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PREM 19/1976

SECRET

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Defence Contracts With Iran.

DEFENCE

June 1979

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
13.6.79		29.5.80					
15.6.79		6.6.80					
28.2.79		10.6.80					
3.1.80		14.7.80					
15.1.80		11.8.80					
21.1.80		8.12.80					
25.1.80		9.1.81					
29.1.80		19.1.81					
2.2.80		17.7.81					
15.5.80		10.9.81					
24.5.80		21.9.83					
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PREM 19/976



✓ Sir AP.

MO 26/9/15

FOREIGN AND COMMONWEALTH SECRETARY

N. S. P. N.

NR 23.
9

IRAN - THE KHARG

I accept the arguments for our now moving ahead to release the Kharg and agree that the sooner we resolve this matter with the Iranians the better. The Royal Navy has decided against taking the vessel unless it can be obtained at a much reduced price.

2. There is one possible complication which we should bear in mind. Under their original plans to procure the vessel the Iranians required considerable assistance from my Department in the form of oversight of ship construction, assistance with crew training, provision of on-board spares and planned post-acceptance trials and work-up. In agreeing to release the Kharg now we need to recognise that the Iranians may seek a resurrected training and trials package, albeit less extensive, along the lines originally envisaged and this could pose both practical and political problems for us. However, in view of the continuing deterioration of the vessel and the potential for Iranian claims over its material condition, I agree with my colleagues that our overall interest lies in having the vessel removed as expeditiously as possible. My own view is that it is worth providing a modest measure of RN assistance to achieve this. We should of course seek to ensure that any assistance given by the Royal Navy, which could well attract considerable attention in the media, should be conducted in as low a key as possible. We would also aim to have such assistance prefunded, notwithstanding the fact that the



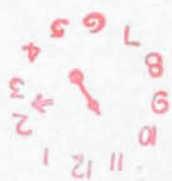
Iranians may be putting in a claim against HMG for previous
nugatory training costs.

I am copying this minute to the recipients of yours.

A handwritten signature in dark ink, appearing to be "M. J. H.", written in a cursive style.

Ministry of Defence
21st September 1983

Defence : ~~THE~~ Defence Contracts with Iran June 79



22 SEP 1983

CONFIDENTIAL

CC Sir/AP



DEPARTMENT OF TRANSPORT
2 MARSHAM STREET LONDON SW1P 3EB

01-212 3434

The Rt Hon Geoffrey Howe MP
Secretary of State
Foreign and Commonwealth Office
Downing Street
SW1A 2AL

Our Ref: K/PSO/27112/83

19 September 1983

IRAN: THE KHARG

I fully agree that we should facilitate the Kharg's removal.

A further reason for returning responsibility for her to the Iranian Navy as soon as possible is that my Department has just heard from the Port of Tyne Authority that she is grounding at low water spring tides. This is putting excessive strain on the mooring lines and there is also a risk that she may be suffering bottom damage. The harbourmaster may therefore have to take special action to ensure the safety of her berthing. This will be yet another cost to be met.

I am sending copies of this letter to the members of OD.

TOM KING

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DEFENCE: Contracts with 194th

June 79



20 SEP 1983

3.38

CONFIDENTIAL



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

16 September 1983

J E Holmes Esq.
Foreign and Commonwealth Office

New Idm,

A.T.C. 12/9
h.a.

IRAN: THE KHARG

with AOC
The Chancellor has seen your Secretary of State's minute to the Secretary of State for Defence, and fully agrees with its recommendations.

Copies of this letter go to all recipients of the minute.

Yours ever,
J. O. Kerr

J O KERR
Principal Private Secretary

10 SEP 1983

10 SEP 1983





JU500

Secretary of State for Trade and Industry

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET

TELEPHONE DIRECT LINE 01-215 5422
SWITCHBOARD 01-215 7877

15 September 1983

CONFIDENTIAL

The Rt Hon Michael Heseltine MP
Secretary of State for Defence
Ministry of Defence
Main Buildings
Whitehall SW1

A.J.C. 16/9
h-a.

Dear Michael,

IRANIAN WARSHIP KHARG: EXPORT LICENCE

I firmly endorse Geoffrey Howe's view in his recent minute that the wider British interest will now be served by issuing an export licence for the Kharg and doing our best to ensure its departure from our shores as soon as possible. You will no doubt do what you can to ensure that when the export licence is issued, an early understanding on Swan Hunter's claim can also be reached.

2 I am copying this letter to OD colleagues and to the Minister for Transport.

Yours
Lester,
Lester.

Defend
June 19
Contracts with
Iran.

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SEP 11 12 1 23

17 6 SEP 1985



Chancellor of the Duchy of Lancaster

SECRETARY OF STATE FOR DEFENCE

A.S.C. 14/9

h.a.

IRAN: THE KHARG

1. I entirely agree with the Foreign and Commonwealth Secretary that the sooner we resolve this matter and the Iranians take possession of the ship the better. So long as it physically remains here it will always be a source of exacerbation between ourselves and the Iranians. - attached
2. I am sending copies of this minute to OD colleagues and the Secretary of State for Transport.

A.C.

A C

12 September 1983

113 SEP 1983



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OD: -HO ✓ MOD ✓
 LCO ✓ LPS ✓
 FCO ✓ CDL ✓
 HMT ✓ CO ✓
 LPO ✓ DTI ✓

10 DOWNING STREET*From the Private Secretary*

12 September, 1983

IRAN: THE KHARG

The Prime Minister has seen the undated minute by the Foreign and Commonwealth Secretary to the Secretary of State for Defence about this matter.

Subject to the views of her OD colleagues and of the Minister for Transport, Mrs Thatcher agrees with the recommendations in paragraph 9.

I am sending a copy of this letter to the Private Secretaries to the other members of OD and to Dinah Nichols (Department of Transport). ✓

A. J. COLES

J. Holmes, Esq.,
 Foreign and Commonwealth Office

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RM



Prime Minister

subject to colleagues, your
recommendations in para. 2?

A.J.C. 2/9

FCS/83/171

Yes

SECRETARY OF STATE FOR DEFENCE

Iran: The Kharg

1. Officials have been considering how to deal with this fleet support vessel built for the Iranians by Swan Hunter Shipbuilders Ltd at a cost of about £40m, which has been deteriorating on Tyneside since we blocked delivery in 1980.
2. In April 1981 OD decided that we should open negotiations for the release of the Kharg on condition that an appropriate understanding was received that the ship would not be used in the hostilities, and that a satisfactory settlement was reached concerning Iranian debts relating to the ship.
3. In late 1981 a procedure to satisfy the first condition was approved by the Attorney-General and the Iranians were told, in December 1981, that the vessel could be released provided certain financial questions relating to it were first settled.
4. Negotiations on these financial questions have been proceeding desultorily since 1982. The Iranians have now informed us that they are ready to commission the vessel and to deliver it to Iranian territorial waters. They have formally requested the issue of an export licence. Officials in the meantime have resolved interdepartmental differences about how the outstanding debts relating to the ship might best be settled. The ship itself was of course fully paid

/for



for in 1980. The debts relate to support equipment, spares and incidental charges. Officials are agreed that the best chance of settling the comparatively small debts owed to the MOD and Swan Hunter rests in allowing the Iranians to take away the ship as soon as possible. (The Attorney-General in any case ruled that a decision to withhold an export licence in pursuance of non-Governmental debts would be open to challenge in the Courts.) I understand that the Department of Transport is ready to accept responsibility, if the Iranians do not pay, for the costs incurred by the Port of Tyne Authority since 1979, which amount to some £17,000 to date, in ensuring that the ship remains securely moored and does not become a hazard to other vessels in the port.

5. The most difficult outstanding matter relates to the cost of making the vessel seaworthy. The Iranians claim that Swan Hunter have given them a preliminary figure of £5million, though Swan Hunter have told the Department of Industry and Trade that it is considerably less, perhaps in the order of £150,000. There might also be claims over the now expired warranty and training rendered nugatory by our decision to prevent the ship from sailing. The Iranians have warned us that they hold HMG responsible for these costs. We have, of course, denied responsibility and made it clear that HMG will not pay them. There is a chance that we may be able to negotiate an arrangement under which the Iranians commission and pay for the necessary work, and take the ship away, without prejudice to the claims of each side. In that event, the sum would be added to the list of other residual claims and counter-claims outstanding between the UK and Iran.



6. Alternatively, the Iranians may opt to have the vessel towed to another European port or even to try to take it there under its own steam. Their interest in these options may be increased if we now give them the export licence they have asked for. Another possibility for the Iranians would be to try to sell it to another government as it stands (I understand that the Royal Navy are no longer interested in this ship unless the Iranians offer it at a very low price.)

7. In any event, it is in our interests that the future of the ship should be solved if at all possible while the Iranians are in their present mood to negotiate about it seriously. They have accordingly been sent an interim reply to their request for an export licence which reiterates HMG's willingness to release the vessel provided certain financial questions relating to it are first settled, and inviting them to say how they propose to take the vessel away once an export licence, or UK agreement to the ship being commissioned, is granted.

8. Obviously, we do not want to grant an export licence or permit the ship to be commissioned, if it is going to remain on Tyneside while there is a protracted wrangle over the appointing and funding of a contractor to make it seaworthy. But if, on the other hand, the Iranians decided to tow it away, or remove it under its own power, then it would be in our interests to grant an export licence, or permit commissioning, without further delay.

9. The purpose of this minute, therefore, is to seek your agreement, and that of our colleagues to whom this minute is copied, that the April 1981 remit has been pursued as far as is practicable and that we should accordingly now be prepared in principle to facilitate the removal of the Kharg (whether by granting an export licence or by permitting it to be commissioned) as soon as it is clear that the

/Iranians



Iranians are ready actually to take it away - provided always that our case that the UK is not responsible for the costs of making it seaworthy remains fully protected. I recommend further that if the Iranians continue to hesitate about the method (or the cost) of taking the ship away we should nevertheless actually issue an export licence valid for a limited period (and revocable as is normal for all export licences) in the hope that such a gesture might be decisive in dispelling Iranian suspicions and getting them actually to take the vessel away.

10. Peter Carrington informed the then Iraqi Foreign Minister in March 1981 that we proposed in due course to release the Kharg to its owners, and the Iraqis have reluctantly come to accept that this will happen. The vessel's uses in a basically land war are, in any case, very limited.

11. I am copying this to OD colleagues and to the Minister for Transport.

A handwritten signature in black ink, appearing to be 'G. Howe', written in a cursive style.

(GEOFFREY HOWE)

Foreign and Commonwealth Office

Defence
Contracts with Iran
June 79

-9 SEP 1983



CONFIDENTIAL

TR WWS/26



MINISTRY OF DEFENCE
MAIN BUILDING WHITEHALL LONDON SW1

Defence

Telephone 01-929-7022 ~~XXXX~~ 218 2111/3

MO 26/9/15

17th July 1981

ms

movement of

John Michael,

Rennie Minister

(4)

ILLEGAL EXPORTS TO IRAN

Print - 24/7

attached

In my letter of 15th December 1980 I reported on the investigations which had been undertaken into reports that Scorpion tank engines were being exported illegally from the UK to Iran, and I said that I would write again when these investigations were complete. Customs and Excise have subsequently carried out further extensive inquiries, and I am now able to report further. Some of the background to this story appeared in "The Observer" on 12th July (extract attached).

These further inquiries have established that 50 Scorpion tank engines left the country illegally during the latter part of last year, of which 40 were exported by a Dr Smalley through M & S International of Leicester and Kofor Holdings. This latter company is registered in Jersey, which explains the Jersey connection mentioned in my earlier letter. There is however no evidence to suppose that the engines were exported via Jersey, and I am advised that Jersey Aviation are not involved at all. Ten engines were exported by a firm called Alcom Ltd (not Armalite Ltd as previously reported, though the person primarily responsible, Mr Parish, is a Director of both firms). The final destination of the engines has not been determined. The 40 went to Egypt and the balance went first to Madrid, but it has not proved possible to trace their whereabouts thereafter. We have no clear proof, therefore, that the engines were intended for, or arrived in, Iran.

I understand Customs and Excise believe that the evidence discovered during their inquiries should be sufficient to support a prima facie case against Dr Smalley for failure to obtain an export licence for these engines. In the case of Mr Parish,

M O'D B Alexander Esq

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investigations have now also been completed, and Customs and Excise will be submitting the evidence to their Solicitors for advice on whether it is strong enough to support proceedings. When this has been done, I gather that Customs and Excise will be considering what action to take against those concerned.

I am copying this minute to Andrew Jackson (Home Office), Roderic Lyne (FCO), Richard Tolkiën (HM Treasury), Nicholas MacInnes (DOT) and David Wright (Cabinet Office).

Yours sincerely
J D S Dawson

(J D S DAWSON)

21 JUL 1981



COMPTON

Iran bought tank parts in Britain

by PETER DURISCH

A LONDON arms dealer has exported British tank engines to Iran in defiance of the Government's embargo on arms sales to Tehran.

Iran, desperate for supplies in its war with Iraq, is believed to have paid 'several times' the market price for the engines, resulting in huge profits for the dealer.

The clandestine deal, which was concluded earlier this year, was being negotiated even while the American hostages were still held in Iran.



Scorpion light tank.

On Friday morning, BL admitted that Alvis had sold Scorpion engines to the London dealer.

'We supplied this man with a quantity of equipment,' Mr Brian Johns, a BL spokesman, said.

'They were Jaguar engines that had been de-tuned.

When the British Government discovered the destination of the engines, it started an investigation.

Gaspar's inquiries last week resulted in long meetings among senior Whitehall officials. Arms export licences are issued by the Department of Trade. After consultations with the Ministry of Defence on Friday, a Department of Trade spokesman admitted: 'Investigations into whether Scorpion engines have been exported illegally have been in progress for some time. It would not be appropriate to comment further at this stage of the investigation.'

The engines were supplied from the Alvis factory in Coventry and are specially modified to fit the Scorpion light tank.

Iran has 250 Scorpions fitted with 76mm guns which have a range of about three miles.

Inquiries, spanning three months, began when sources in the arms industry said that a small-time arms dealer was wandering around London boasting: 'I've sold tank engines to Iran.'

This man had earlier this year, paid cash for two expensive motor cars. He entertained lavishly and ate in London's better restaurants.

Sources in contact with Tehran persistently said that the engines had arrived there and that a letter was written several months ago from Alvis to the dealer thanking him for his £100,000 deposit and promising to deliver the engines as soon as possible.

Mr Anthony Quayle, managing director of Alvis, said last week: 'I have no comment to make to THE OBSERVER on this topic or any other aspect of this company's commercial activities.'

The Scorpion engine is basically the Jaguar 4.2 litre XK model modified by Alvis to drive the tank's 7.8 tonnes compared to the Jaguar motor car's 1.8 tonnes.

A week ago, British Leyland announced that it is to sell Alvis for £27 million to United Scientific Holdings. However, at the moment Alvis is still part of BL.

Jaguar sell them to Alvis who push them into Scorpions.'

Arms sales usually require an export licence and this is granted only after the authorities are satisfied where the equipment is going. Frequently, the destination is established by means of a document known as an 'end-user certificate.'

'The sale was to a UK company and as such Alvis did not need to see an end-user certificate,' Mr Johns said. 'It was his responsibility to obtain the necessary documentation. There is a distinction between supply to UK-registered people and overseas people.'

From BL's replies, it seems that any Briton can walk into Alvis and buy a Scorpion engine but foreigners are questioned about their reasons for wishing to purchase. Alvis are adamant that they did nothing wrong.

'The point we would make is that throughout this Alvis has acted entirely correctly and in line with normal procedure,' Mr Johns said. 'That was borne out by the inquiry and investigation. The investigations exonerated Alvis from any wrongdoing in the deal.'

After leaving Alvis, the engines found their way to Iran by some circuitous route. Companies in Portugal, Spain and Egypt are alleged to have been involved in the transaction.

However, when the engines left Britain for Iran they should have had an export licence. An export licence would not have been granted earlier this year for Iran.

On 11 May in the House of Lords, Lord Carrington, the Foreign Secretary, said: 'Sales of arms and military equipment are subject to customary licensing procedures. Applications are considered in the light of all relevant circumstances including our relations with the countries involved and, in the case of Iran and Iraq, our neutrality obligations during the present state of hostilities where HMG's overriding interest is to encourage an early and negotiated settlement.'

Ref: A04057

PRIME MINISTER

GPR/

Defence
Subject Filed onIran: Internal Situation
PT 8.

CABINET: FOREIGN AFFAIRS

At the Cabinet meeting on 22 January under Foreign Affairs (Item 2) the Foreign and Commonwealth Secretary is likely to refer to the new situation which has been created in regard to Anglo-Iranian relations by the release of the American hostages. As the Lord Privy Seal mentioned to you in his minute dated 16 January, there is now a need to take an early decision on the lifting of sanctions. You may wish to check that this is going ahead and if not, why not. The economic departments are also likely to be anxious for a review of our whole future relationship with Iran in political and economic terms. It may be premature for the Foreign and Commonwealth Secretary to embark on such an exercise until we get a clearer idea of the American attitude following the release of their hostages, but the task certainly needs to be undertaken soon.

2. There is also a difficulty about the possible resumption of supplies of military equipment to Iran, including the Kharg. There is the general neutrality problem because Iran and Iraq are at war and this is complicated by the position of the four British detainees in Iran. You will wish to establish whether the Foreign and Commonwealth Secretary made any progress in relation to this problem at the meeting which he attended in Brussels on 20 January with the Foreign Ministers of the Ten.

ROBERT ARMSTRONG

ROBERT ARMSTRONG

21 January 1981

Refuse



ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

01-405 7641 Extn 3201

PRIME MINISTER

NBPA yet

BIF 26/1

MAINTENANCE OF THE KHARG

BIF 1/2

Amh

KA Amh

I have seen your Private Secretary's minute of 9 January to FCO, reporting your view that the Kharg should now be maintained from Government funds.

2. I recognise that there may be overriding reasons of policy why the Kharg should now be prevented, at HMG's expense, from deteriorating further, or even restored to a seaworthy condition. But I am anxious that it should be clear that there is no requirement in law for HMG to take these steps; and that to do so could have adverse legal effects of which we should all be aware before the work is put in hand.

3. In the first place, these steps would, as I see it, be inconsistent with the Diplomatic Note sent to the Iranians on 19 September last, in which HMG stated that it accepted "no responsibility of any kind for the vessel". This reflected my earlier advice. The Note was sent in the context of the movement of the vessel to a safer berth, but the denial of responsibility was meant to be general in its scope.

4. In the second place, if the work were carried out without the express consent of the Iranians and their indemnity for costs, there is a danger that HMG would acquire primary responsibility for the vessel and lose any right it might otherwise have had to claim reimbursement of its expenditure. I believe this expenditure could be considerable. This risk arises in particular because of the

/Iranians'

CONFIDENTIAL



ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

01-405 7641 Extn

Iranians' Diplomatic Note of 26 September last, in which it is alleged by them that HMG has "the responsibility for the upkeep and maintenance of the ship". The dangers of seeming to acquiesce in this statement are obvious.

5. In the third place, these steps would, as I see it, be inconsistent with the firm policy of the Department of Trade that HMG does not meet or recognise any legal or other duty to meet financial loss resulting from the refusal of export licences. The costs must "lie where they fall". So far as I know, this policy has never admitted of any exceptions, and John Biffen may wish to comment.

6. It appears from the terms of the Iranians' Note of 26 September last that they would be unwilling to give any indemnity for costs. However, if the decision is to proceed with maintenance, I think it would be wise to send them a further Note before any work is done; this would refer to their last Note, inform them of our intentions, seek their consent to send personnel on board and, so far as possible, avoid inconsistency with the denials in our Note of 19 September last. What was said on costs would depend on HMG's attitude on eventual recovery; but the wisest course in my opinion, if HMG does maintain the vessel, will be to proceed on the basis that the costs of this are unlikely to be recovered.

7. This minute is copied to all members of OD, Keith Joseph and Sir Robert Armstrong.

M.H.

19 January 1981

CONFIDENTIAL

ROYAL COURT OF JUSTICE
LONDON, W.C.2

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

19 JAN 1984



The defendant's affidavit dated 23 September 1983, in which it is alleged that the vessel was damaged by the defendant's negligence, is not supported by the evidence. The defendant's evidence is that the vessel was damaged by the negligence of the crew. The defendant's evidence is that the vessel was damaged by the negligence of the crew. The defendant's evidence is that the vessel was damaged by the negligence of the crew.

Defence - June 79
Defence Catches

with Iron

The defendant's evidence is that the vessel was damaged by the negligence of the crew. The defendant's evidence is that the vessel was damaged by the negligence of the crew. The defendant's evidence is that the vessel was damaged by the negligence of the crew. The defendant's evidence is that the vessel was damaged by the negligence of the crew. The defendant's evidence is that the vessel was damaged by the negligence of the crew.

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cc. D/T
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MOD
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AG's

From the Private Secretary



10 DOWNING STREET

Slb
Defence
cc Transport

9 January, 1981.

The Kharg

The Prime Minister has seen the Foreign and Commonwealth Secretary's memorandum of 22 December about the maintenance of the Kharg. She has also seen the Defence Secretary's minute of 2 January on the same subject. The Prime Minister considers that the Kharg is Iranian property which has been paid for and which we are holding. We here have a duty to keep it in good order. The ship must therefore be maintained from Government funds. In the Prime Minister's view it should be possible for Departments to reach agreement on responsibility for meeting the costs of the maintenance of the ship without necessitating discussion at OD.

I am sending copies of this letter to the Private Secretaries to the other members of OD, to Ian Ellison (Department of Industry) and to David Wright (Cabinet Office).

M. O'D. B. ALEXANDER

G.G.H. Walden, Esq., C.M.G.,
Foreign and Commonwealth Office.

CONFIDENTIAL

AG



From the Secretary of State

G G H Walden Esq
Private Secretary to the
Secretary of State for Foreign
and Commonwealth Affairs
Foreign and Commonwealth Office
Downing Street
London, SW1A 2AL

7 January 1981

NBPA

Print
-2/1

Dear George

THE KHARG *with memo?*

My Secretary of State has read Lord Carrington's minute of 23 December on this subject. He sees that there are serious difficulties whatever we do, and he considers that, before final decisions are taken, the recommendations in the minute should be discussed at the next convenient meeting of OD.

I am sending copies to the Private Secretaries of the other members of OD, and to David Wright (Cabinet Office).

Yours sincerely,

Stuart Hampson

S HAMPSON
Private Secretary

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27 JAN 1981



OFFICE OF THE ATTORNEY GENERAL

Washington, D.C.

January 26, 1981

The following information was received from the Bureau of Prisons on January 26, 1981:

(1) The Bureau of Prisons is currently reviewing the case of [Name], who was arrested on [Date] and is currently held in the Federal Reformatory for Women at Alderson, West Virginia.

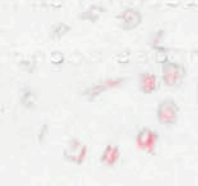
(2) The Bureau of Prisons is currently reviewing the case of [Name], who was arrested on [Date] and is currently held in the Federal Reformatory for Women at Alderson, West Virginia.

(3) The Bureau of Prisons is currently reviewing the case of [Name], who was arrested on [Date] and is currently held in the Federal Reformatory for Women at Alderson, West Virginia.

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JAN 26 1981

The Bureau of Prisons is currently reviewing the case of [Name], who was arrested on [Date] and is currently held in the Federal Reformatory for Women at Alderson, West Virginia.

The Bureau of Prisons is currently reviewing the case of [Name], who was arrested on [Date] and is currently held in the Federal Reformatory for Women at Alderson, West Virginia.



MO 26/9/15

FOREIGN AND COMMONWEALTH SECRETARYTHE KHARG

In view of the political and legal objections to granting an export licence at present, I agree that we should reject the immediate release of the KHARG for the reasons mentioned in your paper (OD(80)76).

2. I also recognise the difficulties involved in the proposition that HMG should take action to maintain the condition of the KHARG. Nevertheless, if the vessel is allowed to deteriorate, this seems bound to exacerbate the dispute with the Iranians and to increase the damage to our future defence sales prospects and to our political and trade relations generally. My Department could supervise maintenance work on the KHARG, on a repayment basis, but, like you, I could not meet the cost from my Department's budget. Unless funds can be made available from elsewhere, there seems, therefore, to be no alternative but to allow the vessel to deteriorate, and to accept the consequences.

3. I am sending copies of this minute to the Prime Minister, to the other members of OD, to the Secretary of State for Industry, and to Sir Robert Armstrong.

Ministry of Defence

2nd January 1981

E5 J





MINISTRY OF DEFENCE
 MAIN BUILDING WHITEHALL LONDON SW1
 Telephone 01-~~938 7022~~ 218 2111/3

MO 26/9/15

15th December 1980

Prime Minister

②

John Michael,

Smith 16/12/80

T. A. Smith

mb

DEFENCE SALES TO IRAN

As you already know, it came to our notice recently that attempts were being made through a number of international companies, including SETI International of France, to export Scorpion tank engines from the United Kingdom to Iran. I am writing to inform you of the results of our investigations so far.

The Scorpion is powered by a Jaguar J60 4.2 litre engine de-rated in horse power and proofed for underwater running. The only normal sources of supply for overseas customers are the MOD's Defence Sales Organisation, who hold stocks of Scorpion spares for overseas customers together with spares for the British Army, and Alvis Limited, the manufacturers of the Scorpion.

No order has been received by these sources from any unusual customer. This would therefore rule out Spain and Portugal (both of whom had appeared in the evidence as intermediaries for the delivery of engines to Iran), neither of whom operate the Scorpion. The inquiry was therefore widened to include the manufacturers of the engine, Jaguar Motors Limited. I understand that it would be possible to fit a standard Jaguar car engine to a Scorpion but that this would limit the scope and efficiency of its operation. As standard car engines are not subject to export control, this would make investigation and suppression of the supply more difficult.

It was discovered however that Jaguar Motors had received an order for, and had delivered, ten de-rated and waterproofed Jaguar engines to a firm called Armalite Limited and were in process of packing and delivering a further ten. The Export Licensing Branch of the Department of Trade acting in association with the Defence Sales Organisation and Customs and Excise have now notified Armalite that the engines concerned are covered by

M O'D B Alexander Esq



the provisions of Group 1 of Part II Schedule 1 to the Export of Goods (Control) Order 1978 and may not therefore be exported without a licence. The investigations have revealed that further engines, possibly as many as 40, have been delivered to Iran. There is also evidence that another company, M and S International, operating through Madrid and Cairo are involved. We believe that supply through all UK channels has been stopped but our investigations are still proceeding.

In addition to engines for Scorpion, the Iranians are making efforts to obtain engines for Chieftain tanks from this country. Our officials are, however, in close contact with all known sources of supply. The Iranians are also looking for American aircraft spares from a number of countries. We think it unlikely that UK firms would be approached for the supply of American aircraft spares, which would in any case be subject to export licence. There is some evidence, however, that a Jersey-based company may be involved and this is being investigated in co-operation with the Jersey Authorities. You may recall that Jersey Aviation were prosecuted some years ago for the illegal supply of tank spares to South Africa but it is not yet known whether the same company is involved on this occasion.

I will write to you again when investigations are complete. I am copying this letter to Stephen Boys Smith (Home Office), Paul Lever (FCO), Richard Tolkien (HM Treasury), Stuart Hampson (DOT) and David Wright (Cabinet Office).

Yours sincerely
Jonathan Dawson

(J D S DAWSON)



The Government of India...



16 DEC 1980

The Government of India...

The Government of India...



SECRET

8 2

Prime Minister

Duty Clerk. 5/12.

Ref. A03765

MR. ALEXANDER

Defence Sales to Iran

Sir Robert Armstrong thinks that the Prime Minister should be aware that the Defence Intelligence Staff have obtained evidence of the sale of British Scorpion tank engines to Iran, as set out in the attached note dated 5th December from the Deputy Chief of the Defence Staff (Intelligence). We will let you know the outcome of the investigation which the Ministry of Defence have already put in hand.

*Unfounded!
- 11/12/80
MB.*

(D.J. Wright)

5th December, 1980

SECRET

~~SECRET~~ MORAY

7A

DMSI/4/17/520

COPY NO 4 OF A 6

PAGE 1 OF 1 PAGE

PSO/CDS
PS/PUSReproduction copy to
Duty Intelligence Officer,
Cabinet Office.IRAN/IRAQMILITARY TRADEDELIVERY OF SCORPION TANK ENGINES FROM UK TO IRAN

1. There is clear Sigint evidence that SETI International of France has negotiated the sale of Scorpion Tank engines between the United Kingdom and Iran.

2. At least one delivery has been effected, possibly on 25th November, having been staged by air through Madrid. It is possible that up to 40 engines have been delivered out of an order which has risen from 50 to 100 (although it is possible that some of these engines could be supplied from Belgium). Considerable payments have been made. Sigint reveals that a further, and perhaps final delivery of 40 engines is expected by 15th December.

3. AUS(Sales Admin) is in charge of the investigation of how the UK involvement has occurred and is acting on information that 10 engines are due to be taken shortly from Jaguar's at Coventry to an address in London NW1 and marked for passage to "FMC, Lisbon".


DEDS(I)

5. 12. 80.

~~SECRET~~

SECRET - MORAY

MORAY

From: R M Hastie-Smith

CONFIDENTIAL
Covering SECRET

MOORBA to see o/r 7



CABINET OFFICE
70 WHITEHALL
LONDON SW1A 2AS

MAF 27/8

01-~~XXXXXX~~ 233 7280

21 August 1980

T 05263

Defence
Paul
-4/5

J F Halliday Esq
Private Secretary to the
Home Secretary
Queen Anne's Gate
London SW1

Dear John,

THE KHARG

You will recall that following the earlier OD discussion about this ship which has been built for the Iranian Navy but for which an export licence has been refused pending the release of the American hostages, the Home Secretary wrote to the Chancellor of the Exchequer on 10 June noting that officials would be reporting in due course on contingency planning against the possibility that the Iranians might attempt to sail the Kharg illegally away from the Tyne. I have been acting as Chairman of an interdepartmental group of officials who have been dealing with this issue. It is in that capacity that I am sending you this interim report.

2. I attach a note describing the contingency plans which have been made to deal with a possible attempt by the Iranians to make a getaway in the Kharg. The main points are:-

- a. The Northumbria police and the Royal Marines remain ready to act if necessary.
- b. Some 48 hours' warning of an attempted getaway can be expected (because it takes this long to get up steam).
- c. If the police judged that they could handle an incident on their own they would do so, keeping the Home Office informed.
- d. If the police wanted assistance from the Royal Marines, the decision to deploy a marine contingent and to commit it to action would be reserved to the Home Secretary, Defence Secretary and their Ministerial colleagues.

3. The likelihood of these plans having to be implemented remains very remote both because fuel supplies to the Kharg have been severely restricted and ^{because} it is very doubtful whether her Iranian crew are capable of navigating her out of the Tyne from her present position.

CONFIDENTIAL
Covering SECRET

4. As the attached note makes clear, the need for any contingency plans would be virtually removed if the Kharg were turned round to face up river. This would involve moving the vessel down river to a point where she can be turned round and then re-berthing her. A new berth will be prepared to enable this to be done by about the end of September, by which time the Kharg will need to be removed from its present berth anyway to make room for the fitting out of HMS Illustrious. The cooperation, if only passive, of the Iranian crew will be required to carry out the move - unless by that time the crew have been called to Iran. A recent note from the Iranian Ministry of Foreign Affairs indicated that this would be done if an export licence for the Kharg were not issued within two weeks. The two weeks have now expired and it remains to be seen whether the crew do in fact depart. If they do the movement of the ship should present fewer practical difficulties.

5. In writing to the Iranian Captain of the Kharg to tell him of the proposed move, the Chairman of Swan Hunter has made it clear on official advice that "the arrangements which obtain for your present berth would apply to the new one ie you would be expected to pay for all services".

6. I am copying this letter to Michael Alexander at No 10, to the Private Secretaries of the other members of OD and to the Secretary of State for Industry, and to David Wright.

Yours sincerely

Ric U Hunter-Snell

CONTINGENCY PLANS FOR RESTRAINING THE KHARG'S DEPARTURE

1. The arrangements described below, which have been worked out jointly between Customs and Excise, the Northumbria police, the Royal Navy and the Royal Marines, have been drawn up against the risk that the Kharg may try to depart illegally from her present position facing downstream in the Swan Hunter yard. The ship is currently cold and it would take over two days to raise steam. It would not be possible to conceal for more than a few hours at the most that the main boilers had been lit and we can, therefore, be confident that there would be about 48 hours warning before the ship could be ready to depart. If the Iranians had been allowed to raise steam to fire the boilers for basin trials or other machinery trials, warning time would be reduced to two to three hours; but it is not practicable to undertake such trials in the Kharg's present berth.

2. If the Kharg were turned to face up river the problems of an attempted departure from this position without the aid of tugs would increase immeasurably and the possibility of any need to resort to military assistance would reduce accordingly. The contingency arrangements for this situation need further examination.

3. Assuming that the ship's Commanding Officer would not accept the instructions of HM Customs to desist from departing, there are four main options for seeking to restrain the ship. These are, in order of escalation:-

a. With direct access to the ship by means of her gangway: the Northumbria police, some armed, would board and control key areas of the ship. No military assistance would be required.

b. Ship still alongside but with no direct access by gangway: the police would need to improvise access - eg by bucket carried in cranes, ladders, street lamp repair vehicles, or, in certain conditions, helicopters - and would require military assistance to provide cover for, and assist in, access. Additionally, an RN tug, HMS Wakeful, if available in time, or a civilian tug if the owners could be persuaded to undertake the task (which is judged unlikely could be used to hold the ship on her berth.

c. Ship no longer alongside but in the Tyne: some form of assault would be required. However because of the risk of gunfire, with consequent risk to civilians on both sides

of the river, and the risk of collision with danger to other shipping, the options for effective action are likely to be seriously curtailed.

d. Ship clear of the mouth of the Tyne: there would be scope for various types of military action. This might take the form of a Royal Marines assault from helicopters alone or by a Royal Marines boarding party from a ship. This could be a hazardous operation if carried out against a determined and armed crew. The success of such an operation would be greatly enhanced by special training and rehearsal and a training programme for this task is already in hand. Hot pursuit could be established by ships or aircraft to enable legitimate chase to be continued beyond the three mile limit of United Kingdom territorial waters.

4. It is not known whether the Iranians have arms, but there is a reasonable presumption that they may so this risk cannot be discounted. It is also possible that some form of ground to air missile might be available. Moreover, there is the risk that hostages could be taken and that the Iranians would seek to trade these for oil and assistance in their departure.

5. The police have made arrangements to prepare to board the ship under options a. and b. of paragraph 3 above. In particular, they have instituted two levels of warning:-

a. If they suspected that the ship intended to depart, ie the ship had begun to raise steam, they would institute a "red alert", involving 48 hours' notice of possible action; military units would be brought to a state of readiness to be deployed to a military establishment in the Newcastle area before the end of the 48 hour period; and the Home Office would be warned of this, and would thereafter keep in close touch with the police.

b. If clear signs of preparations for departure were observed a state of "purple alert" would be instituted, under which 100 police, some armed, could be assembled at the local police station within one hour, and the military units would be available for deployment to the quayside within one hour. The Home Office would be informed immediately, as would Flag Officer Scotland and Northern Ireland (FOSNI) who would be responsible for taking control of any

military operation by the Marines. The Home Office would be responsible for alerting other Whitehall Departments and their own Ministers in order to ensure that all concerned could be assembled quickly if the need arose. These arrangements would also be made under a "red alert" if police requested the deployment of the Royal Marines.

6. Decisions that would be required in the event that signs of preparations for departure were observed (and a state of alert initiated) are:-

a. Whether to seize the ship using police only. This would be a police decision based on local assessment, but the Home Office would be kept informed.

b. Whether to order the Royal Marines to stand by at their base. This decision would be taken by the Ministry of Defence on receipt of a request from the local police passed via the Home Office. Ministers and the other Departments concerned would be alerted.

c. Whether to deploy Royal Marines to the scene. This decision would be taken by the Home Secretary, in consultation with the Defence Secretary, on police application.

d. Whether to activate COBR. This would be a Cabinet Office decision to be taken in the light of advice from the Home Office.

e. Whether to attach a marine contingent in support of the police under plans a. or b. of paragraph 3 above. This would be a decision for the Home Secretary, in appropriate consultation with his colleagues.

f. Whether to assault the ship either in or outside the river. This too would be a decision for the Home Secretary, in consultation with his colleagues. Responsibility for the conduct of the operation would be for FOSNI.

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22 AUG 1980

Prime Minister

MRF 22/8

MS

GR 210
RESTRICTED
FM TEHRAN 210850Z AUG
TO ROUTINE FCO
TELEGRAM NUMBER 745 OF 21 AUGUST 80.

YOUR TELNO 432 : THE KHARG.

1. TEXT WAS SENT (OR WAS SUPPOSED TO HAVE BEEN SENT) IN CONFIDENTIAL BAG WHICH LEFT HERE ON 15 JULY.
2. IT IS AS FOLLOWS :

THE MFA OF THE ISLAMIC REPUBLIC OF IRAN PRESENT THEIR COMPLIMENTS TO HM EMBASSY IN TEHRAN AND FURTHER TO THE DISCUSSIONS ABOUT THE KHARG WARSHIP BETWEEN HE THE POLITICAL DIRECTOR-GENERAL OF THE MFA AND THE EMBASSY'S CHARGE D'AFFAIRES AND BETWEEN THE CHARGE D'AFFAIRES OF THE EMBASSY OF THE ISLAMIC REPUBLIC OF IRAN AND AUTHORITIES OF THE BRITISH FOREIGN MINISTRY, HAVE THE HONOUR TO STATE AS FOLLOWS:

THE MFA OF THE ISLAMIC REPUBLIC OF IRAN REGARD AS AN UNFRIENDLY ACT THE DECISION OF THAT GOVERNMENT CONCERNING THE NON-ISSUE OF AN EXPORT PERMIT TO THE KHARG WARSHIP AND RESERVE THE RIGHT TO TAKE ANY LEGAL ACTION TO COMPENSATE FOR DAMAGES INCURRED. THE MFA OF THE ISLAMIC REPUBLIC OF IRAN BRING TO THE ATTENTION OF THE EMBASSY THE IMPORTANCE ATTACHED TO THE MATTER AND HOPE THAT THAT GOVERNMENT WOULD RECONSIDER ITS DECISION CONCERNING THE NON-ISSUE OF AN EXPORT PERMIT.

WYATT

IRAN STANDARD

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WED	MAED
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TEHRAN SPECIAL

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MR T ALEXANDER. H.M. TREASURY
MR T KILDUFF. CUSTOMS & EXCISE
MRS H PHILLIPS. HOME OFFICE

Defence

RESTRICTED

GRS 115
RESTRICTED

FM TEHRAN 141155Z JUL

TO ROUTINE FCO

TELEGRAM NUMBER 647 OF 14 JULY 80

INFO ROUTINE WASHINGTON AND MODUK (FOR BRADEN DEFENCE SALES)

ms.

MY TELNO 583 : THE KHARG.

WE COLLECTED TODAY, AT MFA REQUEST, AN "URGENT NOTE", WHICH IS IN FACT DATED 9 JULY. IT REFERS TO MY DISCUSSION WITH ETESSAM REPORTED IN TUR AND TO THE EXCHANGES IN LONDON BETWEEN THE DEPT. AND THE IRANIAN EMBASSY, DESCRIBES THE NON-ISSUE OF AN EXPORT LICENCE AS AN UNFRIENDLY ACT AND RESERVES THE RIGHT TO SEEK, BY LEGAL ACTION, COMPENSATION FOR DAMAGES INCURRED.

2. THE NOTE CONCLUDES BY DRAWING ATTENTION TO THE IMPORTANCE OF THE MATTER AND EXPRESSING THE HOPE THAT HMG WILL RECONSIDER ITS DECISION.

3. FULL TEXT OF NOTE TO MED BY BAG.

THIS TELEGRAM
WAS NOT
ADVANCED

WYATT

ADDITIONAL DIST:
TEHRAN SPECIAL

FILES
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DEF. D
NAD
MAED

RESTRICTED

CONFIDENTIAL



Def. Sec.
QUEEN ANNE'S GATE
LONDON SW1H 9AT

10 June 1960

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-
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THE KHARG

Thank you for your letter of 6th June, commenting on my Private Secretary's letter of 29th May to Peter Carrington's Private Secretary. You will now have seen his letter of 6th June.

Officials from the Departments concerned are meeting to assess the latest position, to consider the contingency arrangements of the police, the Customs and Excise staff and the military, and will report. In the light of our correspondence, they are in no doubt of the need for direct Ministerial decision to authorise military involvement, or of the importance of advance Ministerial discussion. In the light of their report, we can consider what clarification we need to give about the extent of any authority to act without reference to Ministers.

Copies of this letter go to the Prime Minister, to the Foreign and Commonwealth Secretary, the Defence Secretary, the Secretary of State for Trade and Sir Robert Armstrong.

W W

The Rt. Hon. Sir Geoffrey Howe, Q.C., M.P.

CONFIDENTIAL



Deference

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

6 June 1980

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

NRPA yet

Prints 9/6

W Whitelaw

Your Private Secretary ^{TMM} wrote to Peter Carrington's Private Secretary on 29 May expressing your disquiet at the suggestion that authority might be delegated to senior Foreign Office officials to use the Royal Marines to prevent the Iranian naval supply vessel, the Kharg, from sailing. The letter went on to suggest that such a decision should only be taken by Ministers collectively.

As you are no doubt aware, the present position is that the ship is being detained in this country because an export licence which is required under the Export of Goods (Control) Order 1978 is being withheld. The responsibility for stopping the exportation of the vessel in these circumstances rests with HM Customs and Excise.

I share your hope that steps can be taken to make the sailing of the ship almost impossible. I also understand that, even at present, the time it would take the Kharg to prepare to put to sea would allow sufficient time for Ministerial consultation. But I think we have to face the possibility that, contrary to all expectations, the local Customs staff might have to act immediately if they are to attempt to prevent the ship sailing. The Customs have made contingency arrangements with the local Police to assist them in such an event. It must further be recognised that if the Iranian Navy personnel were to resort to violence it might become necessary to summon the help of the Royal Navy. In such circumstances there might well not be time for prior Ministerial consultation.

/Your letter

CONFIDENTIAL



Your letter inevitably raises the question for HM Customs and Excise whether they should instruct their local staff not to take action until formal Ministerial clearance has been given, with the attendant risk that contrary to the express wishes of the FCO, this might involve sufficient delay to enable the Kharg to sail. I think that early clarification of the position is essential, so that any of those (including Customs officers) who might be involved on the spot can be sure of the extent of their authority to act without reference to Ministers.

I am copying this letter to the Prime Minister, the Foreign Secretary, the Defence Secretary, the Secretary of State for Trade and Sir Robert Armstrong.

GEOFFREY HOWE

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

CONFIDENTIAL



F9 JUN 1960



Foreign and Commonwealth Office

London SW1A 2AH

6 June 1980

②

As
Pmt
Dear John,
The Kharg

Prime Minister
To be aware of the exchange of
letters
Pmt

1. Thank you for your letter of 29 May about the use, if necessary, of military force to prevent the Kharg from sailing.
2. Lord Carrington agrees that, if at all possible, measures should be taken which will make it impossible for the Kharg to put to sea, rather than having to resort to military force. It also remains true that at present the crew are showing no signs of wishing to try sailing the ship away, no doubt realising that this would almost certainly be beyond their capacity. However, the possibility, though remote, remains that an instruction might be sent from Tehran for the ship to set to sea, and in those circumstances we would need to do whatever is necessary to prevent this happening. If the Iranians were to get away with it, this would cause us the acutest embarrassment with the Americans, and public ridicule.
3. The suggestion that the Foreign and Commonwealth Secretary has delegated to officials authority to use the Royal Marines is incorrect. Several weeks ago when FCO Ministers were consulted about the possible use of the Marines, they authorised FCO officials to state on their behalf that Marines should be used if absolutely necessary, if for any reason an FCO Minister could not be contacted promptly enough, eg over a weekend, in time to prevent the Kharg sailing.
4. It remains Lord Carrington's view that the Marines should if necessary be used to prevent this. Equally, he agrees that the appropriate Ministerial discussions should take place, if there is time. It is, of course, understood that the Home Secretary would be in the lead on this.
5. I am copying this letter to the recipients of yours.

Yours ever
G.G.H.

J A Chilcot Esq
PS/Home Secretary
Home Office

(G G H Walden)
Private Secretary

16 JUN 1960



CONFIDENTIAL

NBPM yet

MAP 29/1

HOME OFFICE
QUEEN ANNE'S GATE LONDON SW1H 9AT

29 May 1980

Defence

Dear George

THE KHARG

The Home Secretary has been informed of the contingency planning that is in hand to prevent, if necessary by force, the Iranian naval supply vessel, the Kharg, from sailing from Tyneside. He was disturbed by a suggestion that insofar as the Foreign Secretary was concerned, authority to use the Royal Marines for this purpose might be delegated to senior FCO officials. Apart from his responsibilities as Home Secretary in relation to possible police involvement, he is concerned to ensure that if it became necessary to take offensive military action here in a case of this sort, this should be done only by the direct decision of the appropriate group of Ministers under his chairmanship - as would be the case if military force were required to resolve a terrorist incident, or if military aid to the civil power were otherwise necessary.

On present information, the possible need to fall back on such contingency plans seems remote and the Home Secretary is clear that the right way to proceed is to ensure that the ship's movement is prevented by other means (for example, the restriction of fuel supplies or by turning it round to face upriver). But he hopes that both the Foreign Secretary and the Defence Secretary will agree that should there be any question of the use of military force, the possible movement of troops and the overall contingency arrangements should be the subject of Ministerial discussion. If, as a result, the use of force were contemplated, the Home Secretary would wish to consult the Prime Minister. He understands that the time it would take the Kharg to prepare to put to sea would allow sufficient time for this procedure. Although the deployment of the Royal Marines is a matter for the Defence Secretary, the Home Secretary hopes he will agree that equally there should be no overt military reconnaissance of the ship, and the area surrounding it, without Ministerial authority.

/Apart from the

G G H Walden Esq

CONFIDENTIAL

CONFIDENTIAL

Apart from the interest of Lord Carrington and the Defence Secretary, the lead in preventing an illegal export lies with the Department of Trade and Customs and Excise. I am therefore copying this letter to the Private Secretaries to the Prime Minister, the Defence Secretary, the Chancellor of the Exchequer, the Secretary of State for Trade, and Sir Robert Armstrong.

Yours ever,
John

(J A CHILCOT)

CONFIDENTIAL



29 MAY 1962

CONFIDENTIAL

Defence

GR 350A

CONFIDENTIAL

FM FCO 101820Z APR

TO IMMEDIATE TEHRAN

Read in full

TELEGRAM NUMBER 228 OF 10 APR '80

INFO IMMEDIATE WASHINGTON, MOD (FOR BRADEN, DEFENCE SALES)

MY TELNO 618 TO WASHINGTON:KHARG

mt

1. SWAN HUNTER YESTERDAY RECEIVED A TELEX FROM COLONEL KAMKAR GIVING NOTICE THAT THE IRANIAN MINISTRY OF NATIONAL DEFENCE WAS READY TO MAKE THE FINAL PAYMENT OF POUNDS STERLING 10 MILLION FOR THE KHARG BY THE DUE CONTRACTUAL DELIVERY DATE (11 APRIL), AND ASKING THAT SWAN HUNTER MAKE THE NECESSARY APPLICATION AS THEIR AGENT FOR AN EXPORT LICENCE. PAYMENT WAS NOT, HOWEVER, LINKED TO PRIOR APPROVAL FOR AN EXPORT LICENCE. SWAN HUNTER IMMEDIATELY REPLIED (WITHOUT CONSULTING OFFICIALS) WELCOMING THE IRANIAN PROPOSAL FOR PAYMENT AND PROVIDING DETAILS OF HOW THE MONEY SHOULD BE TRANSFERRED.
2. THIS RAISED THE PROBLEM THAT, IF THE IRANIANS PAY FOR THE BALANCE OWED, SWAN HUNTER WILL HAVE NO FURTHER LIEN ON THE SHIP, THE KHARG WILL PASS INTO FULL IRANIAN OWNERSHIP, AND APART FROM ACTION BY US THERE WOULD BE NOTHING TO PREVENT IRANIAN COMMISSIONING OF THE VESSEL (WHICH WOULD THEREBY BECOME INVOLABLE UNDER INTERNATIONAL LAW. SO THAT WE COULD NOT LAWFULLY PREVENT ITS EXPORT). OUR ONLY MEANS OF PREVENTING THIS INVIOABILITY TAKING EFFECT IF PAYMENT WAS MADE BY THE DUE DATE WAS TO INFORM THE IRANIANS IN ADVANCE THAT HMG WOULD NOT APPROVE COMMISSIONING OF THE SHIP PENDING CONSIDERATION OF THE NECESSARY APPLICATION FOR AN EXPORT LICENCE.
3. SWAN HUNTER CALLED YESTERDAY ON THE LORD PRIVY SEAL, WHO INFORMED THEM THAT IN THE PRESENT CIRCUMSTANCES HMG COULD NOT AGREE TO EXPORT AND THAT WE SHOULD HAVE TO WITHHOLD OUR APPROVAL FOR COMMISSIONING. THIS HAS BEEN FORMALLY NOTIFIED IN WRITING THIS MORNING TO THE IRANIANS THROUGH THE IRANIAN COMMANDER RESIDENT IN THE SWAN HUNTER SHIPYARD.

CONFIDENTIAL

/4.

CONFIDENTIAL

4. SWAN HUNTER, ACTING ON THE IRANIANS BEHALF, HAVE TODAY SUBMITTED A FORMAL APPLICATION TO THE DEPARTMENT OF TRADE FOR AN EXPORT LICENCE. THE PICTURE OVER DELIVERY IS, HOWEVER, SOMEWHAT CONFUSED BY THE REFUSAL YESTERDAY OF THE RESIDENT IRANIAN COMMANDER TO ACCEPT THE SHIP AS IN A SATISFACTORY CONDITION FOR FINAL DELIVERY (MINOR PAINTWORK DIFFICULTIES).

5. OUR PUBLIC LINE ON THE KHARG IS THAT AN EXPORT LICENCE IS REQUIRED FOR THE VESSEL AND THAT WE UNDERSTAND SWAN HUNTER HAVE SUBMITTED AN APPLICATION.

6. WE ARE TAKING STEPS TO ENSURE THAT THERE ARE NO FACILITIES AVAILABLE TO THE IRANIANS TO ALLOW THEM TO ATTEMPT TO SAIL WITHOUT A LICENCE AND AM IN TOUCH WITH MOD ABOUT ENFORCEMENT.

CARRINGTON

DEPARTMENTAL DIST:

M&D

NA D

DEF.D

ADDITIONAL DIST:

TEHRAN SPECIAL

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

MV faxed
1915
9/4

Defence

PRIME MINISTER

✓ c.c. Mr. Alexander
Mr. Lankester

THE KHARG

The Lord Privy Seal held a meeting late this afternoon with representatives of Swan Hunter and others to consider what to do next about the Kharg. The ship is now ready for commissioning and all the Iranians have to do is pay the final £10 million to take it over, in law and in fact.

The Lord Privy Seal has concluded that we have no alternative but to tell the Iranians tomorrow morning that we will not permit them to commission the ship in the UK. He has also made it clear to Swan Hunter that we shall refuse an export licence. You will remember that an export licence would not be necessary if the ship had already been commissioned, so that it is necessary to follow both courses of action simultaneously.

The news is likely to be public quite soon, given that there has already been some interest in the fate of the Kharg. The FCO are working on an appropriate press line.

The Iranians have 200 sailors in this country already. It is possible that they might seek to take over the ship and sail it down the Tyne, but Swan Hunters advice is that they would need both tugs and local pilots to do this successfully.

All of this looks likely to be very difficult, but the Lord Privy Seal feels that we have no choice but to go ahead along the lines I have described.

9 April 1980

MJS

PRIME MINISTERc.c. Mr. Alexander
Mr. LankesterTHE KHARG

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9 April 1980 MS

PRIME MINISTER

GR 300
CONFIDENTIAL
DESKBY 090800Z
FM WASHINGTON 090105Z APR 80
TO IMMEDIATE F C O
TELEGRAM NO 1383 OF 8 APRIL
INFO PRIORITY TEHRAN

CONFIDENTIAL

This is based - of course - on
a complete misunderstanding by Kingma
Brewster. He will see the LPS
again today and will be put right.
Washington are being kept in touch

11
ms

US/IRAN: THE KHARG

1. WARREN CHRISTOPHER HAS JUST TELEPHONED ME IN SOME STATE ABOUT THE TELEGRAM HE HAS RECEIVED FROM THE US AMBASSADOR IN LONDON REPORTING OUR INTENTION AS EXPRESSED BY THE LORD PRIVY SEAL TODAY TO GO AHEAD WITH THE DELIVERY OF THE NAVAL VESSEL, KHARG, TO IRAN THIS FRIDAY. THE US AMBASSADOR WAS CONVEYING A MESSAGE ASKING US TO MAINTAIN AS MUCH PRESSURE AS POSSIBLE UPON IRAN AND WHAT THE LORD PRIVY SEAL IS REPORTED TO HAVE SAID ABOUT THE DELIVERY OF THIS SHIP HAS GONE DOWN EXTREMELY BADLY HERE.

2. CHRISTOPHER SAID THAT THE MOOD OF THE U.S.A. IS INCREASINGLY TURNING AGAINST THE ALLIES FOR NOT GIVING THE US ADEQUATE SUPPORT EITHER ON IRAN OR AFGHANISTAN. HE HAD BEEN ON A TELEVISION PROGRAMME THIS MORNING WHEN HE HAD BEEN MADE DIRECTLY AWARE OF THE UPSURGE OF THIS FEELING. THERE WAS NO DOUBT THAT IT WOULD GROW, RATHER THAN DIMINISH. AN ACT SUCH AS WAS NOW PROPOSED OF DELIVERING A NAVAL VESSEL TO IRAN WOULD BE TAKEN TO SYMBOLISE BRITISH LACK OF UNDERSTANDING AND SUPPORT.

3. I MUST SAY THAT I HAD NOT BEEN UNDER THE IMPRESSION THAT WE WERE INTENDING TO DELIVER THIS VESSEL IMMEDIATELY. THERE CAN BE NO DOUBT ABOUT THE VERY ADVERSE EFFECT UPON OUR RELATIONS HERE. BOTH PUBLIC OPINION AND THE US GOVERNMENT WILL TAKE IT VERY BADLY AND OUR INTERESTS WILL BE ADVERSELY AFFECTED IN OTHER SPHERES.

4. I URGE THEREFORE THAT SUCH A DECISION, IF IT REALLY HAS BEEN MADE, SHOULD BE RECONSIDERED.

5. VANCE HAS SUMMONED ME, WITH THE OTHER AMBASSADORS OF THE 7, FOR 2.00 P.M. TOMORROW TO REEMPHASISE AMERICAN EXPECTATION OF THE SUPPORT OF HER ALLIES ON IRAN.

PLEASE PASS ADVANCE COPY TO MED.
HENDERSON

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PRIME MINISTER

Defense
original on
Iran Pt 5
Internal situation
Sanctions against Iran.

Review of the United Kingdom Response to Pressure for
Voluntary Measures against Iran
(OD(80) 33)

BACKGROUND

This paper by the official group on Iran is intended to meet OD's remit of 19th March (OD(80) 8th Meeting, Item 4) to consider what would be involved in meeting President Carter's request, in his message to you of 13th March, that we should continue to apply the voluntary economic measures against Iran which we first adopted in January.

2. President Carter's subsequent message of 25th March (to which you replied on 29th March) alarmed his allies, us included, by its talk of an ultimatum to the Iranians at what seems the wrong moment. But he has not asked us for additional economic measures. The measures discussed in the paper have not therefore been overtaken, though the circumstances make it politically much more difficult to contemplate discontinuing any of them.

3. In fact, the arguments for withdrawing any of the measures now are not strong. The informal financial measures can be maintained more or less indefinitely. We are not at present under any Iranian pressure for "sharply different" oil prices; and though our companies' market position could make them vulnerable to such pressure in the future, we are not committed to more than using our "best endeavours" to stiffen their resistance as an element in general international restraint. The main difficulty is likely to arise from the ban on the export of defence equipment, where the cost and risks of continuing to hold up deliveries could mount sharply.

4. The Secretaries of State for Industry and for Energy, and the Attorney General have been invited to attend for this item.

HANDLING

5. You will wish to inform the Committee of your own exchanges with President Carter and Chancellor Schmidt; and then invite Lord Carrington to assess the position in Iran, the latest American thinking, and the reactions

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of other recipients of President Carter's latest message. The Committee's assessment of these factors will provide the background for discussion of the review of voluntary economic measures.

6. You will wish to have the confirmation of the Chancellor of the Exchequer that the informal financial measures can be kept in place without damage to United Kingdom interests. Does Mr. Nott agree with that?

7. You could then invite Mr. Howell to say whether he anticipates Iranian demands for any disproportionate increase in prices and what plans he has for consultations with the United States in such an eventuality. Should the American companies be pressed to offer to help our companies if they run short of oil through resisting Iranian demands?

8. Finally, you could invite Mr. Pym to assess the problems and costs of continuing to hold up orders for defence equipment, in particular the Kharg. Sir Keith Joseph and Mr. Nott may wish to comment on the implications for British industry and for the United Kingdom's reputation as a reliable supplier of such equipment. In the Kharg case, who is going to pick up the bill for any losses incurred by British shipbuilders as a result of the Government's decision to help the Americans?

CONCLUSIONS

9. Subject to points made in discussion, you might lead the Committee to the following conclusions:-

- (i) That they approve the conclusions in paragraph 6 of OD(80) 33.
- (ii) That the Secretary of State for Energy should bring to his Ministerial colleagues' attention any signs of Iranian demands for sharp oil price increases and of British oil companies' readiness to meet them.
- (iii) That the problem of how to cover British Shipbuilders' potential losses on the Kharg be remitted to an ad hoc group of Ministers under Sir Keith Joseph, on which the Treasury, Department of Trade and Ministry of Defence should be represented.

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- (iv) That OD should review the ban on the export of defence equipment again at the end of April, if it has not in the meantime been lifted as a result of a settlement of the hostage crisis.

RA

(Robert Armstrong)

1st April 1980

CONFIDENTIAL

Defence



MO 26/9/15

MINISTRY OF DEFENCE
MAIN BUILDING WHITEHALL LONDON SW1
Telephone 01-~~XXXXXX~~22 218 2111/3

For
Ant
26/3
mt

24th March 1980

Prime Minister
To note A + B (overleaf)
Ant 24/3 (2)

Dear David,

At the meeting of OD on 19th March it was agreed that the Secretary to the Cabinet would arrange for the preparation of an updated report on the UK response to pressure for voluntary sanctions against Iran. My Secretary of State welcomes this, and believes that the question of the fleet replenishment ship Kharg should also be included in the review.

It is getting more difficult to stall the Iranians over the Kharg. In February we got the Iranian Deputy Minister of National Defence (Colonel Kamkar) to agree with Swan Hunter, subject to his Government's approval, that delivery of the Kharg could be deferred until the end of March and that no further penalty for late delivery would accrue against Swan Hunter even if there was a delay beyond that date for "political reasons". In return, Swan Hunter agreed to freeze the price of the vessel as at 31st August 1979. Recent contact between Swan Hunter and the Iranian Defence Ministry has effectively ratified that agreement, although significantly the latter have sought to make Swan Hunter responsible for obtaining all necessary permits and licences (ie including an Export Licence) before acceptance of the ship.

A. The Iranians have now requested 30 days notice of delivery. Swan Hunter, who have been in touch with our officials, have told the Iranians that, without prejudice to their contractual obligations, they will support the Iranian application for an Export Licence and use their best endeavours to see that it is granted. It now seems that the new contract acceptance for the handover of the Kharg to the Iranians will be 11th April. The possibilities of further administrative delay would then be exhausted.

D J Wright Esq



The view of OD last week was that it would be impossible in present circumstances to release the Kharg. To prevent the ship's departure there may therefore be no option but to refuse an Export Licence. Such a decision may be challenged in the UK courts although it was the Attorney General's advice that such a challenge was unlikely to succeed. Consideration will need to be given to how long to delay any communication to Iran of a refusal for commission and granting of an Export Licence, as well as the terms in which the decision should be communicated. When the time comes it may no longer be possible to avoid linking a refusal with the situation in the US Embassy in Tehran. It is also for consideration whether we should bring into any government-to-government talks the question of compensation for damage to the British Embassy in Tehran, and the question of debts owed to HMG in the defence field. This might give us a better stance under international law, although care would need to be taken not to give the impression that the debts were the sole impediment to release of the Kharg.

B | The urgency of this matter has today been emphasised by a telephone call to the MOD from the Iranians to the effect that they are awaiting confirmation from us that delivery will be approved before authorising the final payment of £10 million.

Consideration will also need to be given to the option under which the Iranians can use our naval facilities at Portland to undertake post acceptance operational sea training for the vessel. This aspect was mentioned in paragraph 6 of my Secretary of State's minute to the Lord Privy Seal of 11th January.

I am copying this letter to Michael Alexander at No 10, and to the Private Secretaries to the members of OD.

Yours sincerely,
D B Omand

(D B OMAND)
Private Secretary



CONFIDENTIAL

PRIME MINISTER

The 'Kharg': Further Developments
(OD(80) 9)

This subject was discussed at OD on 29th January, when you decided to resume consideration of the matter in a fortnight's time.

2. Since then this problem has moved some way towards a solution. The United States have postponed the application of economic sanctions. The position in Iran seems to be becoming more reasonable, with President Bani-Sadr attempting to establish his authority as the elected President. In relation to the Kharg the leader of a visiting Iranian military purchasing delegation, Colonel Kamkar, has made it clear that Iran still badly wants the ship, that he understands the difficulties about delivering it while the hostages are still held, and that he is prepared to agree that the delivery date should be postponed from 28th February to 31st March with recognition that if the hostages were still not released this date might slip further still. This breathing space of one month should involve no political or financial penalties.

HANDLING

3. You may care to introduce this Note by the Secretaries yourself, explaining that it is a report on progress since the previous OD discussion on 29th January. The postponement of the ship's delivery date from 28th February until 31st March removes the immediate need for any difficult decisions. You may then care to ask the Foreign and Commonwealth Secretary, the Secretary of State for Defence and the Secretary of State for Industry, (who will be present for this item) whether they have any comments on the present situation.

CONCLUSION

4. Subject to any points made in discussion, the Committee can note that officials are studying what we ought to do in case either the agreement reached with Colonel Kamkar is not ratified or the hostages have not been released by 31st March. If either of these events occur, OD will need to reconsider the position.

RA

Robert Armstrong

8th February 1980

CONFIDENTIAL

FM TEHRAN 290750Z JAN

Defence

● FLASH FCO

TELEGRAM NUMBER 102 OF 29 JANUARY 80

INFO PRIORITY WASHINGTON.

YOUR TELNO 207 TO WASHINGTON : MEASURES AGAINST IRAN. MY HOPE OF COURSE IS THAT BANI SADR WILL BE ABLE TO SEND THE HOSTAGES HOME AND END THIS IRRELEVANT NIGHTMARE. BUT HE WILL NEED TIME. FROM MY POINT OF VIEW THEREFORE THE LONGER A DECISION TO BAN THE EXPORT OF KHARG CAN BE DELAYED, THE BETTER. I THINK QUITE A LOT OF MONEY IS STILL OWING: CAN THAT NOT BE USED AS A REASON FOR FURTHER POSTPONEMENT OF DELIVERY, IF NECESSARY ?

2. HOWEVER ON THE ASSUMPTION THAT WE DECIDE TO WITHHOLD THE SHIP, THE IRANIAN REACTIONS WOULD DEPEND ON WHETHER THIS AMOUNTED TO CANCELLATION OR POSTPONEMENT. IF THE DECISION COULD BE PRESENTED AS POSTPONEMENT, I SHOULD EXPECT THEM TO GRUMBLE, AND TO ENCOURAGE SOME ADVERSE PUBLICITY, BUT NOT TO TAKE THINGS FURTHER, AT LEAST WHILE IT SEEMED LIKELY THAT THE SHIP WOULD BE DELIVERED AFTER ONLY A SHORT DELAY.

3. IF HOWEVER WITHHOLDING KHARG MEANS IN FACT FRUSTRATING THE CONTRACT, KEEPING IRANIAN MONEY AND SELLING THE SHIP ELSEWHERE, I SHOULD EXPECT A MAJOR ROW. I DO NOT (RPT NOT) THINK IT LIKELY IN THE CLIMATE THAT HAS DEVELOPED HERE SINCE CHRISTMAS AND IN PARTICULAR SINCE THE SECURITY COUNCIL MEETING AND THE ELECTION OF BANI SADR, THAT THIS EMBASSY WOULD BE OCCUPIED BY A "SPONTANEOUS" MOB OR THAT WE SHOULD BE TAKEN HOSTAGE. BUT I FEEL SURE THE IRANIANS WOULD TRY TO FIND SOME WAY IN WHICH TO RETALIATE. WHAT THEY WOULD DO IS DIFFICULT TO GUESS : THEY COULD REPUDIATE THE OBLIGATION TO PAY COMPENSATION FOR THE NATIONALISED SHARES IN BANKS AND INSURANCE COMPANIES : THEY COULD PLACE A BAN ON NEW CONTRACTS WITH BRITISH FIRMS : THEY COULD ORDER ME OUT AND REDUCE US (AS THEY ARE IN LONDON) TO A CHARGE D'AFFAIRES: THEY COULD ORDER OUT THE BRITISH PRESS: THEY MIGHT CUT OFF SALES TO BP AND/OR SHELL. THIS IS NOT VERY HELPFUL, BUT I FIND IT IMPOSSIBLE TO PREDICT WITH CONFIDENCE.

GRAHAM
DEPTL DISTN
MED
NAD
FRD

*A. D.**TEHRAN SPECIAL*

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CONFIDENTIAL

DESBY FCO 290900Z

DESKBY TEHRAN FIRST CONTACT

FM WASHINGTON 290135Z JAN 80

TO IMMEDIATE F C O

TELEGRAM NUMBER 437 OF 28 JANUARY

INFO IMMEDIATE TEHRAN (DESKBY FIRST CONTACT)

YOUR TEL 36: MEASURES AGAINST IRAN

1. I FULLY UNDERSTAND THE PRESSURES TO RELEASE THIS VESSEL. IT MUST ALSO BE DIFFICULT IN LONDON TO SEE WHY IN THE PRESENT CIRCUMSTANCES AND BEARING IN MIND THE ARGUMENTS IN YOUR TELEGRAM THE AMERICANS MIGHT STRONGLY RESENT THIS ACTION.
2. NEVERTHELESS THERE CAN BE NO DOUBT THAT THE AMERICANS WOULD REACT EXTREMELY BADLY IF A DECISION IS TAKEN NOW TO RELEASE THE KHARG. ONCE THE HOSTAGES ARE RELEASED IT WOULD BE A DIFFERENT MATTER. BUT AT THE PRESENT JUNCTURE THE AMERICANS WOULD CERTAINLY THINK THAT SUCH A MOVE BY US WOULD BE SERIOUSLY MISINTERPRETED IN TEHRAN.
3. TIRESOME THOUGH IT MAY SOUND IN LONDON I MUST STRESS HOW QUICK THE AMERICANS ARE TO LOOK FOR ANY SIGNS THAT THEIR ALLIES ARE BACK-TRACKING ON DECISIONS OF SOLIDARITY AND WE, JUST BECAUSE WE WERE SO STALWART TO BEGIN WITH, ARE PARTICULARLY VULNERABLE IN THIS RESPECT. I CANNOT CONCEAL EITHER THE FACT THAT THE USA CAN HURT US IF THEY FEEL INCLINED; SUCH ACTION ON THE KHARG WOULD ALMOST CERTAINLY STIMULATE SUCH THOUGHT
4. I WOULD ARGUE STRONGLY FOR ADMINISTRATIVE DELAY A L'ITALIENNE WHILE WE ARE IN THIS DELICATE PERIOD.
5. IF, NOTWITHSTANDING THE ABOVE ARGUMENTS, YOU ARE STILL THINKING THAT THE BALANCE OF ADVANTAGE LIES IN LETTING THE VESSEL GO, I MUST ASK YOU TO CONSULT ME ONCE AGAIN BEFORE REACHING A FINAL DECISION SO THAT I CAN SPELL OUT IN GREATER DETAIL HOW IT WOULD LOOK FROM HERE.

HENDERSON

DEPARTMENTAL DIST:

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P S TO P M NO10 DOWNING ST

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DESKBY TEHRAN 290430Z

FM FCO 281910Z JAN 80

TO FLASH WASHINGTON

TELEGRAM NUMBER 207 OF 28 JANUARY

INFO IMMEDIATE TEHRAN

*fg. (3 tels)**Phm*

MY TEL NO 36: MEASURES AGAINST IRAN

1. MINISTERS WILL BE CONSIDERING ON 29 JANUARY WHETHER TO RELEASE THE KHARG TO THE IRANIANS AT THE END OF FEBRUARY. IF IT IS TO BE DELAYED BEYOND THAT DATE, THE SOONER THE IRANIANS ARE INFORMED THE BETTER SINCE THAT COULD AFFECT OUR LEGAL LIABILITY ON COMPENSATION.
2. MINISTERS WILL OF COURSE BE TAKING INTO CONSIDERATION THE COST OF DELAYING THE VESSEL AND THE POSSIBLE COST OF OUR FRUSTRATING THE CONTRACT ALTOGETHER (POUNDS 39 MILLION OR MORE). THEY WOULD ALSO BE TAKING ACCOUNT OF THE AMERICANS' LIKELY DISMAY IF WE ALLOWED THIS VESSEL TO BE DELIVERED TO THE IRANIANS AS WELL AS POSSIBLE IRANIAN RETALIATION IF WE DO NOT.
3. IT SEEMS TO US, HOWEVER, THAT THE SITUATION HAS CHANGED SINCE DECEMBER. IN IRAN THERE IS SOME SIGN OF MOVEMENT. THE SOVIET INVASION OF AFGHANISTAN HAS ADDED A NEW DIMENSION. IN THE US THE ADMINISTRATION HAS ITSELF DELAYED THE IMPLEMENTATION OF THE SECURITY COUNCIL SANCTIONS. IN THESE CIRCUMSTANCES, THE AMERICANS MIGHT BE LESS DISMAYED THAN THEY WOULD HAVE BEEN IN DECEMBER IF WE ALLOWED THE SHIP TO GO TO THE IRANIANS. WE MIGHT DEFEND SUCH A DECISION ON THE GROUNDS THAT IT WAS NOT A GENUINE WARSHIP, THAT ITS DETENTION WOULD NOT HELP THE HOSTAGES, BUT RATHER WOULD JEOPARDISE THE HOPEFUL SIGNS OF MOVEMENT AT AN INOPPORTUNE MOMENT, THAT WE HOPE EVENTUALLY (LIKE THE AMERICANS TO CO-OPERATE BOTH POLITICALLY AND MILITARILY WITH IRAN AFTER THE SOLUTION OF THE HOSTAGE PROBLEM AND THAT THE SHIP IS NOT DUE TO RETURN TO IRAN IN ANY CASE UNTIL THE SUMMER BECAUSE OF EXERCISES AND TRIALS IN UK WATERS FIRST (THOUGH THE IRANIANS MIGHT OF COURSE

SAIL IN HOME PREMATURELY).

4. WE SHOULD BE GRATEFUL FOR YOUR ESTIMATE OF HOW MUCH THE AMERICANS WOULD RESENT OUR ACTION IF MINISTERS WERE TO DECIDE NOW THAT THE SHIP MUST BE ALLOWED TO GO TO THE IRANIANS AT THE END OF FEBRUARY. IF SUCH A DECISION WERE TAKEN, WE WOULD BE ABLE TO REASSURE THE AMERICANS THAT WE HAD NOT ABANDONED THE POSITION OF SANCTIONS IN THE MILITARY FIELD AND THAT WE WOULD NOT (NOT) BE PERMITTING DELIVERY OF TANK AMMUNITION (THE OTHER NEED FOR WHICH THE IRANIANS ARE PRESENTLY PRESSING).

5. WE SHOULD ALSO BE GRATEFUL FOR SIR J GRAHAM'S ESTIMATE OF THE LIKELIHOOD OF IRANIAN RETALIATION IN THE NEW CIRCUMSTANCES IF WE DECIDED TO WITHHOLD THE SHIP. IT IS POSSIBLE THAT SUCH A DECISION WOULD BECOME PUBLIC VERY SOON AFTER IT WAS TAKEN.

6. GRATEFUL IF WASHINGTON COULD REPLY DESKBY 0900 ON 29 JANUARY, AND TEHRAN BY FLASH TELEGRAM, WITH CONFIRMATION OF SALIENT POINTS TO MED BY TELEPHONE BY 0930 IN CASE ACTION COPIES OF TELEGRAM NOT DELIVERED IN TIME.

CARRINGTON

NNNN

X

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A. D.

TEHRAN SPECIAL



SECRET

Reference
6

PRIME MINISTER

Should the Iranians get the Kharg?
(OD(80) 6)

— Jan. 20th 1980

BACKGROUND

This was first considered at your ad hoc meeting on 16th January which decided that Swan Hunters might give the Iranians the required 30-day notice of availability when further delay became impossible; that Swan Hunters should be warned not actually to hand the ship over without the Government's permission; that the ship should be handed over when due if by then the hostages had been released or the Government had decided to exempt existing contracts from any arms supply ban; and that there should be further study of the legal and financial implications of any decision not to hand the ship over when due.

✓ 2. OD on 22nd January had before it the Attorney General's long opinion circulated with his minute to you of 21st January; and advice from officials in a general paper on sanctions against Iran (paragraphs 9 and 13 of OD(80) 4). It agreed to resume discussion on 29th January, on the basis of a further paper which I was asked to have prepared on the facts of the Kharg case, on the legal position, on our relevant allies' attitude and on the timetable for decisions. It was also agreed that other arms export cases should be treated on their merits; i.e. no general embargo.

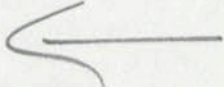
3. The further paper has now been circulated as OD(80) 6, which highlights the following points requiring immediate decision:-

- (i) Whether export of the Kharg can be allowed to proceed even if the hostages have not been released by 28th February, when the matter will pass out of the Government's hands unless blocking action has been taken.
- (ii) If the answer to (i) is yes, whether the Americans should be warned in advance, i.e. now.



SECRET

- (iii) If the answer to (i) is no
 - (a) whether to protect our legal position by warning the Iranians now; and
 - (b) whether to offer them compensation for the delay.



HANDLING

- 4. You could begin by -
 - (i) asking the Attorney General to confirm that he has nothing more to add on the legal side;
 - (ii) asking the Secretary of State for Defence and the Foreign and Commonwealth Secretary whether they are content with OD(80) 6's statement of the facts.

5. You could then focus discussion on paragraphs 15-18 of OD(80) 6. Paragraph 15 resumes the key facts:-

- (i) Any action to delay export must be taken by 28th February, when the Kharg will otherwise pass beyond our control although she will probably not leave for Iran until May/June.
- (ii) The direct and indirect cost of delaying action may well be high but cannot be quantified.
- (iii) The French and Italians, who appear to be being helpful to the Americans, are helped by factors not applying in our case.
- (iv) The Americans are breaking contracts but are in a stronger legal position than we would be.



6. Paragraph 16 poses the key decision: whether export should if necessary be delayed. The subsidiary decisions posed in paragraphs 17 and 18 explain why the key question needs to be decided now. You will wish to ask the Chancellor of the Exchequer, the Secretary of State for Industry, Lord Strathcona and Mr. Parkinson to comment on the economic importance of not offending the Iranians; and the Foreign Secretary to comment on the political importance of not offending the Americans. The Home Secretary, who has no departmental axe to grind on this issue, could be asked to comment on the balance of disadvantage. The issue is finely balanced,



SECRET

but you will need to reach a clear consensus one way or the other. If that is impossible, the matter will need to be raised (orally) at Cabinet on 31st January.

7. In the light of the main decision you should then call for a subsidiary decision either on paragraph 17 (if we are going to allow export) or on paragraph 18 (if we are not).

8. Paragraph 17 recommends not telling the Americans, if we decide the main point against them. This is ~~essentially~~ a point for Lord Carrington, whose advice the Committee are likely to accept.

9. Paragraph 18 asks how soon we should tell the Iranians, if we decide the main point in favour of the Americans. The case for telling them early is purely legal; and you will wish to probe Sir Michael Havers on how seriously our legal position would be weakened by not doing so. His officials think it would be pretty weak whichever we do; unless he disagrees with that, other members of the Committee can be expected to press strongly for taking the risk of telling the Iranians only at the last possible moment, i.e. end-February (if the hostages are still held and American opinion still inflamed).

10. Paragraph 18 also asks whether we should offer the Iranians compensation. Lord Carrington, ^{Mr Pym} ~~Lord Strathcona~~ and Sir Geoffrey Howe will have views on this. The consensus is likely to favour doing so, on the restrictive terms suggested. But if the Committee has earlier decided not to tell the Iranians until late February, the compensation issue could be deferred until nearer the time.

CONCLUSION

11. Subject to the strength with which your colleagues press their differing views on the key question of whether (if necessary) to offend the Americans or the Iranians, you may wish to steer towards a conclusion that on so emotive an issue we would have to side with the Americans.



SECRET

12. On that basis, the only other decision the Committee need take is that the Iranians should not be told until late February and that the marginal risk of weakening our potential legal position is acceptable.

13. The question of offering the Iranians compensation could be deferred, unless there is a general disposition in favour of doing so.

14. If the main decision should go against the Americans, you could ask the Committee to be guided by Lord Carrington on when to tell them.

I agree that in the last resort we should side with the Americans and delay export; but we don't need to commit ourselves yet. Should we not let matters proceed, but be prepared to intervene later if need be; and not tell either the Americans or the Iranians anything until we absolutely have to.

Robert Armstrong

RA

25th January 1980

CONFIDENTIAL



MINISTRY OF DEFENCE
MAIN BUILDING WHITEHALL LONDON SW1
Telephone 01-2307832 218 2111/3

MO 26/9/15

25th January 1980

Dear Richard,

*h.c.
Punt 29/1*

IRAN - FLEET REPLENISHMENT SHIP "KHARG" -
BRITISH AEROSPACE

OD is to consider on 29th January a paper prepared by officials on the "KHARG". The Lord Privy Seal should know that Swan Hunter Shipbuilders Ltd issued to the Iranians yesterday the thirty days notice of the availability for delivery of the ship subject to satisfactory completion of trials and payment by the Iranians of sums due. Following consultation with British Shipbuilders headquarters, Swan Hunter took the view that they could no longer defer issue of the notice without risk of being in breach of contract.

2. We also understand that British Aerospace has agreed to accept a visit next week by a small team from the Iranian Ministry of Defence which is anxious to discuss with British Aerospace the claim arising from the contracts for the Rapier missile which were cancelled by the previous Iranian administration, and also outstanding ammunition contracts. We see no objection to discussions being resumed, but we will need to consider very carefully any request from the Iranians to resume ammunition supplies.

3. I am sending copies of this letter to the Private Secretaries to the Prime Minister, the other members of OD, the Secretary of State for Industry, and the Attorney General. A copy also goes to Martin Vile (Cabinet Office).

*Yours ever,
Brian Norbury*

(B M NORBURY)

M J Richardson Esq
Foreign and Commonwealth Office

CONFIDENTIAL

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Original on: 4
Iran: Sit'n: Pt 4.

SECRET

Defence

Ref. A01197

PRIME MINISTER

OD: Iran

BACKGROUND

Following the inconclusive discussion on Iran at your ad hoc meeting on 16th January (and at Cabinet on 17th January) you asked for a paper by officials setting out the facts and the decisions to be taken. This has been circulated as OD(80) 4 and can be used as the main focus of OD's discussion. It is supplemented by

- (a) a minute by Lord Carrington of 21st January answering points raised on 16th January (Sir John Graham's views on limiting the numbers of Iranian diplomats in London and on imposing visas; the position of other European countries on arms supply to Iran; and the United States interpretation of their own trade embargo);
- (b) an interim minute by the Attorney General, to be circulated today, on legal aspects of the Kharg case and other arms supplies to Iran.

There is an additional background in Lord Carrington's longer minute PM/80/5 of 19th January reporting on his overseas tour, although this is primarily concerned with Afghanistan (OD's Item 3); his paragraph 4 (b) refers specifically to Iran.

2. In OD(80) 4 officials suggest rejection of the United States' proposal for implementation of the resolution vetoed by the Soviet Union as impractical and misconceived. They suggest that the United States and its allies should concentrate on the Afghanistan situation while continuing patient attempts at negotiation with Iran. They suggest further urgent study before a decision on arms sales but invite Ministers to decide whether to impose a visa requirement (which the Home Secretary would welcome to curb immigration) and to consider three measures we might be able to adopt, with others, if the Americans continue to press us (these would not need new primary legislation; the meeting on 16th January endorsed your warning to Mr. Christopher that new legislation was out of the question).

SECRET

HANDLING

3. You may wish to remind the meeting that a response is required following Mr. Christopher's representations of 14th January. An early decision on visas would also be useful. And once the 30-day notification of availability has been issued for the Kharg a decision on arms sales policy will be required well before the 30-days expire. But, as shown by the Attorney General's minute, the legal study on this is not yet complete. The meeting should first concentrate on the main line of policy to be adopted (paragraph 4 below) before considering individual measures (paragraphs 5-7 below).

4. General policy on voluntary sanctions (paragraph 10 of OD(80) 4). Does the Foreign and Commonwealth Secretary agree, in the light of his tour following the invasion of Afghanistan, and of the latest reports from Sir John Graham, that the proposal and rationale advanced by Mr. Christopher cannot be accepted? Does he agree specifically to the suggestions at (a), (b) and (c) of paragraph 10 of OD(80) 4? Do other members of the Committee similarly agree?

5. Visas (paragraph 11 of OD(80) 4). Sir John Graham is distinctly unenthusiastic (paragraph 2 of Lord Carrington's minute of 21st January) and warns of risks for his Mission in Tehran. Does Lord Carrington therefore advise against? Does the Home Secretary accept this? If so, is there any other way of restricting the flow of Iranian visitors?

6. Other measures (paragraph 12 of OD(80) 4). How soon do we need a decision on these? Are there not some signs that President Carter may be ready to revert to a more patient search for compromise with Iran? When will a line be needed in Parliament (e.g. debate on 28th January)? Iranian diplomats in London. Sir John Graham thinks this would be taken as a deliberate gesture of hostility. Should we nevertheless be ready to adopt it and to urge its adoption by others? Would it have any beneficial effects to set against the risks involved? Sir John Graham suggests that, if we do this, we should increase numbers of our diplomats in Tehran, so as to give the Iranians something to cut by way of reprisal. Could we be seen to be increasing our representation in Tehran at this time - given that we could not reveal why we were doing so?

SECRET

Landings by Iranian registered aircraft. Mr. Nott said on 16th January that he could reluctantly accept this if the Foreign and Commonwealth Office thought it really necessary. Is it? Would other countries join in such a move (the French have opposed it as carrying risk for nationals still in Iran)?

Support for any United States ban on food exports. Hypothetical until the United States take the first step. The Nine would have to agree it but it would be in line with our policy towards the Soviet Union (and for CAP reform) to support an end to subsidised sales to Iran.

7. Arms sales.

The Attorney General's minute of 21st January gives an interim legal view. The Kharg will impose a deadline for decision. The answer may be to allow existing contracts to go forward and to play down the military significance of the Kharg. But the Americans, who have broken existing contracts over Iran (section C of Lord Carrington's minute of 21st January), will not like this; and the French seem at present disposed to break contracts rather than supply patrol boats to Iran (section B of Lord Carrington's minute). The first test case seems likely to be the Italians (helicopter and naval missiles). When does Lord Carrington expect to know their decision? Should we not try to concert a line with them in the light of our legal advice and overall policy?

CONCLUSION

8. You may wish to aim for agreement as follows:

(i) General policy.

(a) American request to be rejected because since Afghanistan the world has changed.

(b) No British action in advance of allies.

(ii) Visas. Postpone action.

(iii) Iranian Embassy. Postpone action.

(iv) Civil aviation. Explore non-committally with allies.

(v) Food exports. Explore in European Community, also non-committally.

SECRET

(vi) Arms

- (a) No new business.
- (b) Postpone decision on whether to honour existing contracts until Italian, French and legal position clearer.
- (c) On Kharg. Attorney General to complete legal analysis, while awaiting general decision on policy ((b) above).

ROBERT ARMSTRONG

(Robert Armstrong)

21st January, 1980

Original on: 3
Iran: Sitⁿ: Pt 4



FCS/80/12

ALL MEMBERS OF OD

Voluntary Measures Against Iran

1. The Lord Privy Seal promised at Cabinet on 17 January to circulate to his colleagues, in advance of OD on 22 January, further information on three points relevant to OD's consideration of voluntary measures against Iran.

2. The points are:-

a) The views of HM Ambassador Tehran on the local impact of the measures being examined, in particular the reduction of Iranian diplomats in London and the introduction of a visa regime.

b) The position of other European countries over arms supplies to Iran, notably in relation to breaches of contract and compensation.

c) The way in which the United States will interpret and enforce its own trade embargo as regards breaking existing contracts and circumvention by US firms overseas.

/ 3. I attach a memorandum covering these points.

Diplomatic Moves

4. My colleagues may also wish to be informed about American efforts to mount a dialogue with the Iranians. FCO telno 97 to Washington on this is attached. Latest reports indicate that the Iranians are showing interest: but whether Khomeini will cooperate remains uncertain.

5. I am also copying this minute to the Secretary of State for Industry, the Secretary of State for Energy, the Attorney-General and the Parliamentary Secretary at the Department of the Environment.

6. I am copying this minute to Sir Robert Armstrong.

C

(CARRINGTON)

A. VIEWS OF HM AMBASSADOR IN TEHRAN

1. Sir John Graham's views are in Tehran telegram numbers 62 & 63. The following points are particularly relevant to the main OD paper (OD(80)4):

- a) Leading Iranian figures have stated that countries that apply sanctions against Iran will be asked to withdraw their representation.
- b) In the view of the Community Ambassadors, the sanctions envisaged by the Americans would have an effect on the Iranian economy: but economic disorder would not produce the effect expected by the Americans (a change of heart by Khomeini for fear of a left wing takeover).
- c) In the view of the Community Ambassadors the best hope is to continue to work for some kind of political compromise involving the release of the hostages against an enquiry or commission of some kind.

2. On the specific points on which his views were sought, Sir J Graham's views are:

- a) Reducing the numbers of the Iranian Embassy in London. This could be seen as a deliberate gesture of hostility. One obvious reaction would be to demand Sir J Graham's recall. It might be possible to reduce the effect of a tit for tat reaction by putting a ceiling on the Iranian staff in Tehran - to be reduced by eg 2, for each one of our staff in Tehran who is expelled. Before doing this, Sir J Graham suggests that we should return some staff to Tehran to give us numbers to fall back on.
- b) Visas. The immediate effect of any announcement that visas were required forthwith would be something of a panic.

The Embassy would be inundated with enquiries, especially if the airlines were to refuse to carry Iranians not in possession of visas. (If the Embassy accepted Iranians without visas, the effect would be merely to formalise the present position whereby entry is granted or refused in London). The circumstances differ from those being considered earlier this year when the main purpose was to control the inflow of Iranians to the UK. If the intention is now to put pressure on Iran, it might not be so important that we made no attempt to cope with the number of applicants, except that the security considerations remain the same. Sir J Graham believes that this is the single measure most likely to provoke a mob reaction in Tehran against the Embassy, stimulated no doubt by the Government which in this above all would have public opinion on its side. Even if the Embassy were merely to act as a post office for visa applications they would need more staff (though these could be locally-engaged, with UK-based supervision), but unless there were interviews in Tehran, there would still be anger at arbitrary refusals or, still more, at refusals at Heathrow to honour visas granted in Tehran after reference. In any case the principal effect would be to impose delay and a fine (the visa fee). The majority of those affected would be those who on the whole are on our side: the regime's favoured sons would become increasingly the subject of special requests by Iranian Ministers etc. Finally, Sir J Graham does not believe that a measure of this kind would contribute in any way to the release of the US hostages: its sole effect would be to mollify the Americans somewhat.

B.

B. EUROPEAN ARMS SUPPLIES

The position is:-

- a) Only Britain, France (patrol boats) and Italy (helicopters, naval missiles) have substantial deliveries in the pipeline. The Netherlands (aircraft spares), Germany and Belgium (both small arms) have small amounts only. Others no longer supply arms to Iran.
- b) All suppliers have prevented any deliveries since 4 November 1979, mainly by administrative action. The Iranians are behind with payment to France and The Netherlands.
- c) These delays, if prolonged, would lead to defaults on contracts, but only Italy is under any pressure. No government has indicated to us that they would resume deliveries to avoid default; the French have said (in confidence) that they definitely will not do so.
- d) The German Government would be liable to pay compensation in the case of default; the Belgians probably not. All others are reviewing the legal position.
- e) The problem has not attracted public attention elsewhere.

C. THE AMERICAN TRADE EMBARGO

The US Government expect to issue, in one or two days' time, regulations under the 1977 International Emergency Economic Powers Act. US officials have said:-

- a) Firms will be obliged to break existing contracts, except for service contracts where the requirement is not to open any new ones.

b)

- b) The US Government would not be liable to claims, either from Iran or from US firms.
- c) Firms in the US would have a complete legal defence against claims from Iran, on the grounds of force majeure. The Government might, very exceptionally, consider compensation for US firms overseas where local courts found against them.
- d) Enforcement of the embargo would be by customs clearance for goods leaving the US. For operations overseas, parent firms will be required to control their subsidiaries, and US diplomatic posts will look out for evidence of breaches. Contravention will carry legal penalties and US officials foresee strong moral pressure on firms to conform, though the embargo could not be total.

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GRS 400

SECRET

FM F C O 141637Z JAN 82

TO IMMEDIATE WASHINGTON

TELEGRAM NO 97 OF 14 JANUARY

INFO IMMEDIATE UKMIS NEW YORK, TEHRAN, ISLAMABAD (FOR PRIVATE SECRETARY TO SECRETARY OF STATE)

UNITED STATES/IRAN

1. MR WARREN CHRISTOPHER TOLD MR HURD IN GREAT CONFIDENCE THIS MORNING (PLEASE PROTECT) THAT THE UNITED STATES WAS MAKING EFFORTS TO CONVEY THE FOLLOWING 6 POINT PACKAGE PROPOSAL TO THE IRANIANS THROUGH VARIOUS CHANNELS (EG WALDHEIM-FARHANG):

A. ALL THE UNITED STATES EMPLOYEES AT THE EMBASSY IN TEHRAN WOULD BE ALLOWED TO LEAVE:

B. THE UNITED STATES WAS PREPARED TO WORK OUT IN ADVANCE A FORUM FOR THE VENTILATION OF IRANIAN GRIEVANCES, TO INDICATE SOME SYMPATHY WITH THESE AND TO STATE THAT ONCE THE HOSTAGES WERE RELEASED THE UNITED STATES WOULD BE WILLING TO CO-OPERATE WITH THIS FORUM WITHIN THE LIMITS ALLOWED BY AMERICAN LAW. AS TO WHAT THE FORUM MIGHT BE, THIS WAS BEING DELIBERATELY LEFT VAGUE: THE UNITED NATIONS HUMAN RIGHTS COMMISSION WAS NOT EXCLUDED. THE SECRETARY GENERAL COULD DECIDE:

C. THE UNITED STATES WOULD FACILITATE ANY LEGAL ACTION WHICH IRAN MIGHT CHOOSE TO BRING FOR RECOVERY OF THE SHAH'S ASSETS IN THE UNITED STATES, EG BY TELLING THE COURT THAT THE UNITED STATES GOVERNMENT RECOGNISED IRAN'S RIGHT TO BRING SUCH AN ACTION AND BY GIVING HELP IN TRACING THE ASSETS. (CHRISTOPHER COMMENTED THAT THE IRANIANS WERE IN FOR A DISAPPOINTMENT: THEIR ESTIMATE OF THE SHAH'S WEALTH WAS GROSSLY EXAGGERATED):

D. AGAIN ONCE THE HOSTAGES HAD BEEN RELEASED, THE UNITED STATES WOULD BE READY TO LIFT THE FREEZE ON IRANIAN ASSETS AND TO TAKE PART IN A UNITED STATES/IRANIAN WORKING GROUP TO ARRANGE THE SETTLEMENT OF CLAIMS BY AMERICAN NATIONALS AND BANKS:

E. THE UNITED STATES WOULD APPOINT A REPRESENTATIVE TO DISCUSS THE THREAT TO IRAN IN THE SOVIET INVASION OF AFGHANISTAN. IT WOULD MAKE MILITARY SPARE PARTS AVAILABLE TO IRAN ON THE BASIS OF REPORTS BY AMERICAN AND IRANIAN EXPERTS:

SECRET

| F.

F. THE UNITED STATES WOULD MAKE A WARM STATEMENT ACKNOWLEDGING
IRANIAN GRIEVANCES, RECOGNISING THE RIGHT OF THE IRANIAN
PEOPLE TO CHOOSE THEIR FORM OF GOVERNMENT ETC.

2. MR CHRISTOPHER SAID THAT SELECTIVE AND CONFIDENTIAL USE OF
THIS INFORMATION IN NEW YORK HAD HELPED TO SECURE NON-ALIGNED
VOTES FOR THE SECURITY COUNCIL RESOLUTION (VETOED BY THE
SOVIET UNION) ON 13 JANUARY.

CARRINGTON

FILES

MED

UND

PS

PS/LPS

PS/MRHURD

PS/PUS

LORD BRIDGES

MR BULLARD

2

SECRET

SECRET

Original on:
Iran : Sitⁿ : Pt 4 2



01-405 7641 Extn

ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

21st January 1980

THE PRIME MINISTER

IRAN

As mentioned in the paper (OD(80)4) for tomorrow's meeting of OD, I have carried out an urgent study of the legal position as respects preventing the export of the ship KHARG to the Iranian navy.

2. The note has been prepared after discussion with Ministry of Defence, Trade and Foreign and Commonwealth department lawyers. No contact has been made with Swan Hunter or their parent British Shipbuilders who may have more information relating to the material facts affecting the contractual position. The latest information as to the giving of the thirty days notice of availability by Swan Hunter is that it will be given by the end of this week or at the latest by the beginning of next when the ship will commence its sea trials.
3. I am copying this to members of OD and the Secretaries of State for Industry and Energy, and to Sir Robert Armstrong.

MA

SECRET

NOTE BY THE ATTORNEY GENERAL ON PREVENTING THE EXPORT OF THE SHIP KHARG

Facts

1. Under a contract dated 31 October 1974 Swan Hunter Shipbuilders Ltd contracted to build a fleet replenishment ship KHARG for the Ministry of War of the Imperial Government of Iran. The delivery was due to take place on 28 February 1978. By an amendment to the contract this date was extended by one year and under force majeure provisions Swan Hunter have one further year to deliver so that the ultimate date is 28 February 1980. The contract was initiated and negotiated by the Head of Defence Sales of the Ministry of Defence in conjunction with Millbank Technical Service Ltd and a separate contract was drawn up with the Iranian Navy in April 1976 for the Ministry to provide overseeing services and facilities for Iran's benefit, for which agreed charges were to be paid. The basic price of the vessel was £32 million of which approximately £29 million has already been paid. The estimated final price however is £39 million so that approximately £10 million remains to be paid but this figure has not yet been finally agreed by the Iranians. However it is understood that the Iranian delegate has recommended to Tehran that this figure be accepted. The ship^{is} about to undergo its final sea trials with a view to delivery in mid-February. Under the contract Swan Hunter undertook to deliver the vessel duly built and completed at the builders' yard. There is no mention in the contract of any requirement for an export licence as this was not necessary when the contract was made.

The Export Licence

2. By an amendment to the Export of Goods (Control) Order 1970, made on the 23rd December 1974 and coming into operation

/on

on 13th January 1975 the export of "ships of war" was prohibited without the licence of the Secretary of State.

(The 1970 Order and its amendments have been consolidated and replaced by the Export of Goods (Control) Order 1978 SI 1978/796). The KHARG is clearly a ship of war for this purpose since it is armed and can carry helicopters and is intended to be in commission in the Iranian navy. Moreover the Ministry of Defence is satisfied that it should be categorised as a ship of war. Accordingly without a licence from the Secretary of State, which has not yet been given, the export of the ship is prohibited.

3. An application for a licence, which can be made either by Swan Hunter or the Iranians or Millbank Technical Services on their behalf, can be refused provided such a refusal is made in the general context of a policy to prohibit the export of arms to Iran.

Refusal of an Export Licence : Contractual and Financial Consequences under Domestic Law

A. Between Iran and Swan Hunter

4. There are two possibilities. First if the express object of the contract is simply to build and deliver a fleet replenishment ship then the contract can still be performed even though an export licence will be refused, Swan Hunter have built the ship and delivery under the contract is presumed to take place in the Tyne. If the Iranians do not pay the remaining £10 million due under the contract, they cannot maintain a claim for delivery in the UK courts and Swan Hunter will appear the innocent party. The financial implications are that Swan Hunter are £10 million out of pocket but the ship remains undelivered. If the Iranians do pay the £10 million, delivery can take place but the

/vessel



vessel will remain within the jurisdiction (subject to questions of inviolability see paras 8-10).

5. Secondly, and this view is to be preferred, if the express object of the contract is to build a fleet replenishment ship which is capable of being used as such outside the jurisdiction and an export licence is refused, performance of the contract will be delayed. This delay can be viewed in 2 ways:-

(i) It may be regarded as not rendering performance impossible in the sense that the anticipated period of delay is not out of proportion to the overall period of performance of the building contract. If that is right the contract specifically provides for the extension of the date of delivery for each day that delivery is rendered impossible through no fault of the builder. Once again the result will be that Swan Hunter will be out of pocket for £10 million for an indeterminate period.

(ii) The alternative view would be that the delay is so substantial as to render performance as a matter of commercial common sense impossible. The law then regards the contract as frustrated. It is considered that the proper law of the contract is English. The Law Reform (Frustrated Contracts) Act 1943 would apply. The effect of this Act would be that losses and advantages stay where they fall but (a) the Iranians could only keep their ship in return for a financial allowance for the benefit received and, (b) Swan Hunter could keep all or part of the instalments received to reflect the expenses incurred. Pending the resolution of the dispute Swan Hunter would hold on to the instalments and possession of the ship.

/The



6. The possibility of an argument being advanced by Iran on the basis that it was an implied term of the contract that Swan Hunter should obtain an export licence has been considered but ruled out because the highest that this could be put would be that Swan Hunter use their best endeavours to apply for and to obtain a licence.

B. Between Iran and HMG

7. In the UK courts there would be no cause of action because the refusal of an export licence would be the exercise of a statutory power for reasons of legitimate policy. Although the Ministry of Defence and Millbank Technical Services appear to have acted as agents for Iran it is not considered that they could be said to be under a duty to use their best endeavours to apply for an export licence still less to obtain such because this in effect would be the Crown applying to itself for a licence and any such obligations to Iran would be a fetter upon the exercise of a statutory discretion. If this argument were wrong an action could be brought seeking to recover damages for the loss of use of the vessel for the period of delay e.g. interest on the capital invested. The quantum of this claim would depend on the considerations in the previous paragraph.

/Inviolability




Inviolability

8. If the ship were inviolable it would be unlawful under international law for us to impede its departure. Unless and until the ship is commissioned it is not inviolable as a public ship of war and is therefore subject to UK law. A warship is defined in Article 8(2) of the Convention on the High Seas 1958 as being, "a ship belonging to the naval forces of a state and bearing the external marks distinguishing warships of its nationality, under the command of an officer duly commissioned by the government and whose name appears in the Navy List, and manned by a crew who are under regular naval discipline".
9. The act of refusing consent to commissioning rests upon the basis that commissioning is an act of sovereignty which cannot be performed on the territory of another state (see:- Lord McNair, Vol I International Law Opinions at page 103).
10. However it is considered that subject to practical considerations the refusal of consent to commissioning should be notified to the Iranian Government within a reasonable time. Furthermore it would not of course be effective if the ship left harbour and was commissioned outside territorial waters and then returned to the UK because then it would have ~~acquired~~ acquired inviolability. There is a provision in the contract enabling the ship to leave territorial waters for the purposes of sea trials.

Self Help

11. The Iranians might if they decided their first priority was to obtain possession of the ship, attempt to sail the vessel out of United Kingdom waters. Once they become aware of the risk that they will not be permitted to sail the vessel away after

.../delivery



delivery they might simply take over the vessel at a point when it was outside United Kingdom territorial waters on its trials and sail it away. It appears that they have the physical resources and capacity to do this. There would be Swan Hunter employees on board, nominally in charge of the ship. These could perhaps be deposited at some convenient port of call, or even taken to Tehran, whence they might or might not be returned forthwith. Although in theory proceedings for the breach of our law might then be contemplated, they would probably be met by a claim of State immunity under the State Immunity Act 1978, and in any event they would serve little purpose. If we knew of the attempt to export without the necessary export licence while the ship was still in port or within territorial waters, Customs and Excise have the legal powers to prevent such action.

Customs Powers

12. In the absence of a valid export licence for the ship any attempt to export the ship will render the ship prima facie liable to forfeiture under s68 (1) Customs and Excise Management Act 1979 and anyone knowingly concerned in the attempt liable to a penalty of 3 times the value of the ship on summary conviction or an unlimited penalty on conviction on indictment. If any attempt is made to sail the ship out of UK waters without an export licence the ship would probably be liable to forfeiture.
13. Under s 139 of the Act anything (including a ship) liable to forfeiture can be seized or detained by inter alia customs officers or any member of Her Majesty's armed forces and under s 11 of the Act it is the duty of members of Her Majesty's armed forces to assist in the enforcement of customs law,

.../including

including seizing a ship which is liable to forfeiture. Once the ship is seized then a seizure notice may have to be served and the owner may make a claim before our courts against forfeiture within 1 month.

State Immunity

14. On the assumption that we had made it clear that the Kharg could not be commissioned and that it was therefore not entitled to inviolability as a foreign public warship there nevertheless remains a question of whether these provisions in regard to forfeiture of the vessel could be enforced in view of the sovereign immunity of the State of Iran. The position in regard to immunity is now regulated by the State Immunity Act 1978. Although this Act created numerous exceptions from the previous rule of absolute immunity it seems that none of them could plausibly be held to cover proceedings for forfeiture brought by the United Kingdom Government against the Iranian Government as owners of the vessel. It could be argued that a claim against forfeiture made by the Government of Iran would amount to a submission to the jurisdiction - but section 2(3) and (4) provide that a State is not deemed to have waived its immunity if it intervenes or takes any step in the proceedings only for the purposes of claiming immunity. It could be argued that the Iranian Government is not entitled to have its ship until it allows a United Kingdom court to determine the substantive question of whether the ship is liable to forfeiture, the onus of proof being on the Iranians as plaintiffs. But this analysis is to some extent not in accordance with the true facts of the situation since the real question is whether the United Kingdom can enforce its prohibition on the export of a foreign warship - saying on the one hand that the ship is a warship and therefore contrary to Iranian expectations needs an export licence but on the other hand is not ⁱⁿ international law a warship and can

.../therefore

therefore be detained and forfeited under United Kingdom law. In a situation where we have real reason to fear retaliation by Iran the legal subtleties may be of less importance than the public justification of our position in ordinary terms.

International Law Claims by Iran

15. The Foreign and Commonwealth Office believe that once the Iranians became aware that we intended to prevent the ship leaving for Iran, they would in fact be unlikely to pursue their domestic remedies through the United Kingdom Courts. Unless they decided that their first priority was to obtain use of the vessel and attempted to sail it out of United Kingdom waters, they would be more likely immediately to present an international claim against the United Kingdom Government through diplomatic channels.
16. A government-to-government claim could be based on allegations of estoppel - that we had caused Iran direct damage by failing to carry out undertakings, whether express or implied, to facilitate the construction and delivery of a vessel for which they had paid or were ready to pay the full purchase price. The exact scope of the doctrine is far from settled but in general it may be said that where the clear statements or conduct of one Government lead another Government bona fide and reasonably to act to its own detriment or to the benefit of the first Government then the first Government is estopped from going back on its statements or conduct.
17. There appears to be a substantial case on the ground of estoppel. The contract was promoted and consistently furthered by the Ministry of Defence. In his letter of 10 September to His Excellency General H Toufanian, Iranian Vice Minister for War and Armaments, the Head of Defence Sales said:-


... "The

"The Ministry of Defence will, of course, carry out appropriate functions of inspection and overseeing. Swan Hunter are licence holders for the export of this ship design, and we are very lucky that amidst the boom in shipbuilding a firm of such quality is available to carry out this work within a satisfactory time scale. Millbank Technical Services will, of course, provide assistance to you with the contractual and financial questions and I, myself, will take personal interest in the progress of the transaction".

In consequence of these assurances the Iranians acted to their detriment in not placing the order for the ship in another country and to the economic benefit of the United Kingdom. It could reasonably be implied from such a statement that the United Kingdom Government would not for political reasons withhold or revoke an export licence for the vessel after it had been constructed and the purchase price - or most of it - paid.

18. An alternative to estoppel might be that our conduct amounted in substance to an expropriation even although title to the vessel had not been affected. Given that this vessel has been constructed over a period of years to precise Iranian specifications it would not be a commodity which could readily be marketed in the United Kingdom. By refusing an export licence with the deliberate aim of causing injury to Iranian interests we should effectively have deprived them of the use and enjoyment of their possession. There is some support from international arbitrations for the proposition that there may be a "taking" such as constitutes expropriation in international law where, even though the title remains intact, the owner is effectively denied the use of his property. Whether Iran could ultimately show that this amounted to expropriation would depend on whether the detention was prolonged and whether the ship was readily marketable. If we offered to pay the difference

.../between



between the losses they suffered by our detention of the ship and the purchase price they could obtain by selling it elsewhere, there would be no liability under international law. In the alternative we could offer to buy the vessel from them and mitigate our own losses by selling it (which we could presumably more easily do than the Iranians). Again there would be no liability in international law, since no expropriation would have taken place if the Iranians agreed to sell the vessel to Her Majesty's Government. It should be noted that the duty under international law to expropriate only under certain conditions (which would not be satisfied here because expropriation would be discriminatory and unrelated to internal needs of the taking State) and to provide compensation is reinforced by the terms of Article 1 of the First Additional Protocol to the European Convention on Human Rights. This provision does not impose greater obligations than does customary international law, but it gives treaty force to them.

19. Although we could certainly argue in response to a government-to-government claim that we did not fail in the specific undertakings made by the Ministry of Defence, and that the refusal of an export licence could not in any circumstances amount to expropriation under international law, our position would be an exposed one from the point of view of international law. The Iranians would almost certainly not under present circumstances take us to the International Court of Justice, or even invoke arbitration under the International Chamber of Commerce Rules as they would be entitled to by virtue of the contract with the Ministry of Defence. Much more likely is that they would submit a direct government claim through diplomatic channels for full compensation, supported by argument which is more than plausible. In the event of a refusal of compensation they could well consider themselves entitled to proceed to direct retaliation against our interests in Iran.

/Conclusions


Conclusions

20. In the light of the foregoing hurried analysis of the legal position, the following tentative conclusions may be made.

- (1) In the context of a general embargo on the export of arms to Iran, and provided the ship has not become inviolable, an export licence may legitimately be refused.
- (2) If Ministers do decide not to allow the ship to be exported notice must be given that HMG refuses permission for the ship to be commissioned and at the same time notice ought to be given that an export licence is required and that one will be refused.
- (3) If action under (2) above results in the Iranians failing to pay the balance due, the ship will not be delivered. The financial consequences will be that Swan Hunter will be £10 million short on the contract price until delivery takes place. It is conceivable that the Iranians will assert frustration of the contract which will have somewhat more substantial financial implications, i.e. a return of part of the instalment (£29 million) already paid. The Iranians, however, up to now have seemed very keen to obtain the ship.
- (4) If the Iranians do offer to pay the £10 million balance Swan Hunter must deliver the ship and the issue will then become one between HMG and Iran.
- (5) If the issue is one between HMG and Iran then the Iranians may either try to remove the ship in defiance

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of UK law or submit a direct claim to HMG under international law. In either case our legal position would be weak and there would be serious risk of Iran retaliating against our interests if we failed either to furnish the ship or to pay compensation. Such compensation would amount to at least the value of the loss of the ship for such period as they were denied it.

LAW OFFICERS' DEPARTMENT

21 January 1980

SECRET



With the Compliments
of the
Private Secretary
to the
Lord Privy Seal

Defence

Foreign and Commonwealth Office

London SW1A 2AH

15 January 1980

Dear Jonathan,

IRAN: DEFENCE EQUIPMENT CONTRACTS

The Lord Privy Seal has considered the points in the Defence Secretary's minute of 11 January about the 'Kharg' replenishment vessel.

He agrees with the proposal that MOD officials should try to negotiate with Swan Hunter to delay issue of notification for as long as contractually they can - if possible until 29 January - and that, failing this, we accept that the firm provide 30 days notice of delivery to the Iranian Navy.

The Lord Privy Seal would be grateful if our officials could keep in close touch over the public line to take when news breaks of the issue of the letter of intention. We must be careful to ensure that official comment on the contract does not compromise our overall policy towards arms shipments to Iran, or the eventual decision on an export licence.

I am copying this letter to the Private Secretaries to the Prime Minister, the Chancellor of the Exchequer, the Secretaries of State for Trade and Industry, the Attorney General and Sir Robert Armstrong.

*Yours ever,**M A Wickstead*M A Wickstead
APS/Lord Privy SealJonathan Dawson Esq
PS/Secretary of State for Defence



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

15th January, 1980

Dear Norbury,

IRAN

The Chancellor has seen the Defence Secretary's minute of 11th January to the Lord Privy Seal and he agrees that it would be helpful if Swan Hunter could be persuaded to delay the issue of 30 days notice of the availability for delivery of the KHARG as long as this can be done without the risk of an immediate claim being made by the Iranians.

He has noted that officials are examining the legal implications of refusing an export licence. The financial consequences to the Government and to Swan Hunters need to be clearly established, and he hopes that full legal advice will be sought as a matter of urgency so that the position is clear when this issue is reconsidered, as seems certain to be the case.

I am copying this to the Private Secretaries to the Prime Minister, the Lord Privy Seal, the Secretaries of State of Trade and Industry, the Attorney General and to Martin Vile, Cabinet Office.

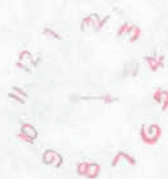
Yours sincerely

John Wiggins

(A.J. WIGGINS)

B. Norbury, Esq.,
Private Secretary,
Ministry of Defence

15 JAN 1980





From the Secretary of State

CONFIDENTIAL

The Rt Hon Francis Pym MP
Secretary of State for Defence
Main Building
Whitehall
SW1

Prime Minister (2)
'A' is obviously right.
15 January 1980

Dear Francis

IRAN

Thank you for sending me a copy of your minute to Ian Gilmour about Swan Hunter's contract with Iran for the construction of a fleet replenishment ship "KHARG".

I very much hope that you will be able to persuade Swan Hunter to delay notifying the Iranians that the ship is ready until 29 January, as you suggested might be possible in paragraph 5 of your minute. This would give us time to consider the legal and financial implications of a decision to refuse an export licence in the light of the further work which you have put in hand, and to consult our allies on the general question of a voluntary boycott of arms sales to Iran. I think it would be desirable for us to discuss the matter collectively when this further information is available. It would also be helpful to know what precedents there are for breaking a contract for the supply of arms other than as a consequence of a United Nations call for an arms embargo. I believe our predecessors' embargo of arms sales to Chile, for example, specifically excluded supplies made under existing contracts.

Not copied to No. 10.

contd/.....

CONFIDENTIAL

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From the Secretary of State

I am copying this letter to the Prime Minister, the Chancellor of the Exchequer, the Secretary of State for Industry, the Lord Privy Seal, the Attorney General and Sir Robert Armstrong.

*Yours ever
John.*

JOHN NOTT

15 JAN 1980



IRAN: ADVANCE COPIES 43

PS
PS/SIR I GILMOUR
PS/MR HURD
PS/PUS
SIR D MAITLAND
MR J C MOBERLY
LORD BRIDGES
MR EVANS
MISS BROWN
HD/MED (2)
HD/FRD
HD/NENAD
HD/UND (2)
HD/OID (2)
HD/DEF DEPT
HD/N AM D
HD/ES & SD (2)
HD/PUSD (2)
HD/NEWS DEPT
HD/COD
HD/CONS DEPT
~~RESIDENT CLERK~~

Lord H G Hancock

PS NO 10 DOWNING ST

SIR R ARMSTRONG)
ASSESSMENTS STAFF)
MR R WADE GERY) CABINET
MR LE CHEMINANT) OFFICE
MR P G FOWLER R 217)
DIO)

PS/CHANCELLOR)
MR F R BARRATT) TREASURY
MR D J S HANCOCK)

MR C W MCMAHON) BANK OF
MR S PAYTON) ENGLAND

Mr R Williams CRES DOT
MR W KNIGHTON DEPT OF TRADE,
MR C BENJAMIN DOI

MR D LE B JONES)
MR C LUCAS) DEPT OF
ENERGY

RR MODUK

GR 275

CONFIDENTIAL

FM TEHRAN 141130Z JAN

TO ROUTINE FCO

TELEGRAM NUMBER 50 OF 14 JAN 80

INFO ROUTINE MODUK.

MY TEL NO 41 : IRAN - DEFENCE SALES.

WHETHER OR NOT, AFTER THE FAILURE IN THE SECURITY COUNCIL OF THE AMERICAN RESOLUTION CALLING FOR SANCTIONS, WE PROCEED TO FURTHER UNILATERAL ECONOMIC MEASURES, WE ARE HEADING FOR A PARTICULARLY DIFFICULT PROBLEM OVER THE FLEET REPLENISHMENT SHIP, KHARG. THIS, AS YOUR DEPARTMENT WILL BE AWARE, IS DUE TO BE HANDED OVER NEXT MONTH (I DO NOT KNOW THE EXACT DATE). AN IRANIAN CREW IS PRESENT IN THE UK AND ACCORDING TO MY INFORMATION PAYMENTS ON THE SHIP ARE UP-TO-DATE ALTHOUGH THE VARIATION OF PRICE PAYMENTS HAVE YET TO BE AGREED, WE SEEM, FOR THE MOMENT AT LEAST, TO HAVE GOT AWAY WITH THE

WE SEEM, FOR THE MOMENT AT LEAST, TO HAVE GOT AWAY WITH THE ADMINISTRATIVE DELAY ON THE AMMUNITION AND THE SPARE PARTS, IN THE CASE OF THE FORMER NO DOUBT BECAUSE IT IS NOT URGENTLY REQUIRED AND OF THE LATTER BECAUSE WE ARE GENERALLY REGARDED IN THE IRANIAN MINISTRY OF NATIONAL DEFENCE AS BEING SLOW SUPPLIERS. BUT THE SPARES ARE URGENTLY NEEDED AND WE CAN ONLY EXPECT A SHORT RESPITE. MOREOVER I PRESUME THAT IF THE DELAY IN EACH CASE IS PROLONGED WE MAY RUN INTO PROBLEMS OVER EXTENDING LETTERS OF CREDIT. HOWEVER ANY DELAY IN HANDING OVER KHARG WILL AT ONCE BE OBVIOUS AND IN THE CIRCUMSTANCE IS LIKELY TO CAUSE CONSIDERABLE IRRITATION. THE RECENT LETTERS ABOUT PROJECT 4030 (SHIR TANK) (MY U/N TEL OF 061300Z JAN) AND THE YARROW SHIPS (MY TEL TO MODUK NO ZMZOF 10 JAN) SUGGEST THAT SOME IS ALREADY BEGINNING TO BUILD UP.

2. WE ARE NOT ALONE IN FACING THIS PROBLEM. THE FRENCH ARE RETAINING THREE FAST PATROL BOATS WHICH ARE READY TO SAIL BUT ON WHICH PAYMENT IS OUTSTANDING, A FACT WHICH GIVES THEM A LEGAL RIGHT BUT WHICH PRESUMABLY COULD BE RECTIFIED. THE ITALIANS HAVE PROBLEMS OVER MILITARY HELICOPTERS AND MISSILES ON WHICH THERE ARE NO LEGAL GROUNDS FOR DELAY.

GRAHAM
BT

NNNN

010

Thames Document
Council of Experts
Ministers
Tuesday

to be informed of PAs
agreement to request for
delay in time of
notification

MO 26/9/15

(Assuming that sanctions
are relaxed on the
ground)

Prime Minister

+ 1/4

Ph... 4/11

LORD PRIVY SEAL

We circulated on 20th December a joint memorandum which explained that, since the American hostages had been taken, no defence equipment had been delivered to Iran. I understand that we may not be able to maintain our go-slow tactics much longer because the Iranians are now pressing us for delivery of certain items of equipment. Officials are currently examining how we might respond to this, but there is one problem on which we need to make an early decision.

2. Swan Hunter Shipbuilders Ltd (a subsidiary of British Shipbuilders) have a contract with Iran signed in 1974 for the construction of a Fleet Replenishment Ship "KHARG". This ship is now almost ready and awaiting the final contractor's acceptance trials. The company is anxious to act in line with the terms of its contract and to give the thirty days notice of availability of the ship required by the contract. I understand that we have no legal powers to prevent the issue of the thirty days notice of availability; however, Swan Hunters have been extremely cooperative with my officials and have agreed to delay notifying the Iranians until, at the latest, the morning of 16th January. Swan Hunters are under considerable pressure from the resident Iranian delegation on the Tyne, and they have also received a letter from the Iranian Ministry of National Defence requesting the early delivery of the ship. The estimated price of the ship is £39 million, of which the Iranians have so far paid £29 million. Of the final £10 million due on handover, arrangements exist for the transfer of £3 million, but the method of payment for the remaining £7 million is to be arranged during the thirty days notice period. There is no ECGD insurance cover in respect of the contract.



3. On the assumption that they would be giving notice shortly, Swan Hunters have planned a final week of contractor's sea trials from 16th January, after which about three weeks further would be required to prepare the ship for final handover. Under the contract Swan Hunters are obliged to deliver the ship by 28th February. If the company fail to meet this date, the Iranians could cancel the order and claim substantial compensation. It is not possible to estimate the size of the potential claim, but my officials tell me that it could be greater than the value of the completed vessel (£39 million). Moreover, delay in the handover of the ship will cost the firm about £70,000 per week.

4. When the contract was signed in 1974 warships were not subject to export licence control. From 1975, however, the Export of Goods (Control) Order was amended, and my officials tell me that a Department of Trade export licence is required for this ship. I understand that the only way in which we could frustrate the delivery of the ship would be by withholding or revoking the export licence. We could then expect the Iranians to make a claim against British Shipbuilders and, probably, a counter claim against the Government from Swan Hunters. My officials are currently examining the legal position. In such circumstances the implications for British Shipbuilders' cash and loss limits would also need to be considered.

5. In the present circumstances in Tehran I do not think that you or colleagues would wish this ship (which is essentially a warship) to be handed over to the Iranian Government. Our room for manoeuvre, however, is limited. It is possible officials might be able to persuade Swan Hunters to delay notification a little longer, although Swan Hunters are unwilling to hold up normal contractual action any longer, and unless we are prepared to run the risk of an Iranian claim. Swan Hunters must issue their thirty days notice by 29th January. If officials' attempts to persuade Swan Hunters to delay notification as long as possible fail, then we shall have no option but to tell Swan Hunters to go ahead with the issue of

/the ...



the notification to the Iranians. If, as the company has insisted, the notification is made on 16th January, the ship will go to sea that day for its acceptance trials and, subject to the granting of an export licence, the ship will be handed over to the Iranian Navy on 14th or 15th February.

6. If mandatory UN sanctions were applied, we should be obliged to prevent the export of the ship. If however no such sanctions are applied, we shall have thirty days from the issue of the notification by the company in which to consider whether to withhold the export licence and to assess all the implications of such a course. If the ship does proceed on acceptance trials, this will become public knowledge and will almost certainly give rise to press and Parliamentary comment. Moreover, the Iranian Navy still have the option, which they could exercise subject to pre-payment, of undergoing sea training in "KHARG" using Ministry of Defence facilities at Portland for a period of several months.

7. Subject to your views and those of colleagues, which I should be grateful to receive by mid-day on Tuesday 15th January, I propose to instruct my officials to attempt to negotiate further with Swan Hunters to delay the issue of the notification for as long as contractually possible. If this fails, and Swan Hunters insist on issuing the notification, we shall have thirty days in which to consider, in the light of the situation in Tehran, whether an export licence should be withheld. In any case we have only until 28th February by which to take a decision on the licence, at the very latest.

8. I am copying this minute to the Prime Minister, the Chancellor of the Exchequer, the Secretaries of State for Trade and Industry, the Attorney General, and Sir Robert Armstrong.

Ministry of Defence

11th January 1980

14 JAN 1969

10 9 8 7 6 5 4 3 2 1



Defence

Caxton House Tothill Street London SW1H 9NA

Telephone Direct Line 01-213 6400

Switchboard 01-213 3000

J D S Dawson Esq
 Private Secretary to
 The Rt Hon Francis Pym MC MP
 Secretary of State for Defence
 Ministry of Defence
 Whitehall
 LONDON SW1

2 January 1980

For Mr Pym

Dear Jonathan

DEFENCE CONTRACTS WITH IRAN

My Secretary of State has seen a copy of your letter to Mike Pattison at 10 Downing Street enclosing a memorandum on defence contracts with Iran in which your Secretary of State and the Lord Privy Seal invite colleagues to (a) note the present position, (b) endorse the use of 'go slow' tactics and, (c) note that once the position of the American hostages has been resolved, Ministers concerned will be consulted before further deliveries of arms are made to Iran.

Mr Prior notes the announcement by America to suspend a specific shipment of arms to Iran, that Germany and France have stopped such deliveries and that Italy is expected to take similar action. He is therefore in full agreement with the proposals set out in your memorandum.

Yours sincerely
I A W Fair

I A W FAIR
 Principal Private Secretary

cc recipients of letter of
 20 December.



3 JAN 1960

Defence

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DSG



cc	HO	D/EMP
	LCO	CO
	FCO	
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10 DOWNING STREET

From the Private Secretary

28 December 1979

DEFENCE CONTRACTS WITH IRAN

You wrote to Mike Pattison on 20 December on the above subject. This is to confirm that the Prime Minister is content with the proposals put forward by the Defence Secretary and the Lord Privy Seal.

I am sending copies of this letter to the Private Secretaries to members of OD Committee, to Ian Ellison (Department of Industry), Ian Fair (Department of Employment) and Martin Vile (Cabinet Office).

T.P. LANKESTER

J. D. S. Dawson, Esq.,
Ministry of Defence.

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HS

28/13

Ref: B 05882

*Submit to
Dawson (MOD)*

①

Prime Minister

PRIME MINISTER

*R.
27/12*

Hand

Defence Contracts with Iran

The Secretary of State for Defence and the Lord Privy Seal have circulated^x an OD memorandum dated 20 December in which the present position on defence contracts with Iran is described, and your endorsement is sought on the "go slow" tactics which are at present being followed.

2. I recommend that, subject to the comments of the other members of OD, you should approve the proposals put forward by the Defence Secretary and Lord Privy Seal. These represent the most sensible reconciliation that can be achieved at the present time between current circumstances in Iran, our obligations to the United States and our own national interests. Clearly the position will change if the United States, without obtaining a Chapter VII resolution ask us to take specific overt measures involving military sales against Iran, or if the United States obtain a Chapter VII resolution leading to economic sanctions in some form. In either of these situations we shall need to reconsider the position.

*Agreed
R.L.*

R L Wade-Gery

Cabinet Office

R L WADE-GERY

21 December 1979

* under cover of Mr Dawson's letter to Mr Pattison of 20th December

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MINISTRY OF DEFENCE
MAIN BUILDING WHITEHALL LONDON SW1
Telephone 01-~~930 7000~~ 218 2111/3

MO 26/9/15

20th December 1979

Dear Mike

DEFENCE CONTRACTS WITH IRAN

/ I attach a memorandum which my Secretary of State has prepared in consultation with the Lord Privy Seal setting out the current situation on our defence contracts with Iran.

My Secretary of State would welcome the Prime Minister's endorsement, and that of his colleagues in OD Committee and the Secretaries of State for Industry and Employment to whose Private Secretaries I am sending copies of the memorandum, of the recommendations which it contains. A copy also goes to Martin Vile.

Yours sincerely

(J D S DAWSON)
Jonathan Dawson

Agreed out

M Pattison Esq
10 Downing Street

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MINISTRY OF DEFENCE
MAIN BUILDING WHITEHALL LONDON SW1

Telephone 01-937 1233



20

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THIS DOCUMENT IS THE PROPERTY OF HER BRITANNIC MAJESTY'S GOVERNMENT

20th December 1979

CABINET

DEFENCE AND OVERSEA POLICY COMMITTEE

DEFENCE CONTRACTS WITH IRAN

Memorandum by the Secretary of State for Defence
and the Lord Privy Seal

1. We last considered this subject when the Defence Secretary wrote to the Foreign Secretary on 7th June 1979 outlining proposals for dealing with extant defence contracts. These proposals were accepted and Ministers agreed that negotiations should continue with the Iranians aimed at recovering monies due and to renewing business subject to their making satisfactory financial arrangements: a shipment of ammunition was foreseen as a test of their intentions.
2. International Military Services Ltd (IMS) and MOD officials have proceeded accordingly in the succeeding months ably supported by the Ambassador and his staff without whose help and advice the progress achieved would not have been made. During the last visit to Iran in late October, MOD officials formed the view that the Islamic Ministry of National Defence (IMND) and the Armed Forces were showing signs of returning to something like normal and were anxious to take delivery of ammunition and spares. A summary of the position reached on these and other IMS contracts is attached at Annex A and the position on defence contracts in the public and private sector is attached at Annex B. Departments principally concerned have been kept informed of developments.
3. No progress has been made in the settlement of debts to IMS and MOD which amount to some £71M. Throughout the months the Iranians have repeated their policy of honouring these debts and for our part, IMS and MOD officials during visits, and the Ambassador at every opportunity, have stressed the importance attached by the UK Government to such settlement. We have not made the continuation of extant contracts conditional on the settlement of all debts as we were anxious to give the new Iranian administration time to settle down. Indeed we envisaged that the re-establishment of a business-like relationship on extant contracts (which we were on the brink of achieving) would have put us in a stronger position to achieve a satisfactory settlement. The collection of these debts is of great importance to the Defence Budget, but we think it is undesirable to make any new approach to the problem until matters have resolved themselves in Iran.

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4. As letters of credit covering spares into 1980 had been taken out, we delivered to the Iranians early in November their first consignment of spares since supplies were stopped in December 1978. Next, under normal condition we would have delivered a quantity of tank ammunition (for which there is no other outlet) because the Iranians have made some additional payments and have re-opened most of the necessary letters of credit.

5. Soon after the seizure of the American Embassy (followed the next day by the temporary occupation of the British Embassy), we were told by Washington that the Americans intended to impose an embargo on the supply of arms. The Pentagon made an announcement to the Press on 8th November that shipment of \$305M spare parts (for which the Iranians had already paid) would be halted until the hostages were released although they have not announced any general arms embargo. Since then, the Germans, although not major suppliers, have also stopped deliveries of spare parts. The Italians are now expected to take similar action as a result of American pressure and the French have made a similar commitment although they have no major contracts with Iran.

6. On 7th November officials of FCO and MOD agreed that because of the US Embassy position any further shipments to Iran would be withheld. Ministers of these departments subsequently agreed that while we should do nothing at this stage to alert the Iranians that we were not complying with our contractual obligations to them, we should employ "go slow" tactics and avoid any shipments or further negotiations with them for the present. It was also agreed that the Ambassador should avoid taking the negotiations on Yarrow support ships and ammunition further and, if pressed by the Iranians should refer back for instructions. If IMS or MOD officials were approached by the Iranians it was agreed that they would refer to manufacturing, administrative and transport delays. If the Iranians pressed their enquiries, officials would feel at liberty to draw attention to the outstanding debts.

7. We think it likely that the Iranian officials with whom discussions have been held will be aware that to press us on these matters could only lead to mutual embarrassment and it is thought likely that a period of silence will ensue until the position of the US hostages is resolved. The Iranians are dependent on us for the supply of spares for their UK supplied armoured fighting vehicles.

8. There has been some press interest but we have taken the line that no shipments have taken place since early November and none are in immediate prospect.

9. Ministers of the Departments concerned will be consulted, once the situation at the US Embassy is resolved, before deliveries of arms are restarted.

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Recommendations

9. We invite our colleagues to:
 - a. take note of the position set out in this paper;
 - b. endorse the "go slow" tactics;
 - c. take note that Ministers principally concerned will be consulted before deliveries are restarted after the position of the American hostages is resolved.

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IRAN - CURRENT POSITION ON IMS/MOD DEFENCE CONTRACTSAmmunition

£19M worth of ammunition, for which there is no other outlet, is held in stock and, under arrangements made with the Iranians has been prepared for shipment. IMS should declare it ready for shipment when £2.9M is received and 9 letters of credit (LC) are extended and enhanced at a London bank. Since 21 November £2.5M has been received and action on 6 LCs has been confirmed. Outstanding action could be completed by the Iranians shortly in which case administrative delaying tactics will be used to prevent shipment but we will then be in breach of the arrangement made. Other orders for ammunition valued at £140M are held with delivery into 1983 but manufacture will not commence until the Iranians agree revised financial arrangements to cover the period of disruption. Recent enquiries from the Iranians about the basis of our proposals have not been answered and negotiations have been stopped.

Armoured Fighting Vehicle Spares

2. The Spares Support Arrangements (SSA) are controlled by a Joint Review Committee chaired by MOD and a resumption of periodic meetings was envisaged for December '79: this will be delayed. Financial arrangements for continuation of supplies have been agreed and with LCs extended to June 1980 the first supply of spares since the Revolution was made in early November: no further deliveries are being made. About £18M (current value) of stock owned by Iran, is also held in this country under SSA.

Tanks and Armoured Recovery Vehicles

3. Preparation of the termination account for tank project 4030 is in hand. Present indications are that a small credit may be due to Iran out of the £301M already paid. The Iranians have asked for delivery of the outstanding 50 Armoured Recovery Vehicles from the contract repudiated in February, 1979. Consideration of this and other engineering matters connected with their fleet of vehicles will not be progressed until a business-like relationship on spares and ammunition has been achieved.

Support Ships (Yarrow)

4. The contract for 4 ships originally ordered was terminated by UK in March '79 because of non-payment of claims by Iran. Following an Iranian request to reinstate 2 ships IMS, Yarrow and ECGD considered the position and HMA Tehran is now ready to engage in final negotiations on the price for 2 ships and cancellation charges at between £43M - £44M which would involve a further payment by the

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Iranians of about £8M before delivery. The Ambassador has been told not to pursue the matter at present. but he has now reported that the Iranians are requesting the reinstatement of all 4 ships at a price of £72M. No response is being made to this request at present.

Construction and Support Projects

5. Iran owe IMS some £52M in respect of construction projects at Bandar Abbas, Dorud and Esfahan and support contracts. The pursuit of these debts requires visits to Iran which, on the advice of HMA Tehran, are postponed on grounds of safety until the New Year. Under their agreement with Wimpey Laing on the Esfahan project, IMS are required to diligently pursue a debt of some £11M. If they are prevented from doing so for political reasons they could be liable to pay Wimpey Laing. It is thought, however, that the constructors will consider current events as being beyond IMS's control and will not press the matter.

Direct MOD Contracts

6. Some £7M is still owed by Iran for claims presented in respect of MOD contracts for Naval equipment, hydrographic surveys, training of Iranian personnel and loan of MOD personnel.

20th December 1979

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IRAN - CURRENT POSITION ON
DEFENCE CONTRACTS WITH INDUSTRY

Fleet Replenishment Ship "KHARG" (Swan Hunter Shipbuilders Ltd)

The shipbuilder expects to complete rectification work on defects and contractors acceptance trials during February 1980. Naval overseeing of the construction has been undertaken. 120 Iranian personnel are at Newcastle waiting to take over the ship which can only happen when a final payment of some £11M is made. MOD assistance of Liaison Officers with sea trials and operational sea training using MOD facilities which could take 3 to 4 months from February 1980 has been arranged subject to prepayment.

Rapier (British Aerospace)

2. BAe have presented a termination account to Iran against which about £79M is outstanding. Iranian officials are pressing the contractor to send representatives out to Iran to discuss the termination claim and possible further aerospace requirements. They have asked MOD and FCO recently, through the Ambassador, to use their good offices to encourage BAe to comply. The Ambassador has advised that such visits should not be made at present and no action is in hand.

20th December 1979

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20 DEC 1979

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Defence

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R L L Facer Esq
Private Secretary to
Rt Hon Francis Pym MC DL MP
Ministry of Defence
Whitehall
LONDON SW1

15 June 1979

See Logo

*P.O. - 6/11/79
18/11*

DEFENCE CONTRACTS WITH IRAN

Mr Prior has seen Mr Pym's minute to Lord Carrington of 7 June and has asked me to say that he agrees with Mr Pym's proposals.

I am sending copies of this letter to the Private Secretaries of the Ministers who received Mr Pym's minute.

Yours sincerely

John Anderson.

J ANDERSON
Private Secretary

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2 3 4
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18 JUN 1979

FCS/79/115SECRETARY OF STATE FOR DEFENCE

P. n. 14/11
14/11

Defence Contracts with Iran

1. Thank you for your minute of 7 June about the progress achieved by your joint MOD/IMS team in negotiating with the Iranians. I fully support the course of action that you propose. Like you, I hope that we shall be able to achieve a settlement with the Iranians whereby they meet their existing obligations and open the way to further defence contracts on the understanding that such business is done without risk of financial exposure on our side; and that each case is considered in the light of circumstances in the area at the time.
2. I am copying this minute to all members of OD, the Secretary of State for Industry and the Secretary of State for Employment.

C
/

(CARRINGTON)

Foreign and Commonwealth Office

13 June 1979

113 JUN 1979





From the Secretary of State

R R Facer Esq
Private Secretary to the
Secretary of State for Defence
Ministry of Defence
Whitehall
LONDON
SW1A 2HB

11 June 1979

Dear Roger

*ASB
SM
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26*

DEFENCE CONTRACTS

My Secretary of State has seen Mr Pym's minute to Lord Carrington of 7 June and is in full agreement with the line proposed. He would be grateful if officials in this Department could be kept in touch with the progress of any discussions with the Iranians.

I am sending copies to the other Private Secretaries concerned.

Yours Sincerely,

Hugh Bartlett

H W BARTLETT
Private Secretary

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cc: Ho
KC
FO
HMT
LP
LPS
DOT

10 DOWNING STREET

From the Private Secretary

11 June 1979

Defence Contracts with Iran

The Prime Minister has seen the Defence Secretary's minute (MO 26/9/15) of 7 June, in which Mr. Pym set out the approach which he proposes to adopt to the recovery from the Iranians of monies due to the UK following Iran's repudiation of major defence contracts with UK suppliers.

Subject to the views of her colleagues on OD, the Prime Minister agrees that action should be taken on the basis outlined in Mr. Pym's minute.

I am sending copies of this letter to the other members of OD and to Martin Vile (Cabinet Office).

B. G. CARTLEDGE

Roger Facer, Esq.,
Ministry of Defence.

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MINISTRY OF DEFENCE WHITEHALL LONDON SW1A 2HB

TELEPHONE 01-218 9000
DIRECT DIALLING 01-218 2111/3

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MO 26/9/15

FOREIGN AND COMMONWEALTH SECRETARY

DEFENCE CONTRACTS WITH IRAN

Prime Minister

Agree with this approach, subject to the views of OJ colleagues?

BM 1/6

One of the last acts of the pre-revolutionary Government in Iran was to repudiate five major defence contracts worth some £1,900m. With the exception of the British Aerospace contract for Rapier surface-to-air missiles, the contracts were placed through International Military Services Limited (IMS), our wholly-owned company, and thus were effectively on a Government-to-Government basis.

2. These contracts were for tanks, Armoured Recovery Vehicles (ARVs), support ships, and a base workshop under construction in Iran. Apart from these, IMS had about 50 other contracts principally for the supply of Ministry of Defence-procured vehicle spares and ammunition and the provision of manpower for support and training as well as for a number of military construction projects in Iran.

3. When it seemed, late last year, that the continuation of business under the contracts was doubtful, we took steps to limit our exposure without actually breaching the contract terms. Shipments ceased after December 1978 and in early February IMS and British Service personnel were withdrawn from Iran. Production at some Royal Ordnance Factories was progressively run down and some sub-contracts were terminated.

4. A joint MOD/IMS team visited Iran in April for talks with the Iranian Minister of Defence and representatives

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of the three Armed Services. A full report of the visit and the proposed follow-up action was circulated last week by my officials to Whitehall Departments who have been kept in touch with developments throughout this year. In brief, the outcome of the talks, which took place in a friendly and constructive atmosphere, was that the Iranian Defence authorities expressed their intention of paying all monies due for work and deliveries of supplies which had already been completed: of continuing with most of the supply contracts for ammunition and spares for their existing armoured vehicles: and, despite previous repudiation of the contracts, of taking delivery of the 71 ARVs and two support ships. They also expressed willingness to talk about the future of some construction work in Iran. They confirmed the cancellation of the tank contract. It was agreed that further detailed discussions would take place on the individual contracts concerned and these are being arranged.

5. I believe that the talks have been useful in providing clarification of Iranian intentions. It seems clear that they wish still to do considerable business with us. For our part I take it that we would wish to honour outstanding contracts for the supply of ammunition and spares for existing equipments - indeed to decline to do so would be a political act of considerable significance which could seriously damage our relationship with the new regime and our general reputation as a reliable trading partner. Moreover, I believe that we should be ready to consider, on a case-by-case basis, future requests for new supplies if such requests are received. However, I think we should aim in future to arrange new business on advance payment terms.

6. We now await practical evidence of the intentions and ability of the Iranians to meet their existing obligations by paying outstanding debts, / which, / for work performed and deliveries made, amount to some £85m. Before and during the detailed discussions soon to take place my officials

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and IMS Limited will continue to press for all monies due. Discussions with the Iranians will, of course, cover revised delivery schedules and prices and the appropriate payment arrangements.

7. If satisfactory progress with the discussions is made and money flows to clear debts, our intention is to offer early deliveries of modest proportions to test the system. By the time this has been done a few months will have passed and it may be easier to judge the stability of the present regime and the future outlook.

8. I am not over-optimistic about the prospects for our continuing business or indeed for the recovery of all monies due. When all termination action has been taken this sum could be more than £100m and with this sum at stake we must continue to take positive action to resolve matters with the Iranian Government.

9. I should be glad to hear whether you and our colleagues on OD, the Secretaries of State for Industry and for Employment, to whom I am sending copies of this minute, agree that we should proceed on the basis outlined above. If any difficulties are foreseen, they might perhaps be discussed at OD next Monday, when the Committee will be considering the supply to Jordan of tanks available as a result of the cancellation of the Iranian contract.

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7th June 1979

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