Another relevant point is the effect on the Opposition; will a statement now force the Opposition into a public commitment that the next Labour Government will take BNOC (Operating) back into public ownership - possibly on terms which could blight the sale.

- (f) If there is to be an early public statement, will that annexed to

Mr. Howell's paper serve? Points of potential difficulty are:-

- (i) The promise of legislation early in the new Session (paragraph 1).
- (ii) Possible EEC complications arising inter alia from the phrase "BNOC can play an important part in protecting vital national interests including security of supply" (paragraph 2).
- (iii) The promise in paragraph 5 that BNOC (Operating) will sell oil to BNOC (Trading) "under usual participation agreements" i. e. 51 per cent of its equity oil.
- (iv) The ambiguity in the last sentence of paragraph 5 about the Government's relationship with BNOC (Operating). As drafted the sentence could be read as meaning that the Government will give up control before it has reduced its shareholding to a minority e. g. even if it still held, say, 80 per cent of the shares.

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- (v) The possible non sequitur in paragraph 8 which argues that "a proper separation of BNOC's two functions of oil production and of oil trading will provide a secure foundation for further development of the United Kingdom Continental Shelf in the national interest". This may be all right as a peroration (if Mr. Howell thinks he can sustain the argument intellectually) but, otherwise, it might be safer simply to drop it.

HANDLING

6. You might begin by asking the Secretary of State for Energy to introduce his proposals; you might then invite Sir Kenneth Berrill to comment. After that you could concentrate the discussion in the first instance on the critical timing issue raised by the Foreign and Commonwealth Secretary. If the Committee favours Lord Carrington's approach, the only further decision needed now is whether Mr. Howell can promise, in answer to questions, legislation "next Session" or whether he simply promises "early legislation but not this Session".

7. If on the other hand the Committee favours Mr. Howell's approach it will need to decide:-

- (a) Timing: Before or after the European Council?
(b) Content: By working through the draft statement annexed to Mr. Howell's paper and asking him to revise it in the light of comments made.

8. In either event the Committee will no doubt wish to urge Mr. Howell to bring forward further papers quickly seeking a resolution of the outstanding policy points which must be decided before legislation can be prepared.

CONCLUSIONS

9. Depending on discussion these will be:-

- (i) Either: to defer a statement of the Government's intentions until, say, the summer.
(ii) Or: to authorise an early statement on the lines of the draft, as amended in discussion, with precise timing to be agreed with you and the Foreign and Commonwealth Secretary - and with the main decision being "before or after" the European Council.

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And:

- (iii) To invite Mr. Howell to bring forward further papers, quickly, to provide a basis for resolving the outstanding policy issues.

RA

(Robert Armstrong)

10th March, 1980



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10 MAR 1980

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Qa 04966

To: MR LANKESTER
From: SIR KENNETH BERRILL

BNOG RESTRUCTURING

1. At tomorrow's meeting of E Committee Ministers are due to discuss a memorandum by the Secretary of State for Energy on "BNOG: Private Sector Participation" (E(80)22). In this Mr Howell asks the agreement of his colleagues to a fairly detailed public statement on the slippage of legislation until next Session, and what that legislation will contain. Lord Carrington, in his minute to the Prime Minister of 5 March, argues for saying nothing lest it precipitate an argument with the Opposition which could have awkward EEC effects.
2. The CPRS would support Lord Carrington in his 'least said soonest mended' approach; in part because it would seem dangerous to start a debate until all the answers on the economic proposals have been clearly formulated and the best presentation worked out; but in particular because saying nothing would preserve the Government's flexibility to maximise its income from the North Sea in the vital years 1980/81 and 1981/82.
3. On present prospects, the Government faces a very difficult period in the two years immediately ahead (1980/82). But in the two years following (1982/84) receipts from the North Sea will increase by over 70 per cent which gives possibilities of lower taxes (or more on public services). An ideal 'depletion strategy' for the North Sea might cover pushing some of the oil production from the middle 1980s into the 1990s and pulling back some of the receipts from North Sea oil and gas from the middle 1980s to the early 1980s. The question is whether Mr Howell's present proposals on BNOG privatisation give the best results from this point of view.
4. The delay in legislation means that no receipts from privatisation can be obtained in the first of the difficult years (1980/81). If the company is privatised by the sale of one-third of its shares in 1981/82 yielding say £650m., and the second tranche in 1982/83 yielding say £700m., receipts from the second tranche will have been delayed until a period when

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North Sea receipts are already over £5bn. per annum. Even this picture could be worsened if, as is quite possible, the Opposition threaten renationalisation at something around the issue price, in which case the 1981/82 receipts could be appreciably less.

5. Making no detailed announcement now will enable Ministers to consider alternative approaches which might increase the amount of money in hand in the important years 1980/82. Such an approach would involve maximising the income from forward oil sales and perhaps from sales to the public of revenue interest in BNOC's equity oil (there may be CSO definitional difficulties here on whether such sales help the PSBR). Such sales might yield over £1 bn. in this difficult period as compared with the £650m. (perhaps less) described above. It would mean postponing the day on which BNOC became a private sector company but could be worth it for the extra early money in the Government's hands.

6. There is no suggestion that Ministers should discuss or decide for or against this approach at this stage, but a 'say nothing' approach would preserve this option for later and more detailed consideration.

7. I am sending a copy of this minute to Sir Robert Armstrong.

KB.

10 March 1980

170 MAR 1980



PRIME MINISTER

BNOC

Suppose the election had been a year earlier and the sale of shares in BNOC not as technically difficult as it has proved to be. We might have sold BNOC six months ago, since which time the share price would possibly have doubled. How would we now feel?

David Howell's preferred option is the Canadian gift/subsidised sale to all the adult population. It has many merits. It might do much to create a capital owning democracy.

But if we cannot afford this, and have to sell the shares, then 100,000 share-holders, even though they include many pension funds, will not create a capital owning democracy. Despite the pension funds the vast majority of the public will feel that "their" oil has been sold to other people. Probably at a bargain price.

The world of oil is now a lottery. No-one can predict the price of oil or the value of oil rights with any real confidence. The sale of part of BNOC's oil rights is therefore a lottery. I am not against national lotteries, but this one is restricted to those who can afford the purchase price of a ticket. As such, it is going to be very unpopular outside the areas of merchant banks and stockbroker belts.

I am probably repeating myself. The first loss is usually the cheapest one. If we are stuck with a bad compromise which bears no relationship to the Canadian solution, it is going to be politically much cheaper to review that compromise and possibly reject it now rather than later.

And all the above takes no account of the fact that a Government exploration company may have great advantages over another version of BP.

10 March 1980

Daniel

P.S. There is a manifesto commitment
to review BNOC - nothing more.

12 10/1

How Mrs Thatcher could sell a national

BUSINESS NOTEBOOK



by VICTOR
KEEGAN

WEEKEND reports that the Government might delay legislation for the denationalisation of the British National Oil Corporation may

open a debate on what surely must be the daftest policy adopted by any recent government.

Its bizarre nature arises not from the act of denationalisation, nor from the dubious practice of selling off appreciating oil assets (though that is daft enough in itself). The real objection is a purely financial one and it runs something like this.

The Government is planning to sell off the exploration and production activities of BNOG (set up by the last Labour administration) to the private sector while keeping the oil trading operations.

Politics apart, the aim is to fund the Public Sector Borrowing Requirement — the shortfall between government spending and revenues. The Government had hoped to raise anything up to £650

million in the current financial year by selling off say 30 per cent of BNOG with more the following year.

But if one looks beyond the immediate effects of an additional income of up to £650 million to the Treasury in the first year, it becomes apparent that, far from reducing the borrowing requirement, the sale of shares will actually make the borrowing requirement considerably worse and maybe by over £500 million a year in three years' time.

This arises from the unusual financial structure of BNOG which, unlike most other public enterprises (except British Gas), is locked into the Government's own finances.

Whatever money BNOG has which it does not need for investment or to pay its bills is handed over to the

Treasury, which can use it as it would any other money it receives. In other words not just its profits, but BNOG's entire cash flow can be utilised by the Government.

For the past few years this has not been beneficial because the corporation, with its high start-up costs, has been a net drain on the Government. All this is about to change as the fruits of its investment in the North Sea are about to be reaped.

Any back-of-envelope calculation, assuming only a modest rise in oil prices, would suggest a positive cash flow of at least £500 million in two or three years' time. Other forecasts suggest BNOG might be making over £1 billion in profits alone by the mid-1980s.

But, if the Government either sells off 50 per cent or more (or 30 per cent with a

asset and end up worse than she started

statement of intent to dispose of more) then this growing cash flow will no longer be eligible to be counted against the Public Sector Borrowing Requirement. The Government will have to find £500 million from elsewhere — either by raising taxes or cutting down on public expenditure like building hospitals and schools.

The arithmetic of it is that if the Government sells 30 per cent of the shares in the first year and 30 per cent in the second year then the annual yield of around £600 million will go towards the financing of the PSBR. But, after allowing for reduced dividend payments and the loss of cash flow already referred to, there will (roughly) be no net gain to the PSBR. What has been gained by selling off the

shares will be offset by the loss of cash flow.

In the third year there would be no further sale of shares (it being presumed that the Government would want to retain a 25 per cent "blocking" majority stake), but the loss of £500 million a year cash flow would continue.

So the Government would have to fund that loss of income either by raising taxes (£500 million is equivalent to 1p on the standard rate) or by cutting expenditure further or by selling more gilt-edged stock.

Why on earth would any Government want to sell appreciating oil assets in order to make the PSBR even worse? The answer, presumably, is that anything which is owned by the State is presumed to be bad unless proved to the contrary.

Even Sir Keith Joseph would find it hard to prove that the injection of private sector disciplines would improve BNOG (which seems perfectly well run anyway) in a way which would make up a deficiency of £500 million a year.

In any case what would these private sector disciplines actually do? BNOG's main assets consist of relatively minor stakes in a number of oil discoveries where its private sector partners already outnumber it. What difference, one is bound to ask, would the substitution of a private stake for a government one do in practice?

It is doubly perverse that the Government is "privatising" BNOG at a time when private sector oil companies all over the world are having the rug pulled from under

their feet by the producing governments, who prefer increasingly to do government-to-government deals rather than deal with the oil companies directly.

And all this is without mentioning the basic bad husbandry of selling off an appreciating capital asset (oil wells) to fund a deficiency in income arising from the Public Sector Borrowing Requirement. Only bucket shops sell off their assets to fund a deficiency in income unless there really is no alternative.

The Government is in danger of getting it wrong in all directions at the same time. The Chancellor of the Exchequer will sell off a rich capital asset in order to fund an income deficiency while at the same time making that income deficiency even worse. Howe's law could put Murphy out of business.

From E bundle 12/3

For E form

R
7/3



Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

PRIME MINISTER

BNOC, PRIVATISATION AND THE PSBR

Following the meeting of E Committee on 12th December 1979, there were discussions with you and other interested Ministers about the future of BNOC at which I was invited to re-examine the accounting conventions which determined whether or not the proceeds of a sale of shares in BNOC (Operating) counted as a reduction in the PSBR. The particular point at issue was the Treasury's view that for the proceeds to count as a PSBR reduction, it would have to be made clear at the outset that the public sector was immediately relinquishing control over Operating and that it intended to sell at least 51 per cent of the shares eventually.

.....

2. My officials, in consultation with the CSO, have prepared the note attached which describes the national accounting conventions relevant to the classification of proceeds from privatisation exercises as PSBR reductions. Colleagues may like to have it as background to the discussion on BNOC in E Committee planned for 11th March.

3. Two points stand out from this highly technical subject:

(i) If our programme to control the PSBR is to retain credibility, we must not put ourselves in a position where we can be accused of producing PSBR reductions by massaging the definitions.

/Paragraph 4



Paragraph 4 of the officials' note points out that there are already awkward anomalies (e.g. BL and Rolls Royce) in the PSBR classifications. We should not introduce more.

(ii) The more genuine and thorough-going the act of privatisation (in the sense that the public sector is seen to relinquish control), the easier it is to defend counting privatisation proceeds as a PSBR reduction. There were particular reasons for the announcement of a sale of only a minority of shares in BA, but this was coupled with unambiguous statements about the relinquishment of Government control, including a statement that the Government would not mobilise its voting power to appoint directors. In view of the past history of close control by Government over BNOC as a whole and probable suspicions that whatever we say we may intervene in the company's affairs because of the public sensitivities about security of oil production and supply, it would be more convincing to go further and announce our intention to sell more than 51 per cent of Operating shares in order to provide evidence of relinquishment of public sector control.

4. My strong preference therefore, if we are to have a credible case for counting the proceeds from a BNOC (Operating) share sale as reducing the PSBR, is to make clear our intention that the Company should act completely independently of BNOC and of the Government and our intention to sell ultimately at least 51 per cent of the shares, as David Howell does indeed do in the draft statement attached to his paper for E Committee.

/Otherwise

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Otherwise we create the risk that the financial commentators and market analysts would argue that our privatisation of BNOC is essentially bogus in that the Government has no intention of relinquishing control; Operating should properly be classified to the public sector; and that the proceeds of the sale should therefore be counted as financing rather than reducing the PSBR.

5. I am sending a copy of this minute to Members of E Committee, the Secretary of State for Scotland, the Attorney General and Sir Robert Armstrong.

G.H.

(G.H.)
7 March, 1980

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PRIVATISATION AND THE PSBR

(Note by Treasury Officials)

Following the meeting of E Committee on 12 December 1979 (E(79)19th Meeting) there were discussions with the Prime Minister and other interested Ministers at which the Chancellor of the Exchequer was invited to re-examine the accounting conventions which determined whether or not the proceeds of sale counted as a reduction of the PSBR. A particular point at issue was the Treasury's view that for the proceeds to count as a PSBR reduction, it would have to be made clear at the outset that the public sector was immediately relinquishing control over Operating and that it intended to sell at least 51 per cent of the shares eventually.

2. Background

The PSBR is a relatively young concept. The Radcliffe Report of the 1950s led to the development in the 1960s of an organised framework of financial accounts for the economy. By the end of the decade the concept of the PSBR had been developed following work in the Treasury, Bank of England and Central Statistical Office. Since then the significance of the PSBR has been much debated, but there is general agreement that it needs to be measured as consistently as possible over a period of time.

3. "Privatisation" is a new activity. But the various transactions involved are not essentially different from transactions already handled in the system of financial accounts for the economy. The PSBR conventions for dealing with privatisation transactions must therefore be consistent with PSBR conventions generally. If they are not, not only is the measurement of the PSBR discredited, but the Government's claims to be reducing the PSBR will also be discredited. Producing PSBR "reductions" by changing definitions, which cannot be justified on their own merits, would not convince the commentators and market experts, who take a very close interest in these matters.

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4. Public Sector or Private Sector?

In this country every "economic unit" (eg firms, companies) has to be assigned either to the public or the private sector in the national accounts. There is not an intermediate category for mixed enterprises and inevitably classification is arbitrary at the edges. Some decisions under previous Governments to classify certain new "economic units" to the private sector when set up (eg British Nuclear Fuels Limited) or to leave firms in the private sector when taken into public ownership and effective public control (eg BL, part of Rolls Royce) cannot be reconciled with national accounting orthodoxy. But these decisions were made at a time when less attention was focussed on the PSBR. The credibility of the PSBR (and of the Government's policies linked with its reduction) would be undermined if these anomalies were claimed as a useful precedent. In any case, a decision not to re-classify (as in the case of BL and RR) into the public sector is a very different matter from a decision to put out of the public sector a concern that manifestly is within it, without real change in its control and ownership.

5. Ownership and Control

The two basic criteria for deciding whether an economic unit is in or out of the public sector are control and ownership, in that order. The reverse order may seem more natural at first sight. The actual order has become accepted internationally. In our case it caters for cases such as BP when the Government held more than half the shares in the company but did not exercise control.

6. The PSBR and an Economic Unit in the Public Sector

The borrowing requirement of an economic unit in the public sector is the difference between its revenues and its expenditures; the latter includes its net acquisition of financial assets, eg any loans it makes, or any company securities it buys. If a public corporation were to add to its liabilities - or convert some of its present liabilities - by means of a sale of equities in itself, this would score as part of its borrowing just as would its borrowing from, say, the National Loans Fund.

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7. The PSBR and an Economic Unit in the Private Sector

If privatisation is to reduce the PSBR, it is therefore necessary to do more than introduce private capital into a corporation or company which is in the public sector.

8. This requires the economic unit concerned to be classified to the private sector from the outset by:

a) total sale; or

b) general acceptance that there is and will be a sufficient sale and be a withdrawal from control reinforced by a sufficient sale for it to be reasonable for the economic unit to be deemed to be in the private sector. Once the unit is reclassified, the Government/parent corporation finds itself the owner of financial assets - namely the capital of the new private sector entity. Sale, or partial sale, of this asset then reduces the PSBR.

In either case, the sale has to be for cash, as the PSBR is a cash concept. (That is why the act of nationalisation has not normally increased the PSBR, because the payment (compensation) has been in the form of stock.)

9. The need to reclassify an economic unit into the private sector before selling shares inevitably requires a case by case scrutiny. Even though absence of control is more important than loss of ownership, the smaller the eventual shareholding, the easier it is to carry conviction about loss of control. If the public sector retains and is expected to retain a substantial shareholding in a firm, the harder it is to carry conviction that the public sector will in practice keep its hands off.

10. Conclusion

A public sector shareholding under 50 per cent, or at least an announced intention of going below 50 per cent, is therefore always

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to be preferred to help sustain credibility that a firm has passed out of the "public sector" and hence that its borrowing (other than from the Government) no longer counts for the "PSBR".

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LET MAR 1960



Prime Minister



Treasury Chambers, Parliament Street, SW1P 3AG

01-233 3000

PRIME MINISTER

THE GOVERNMENT AND BANK OF ENGLAND HOLDINGS IN BP

You should be aware of two matters concerning the Government and Bank of England holdings in BP on which decisions are necessary. They are:

i) The then Deputy Governor proposed that he should hold a secret exploratory discussion with Sir Alastair Down, Chairman of Burmah, to find out the sort of figure at which his Company's action with the Bank might be settled out of Court. Further details are in the Sir Jasper Hollom's note attached. The Attorney General's advice on the proposal is in his letter of 20 February, also attached.

ii) Sir David Steel, Chairman of BP, has warned us that BP may well wish to use its unused authorised share capital for the purpose of making acquisitions. This would dilute the Government's holding in the Company.

2. The Burmah Action against the Bank of England

The amounts at stake in the action are very large. The memorandum attached to Sir Jasper Hollom's letter puts the difference between the cost of the shares and their revaluation on 29 November at over £1,000m (the share price has risen since then) and dividends received on these shares

Are you content with the Chancellor's conclusions?

(Mr Howell has agreed them).

I think both are right, but you might like to discuss the Burmah question with the Chancellor before reaching a final view.

R

12/3

[Douglas
Cross is seeing
David
Steel
this
morning;
it would
be
helpful
if he
could
tell
him
on
decision
on the
BP
question]

020
I must leave the chairs
entirely to the Chancellor.
I can give no advice because this
was one an employee of Burmah
+ is still on the Board & one
of its subscribers.
Mrs.



since their acquisition, which Burmah are also claiming, amount to approximately £100m. They are also seeking an unquantifiable amount of damages.

3. The enormity of these sums suggests that if there were doubts about the soundness of the Bank's legal case, it would be no more than prudent to safeguard our interests by seeking a reasonable settlement. But there is clear legal advice that Burmah do not have any real prospect of success. Obviously this does not guarantee success in the Courts, but there is nothing in the legal advice which suggests that we should pay substantially for an out of court settlement with Burmah.

4. The cost of a settlement would be high. Sir Jasper Hollom's guess is in the order of £75m-£100m. The Attorney doubts whether any settlement could be achieved for less than £100m. I agree. The Attorney says in his letter that we cannot appear to refuse to consider any suggestion from Burmah for some minimal settlement and suggests that any such proposal at a figure around £5m could well be considered as worthwhile for disposing of the action. It seems inconceivable that Burmah would agree to a settlement on these terms in view of the vigour with which they have pressed the action, the amounts at stake, and the pressure upon them from the Burmah Shareholders' Action Group. Indeed, the only way in which Sir Alastair could present a settlement of £5m to his shareholders would be by a frank admission that despite previous statements, their legal advice was that their action was not well founded (a line of argument which would make it harder for us to explain why we had agreed to settle at this figure).



5. There are no present plans for a sale of BP shares. If such a sale was ever contemplated, it would be more easily done if the former Burmah holding was firmly in the Government's hands brought about by the early settlement of the action. The Government's shareholding would then be 45.7 per cent (before taking account of the changes referred to in paragraphs 7 and 8 below). This is well above the 25 per cent holding necessary to be certain of blocking special resolutions amending the provisions in the Company's Articles giving the Government the right to appoint two directors with powers of veto etc. (In practice, a somewhat lesser holding should be sufficient to block such resolutions.) But as I said earlier, we have no plans for a further BP share sale and our advice is that Burmah do not have any real prospect of success in their action. I therefore do not think that the possibility of a further sale of BP shares is a factor which ought to be taken account of in our decision on Sir Jasper Hollom's proposal.

6. My conclusion from this is that it would only be worthwhile authorising the Bank of England to have exploratory discussions with Sir Alastair if the Government were willing to pay out some £100m and perhaps more for a settlement. The payment could not be concealed. It would appear on the Treasury Vote and would represent a claim on the Contingency Reserve. Bearing in mind the firmness of the legal advice (which, as the Attorney mentions in his letter, is known to his predecessor) I do not think this could be justified. I therefore propose to tell the Bank that - to use the words in the penultimate paragraph of his note - since Ministers feel that they must anyway rule out a settlement which involved a substantial payment to Burmah, we would not want them to undertake the exploratory discussions with Sir Alastair Down.



7. The use of BP's Unissued Authorised Share Capital
Sir David Steel has told us that although BP have no plans at present to make acquisitions through the issue of new shares, the Company may wish to do so at any time in the future. Indeed, we understand that they are considering purchasing a UK company, worth around £200m, as part of their diversification into the minerals sector. The purchase would be financed by the issue of shares from BP's unused authorised share capital.

*Cent. we
buy sufficient
to keep H.M.C.
holding above
20%
for obvious
reasons.*

8. The effect would be to dilute the Government's holding in BP as follows:

(i) The issue of all BP's unissued authorised share capital would reduce the Government's holding to 20.33 per cent. The issue of sufficient shares to finance a £200m acquisition would reduce the holding to some 24.7 per cent.

(ii) The undertaking with the Take Over Panel not to vote the Bank's holding effectively sterilises the Bank's shareholding in the Company. Thus, excluding the disenfranchised Bank holding, HMG's voting share of the Company, assuming the issue of all the unused authorised share capital, would be 24.18 per cent, and assuming the issue of shares to finance a £200m acquisition, 30.63 per cent. The Bank would very much support any proposal to re-enfranchise their share and would support an approach to the Take Over Panel. But they advise that an approach ought to be deferred until say a year has elapsed since the share sale; ie until next November.



(iii) Re-enfranchisement of the Bank's shares would, assuming issue of all the unused authorised share capital, give HMG and the Bank a combined holding of 36.26 per cent and some 44.05 per cent if shares were issued to finance a £200m acquisition.

9. Thus, provided that the Bank are successful in defending the Burmah action, the issue of all BP's unused authorised share capital, let alone enough to finance a £200m acquisition, would not bring the combined public sector holding to anywhere near the 25 per cent limit. If the Burmah action is lost, the holding slips below 25 per cent.

10. I do not think that we should object to the use by BP of their unused share capital to finance acquisitions. It is in the national interest that BP should carry through a successful programme of diversification. Moreover, if they do not finance acquisitions through share issues, they would presumably do so by cash payments. This could require a rights issue which, if the Government were to subscribe, would add to public expenditure. Furthermore, any attempt to stop them, which might not succeed, would be inconsistent with the Government's traditional policy of non-intervention in the Company's commercial affairs - this hardly seems a case for the use of the Government directors' veto.

11. My conclusion therefore is that we should tell the Company that we have no objections to their using their existing unused authorised share capital to finance acquisitions, but we would want to be consulted before there was any proposal to increase the present authorised share capital.



12. I should be glad to know that you agree with my approach to these two matters.

13. I am sending a copy of this minute to the Secretary of State for Energy and to the Attorney General.

A handwritten signature in dark ink, appearing to be "G.H." with a flourish.

(G.H.)

6 March 1980

CONFIDENTIAL

ANNEX

Q. "TO ASK THE SECRETARY OF STATE FOR ENERGY WHAT PLANS HE HAS FOR THE FUTURE OF THE BRITISH NATIONAL OIL CORPORATION?"

- A. I will be introducing legislation as soon as Parliamentary time permits in the new session to allow for the setting up of a company through which the British public will be able to invest in BNOC's offshore operations.
2. BNOC has two distinct functions. First its access to oil through the participation and royalty in kind arrangements gives it an important role as a large scale oil trader. In this role BNOC can play an important part in protecting vital national interests including security of supply and in providing oil supplies for our international partners in the EEC and IEA. We intend that this role should continue.
 3. Second, BNOC is an oil producing company working alongside other oil companies in the North Sea. We see no need to retain these operations within the State sector and we shall therefore give the public the chance to participate directly in BNOC's oil producing business.
 4. We have therefore decided that BNOC should be re-organised. The existing Corporation will concentrate on oil trading. The participation agreements which give BNOC options to take oil will be retained, and I will continue to call upon BNOC to dispose of royalty oil on my behalf.
 5. The exploration and production assets and operations will be vested in a new Companies Act company. We intend that this company will operate independently of Government and of BNOC, except to the extent that its UKCS oil will be subject to purchase options by BNOC under normal participation arrangements. We propose to make a substantial shareholding in the company available for issue to the general public. The Government will not seek to control the company through the residual public sector holding of the shares - which it is intended will ultimately be reduced to a minority.

CONFIDENTIAL

2.

6. The Government wishes to see a wide spread of ownership and will ensure that in the allocation of shares full regard is given to the position of small investors and employees.
7. Implementation of these proposals will call for a major corporate re-organisation and for the transfer of contractual and other interests. This is bound to take time. But preparatory work on this and on the necessary legislation is underway. The timing of the share issue will be a matter for further consideration.
8. These proposals will result in a proper separation of BNOC's two functions of oil production and of oil trading. We will thereby provide a secure foundation for further development of the United Kingdom Continental Shelf in the national interest.

Department of Energy
6 March 1980

The Burmah Action against the Bank of England

The origins of this action, which lie in the rescue operation mounted by the Bank of England with the guarantee of HMG at the end of 1974 and early in 1975 for the greatly over-extended Burmah Oil Company, do not need to be set out in detail for the purposes of this note. It is enough to recall that the first rescue plan envisaged help by way of loans and guarantees, secured in large degree by the pledge of Burmah's holding of BP and Shell stock. This plan would, of course, have given to Burmah the benefit of any improvement in the price of the stock pledged. Hardly was this plan agreed, however, than Burmah came back to say that further examination of the obligations attaching to their existing borrowing commitments showed that, if they went through with the pledge of these stockholdings, they would breach various covenants and would be forced into liquidation. Since this would have crystallised their vast exposure on tanker charters, the company's collapse would have been total. Burmah accordingly proposed that the Bank should have no security whatever (the BP and Shell stockholdings remaining unencumbered in Burmah's hands) and should make an injection of some £225 mn. in effect in equity form. The Bank refused to contemplate such a one-sided arrangement and insisted that, if the BP stock could not be pledged, it must be sold; but they did hold out a hope that they might be able to agree to some form of profit sharing on any eventual appreciation in the value of the stock. The thinking behind this idea was that, since the original proposal would have given Burmah the full value of any appreciation, it was hard in the revised plan to deprive them of it

in toto. In the event HMG - whose guarantee was still essential to the whole operation - insisted, despite strong representations by the Bank and Burmah, that there should be no profit sharing provision and indeed that the stock should be purchased at something below the (by then rising) market price. In due course, Burmah issued a writ claiming the return of the stock, the dividends received thereon meanwhile, and damages.

Burmah, guided by Sir Alastair Down, has meanwhile made a notable recovery which has put it in a position where it is ready to make advance repayment of the \$100 mn. loans guaranteed by the Bank which are a remnant of the rescue operation and could also without difficulty do without the sterling standby which also remains in place. On the legal front, the interval has been largely filled by an attempt by Burmah to obtain disclosure of a large number of documents on which HMG claimed Crown Privilege. That case Burmah have lost successively in the High Court, the Appeal Court and the Lords and the main action is now scheduled to be taken in October 1981. Meanwhile, the prize over which the main action is to be fought has grown rapidly, the shares bought from Burmah in January 1975 for £179 mn. having risen in value by the time of the last revaluation on the 29th November to £1,201 mn. The shares being held in the Bank's Issue Department, the amount of the unrealised appreciation has, under the rather odd accounting conventions applied to that Department, been regularly paid over on the quarterly revaluation dates so that HMG has already received (and spent) the £1,000 mn. + of the profit.

The Bank maintain very close and friendly relations with Alastair Down which include discussions off the record, without prejudice, and indeed without the knowledge of the Burmah Board, about the dispute. Down recently said in one of these conversations that they had drawn a good deal of encouragement from the judgments delivered at the various levels in the Crown Privilege case, which he believed served to strengthen materially the hopes of his lawyers

about the eventual outcome of the main action. Nevertheless, he would much like to get rid of the action and would be willing to settle if he could get a reasonable offer. He made it clear that he would have to have something material to satisfy his Board and his shareholders (the hopes of the latter having been substantially fanned by the Shareholders Action Group). He stopped short, however, of indicating any order of magnitude that might be in his mind, declaring only that he would not be greedy and that he was confident he could deliver both his Board and his shareholders on a bargain to which he was prepared to put his hand.

The Bank have also reviewed with their Counsel the question of what clues to the fate of the main action can be drawn from the judgments in the Crown Privilege case. The Bank's Counsel remain extremely confident and say that they are substantially further encouraged by these judgments as they read them. The main action holds no embarrassment for the Bank, since action it took was taken at the insistence of the Government; nor presumably is there any embarrassment in the action to the present Administration. Nevertheless, the Bank would see virtue in a settlement if an acceptable basis could be found. The main reason for this is that, to the Bank, it still seems clear that it was inequitable to deny Burmah a share in a potential profit which events have shown to exceed £1,000 mn.; and it is further obviously undesirable to drag such an action through the Courts, at great cost, if it can be avoided. There are more productive things for both the Bank and the company to be doing and it is a pity to expose a Government, of whatever party, to the kind of comment that must be expected to flow.

On the other hand, the prospects of acceptable terms being found cannot be put very high. This is principally because the sums at stake are so vast and moreover both sides have loudly proclaimed their complete faith in the strength of their own case. Against such a background, any settlement would have to be large -- falling at a guess in the region of £75 mn.-£100 mn. The difficulties of agreeing in the face of present stringencies to a payment on such a scale are obvious.

It may well be therefore that, at the end of the day, we may have to conclude that a Court battle cannot be avoided. But before so deciding it would seem worthwhile at least to find out what sort of a figure Down has in mind. Down confirms that he would be willing not only to enter into a secret exchange with the Bank on this, of course without prejudice; but also to take the initiative in asking for it. On this basis there should be no embarrassment about an exploratory discussion, which it should anyway be possible to keep secret. Accordingly, unless Ministers were to feel that they must anyway rule out a settlement which involved a substantial payment to Burmah, the Bank would like to conduct such an exploration.

Burmah would be happy to disguise the scale of a settlement to some extent, for instance by wrapping it up in some way in a purchase of assets from BNOC. But such questions would be for a much later stage and it would be unwise to suppose that the true scale of any settlement could be readily much disguised.

4th January 1980.

SECRET



01-405 7641 Extn

ROYAL COURTS OF JUSTICE

LONDON, WC2A 2LL

CC MR RYRIE

20 February 1980

The Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the Exchequer
HM Treasury
Parliament Street
LONDON S W 1

| CH/EXCHEQUER | |
|--------------|--------------|
| REC. | 22 FEB 1980 |
| ACTION | MR BRIDGEMAN |
| TOPICS | SIR D WASS |
| 10 | PS/CS |
| | PS/FS |
| | MR F. JONES |
| | MR MOWER |
| | MR COLLINSON |

MR WICKS
MR RIDLEY

Dear Geoffrey.

My advice was sought on a number of points arising from a proposal put forward by the Deputy Governor of the Bank of England to settle the action brought against the Bank by Burmah.

I have considered the opinions of counsel which have already been obtained (one opinion was requested by, and is known to, my predecessor) and have found nothing which would persuade me to differ from the views already expressed. I do not think that Burmah have any real prospects of success against the Bank of England.

Bearing in mind Burmah's lack of prospects and one other important consideration, namely the obvious implications of the cost of any settlement given the present economic climate, I am reluctant to recommend such a course of action. I would doubt that any settlement could be achieved for less than £100m.

On the other hand, we cannot appear to refuse to consider any suggestions from Burmah for some minimal settlement. Any such proposal at a figure around £5m could well be considered as worthwhile for disposing of the action.

I think that it is important that the proposal for a settlement should not originate from the Bank because this could be interpreted as a lack of confidence in its case. I do not favour the creation of a team for the purposes of the negotiations but I do consider that it would be desirable that Senior Counsel for Burmah and the Bank should meet so that any proposals for settlement by Burmah can be considered.

However if this is not possible and that for reasons you will know about - negotiations must be conducted by the Deputy Governor on behalf of the Bank it must be made clear that his brief is to listen to any proposal and to report back. There should be no discussion by him of the merits nor any mention made of specific figures by him.

Yours W...

Michael



E-6 MAR 1960



CONFIDENTIAL

~~Gregory~~
~~Singh~~
i. Mr. Anderson
NBPM yet (going to
E on "Ann").

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5/3

PM/80/16

PRIME MINISTER

BNOC Restructuring

1. I have seen David Howell's minute of ~~28~~ February to you, and his proposed written answer to what I assume would be an inspired Parliamentary Question.

2. The written answer strikes me as a very good text as far as it goes. But, as I understand it, there are important questions to which we are not yet in a position to give an answer, including:

- i) when will the sales of shares take place?
- (ii) what proportion of the shares will be offered to the public?
- (iii) who should hold the residual public interest in BNOC (Operating)?
- (iv) should the powers of BNOC (Trading) be specifically limited by new legislation to make it clear that it will not have the option of an upstream role?

There may also be other questions, notably those foreseen by the Chairman of BNOC to which David Howell refers at subparagraph (iv) of his minute, which could give rise to controversy. And we may also be asked about the implications of the new arrangements for UK security of supply and for pricing policy given that a proportion of the oil at present available to BNOC will move into the private sector.

3. These questions are of course primarily of domestic interest. But there is also an important international angle. If, as I think probable, an announcement on the lines proposed sparks off a public debate and questions for oral answer in the House, we may well face questions from the Commission or the European Parliament. If we are not able to explain fully what we have in mind, we may needlessly give rise to suspicion about the compatibility of the new arrangements with the EC Treaty. My concern on this score has been reinforced by a private letter I have received from David Owen, in which he

/refers

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refers to the possible risk that Parliamentary discussion of new arrangements for BNOG might direct attention to aspects of our North Sea arrangements which are vulnerable in terms of Community law and warns that the Opposition will be bound to raise the legal issues when opposing legislation in Parliament. This is not a reason for changing our minds on the substance of what is proposed; but I think that we would be well advised to postpone any full announcement until we are ready to field all the questions likely to be put to us. From the point of view of foreign reactions, there is nothing to be gained from risking two rounds of debate.

4. This suggests to me that we should not volunteer any statement on this subject for the time being. If David Howell is asked about it, he could simply say that legislation will be introduced in the autumn.

5. It would be helpful if the Department of Energy could involve the Foreign and Commonwealth Office in the preparation of legislation, in view of the difficult questions of EC law which are likely to arise.

6. I am sending copies of this minute to the members of E Committee, the Chancellor of the Duchy of Lancaster, Sir Robert Armstrong and Sir Kenneth Berrill.

A handwritten signature in blue ink, consisting of a large, stylized 'C' with a horizontal line underneath it.

(CARRINGTON)

Foreign and Commonwealth Office

5 March 1980

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L-5



CONFIDENTIAL

Energy



10 DOWNING STREET

From the Private Secretary

3 March 1980

B/F 10.380
✓ J. G. m 11/3

The Prime Minister has read your Secretary of State's minute of 28 February about BNOC. She would like his proposals to be considered in E Committee on 11 March, and would be grateful if he could circulate a paper for this purpose.

I am sending copies of this letter to the Private Secretaries to members of E Committee, John Stevens (Chancellor of the Duchy of Lancaster's Office) and David Wright (Cabinet Office).

L. P. LANKESTER

W.J. Burroughs, Esq.,
Department of Energy

CONFIDENTIAL

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of the letter

Ann Armstrong

Ref: A01570

CONFIDENTIAL

MR. WHITMORE

A discussion at E next Tuesday would be a good idea.

11/5/80 sub.

April?

16 29/12

Flay A

I have seen the Secretary of State for Energy's minute to the Prime Minister of 28th February in which he reports his inability to introduce legislation this Session to determine the future of BNOC, and suggests instead that he should make a full statement of the Government's intentions by way of a Written Answer to a Parliamentary Question in the near future.

2. Mr. Howell is anxious to make as full a statement as he can in order to minimise the political embarrassment of a decision not to legislate until next Session. On the other hand, as he says, there are a number of major points still to be resolved. In the circumstances a detailed statement by Mr. Howell could well provoke questions which the Government would not be able to answer. Moreover, given that legislation cannot now in any case be introduced for the best part of a year, there would be something to be said for a less detailed statement which did not tie the Government's hands in advance to this extent. Furthermore it would be prudent not to give undertakings about the introduction of a Bill next Session, and certainly not about the timing of introduction, until the Cabinet have had an opportunity to consider the full programme, for which there is already a large number of bids.

3. Balancing these considerations is a matter of politics and presentation, and the Prime Minister might find it useful to have a discussion with colleagues before coming to a view. We already have a meeting of E Committee arranged for next Tuesday which could provide a convenient forum for such a discussion, if the Prime Minister so wished.

4. Perhaps you would let me know the Prime Minister's wishes.

Would prefer to wait. what 11/5/80 think meeting. more time for more to be prepared with in interest sub

RA

(Robert Armstrong)

29th February 1980

CONFIDENTIAL

cc Mr. Lambert

PRIME MINISTER

At the meeting under your chairmanship on 21 December it was agreed that the necessary legislation be drafted to allow a separation of BNOC into separate operating and trading arms, with a view to the sale to the public of shares in the operating arm (BNOC (Operating)). As agreed at that meeting at which I made clear how desperately tight the timetable had become I have been consulting with Geoffrey Howe on a number of points including the speed and timing of any sales, and also setting in hand drafting of the legislation.

We have announced our intention to legislate this session but in the light of my discussions with Geoffrey we now think it would be unwise to push ahead this fast; our reasons for this are:

(i) work is proceeding on drafting but even on the most optimistic timetable we could not expect to achieve the Bill without an extremely compressed Committee stage, and possibly with a need to recall the Lords early from the summer recess and with a 3-week spill-over after the recess.

(ii) There are major points on which it has not so far been possible to reach collective agreement and Geoffrey has recently raised two points on my original proposals which must be resolved before we can proceed further with drafting, and which call for more time than the timetable for achievement this session would permit.

(iii) We have not yet decided on the timing of share sales, and Geoffrey is not relying on receipts for the 1980/81 PSBR. Even if we got the legislation through this would not assure us of receipts in 1980/81, since the administrative work involved in transferring all the assets to BNOC (Operating), and preparing for the sale is likely to be complicated and time consuming.

(iv) I have had the Chairman of BNOC's views on both our proposals and the timetable. Predictably he questions the desirability of the basic political objective of splitting the trading and operating sides and continues to question the viability of the Trading side as a

separate entity. But he also emphasises his concern that the transfer of assets etc. to the new company is a very complex matter, requiring careful resolution. While legislation may not necessarily be needed to deal with all the problems that arise he rightly argues that our legislation must be compatible with this operation, and suggests that if we push it through this session, this may not give us the time needed to give these issues the careful and detailed consideration which is essential. He therefore advises postponement of the legislation to the next session. He does not think this would give rise to any interim management difficulties in BNOC, although we will of course need to look for a new Chairman prior to the publication of the legislation.

I have therefore reluctantly come to the view that we should plan on an introduction as early as possible in the Autumn. Geoffrey Howe agrees with this.

We will need to present this decision in the right light in view of our earlier announced intention to bring forward legislation this session. An announcement within the next fortnight is desirable. This change of plan is likely to be greeted critically by some of our supporters but I think this can be handled provided I have the full backing of my colleagues in terms of our broad political strategy and that its announcement is coupled with a clear statement of our intentions for BNOC. I am attaching a draft text which has been agreed with Geoffrey and which I would propose to make in the form of a written Parliamentary answer. In addition to dealing with the creation of the two new component parts of the Corporation, this text makes clear our intention that BNOC (Operating) should be completely independent of the Government or BNOC - thus taking it into the private sector; and that the ultimate public sector stake will be reduced to a minority. Geoffrey and I consider that it is necessary to include these points because although decisions on the precise timing and extent of privatisation of BNOC (Operating) have yet to be taken, any statement that does not make absolutely clear our fundamental approach to privatisation will lay us open to charges of indecision and/or of a fundamental change of course, will certainly be fully exploited by the Opposition and will put us on the defensive

in an area where we should be scoring positive political gain. The text states that normal participation arrangements will apply to BNOC (Operating)'s UKCS oil; that is to say that it will be able to retain 49%. This is necessary to establish the full independence of the company from the public sector and the PSBR; and any other arrangement might call into question whether we really were creating a commercial operation on the same basis as other private sector oil companies.

Outstanding points

As mentioned above there are some outstanding points that must be resolved before we can proceed any further with preparing the legislation - in particular whether HMG or BNOC should own the residual public sector stake in BNOC (Operating) and whether legislative provisions dealing with the powers of the new BNOC should be more restrictively drawn than we had so far contemplated. However these points are not essential to the proposed statement, and I will be reporting separately on them, in the light of further discussions with the Treasury.

I hope therefore I can have your agreement to the proposed statement and to our commitment to introduction of the legislation as soon as possible in the new session, both of which in my view must go with any announcement that legislation is to be put off. Such an announcement needs to be made as soon as possible and in any case within two weeks, because it will become increasingly obvious that legislation of this controversial nature is not now feasible this session. I would of course propose to inform the BNOC Board immediately before making the announcement.

I am copying this to Members of E Committee, the Chancellor of the Duchy of Lancaster, Sir Robert Armstrong and Sir Kenneth Berrill.

JIA

Secretary of State for Energy

28 February 1980

Q. "TO ASK THE SECRETARY OF STATE FOR ENERGY WHAT PLANS HE HAS FOR THE FUTURE OF THE BRITISH NATIONAL OIL CORPORATION?"

A. I will be introducing legislation this autumn to allow for the setting up of a company through which the British public will be able to invest in BNOC's offshore operations.

2. BNOC has two distinct functions. First its access to oil through the participation and royalty in kind arrangements gives it an important role as a large scale oil trader. In this role BNOC can play an important part in protecting vital national interests including security of supply and in providing oil supplies for our international partners in the EEC and IEA. We intend that this role should continue.

3. Second, BNOC is an oil producing company working alongside other oil companies in the North Sea. We see no need to retain these operations within the State sector and we shall therefore give the public the chance to participate directly in BNOC's oil producing business.

4. We have therefore decided that BNOC should be re-organised. The existing Corporation will concentrate on oil trading. The participation agreements which give BNOC options to take oil will be retained, and I will continue to call upon BNOC to dispose of royalty oil on my behalf.

5. The exploration and production assets and operations will be vested in a new Companies Act company. We intend that this company ^{will} operate independently of Government and of BNOC, except to the extent that its UKCS oil will be subject to purchase options by BNOC under normal participation arrangements. We propose to make a substantial shareholding in the company available for issue to the general public. The Government will not seek to control the company through the residual public

sector holding of the shares - which it is intended will ultimately be reduced to a minority.

6. The Government wishes to see a wide-spread of ownership and will ensure that in the allocation of shares full regard is given to the position of small investors and employees.
7. Implementation of these proposals will call for a major corporate re-organisation and for the transfer of contractual and other interests. This is bound to take time. But preparatory work on this and the necessary legislation is underway and we intend to introduce the legislation late this year. The details including timing of the share issue will be a matter for further consideration.
8. I believe our plans will end the confusion that has surrounded BNOC's two roles and will ensure that each has a secure foundation on which to develop in the national interest.



29 FEB 1990





Caery

Treasury Chambers, Parliament Street, SW1P 3AG

01-233 3000

18 February, 1980

R m2

Dear David

BNOc FUTURE CAPITAL STRUCTURE

Thank you for your letter of 11th February. Perhaps I could take the points raised in your letter in turn.

(i) Scope of the new Corporation's activities: although I recognise that your paper, E(79)67, mentioned your proposal that the new BNOc should have all the powers of the old Corporation, save that any extension outside term trading would require your consent, my recollection is that E Committee did not consider this point explicitly. If they had, I am not certain that there would have been agreement that the new Corporation should have the same functions as the last Government's Act gave the present Corporation. You suggest in your letter that it would be shortsighted of us not to recognise that situations may occur in the future which would make us want BNOc to extend downstream or upstream. This would be a difficult case to deploy in public since critics could use arguments about the need to retain flexibility with the Corporation's future activities in order to attack our strategy of privatising the Corporation. My preference therefore would be to limit the new Corporation's activities to the functions which we now see for it, principally oil trading. I recognise that it might be difficult to arrive at a line between oil trading and other downstream and upstream operations, but I attach a note by my officials which sets out a possible route forward. I should be grateful if you could consider this.

(ii) Viability of Trading: I do not think that there is anything between us here. We both recognise that Trading will be in a high risk business and as you say its results are likely to fluctuate between profit and loss. Colleagues should therefore be aware that there is no certainty that Trading will be financially viable.

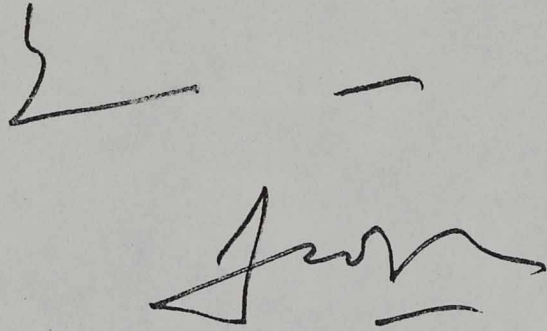
/(iii) Grant

The Rt. Hon. David Howell, M.P.



(iii) Grant giving powers: I think that some Members of Parliament would be reluctant to give the Secretary of State complete freedom to make grants to the Corporation for any purpose. I therefore would prefer the grant giving power to be restricted, as I suggested in my letter of 4th February, to the purposes of eliminating or reducing deficits.

I am sending copies of this letter to the Prime Minister, John Nott, Keith Joseph, and Sir Robert Armstrong.

A handwritten signature in dark ink, appearing to read "Geoffrey Howe", with a horizontal line underneath.

(GEOFFREY HOWE)

FUNCTIONS OF THE "NEW" BNO

This note suggests functions for the "new" BNO by reference to the general functions of the present Corporation set out in section 2 of the Petroleum and Submarine Pipelines Act 1975.

Section 2(1)

(a) To search for and get petroleum existing in its natural condition in strata in any part of the world.

Not relevant to the new Corporation except in so far as it is covered by (d) below.

(b) To move, store and treat petroleum and anything derived from it.

This power should be retained though it should be made clear that "treat" would not permit the Corporation to own or run refineries. It should, however, permit the Corporation to enter into processing deals.

(c) To buy, sell and otherwise deal in petroleum and anything derived from it.

This should be retained except that the power should be drafted so as to prevent the Corporation going far down the downstream chain eg to run petrol stations. One possibility might be to limit the Corporation's power here to deal in bulk petroleum.

(d) To perform for any Minister of the Crown or Northern Ireland Department such services connected with petroleum and anything derived from it as the Minister or Department may request the Corporation to perform on his or its behalf.

This is a wide power and should be retained.*

(e) Without prejudice to the generality of the preceding paragraph to do anything required for the purpose of giving effect to agreements ... to securing participation ... in activities connected with petroleum beneath controlled waters.

This should be retained.

* This could be used by the Secretary of State to require the Corporation to do deep water drilling.

(f) Provide any person with advice or assistance of any kind, including research services and training facilities, as respects any matter in which the Corporation has skill or experience.

This no longer seems to be relevant to the Corporation's new circumstances, but there would seem to be no objection to retaining the power provided it was consistent with Ministers' decision to stop BNOC's advice giving function to the Secretary of State.

(g) To do anything which the Corporation considers it is calculated to facilitate, or if conducive or incidental to, the performance of any of the Corporation's functions.

Provided this does not add to the powers already given by the provisions above, it could be included. It would be important to check that it did not permit the Corporation to search for and get petroleum, run refineries etc.

Section 2(2)

(a) To provide and operate pipelines, tanker ships and refineries in connection with petroleum.

This should be retained with the omission of the reference to refineries.

(b) To carry out research in connection with petroleum or anything derived from it and to promote activities for the purpose of turning to account the results of such research.

There seems to be no need for this in the new circumstances.



18 FEB 1980

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Energy

Free

B/F 18.2.80.

bc : Mr. Woyson

Bf cancelled - no comment to
make - Toy will
handle.

SIR KENNETH BERRILL

BNOG

We had a word about Mr. Howell's legislative proposals for the privatisation of BNOG, and I told you that I had heard that these were being pushed through in such a rush that we could well end up with a bad piece of legislation and a good deal of confusion all round. It had also been put to me that it was very unlikely that it would be possible to sell off part of BNOG before the end of 1980/81 if the legislation were pushed through this session - simply because so many loose ends would remain.

I would be grateful if you could let me have a note on this: if the legislation is being pushed too fast, and if there is confusion, perhaps we should bring in the Prime Minister.

I am sending a copy of this minute to Sir Robert Armstrong.

T. P. LANKESTER

11 February 1980

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CONFIDENTIAL



SECRETARY OF STATE FOR ENERGY

THAMES HOUSE SOUTH
MILLBANK LONDON SW1P 4QJ

01 211 6402

The Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the Exchequer
HM Treasury
Parliament Street
LONDON SW1

R 11/2

11 February 1980

De Seaman

BNOC FUTURE CAPITAL STRUCTURE

Thank you for your letter of 4 February. I am grateful for your agreement that we should include in the proposed Bill the power to grant pdc and I accept that the Treasury's position on the actual use of the powers to issue pdc must be reserved.

Your letter raises some other points of substance that I will deal with in the order in which they appear.

(a) Scope of the new Corporation's activities: You are correct that I have it in mind to leave undisturbed for the new Corporation the functions which are given to BNOC under the existing legislation. However I do have it in mind that any extension outside what I broadly term trading would require my consent; this would be introducing similar constraints into the legislation in relation to upstream operations as are already present in the PSPA for downstream operations making it possible for BNOC to venture beyond trading only with my consent. This intention was I think quite clear from my paper to E Committee, E(79)67, paragraphs 7 and 10. While my present view is that there is no national interest argument for the new BNOC going beyond trading, it would be shortsighted of us not to recognise that situations may occur in the future which would make us want BNOC to extend downstream on a selective basis in pursuit of national security of supply; and that there may be upstream operations which we would wish BNOC to undertake, or at least be in a position to undertake, if the private sector was unwilling (an example of this might be deep water drilling). The oil scene is changing extremely fast and I am sure we should take every precaution to avoid being wrong-footed. Apart from this strategic consideration, the interplay between pure trading in crude oil, and natural gases, transportation, storage, products, processing, refining, is so great that I think we would find it difficult to arrive at a line between oil trading and other downstream operations that did not leave BNOC without the proper commercial flexibility to do its basic task. For these reasons I am clear that BNOC should have the power to embark on upstream or downstream operations, so long as it is constrained by the need for consents before venturing outside the oil trading area. These views lay behind my recommendations in E(79)67, which were not questioned at the time. I hope therefore that you can accept my



proposed line.

(b) You say in your (ii) that the note attached to my letter of 25 January effectively accepts that the new BNOC would not be financially viable since it would not be able to service its capital at the normal NLF rate; and you return to the point in your penultimate paragraph. I do not think any such construction can be put on my note. This makes clear that BNOC's capital needs, to handle its oil trading side, will in the normal way be insignificant, and there is no suggestion that it would not be able to service such capital. The reference in paragraph 4(i) is to the best means of funding any loss that may occur from time to time. This is by its nature a high risk business and is likely to fluctuate between profit and loss. There is reason to suppose that the balance will fall one way or the other over the longer term; but there may be a significant loss in any one year which might not be able to be met from retained profits if a high dividend policy had been pursued or if this occurred at an early stage in the corporation's existence. Clearly we must provide for the financing of such a loss and as my note makes clear I would not have thought that it would make any commercial sense to finance such a loss by means of debt. This is not the same thing as saying that in the long run average profits would be at least as much as the interest that the Government would have received if the finance had been in the form of NLF.

(c) You suggest that we should circumscribe the power to make grants by stipulating that these should only be paid with a view to reducing or eliminating the Corporation's deficits. While this is the purpose we have in mind now we would be reducing our flexibility to meet unforeseen events in the future by such a restriction and I had it in mind therefore to be unspecific about the purpose of such grants but to impose a fairly strict limit on the amounts available. This would not be without a precedent. However if you judge that a restriction on the purpose is needed to meet parliamentary demands and are happy with the particular formulation suggested in your letter then I would go along with this.

I am sending copies of this letter to the Prime Minister, John Nott, Keith Joseph, and Sir Robert Armstrong.

D A R HOWELL

Howell
David



11 FEB 1980

Faint, mostly illegible typed text, possibly a letter or report, with some words like "service" and "profit" visible.

Second block of faint, mostly illegible typed text.

Third block of faint, mostly illegible typed text.

Handwritten signature or initials, possibly "Dew".

Faint handwritten text or date at the bottom right.



Energy

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

4 February, 1980

Dear David

R
G2

BNOC FUTURE CAPITAL STRUCTURE

Thank you for your letter of 25th January which seeks approval for BNOC's future financial structure.

I am generally content with your proposals, subject to the following points.

(i) Scope of the New Corporation's Activities: I understand that the intention is to give the new Corporation exactly the same powers as are given to the existing Corporation by the 1975 Act; i.e. besides the power to carry on oil trading, which at the moment is the only function identified for the new Corporation, powers to explore for and develop petroleum all over the world, operate refineries etc. I understand that you do not see circumstances in which we would want the new Corporation to be more than an oil trader, but that you nevertheless want to keep the options open for the future.

I would not necessarily argue that the legislation should specifically restrict the new Corporation to oil trading, but I question whether it is right for it to be empowered to do everything that the old Corporation could. I should, therefore, be grateful if you could consider giving the new Corporation much more limited powers to suit the role we now see for it.

(ii) PDC: I am not convinced that PDC would be appropriate for the new BNOC since the risk must be that it would become soft option capital. Indeed, this appears to be recognised in paragraph 4 (i) of the note attached to your letter where it states that "it would be unrealistic to assume that BNOC would be able to remunerate such capital by fixed interest payments - equity therefore seems appropriate". This effectively accepts that on its main function, oil trading, the new Corporation will not be viable in that it would not be able to service its capital at the normal NLF rate. This also suggests that the Corporation would not be able to meet

The Rt.Hon.David Howell, M.P.



one of the criteria for PDC that "taking the good and bad years together, the average level of gross dividend payments would be at least as much as interest which the Government would have received if it had advanced the money from the National Loans Fund" (paragraph 86 of Cmnd 7131). The right course in circumstances where a nationalised industry is not viable is to provide for its trading losses to be met by grants from Parliament, and not by endowing it with soft capital.

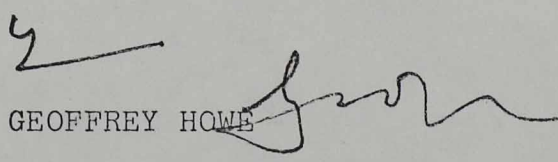
As I say, this makes me reluctant to agree to the inclusion of powers in the Bill for the provision of PDC, particularly if we decide that the Government rather than the new Corporation should own the public sector stake in Operating. I hope that you can, therefore, reconsider your proposal here. However, in view of the importance of enacting the legislation this session, I would not resist your proposal for the inclusion of powers in the Bill for PDC if you thought this essential provided other colleagues were content. The Treasury's position must, however, be reserved on the use of those powers to issue PDC.

(iii) Power to make Grants: I agree with your proposal that the Bill should contain a power to make grants to the Corporation out of money voted by Parliament, but I think that Parliament will expect that this power should be circumscribed in some way, e.g. by indicating the purposes for which the grant can be paid. An obvious way of doing this would be to stipulate that they should be paid with a view to reducing or eliminating the Corporation's deficits.

My officials are in touch with yours about some minor points on your proposals.

More generally, could I say that the note attached to your letter does indeed suggest that the new Corporation will be doubtfully financially viable. The note draws attention to the doubts that BNOC will be able to remunerate the capital for its main oil trading business by fixed interest payments and that while in normal circumstances it should have relatively small profits or losses, its trading operation entails by its nature a significant exposure to loss. I think that colleagues ought to be aware of these risks.

I am sending copies of this letter to the Prime Minister, John Nott, Keith Joseph and Sir Robert Armstrong. If John Nott and Keith Joseph see any inconsistencies in your proposals with their legislation now before Parliament, no doubt they will let us know.


GEOFFREY HOWE

CONFIDENTIAL

Energy

SECRETARY OF STATE FOR ENERGY
THAMES HOUSE SOUTH
MILLBANK LONDON SW1P 4QJ

01 211 6402

R 31/1

Ms Petra Laidlaw
Private Secretary to the Chancellor
of the Duchy of Lancaster
Privy Council Office
Whitehall
London SW1A 2AT

31 January 1980

Dear Petra,

PETROLEUM AND SUBMARINE PIPELINES BILL

Thank you for your letter of 14 January.

It is hoped that the remaining policy clearances for the Bill's provisions can be obtained shortly and on this basis we would expect to be able to provide Counsel with complete instructions by the latter part of February at the latest. As you know, however, this Bill falls into a number of discrete parts. Our Legal Adviser has written to First Parliamentary Counsel explaining this and suggesting that, in the interests of an early start being made on drafting, instructions might be sent to Counsel on those parts of the Bill, for which the policy has already been settled. If this suggestion is accepted, we will be in a position to send instructions immediately on all parts of the Bill except those relating to the British National Oil Corporation and the National Oil Account. Work would continue on the preparation of the outstanding instructions which would be sent to Counsel as and when they can be completed.

I am copying this letter to the Private Secretaries to the Prime Minister, the Chancellor of the Exchequer, the Attorney General and to the Secretary of the Cabinet and First Parliamentary Counsel.

Yours ever,

Denis

DENIS WALKER
Private Secretary



131 JAN 1940



wait for T83 Energy
Comments

SECRETARY OF STATE FOR ENERGY
THAMES HOUSE SOUTH
MILLBANK LONDON SW1P 4QJ
01 211 6402

R.
25/1

The Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the Exchequer
HM Treasury
Parliament Street
LONDON SW1P 3HE

25 January 1980

John Selinger

BNOC: FUTURE FINANCIAL STRUCTURE

In paragraph 22 of E(79)67 I indicated that I would be coming forward to interested colleagues with my proposals for severing BNOC's connection with the NOA and providing it with a more normal capital structure. Annex 4 to that paper set out my thinking at that time.

My officials have now had detailed discussions with the Treasury and BNOC on this question, and the attached paper sets out their recommendations. Broadly these are that:

- (a) BNOC should be funded by a mixture of NLF loans and public dividend capital (pdc);
- (b) I should have the ultimate power to determine the level of dividends on pdc, and to transfer surplus cash from BNOC to the Exchequer;
- (c) there should be a redefinition of the borrowing limits and BNOC's obligation to obtain consents to lend money, and to buy or sell company securities should be modified.

I understand that Treasury officials are unwilling to support a case for pdc for BNOC, and believe that the Corporation can and should be funded entirely from debt; although there should be a power to receive grants to meet unrecoverable trading losses. The paper sets out the arguments on both sides. I think it is right to be extremely selective about the use of pdc, and guidelines such as those in Command 7131 are desirable. But I believe that it is totally unrealistic to provide an organisation which is dependent for its profits on a dividend flow from a single investment, and on what is basically a major jobbing operation, subject to the constraints of participation agreements, with one hundred per cent debt capital. And I do not

think that the ability to give grants to cover losses is a satisfactory substitute. With pdc there is the prospect of remuneration in due course, and as profits grow remuneration above the NLF rate. With grants there is no prospect of remuneration whatsoever. The knowledge that grants are available also severely undermines the proper financial disciplines to which management should be subject.

If however you see difficulty in accepting now the appropriateness of pdc for BNOC, I suggest that we include in the Bill powers to provide NLF, pdc and grants, leaving open for later decision whether pdc will be provided. This has the added advantage of giving us flexibility to deal with any problems arising out of the transition to the new structure, or out of privatisation which we have not yet identified. This is a highly complex matter which we are having to deal with at great speed in order to meet the Parliamentary timetable. We have identified a number of financial problems which we are satisfied our proposed new structure will cope with, but as we look at the privatisation process in more detail others may emerge, and the flexibility provided by the approach I am suggesting should minimise the need for changes during the drafting of the Bill, or for amendments during its passage.

I should be grateful therefore for your agreement that we proceed to take the powers summarised in para 16 of the attached paper; I should be glad also to know whether you are willing to agree in principle at this stage that some part of BNOC's funding from the Government should be in the form of pdc.

I am copying this letter to the Prime Minister, John Nott, Keith Joseph, John Biffen, and Sir Robert Armstrong.

D A R HOWELL

Handwritten signature
David

Background

1. On the assumption that BNOC (Trading) is to be the vehicle for the Government shareholding in BNOC (Operating) its financial structure must satisfy the following requirements:

- (i) Oil trading. Trading will act principally as a jobber in large quantities of oil secured largely under participation agreements. As an oil trader the Corporation will have the prospect of a high turnover combined, in normal circumstances, with relatively small profits or losses. It will have no significant fixed assets and will require little medium or long-term capital to finance its trading assets (but see (v) below). Given, however, that the trading operation entails by its nature a significant exposure to loss, the financing arrangements must provide a flexible means of funding of last resort. They must also ensure that BNOC can finance a relatively large requirement for working capital for normal day-to-day operations;
- (ii) Shareholding in BNOC (Operating). Here there are two main requirements:
 - (a) a mechanism for ensuring the transfer of dividend income from Operating through Trading to HMG;
 - (b) a means of financing Trading's subscriptions to future rights issues by Operating (this might be needed, for example, to maintain the Government shareholding at an agreed level);
- (iii) Forward oil sales. Trading may carry some of the liability to meet supply obligations under the forward oil sales recently negotiated. The prospect of Trading involvement in the unwinding of forward oil sales is in any case certain if the existing sales are rolled forward into 1981-2;
- (iv) Proceeds of privatisation. Unless the existing NOA arrangements remain in force until after privatisation has been completed (which is unlikely to be practicable) Trading will

be the initial recipient of the proceeds of privatisation. New financial arrangements must ensure that these proceeds are passed directly to HMG;

- (v) Other activities. Although the activities of Trading will be restricted for the foreseeable future to oil trading, the Corporation will have the same powers to broaden its activities as the existing BNOC. The financial structure must be formed in such a way as to allow for some of the powers (e.g. the power to go downstream) to be exercised in the longer-term.

2. In our view the new capital structure for Trading should resemble more that of the other state corporations. The following criteria seem essential:

- (i) provision for formal capital which imposes a proper financial discipline;
- (ii) ability for the Corporation to control its cash and working capital without reference to the Department;
- (iii) flexibility to deal with the transactions covered in paragraph 1;

In addition

- (iv) the Government must be able to obtain early access to surplus cash.

3. The starting point for our consideration has been that Trading's long-term requirements should be funded from Government sources by means of NLF loans or public dividend capital; and that its short-term working capital requirements could be obtained from the banking system. The key questions we have had to consider are:

- (a) how should remuneration of Government funds be decided? Can Trading be funded entirely from the NLF, or is some element of pdc needed?
- (b) what modifications are needed to the conventional arrangements to deal with Trading's special problems?

4. The remuneration that ^{Trading} / is called upon to pay on Government funds will primarily effect its profitability, and will be the main financial discipline imposed on the Corporation. It is essential to provide it with a proper commercial discipline, which at the same time avoids prejudicing its financial viability. An examination of Trading's likely assets and the revenues flowing from them will give the best guide to how those assets should be financed. Taking the 5 categories of activity referred to in paragraph 1 the following considerations are relevant:

- (i) Oil trading. What capital is needed will be to finance any losses. It would be unrealistic to assume that BNOC would be able to remunerate such capital by fixed interest payments - equity therefore seems appropriate.
- (ii) Shareholding in BNOC (Operating) and (iv) Proceeds of Privatisation. Prior to privatisation this will be on BNOC (Trading)'s balance sheet at book value, financed by corresponding amount of capital; as shares are sold the proceeds can be applied to repay capital pro-rata, and distributed as capital profit. BNOC (Trading) will not be able to remunerate 100% debt in respect of these shares out of initial dividends which will take some time to build up, either before or after privatisation; the logical solution would be to finance the share stake by means of equity, but it would be feasible to contemplate a mix of equity and debt.
- (iii) Forward oil sales. Any outstanding forward commitment to supply oil in respect of payments already received would need to be shown in the balance sheet as a liability, matched by a corresponding asset of some sort. This could be handled by the proceeds of any forward sale being deposited with the Government until such time as the obligation to deliver arose. The extent of any Government remuneration of such deposits would be decided by the need to ensure that BNOC (Trading) made no loss as a result of such deals.
- (iv) Other activities. The argument for equity rather than debt finance in respect of new activities is less clear cut and decisions would have to be taken ad hoc. But it is possible

that such investment might be heavily front end loaded and with the prospect of positive cash flow and profitability only in the longer term. Such a possibility would be best catered for by equity finance.

5. The conclusion from this analysis is that pdc is an essential element in any funds provided to Trading by the Government.
6. The provision of equity finance for Trading would provide a convenient basis for the transfer of dividend income from Operating to HMG. We envisage that SOS would have the power to determine the level of dividends on the equity in the light of Trading's profits and cash requirements. He would also have the power to require the payment of interim dividends so as to ensure the prompt transfer to Government of dividends received by Trading. This latter power could be backed up, if necessary, by a specific power to transfer cash surpluses from the Corporation after appropriate consultation.
7. Privatisation proceeds would be channelled to HMG by means of capital repayments to the Exchequer corresponding to the book value of the shares sold with any excess cash from the sale after capital gains tax being used to provide a capital dividend to HMG. There would have to be a special provision in the legislation to ensure that SOS could insist on the payment of such a dividend, with a safety net provided by the power to transfer cash surpluses from Trading suggested in paragraph 6 above.
8. Our preferred scheme for Trading thus comprises the following elements:
 - (i) Trading may be funded by NLF debt or pdc (at the discretion of the SOS);
 - (ii) short-term working capital will be sought from the banks;
 - (iii) privatisation proceeds will be used to repay opening capital, and as capital dividend on pdc;

- (iv) dividends from BNOC (Operating) and trading profits can flow through as dividends on pdc - with the SOS having power to set the level of dividend;
- (v) the SOS will have the power to remove surplus cash from the Corporation;
- (vi) proceeds of forward sales of oil will be deposited with the NLF, and drawn down as the delivery obligations mature.

9. The only outstanding difficulty with these proposals stems from the use of pdc. The White Paper on the Nationalised Industries, Cmnd 7131, set out two requirements to govern the use of pdc, first that it should be applied to essentially viable organisations, ie. issued on the assumption that the prospect of dividends was no worse than the return on NLF loans; and second that pdc was intended for industries in which profitability was cyclical. At official level, the Treasury have doubts that both these conditions would be met by BNOC (Trading). They also argue that the funds needed to finance the BNOC (Trading)'s shareholding in BNOC (Operating) can be properly met by NLF loans and that any losses from its activities can and should be met by voted grants. In our view the criteria for pdc can be met:

- (a) because Trading's main source of revenues (the dividend from Operating) while not necessarily cyclical is completely outside its control; and its basic trading operation is essentially fluctuating;
- (b) there is a long term prospect that as the dividends from operating build up, Trading will be able to pay dividends on its pdc equivalent to the interest that would have been payable on NLF debt.

Further we and BNOC would strongly prefer not to see losses being met from grants, since this would militate against normal commercial disciplines.

10. We would therefore advocate a choice in favour of a mixture of pdc and debt to be covered in the Bill. It would however be possible to include provisions in the Bill covering pdc, debt and grants so that options between our and Treasury's views can be kept open, with decisions as to whether pdc should in fact be provided being taken when the new Corporation comes into being.

TRANSITIONAL ARRANGEMENTS

11. We propose that the Bill should provide for the SOS to specify a date when Trading's connection with the National Oil Account is to be terminated and the new structure set up. No decision needs to be taken yet what this date will be. Provision will be needed to establish the funding of Trading's assets at the specified date, to convert any receipts from forward oil sales into deposits with HMG, and to ensure that Trading has adequate cash balances and access to working capital to meet its needs from the moment when the NOA ceases to operate.

BORROWING LIMITS

12. We are currently reviewing with the Treasury the terms of the Corporation's statutory borrowing limit. It is agreed however that the limit should be applied to all sources of funding by the Corporation (including pdc if it is used), guarantees and indemnities and any further arrangements along the lines of the Britoil arrangement. It is for consideration however whether the limit should apply to the funding necessary to finance BNOC (Trading)'s shareholding in BNOC (Operating). The funding associated with the shareholding will start at a high level in the period when BNOC (Trading) holds all the shares in BNOC (Operating). As shares are sold however, the funding necessary to finance the shareholding will fall substantially. A further rights issue in BNOC (Operating) would of course increase the finance necessary. Inclusion of funding for this purpose would thus result in major fluctuations in the total, and to be effective any statutory

funding limit would have to be varied accordingly. Such an artificial arrangement might be better circumvented by specifically excluding the shareholding from the limit, though this course would hold its own presentational problems.

MISCELLANEOUS

13. Under Sec 2(4)(c) of the Act, BNOC must seek the SOS consent to purchase or sell company securities. This control is unsatisfactory because it does not cover all the possible ways in which BNOC may extend the scope of its operations, and it involves the SOS in scrutiny of the structure of acquisition deals rather than the substance and blurs the Corporation's responsibility for the detailed arrangements. We therefore propose to repeal 2(4)(c), and instead place on BNOC a duty to seek the SOS's prior approval to any substantial commitment of funds on capital account, the threshold to be set from time to time by the SOS with the approval of the Treasury.

14. We propose however that the SOS should have the power to control the size of Trading's stake in BNOC (Operating).

15. Sec 2(4)(d) of the Act requires BNOC to seek SOS's consent to lend or borrow money. To bring BNOC's position more into line with other nationalised industries and to reflect the Government's policy of a more armslength relationship, we propose to repeal the provision in 2(4)(d) relating to lending by the Corporation.

CONCLUSIONS

16. The new financial structure should allow for Trading to be funded from the Government either by NLF loans or by pdc; if agreement to pdc cannot be obtained now, then the provisions in the Bill should cover NLF, pdc and grants, in order to keep options open. Specific provisions are recommended as follows:

- (i) severance of connection with NOA;
- (ii) ability to borrow from the NLF;
- (iii) ability to receive pdc from money voted by Parliament; and to repay pdc;

- (iv) power for the SOS to make grants out of money voted by Parliament;
- (v) power of the SOS to determine dividends, after consultation with BNOC;
- (vi) power of the SOS to remove surplus cash (after consultation with BNOC);
- (vii) power of SOS to establish the capital at outset needed to finance existing assets;
- (viii) a revised definition of the borrowing limit;
- (ix) amendments to controls over purchases and sales of securities;
- (x) freedom to lend money without consent of SOS;
- (xi) the date on which these provisions come into force to be specified by order.

25 JAN 1960





Foreign and Commonwealth Office
London SW1

24 January 1980

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BNOC/BP OIL SUPPLY

Thank you for your letter of 23 January. I do not have any further reservations to make.

I am glad that you are able to confirm that it is BP's firm intention to organise their oil flows so that their own exports of UKCS crude to other Community countries would remain unaffected in the circumstances envisaged. I take the point that to write this into a contract between BP and BNOC would have the disadvantage of making it unlike a normal commercial arrangement in that respect. Is there some other way in which we could get BP's intentions on to the private record? A letter from BP to your Department would be one possibility, although you may feel that this brings HMG too much into the picture. An alternative might be a letter from BNOC to BP, noting that BP had stated their intentions in the course of the negotiations. The more the record can show that the far-reaching implications of the clawback provisions in the Principles are now subject to this important proviso, the better it will be. I made this point in my letter of 16 January, and I do not regard it as shackling the negotiations with BP.

/I am

The Rt Hon David Howell MP
Secretary of State for Energy
Thames House South
Millbank
London SW1

CONFIDENTIAL

I am confirmed in my view that we must do everything possible to reduce the target presented to possible challenge by the incautious approach to their forthcoming discussions with the Commission taken by the BP team at a meeting with Department of Energy and FCO officials in your Department on 22 January. I recognise that only aspects of the ring fence arrangements were involved, and I hope that the warnings which your people and mine were able to give will have served their purpose; but, as you know, the danger of a leak has been one of my worries all along. The article in the Daily Telegraph of 23 January is a reminder of the interest which the agreement is likely to arouse.

Perhaps we could have a word, as you suggest, in the margins of OD(E) this afternoon. I do not foresee any further difficulty at this stage; and the weighing of the pros and cons of exercising clawback in a specific case can be left to the consultations which we have already agreed will be necessary.

I am copying this letter to recipients of previous correspondence.

24 JAN 1963

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SECRETARY OF STATE FOR ENERGY
THAMES HOUSE SOUTH
MILLBANK LONDON SW1P 4QJ 211 6402

The Rt Hon Sir Ian Gilmour Bt MP
Lord Privy Seal
Foreign and Commonwealth Office
London SW1

23 January 1980

Dear Ian

RZ
24.

BNOC/BP OIL SUPPLY

Thank you for your letter of 16 January.

I have thought about your proposals very carefully because I am sure we both want to get on. The basic objective of this part of the arrangements is to protect UK security of oil supply and without satisfaction on this point I am not prepared to allow BP and its affiliates to enjoy the advantages of the other aspects of the arrangements. Provided it is clear that I am not going to shackle my negotiators with BP with constraints which defeat this basic objective, I think we can move this difficult issue forward much as you propose without troubling colleagues further.

We are agreed that there should be no reference in the contractual documents to claw-back as such, that we should instead be thinking in terms of a right of termination and that any reference to the circumstances of termination should be drafted with care. Our negotiators know that they must avoid echoing the claw-back provisions of the Principles directly in the contract and need no formal restatement of that point from us. I confirm that it is BP's firm intention to organise their oil flows so that their own exports of UKCS crude to other Community countries would remain unaffected in the circumstances envisaged in the claw-back provision. It would not, however, be appropriate to write into a contract between BP and BNOC the constraint you propose on how BP will organise its remaining disposals in the event of termination of one part of the supply from BNOC. To do so would be to introduce restrictions into the contract documentation which would have the undesirable effects of making it unlike a normal commercial arrangement. I therefore propose to omit the words you proposed under your second point, while not disputing that their spirit echoes BP's intent as they have expressed it to us.

I share the expectation that, as you say in your letter, we now have sufficient understanding to make it unnecessary to refer this matter back to colleagues collectively in OD(E). I propose accordingly to instruct my negotiators to proceed on the basis set out above, taking full account of the legal advice available to us; but I will not take



this action before Thursday lest you should have yet further reservations which you judge it necessary to put formally to OD(E) for resolution. If so, I trust we can settle the matter on Thursday.

I am sending copies of this letter to the recipients of yours.

Howell
Daw

D A R Howell

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23 JAN 1980

*Energy*Foreign and Commonwealth Office
London SW1

16 January 1980

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17.

I am grateful for the further clarifications in Hamish Gray's letter of 10 January. As I understand it, the position is now that clawback will definitely not be exercised so as to restrict supplies of UKCS crude to BP's affiliates in EEC countries. This would remove a major risk of challenge under Article 34 of the EEC Treaty. I note too that it may be possible to avoid applying to the Antwerp and Rotterdam refineries restrictions which, although perhaps less likely in practice to provoke legal challenge, might also fall foul of Article 34. If I am right in assuming that there are no other flows of UKCS crude from BP to EEC destinations likely to be affected by clawback, we may be able so to draft the agreement as to provide a significant degree of protection in the event of a leak, and to offer a much reduced target if it were subsequently decided that the agreement should be terminated.

I have in mind something on the following lines. First, it is I think common ground that the agreement should not refer to clawback as such, but merely make provision for termination in certain circumstances. Second, I take it from the recent correspondence that we could include in the agreement a provision to the effect that the right to terminate should be so exercised as not to affect the supply of UKCS crude to BP /affiliates

The Rt Hon David Howell MP
Secretary of State for Energy
Thames House South
Millbank SW1

affiliates in EEC countries; indeed, we might be able to dress this up in a formula which appeared to go somewhat further, such as:

'in the event of a termination, the parties shall/will seek to give priority to supplies to markets within the EEC, and shall/will in particular maintain the supply of UKCS crude to BP's affiliate companies in the Community.' (The phrase 'markets within the EEC' is assumed to include the UK market). Finally, it would be helpful if we could find a way to disassociate the final agreement from the revealingly explicit references to clawback in the draft Principles. I think, in the light of the above, that we would be justified in stating for the guidance of the negotiators that 'provisions in the draft Principles relating to clawback were unacceptable for EEC reasons and should not be reflected in the agreement.'

A solution on these lines would not exclude all legal risk if it were subsequently decided to exercise the right to terminate the agreement; and there would remain important political points to weigh in the balance. But I should be content to leave them for consultation between us before a decision were taken in a specific case if you felt able to go ahead on the basis I have suggested. If you agree, it would not seem necessary to have a further meeting of Ministers, though our legal advisers might usefully get together to consider any drafting points which may arise.

I am sending copies of this letter to the Prime Minister, members of OD(E), the Attorney General, the Lord Advocate and Sir Robert Armstrong.



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1987 JAN 19 11 21 AM



Energy

From the Secretary of State

M A Hall Esq
Private Secretary to the
Chancellor of the Exchequer
HM Treasury
Parliament Street
London SW1

R
1671

15 January 1980

Dear Martin

FUTURE OF BNOC AND THE PSBR

ref on Pt 2 @ jimp

Thank you for sending me a copy of your letter of 20 December to Tim Lankester, enclosing the paper by Treasury officials on the future of BNOC and the PSBR.

There is just one sentence in that paper which my Secretary of State does not understand. It is stated in the first full paragraph on page 2 of that paper that, for the proceeds of the sale of shares to count as a PSBR reduction, it would have to be made clear at the outset that the public sector was immediately relinquishing control over operating, and that it intended to sell at least 51 per cent of the shares eventually.

He takes the view that from earlier discussions it is quite clear that whether something is in or out of the PSBR is not a question of exact science but purely of the opinion of the Treasury Minister or official who writes the letter. In his view the statement overstates the case which is clearly contrary to decisions already made in other cases.

I am copying this letter to the recipients of yours.

Yours sincerely,

S HAMPSON
Private Secretary



16 JAN 1960





Chancellor of the Duchy of Lancaster

Energy

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

14 January 1980

i. *Mr. G. ...*
ii. *pa.*

Jean Denis

PETROLEUM AND SUBMARINE PIPELINES BILL

157

The Chancellor of the Duchy has seen Sir Henry Rowe's letter to me of 9 January about this Bill. He is concerned, as he is sure your Minister is, that the preparation of the Bill, which was given a place in this session's programme, should now proceed as quickly as it can.

The Chancellor of the Duchy trusts that the draftsmen will proceed with all reasonable dispatch (without stopping work on other equally important Bills in the programme) once they have received instructions from your department, but obviously they cannot make any progress until then. Could you please let us know by the end of the month how matters stand, and if instructions have not been sent to Counsel by then what the likely date for their completion will be.

I am copying this letter to the Private Secretaries to the Prime Minister, the Chancellor of the Exchequer, the Attorney General and to the Secretary to the Cabinet as well as to Sir Henry Rowe.

Yours sincerely

Petra Laidlaw

PETRA LAIDLAW
Private Secretary

D Walker Esq
Private Secretary to the Secretary
of State for Energy
Department of Energy
Thames House South
Millbank
SW1

15 JAN 1980



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DEPARTMENT OF ENERGY
THAMES HOUSE SOUTH
MILLBANK
LONDON SW1P 4QJ

Direct Line 01-211
Switchboard 01-211 3000

THE MINISTER OF STATE

Hamish Gray Esq MP

The Rt Hon Sir Ian Gilmour, Bart., MP
Lord Privy Seal
Foreign and Commonwealth Office
LONDON SW1

10th January 1980

Dear Ian,

RW

BP/BNOC CRUDE OIL SALES

Thank you for your further letter of 3 January to David Howell, who is as you know visiting the Middle East this week.

David saw your letter before his departure and we are both extremely disappointed that you have still not accepted the proposed arrangements in full, despite Michael Haver's advice. As I understand it, your main concern is the high risk, as you see it, that use of the clawback provision would be detected and would provoke a legal challenge which would go wider and take in other legally vulnerable aspects of the arrangements between BP and BNOC.

As David Howell made clear in his letter of 21 December, the circumstances of BP's internal supply arrangements would effectively disguise what was happening, should the claw-back provision be implemented, since the existing flows of UKCS crudes to BP affiliates would not be affected nor would BP Trading necessarily need to stop the flow of UKCS crudes to the Antwerp and Rotterdam refineries which they themselves own and operate. The evidence of this is that BP Trading felt no need to expose this element of the arrangements when they briefed their affiliates before Christmas. The risk of detection would therefore be small. BP of course would also have the option of providing the UK with equivalent quantities of crude or product from elsewhere in their system in the event of any shortfall in supplies to the UK - something they did last year without attracting unwelcome attention from the Community.

absolutely

The provision for clawback remains, in our view, / essential and an integral part of the arrangements to help BP. Without it, we would feel obliged to re-open the basic commitment to BP under the new agreement. This would be a bad breach of faith, would exacerbate BP's crude supply difficulties, would put their major contribution to BNOC's advance payment arrangements in jeopardy and, I am sure, is not the course you would advocate. It would also send us back to square one in tackling the problem of how to ensure that BNOC's oil could be redirected to the UK in times of shortage.

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While therefore I understand your concern about the possible political risks attaching to the implementation of clawback, I believe the potential benefits significantly out-weigh those risks and I wish to give such instructions without further delay to those involved in the negotiation of the new supply arrangements between BNOC and BP.

Much detailed work remains to be done, and it is now becoming a matter of urgency to get on with the contractual implementation of the Principles of Understanding agreed last November. I see no need to take this narrow and complex issue back to colleagues collectively. If your anxieties persist, perhaps we can meet in the next couple of days to clear up the matter.

Copies of this letter go to the Prime Minister, members of ODE, the Attorney General, the Lord Advocate and Sir Robert Armstrong.

Yours sincerely,

Hamill



170 JAN 1960

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Constitution of the United States, Article I, Section 2, Clause 3. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

170 JAN 1960

170 JAN 1960

Energy

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My

Office of the Parliamentary Counsel 36 Whitehall London SW1A 2AY

Telephone Direct line 01 273 5288
Switchboard 01 273 3000

9 January 1980

Miss Petra Laidlaw
Private Secretary to Chancellor of
the Duchy of Lancaster
Privy Council Office
Whitehall
SW1A 2AT

Dear Petra

PETROLEUM AND SUBMARINE PIPE-LINES BILL

Thank you for sending me a copy of your letter to Denis Walker dated 8th January.

We will of course make every effort, when Instructions are received, to get this Bill ready for introduction. But it is clear that the Bill could not be ready early in February and not at all likely that it could be ready later that month.

It appears from the annex to the Secretary of State's letter of 27th December that the Bill will be far from short or simple; and some important policy decisions have yet to be taken. One would not normally expect a Bill of the likely size and difficulty of this one to be ready for publication within a few weeks from the delivery of the final instructions. An all-out effort to undercut what ought to be regarded as the irreducible minimum of time for preparing a Bill is sometimes successful, but present circumstances are not favourable to such an enterprise: assuming that the Government will not wish to abandon or delay work on any other Bill (and some of

those already introduced will need quite a lot done to them before they become law) we none of us are in a position to drop everything in order to concentrate on this new Bill.

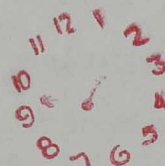
I am sorry to have to be so disappointing but it would be no service to Ministers to be optimistic rather than realistic. Copies of this letter go to Denis Walker and all those who had copies of your letter to him.

Yours sincerely

Henry Rowe

H P ROWE

-9 JAN 1960





Chancellor of the Duchy of Lancaster

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

8 January 1980

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MS

Dear Denis

PETROLEUM AND SUBMARINE PIPELINES BILL

The Chancellor of the Duchy has seen your Secretary of State's letter of 27 December about drafting the Petroleum and Submarine Pipelines Bill.

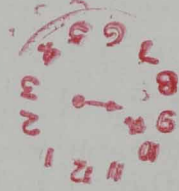
He is glad to give approval for Parliamentary Counsel to be employed on drafting this Bill on the lines set out in the annex to your letter and as agreed by the Group under the Prime Minister's chairmanship on 21 December. The outstanding issues should be resolved as soon as possible so that Counsel can be given full instructions. The Bill will clearly be controversial and in order to give it a reasonable prospect of enactment the Chancellor of the Duchy hopes that it can be got ready for introduction as soon as possible in February.

I am copying this letter to the Private Secretaries to the Prime Minister, the Chancellor of the Exchequer, the Attorney General, to the Secretary to the Cabinet and to First Parliamentary Counsel.

Yours sincerely
Petra Laidlaw

MISS PETRA LAIDLAW
PRIVATE SECRETARY

Denis Walker Esq
PS/Secretary of State for Energy
Department of Energy
Thames House South



F-9. MKM 19-80



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~~IT (OE)~~
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Foreign and Commonwealth Office
London SW1

3 January 1980

David

BP/BNOC CRUDE OIL SALES

Thank you for your letter of 21 December. I appreciate that you will now wish to get on quickly with the negotiation of the new supply arrangements. We are agreed on most of the ground to be covered, including ring fencing, and I see no reason why detailed work should not proceed in those areas. We might put down on paper precisely how the clawback provisions could be drafted to minimise the EEC risks and to build on the helpful suggestions in points (i) and (ii) of your letter. I also welcome your offer of consultations, which would certainly be necessary if we were to envisage the exercise of clawback in a particular case; but I should like to reserve judgement on whether we should take such powers at all until we have had a chance to discuss the matter further.

I understand that we shall be considering in OD(E) on 16 January the energy aspects of the follow-up to the Dublin Council. The outstanding questions on clawback might usefully be considered at the same time. As you know, our partners consider that we should do more to help them in periods of tight supply, and seven of them agreed to a statement to that
/effect

The Rt Hon David Howell MP
Secretary of State for Energy
Thames House South
Millbank SW1

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effect in the minutes of the last Energy Council. Although we wish to avoid linkage between energy and the budget negotiations, we may find ourselves under continuing pressure to do something in this field. I imagine that this is one of the questions that you will be covering in your paper for OD(E) and I do not want to anticipate the discussion at this stage. But a proposal that we should now take powers to divert oil from our partners in such a situation must clearly be looked at in this wider political context, and I remain concerned about the danger of a leak.

More narrowly, it seems generally agreed that the only argument in favour of making provision for clawback is that it offers what you describe as a substantial potential contribution to our security of supply of up to 5 million tonnes per year at peak. How much of this potential benefit do you think might realistically be expected from measures, such as those suggested in your letter, which, while possibly leaving BP open to challenge under Articles 85 or 86 of the Treaty, seem not to restrict exports to other EEC countries? If the answer is a substantial amount, should we not content ourselves with that, and draft the agreement accordingly? If the answer is not very much, we are back in the position addressed in my letter of 18 December: clawback would involve restrictions on exports to our partners; our legal advice is that it could not be saved if it were so exercised and legally challenged; politically, it seems very probable that such an action would provoke legal challenge; and there is a danger that the challenge, once initiated, would go wider and take in other legally vulnerable aspects of the arrangements between BP and BNOC. The risk, which you qualify as residual, may be so in the sense that it would only materialise if clawback were exercised; but this is precisely the situation with which we are concerned. The risk is a substantial one and it remains in my view probable that the exercise of clawback in circumstances which restricted supplies of oil to our partners, would undermine rather than strengthen our overall security of supply.

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I am sending copies of this letter to the Prime Minister, all members of OD(E), the Lord Advocate and Sir Robert Armstrong.

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F-4 JAN 1960

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~~Mr. Layton~~ ^{MS} (Colr)

p.a.

27 December 1979

R. 28/12

The Rt Hon Norman St John Stevas MP
Chancellor of the Duchy of Lancaster
Privy Council Office
Whitehall SW1

Dear Chancellor of the Duchy,

PETROLEUM AND SUBMARINE PIPELINES BILL

As a result of the E Committee meeting on 12 December and further discussions under the chairmanship of the Prime Minister on 21 December, colleagues have now accepted my proposals for the restructuring of the British National Oil Corporation, endorsed the objective of introducing private capital into the reorganised Corporation and agreed to the drafting of the necessary legislation.

I am now writing to seek your authority to enable us to submit drafting instructions on the legislation to Parliamentary Counsel. The intention is that the Bill should be used both to meet our objectives in relation to BNOC and to secure other desirable amendments to the Petroleum and Submarine Pipelines Act 1975, and other legislation. A full summary of the measures to be covered is annexed.

No final decisions have yet been taken on the timing of the introduction of private capital into the reorganised BNOC and, in consultation with the Chancellor of the Exchequer, I shall be putting forward proposals on this to colleagues shortly. If, however, we are to retain the option of introducing at least some private capital during 1980/81 the Bill will have to be enacted this Session. This suggests that it should be prepared as soon as possible for early introduction, which will be necessary even with the use of the guillotine.

Some further consultations with other Departments will be needed on certain matters of detail before full and final instructions on the BNOC provisions can be given to Counsel. But draft instructions on many of the non-BNOC provisions are now ready to be sent to Counsel and we would expect to be in a position to send the remainder, as they become available, over the next few weeks. This piecemeal approach, although we would have preferred to avoid it, should work satisfactorily since the provisions on which instructions are still being drafted are not related to those on which instructions are ready.

I hope therefore you will agree that time can be made available for Parliamentary Counsel to start work immediately on those provisions which are ready and that he will be able to give high priority to drafting the BNOC provisions as and when they are ready.



Copies of this letter go to the Prime Minister, the Chancellor of the Exchequer, the Attorney General, and to Sir Robert Armstrong.

Yours sincerely,

W. J. Burroughs

for

D A R HOWELL

(Approved by the Secretary of State and signed in his absence)

28 DEC 1979



BNOC RESTRUCTURING : SUMMARY OF LEGISLATIVE PROVISIONS REQUIRED

- (i) BNOC (Trading) is to be empowered :
- (a) to convert an existing subsidiary company into or create a new subsidiary company as BNOC (Operating);
 - (b) to provide BNOC (Operating) with the requisite powers (see paragraph 12);
 - (c) to transfer the relevant assets to BNOC (Operating);
 - (d) to dispose of some or all of its shares in BNOC (Operating) to outside investors;
 - (e) to transfer the proceeds from the sale of the shares to HMG (subject to determination of BNOC (Trading)'s future financial structure - (see paragraph (iii) below).
- (ii) The Secretary of State is to have power to ensure that BNOC (Trading) :-
- (a) performs the tasks specified in paragraph (i) above;
 - (b) maintains an appropriate shareholding in BNOC (Operating) - (see paragraph 9);
 - (c) in respect of companies in which by virtue of its shareholding it may appoint directors, to appoint only those directors which have the approval of the Secretary of State - (see paragraph 11);
 - (d) is not able to operate upstream or downstream without the Secretary of State's consent - (see paragraph 7).

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- (iii) BNOC (Trading) is to have its finances severed from the National Oil Account and other financial arrangements substituted. (Proposals which are summarized in Annex 5 will be cleared with Treasury and other interested colleagues).
- (iv) The obligation to appoint civil servant members of BNOC (Trading) is to be abolished.
- (v) BNOC (Trading)'s statutory advisory function is to be abolished.
- (vi) The scope of Section 2(4)(b) (constraints over the power of BNOC (Trading) to operate downstream without the consent of the Secretary of State) is to be clarified.

N.B. It may be necessary to make further legislative adjustments in connection with privatisation. The position will be clearer once more detailed proposals on this aspect have been settled.

AMENDMENTS AND ADDITIONS TO OFFSHORE PETROLEUM LEGISLATION

- (vii) Existing provisions of the Petroleum and Submarine Pipelines Act 1975 are to be amended to:-
- (a) extend the Secretary of State's powers regarding compulsory increase of pipeline capacity and acquisition of rights by third parties [and to simplify the procedure for the authorization of minor offshore pipelines;]
 - (b) modify the Secretary of State's powers to make regulations concerning the construction and safe operation of pipelines;
 - (c) make provision for receipts and payments in connection with petroleum licences; which are presently handled through the National Oil Account;

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Trading H. *June 11*

- (d) improve the arrangements for the calculation and payment of petroleum revenues to Northern Ireland and the Isle of Man;
 - (e) remove the Secretary of State's powers concerning payments to petroleum licence holders in respect of participation agreements;
 - (f) give the Secretary of State power to make royalty refunds in cash irrespective of whether royalty is collected in cash or kind;
 - (g) clarify certain of the arrangements for the calculation and payment of royalty and delivery of royalty in kind;
 - (h) simplify the method of calculating gas/oil equivalence;
 - (i) give the Secretary of State power to issue mutually agreed variations to development programme consents;
- (viii) The definition of Inland Waters in the Mineral Workings (offshore Installations) Act 1971 is to be clarified to remove doubt as to the Act's application to tidal inland waters.
- (ix) New provisions are to be made to :-
- (a) enable the Secretary of State to regulate the offshore storage of gas;
 - (b) enable UK civil and safety laws to be applied to all installations and their surrounding safety zones servicing petroleum fields which extend into sectors of the continental shelf appertaining to other States;

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4. Secretary's powers relating to the establishment and operation of safety zones;

- (c) extend the Secretary of State's powers relating to the establishment and operation of safety zones;
- (d) extend the powers conferred on Constables in relation to installations to cover the area of the surrounding safety zones;
- (e) abolish the need to lay Statutory Instruments relating to the establishment of safety zones (they would still be subject to scrutiny by the Joint Committee on Statutory Instruments);
- (f) give powers for the revocation of Designation Orders for the purpose of consolidation.

PP3
Department of Energy
21 November 1979

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...T...ing then

...June 11

PART 2 ends:-

Note of Mtg of Ministers 21.12.79

PART 3 begins:-

S/S Energy to CDL 27.12.79

