

PREM 19/1671

2/4/86

MT
9

Confidential Filing

Westland Helicopters,

AEROS PACE

Part one: April 1985
Part Six: August 1986

inside front cover: Government Response to
3rd + 4th Reports From Defence Committee. Oct 1986

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
4.8.86							
7.8.86							
12.8.86							
24.9.86							
26.9.86							
29.9.86							
2.10.86							
3.10.86							
6.10.86							
7.10.86							
9.10.86							
17.10.86							
19.10.86							
20.10.86							
21.10.86							
22.10.86							
28.10.86							
29.10.86							
19.11.86							

PREM 19/1671

Material used by
Official Historian
DO NOT DESTROY

PART
6
ENDS

PART 6 ends:-

SSMOD to J. Wigger 19.11.86

PART 7 begins:-

MOD to CDP 2.2.87

Published Papers

The following published paper(s) enclosed on this file have been removed and destroyed. Copies may be found elsewhere in The National Archives.

House of Commons Hansard, 29 October 1986,
Columns 339-420 "Westland plc"

Signed Wayland Date 4 November 2014

PREM Records Team



Prime Minister (2)

MEA 19/11

MINISTRY OF DEFENCE WHITEHALL LONDON SW1A 2HB

TELEPHONE 01-218 9000

DIRECT DIALLING 01-218

D/S of S/231/86E

19^w November 1986

QF
Do you wish
to keep?
JL 20/11

Dear Jerry,

~~ATTACHED~~
Thank you for your letter of 30th September, also enclosing copies of letters you had sent to the Prime Minister, Norman Tebbit and Paul Channon. I am replying to all these letters.

As you say, we went through many of these arguments when you came to see me on 12th June, and I took note of the points you made then. We also spoke together on 28th October, and, of course, we both took part in the debate the following day.

On the question of support helicopters, which is the central theme of your letters, the need to resolve the matter quickly is fully recognised, as was made clear both in the Government's reply to the Defence Committee's Third Report and in my speech in the debate. This is not a simple issue but is bound up with difficult military judgements about the role of the helicopter in the land/air battle in the Central Region, as well as other helicopter tasks, and how these might develop in future years. We are working

Jerry Wiggin Esq MP



as quickly as possible on the military issues and their procurement and programme implications, including the important question of affordability. There has been no question of foot-dragging. The Air Staff Target to which you refer was not and could never have been the last word in our definition of the operational requirement. Genuinely difficult questions of military judgement are involved, and I look to my advisers to give me the best advice possible. It inevitably takes time to carry out the necessary studies.

Decisions on whether further helicopter orders are needed to meet the requirements of the armed services, and if so what kind, how many, and in what timescale, will be taken as soon as possible, but realistically this will not be until the New Year. This is the timeframe which Sir John Cuckney has indicated to us would be helpful. I cannot forecast what the decisions will be or what comfort they might or might not bring to Westland. But I certainly acknowledge an obligation not to keep the Company in a state of uncertainty longer than is absolutely necessary. I can also assure you that my Department will work closely with the Department of Trade and Industry in the work that needs to be done in order to give Westland a clearer indication of Government intentions against which the Company can plan its future. When Paul Channon and I met Sir John Cuckney in September, Sir John set out very clearly his assessment of the difficulties facing the Company over the next few years. He also expressed satisfaction with the outcome of the

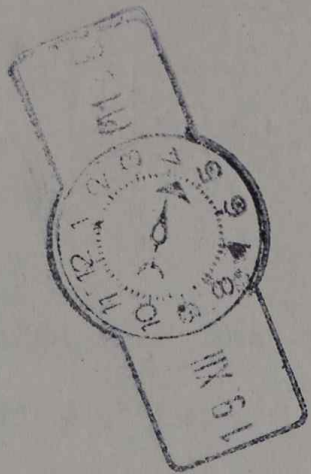


Company's capital reconstruction and both he and Sir John Treacher were optimistic that the Company was better placed now than it had been for some time. Nevertheless, as you say, the Company still has a number of problems to solve arising from over-capacity in world helicopter production and the decline in civil and military orders. Naturally we hope that the UTC/Fiat stake in the Company will be of some assistance in this respect.

I am copying this letter to the Prime Minister, Norman Tebbit, and Paul Channon.

*Yours truly,
George*

George Younger



Prime Minutes

Here are the 2 speeches for tomorrow. See side-lined passages. Mr Younger's concentrates almost entirely on helicopters. No problems there. Mr Biffen's is a masterly exposition of doctrines. It sails close to the wind in parts, but I think he has to if he is



PRIVY COUNCIL OFFICE

WHITEHALL, LONDON SW1A 2AT

28 October 1986

to hold the House. My

only suggestion is a tiny drafty amendment on the last page.

Dear Michael,

WESTLAND PLC

I attach a comprehensive draft speech for the Lord Privy Seal's wind-up of the Westland debate tomorrow. I should be grateful for comments from you and copy recipients as soon as possible.

I am copying this letter to Nigel Wicks (No 10), Ian Andrews (PS/Secretary of State for Defence), Catherine Bradley (PS/Secretary of State for Trade and Industry), Sir Robert Armstrong and to Linda Brown (MPs).

Have you any comments?

N.C.W.
28.10.

Yours,
Alison

ALISON SMITH
Private Secretary

Michael Townley Esq
Room 205
70 Whitehall

I agree -
last page said - the
words you indicated. No
other comment and

DRAFT WIND-UP SPEECH FOR WESTLANDS

DEBATE ON WEDNESDAY 29 OCTOBER

INTRODUCTION

This debate does not take place altogether in the atmosphere of high drama which surrounded the events of the beginning of this year. In the calmer mood which now prevails I believe we are in a better position to assess what happened with an appropriate sense of proportion. I propose, therefore, first to address in general terms the points which have been raised about the defence issues, and then to say a few words about what I consider to be the main implications for the Government from what happened. The core of my remarks will, however, concern Select Committee matters. This is what I believe the House would wish.

WESTLAND PLC

1.1 It has clearly emerged from today's debate that hon Members on both sides of the House are concerned - and rightly so in my view - with the future success of Westland. In particular, its role in collaborative programmes and its contribution to our own economy make it of significant importance. Since the financial difficulties earlier in the year, its financial reconstruction has enabled it to look forward from a stronger financial basis than before. The management and workforce of the company deserve considerable credit for this revival of its fortunes [as the hon Member for Yeovil reminded us], and I am sure all hon Members would wish them well.

1.2 Of the specific issues raised in the debate, which were not dealt with substantially by my Rt Hon Friend the Defence Secretary in his opening speech, I believe the most important is collaboration. This was mentioned by a number of hon Members and is a major theme both in the Defence Select Committee's Third Report and in the Government's response to it.

1.3 As the House will know, Britain and France were pioneers in this field with the successful collaborations, launched in 1967, between Westland and Aerospatiale to develop the Lynx, Gazelle and Puma helicopters. This proved highly beneficial both to the two companies themselves and to a number of others including Rolls Royce. Following this, the principle of European collaboration in the military helicopter field was endorsed by all four helicopter-producing nations at both government and industry level during the 1970s. Since then a number of collaborative projects have been initiated in Europe.

1.4 The most important of these from Westland's point of view is the Anglo-Italian EH101. This is designed from the outset to fulfil both naval and commercial needs with maximum commonality, and has the Government's full support. Another example is that Britain, Italy, Spain and the Netherlands are close to finalising arrangements for a joint project for a new light attack helicopter based upon the Agusta A129. Once again, Westland will play a leading role.

1.5 The advantages of collaboration as a way of tackling major new helicopter developments in Europe are clear. It enables development costs and risks to be shared, combines European technology to produce the most advanced and competitive product possible and offers the prospect of longer and more stable production runs. The Government welcomes the fact that Westland has continued to play its full part in European co-operation.

1.6 But the value of collaboration is such that it is not to our European partners exclusively that we should look. There will be occasions when transatlantic collaboration will make economic sense, either in development or through the licensed production of a proved design. This could provide opportunities for making the most of Westland's technological capability not just in relation to helicopters but also in relation to aerospace equipment more generally. It behoves both Governments and industry to keep an open mind on this possibility and to treat the prospects which present themselves on their merits.

2. COLLECTIVE RESPONSIBILITY

2.1 Turning from the issues relating to the company itself, I should make it clear that I do not propose to deal with the detailed catalogue of events surrounding the discussion in Government of the Westland's issue or the disclosure of the Solicitor-General's letter. They have been subjected to considerable scrutiny and I do not believe that I can profitably add to that. I should, however, say a few words about the Governmental lesson which emerges from the affair.

2.2 Effective Government, like the proper working of Parliament, depends not just on statute and standing order but on observance of convention. Many essential features of both Government and Parliament are not necessarily susceptible to treatment as an absolute for the statute book and the orders of this House. But they remain critical to the well-being of the institution. In particular, strong and secure Government cannot be achieved without the maintenance of collective Ministerial responsibility. I referred to this in the debate on 27 January last. It was the original breakdown in the working of the general obligation on Ministers to subordinate their personal and departmental interest to the decisions of the Government as a whole which forms the unhappy backdrop to this entire sequence of events. The so called Westland affair powerfully reinforces the wisdom of successive administrations in generally abiding by this rule of collective responsibility. That message, underlined by the unhappiness of two Ministerial resignations, will long be remembered when so much else in our current political controversy has faded. I turn now to the issue of the Select Committees.

3. BACKGROUND TO DISCUSSION OF SELECT COMMITTEES

3.1 The Westland incident has illustrated the importance of Select Committees and the nature of their relationship with the Executive. There have been several references to these matters in the course of the debate. As Leader of the House it is appropriate that I should address myself to them. But I believe that before discussing these issues specifically, it would be for the benefit of the House if I say a few words about the development of departmental Select Committees so that they can be seen in context.

3.2 The House will, of course, recall that the present structure of Select Committees dates only from 1979. The present system was set up then by the House on the initiative of this Government following the comprehensive recommendations of the Select Committee of Procedure in their First Report of the Session 1977/78. While there had been Select Committees of the House since long before then the present departmental Select Committee structure was a new creation. I believe it is one which has clearly proved its effectiveness. Indeed, departmental Select Committees have become a familiar and established part of our parliamentary procedure.

3.5 This Government took the initiative in setting up the departmental Select Committees: it has no intention of seeking to hinder or impede their effective scrutiny of the Executive. This follows an undertaking given by the then Leader of the House, my Rt Hon Friend the Member for Chelmsford on 25 June 1979. He argued that the Government would do all it could "to co-operate with the new system of Committees and to make it a success" (col 45).

He further asserted: I believe that declaration of intent to be a better guarantee than formal provisions laid down in Standing Orders" (cols 45-46).

His assurance carries the weight and authority of one who played such a significant role in setting up the new system.

4. SELECT COMMITTEE POWERS

4.1 The new system of Committees inherited the long-standing powers of earlier Select Committees. These are set out formally in Standing Orders. They are far-reaching and without condition.

The powers of departmental Select Committees specifically are set out in SO.99. Amongst other powers, this says clearly that departmental Select Committees can send for persons, papers and records: These powers are unqualified.

4.2 In practice, however, these formal powers have consistently been exercised with discretion and by convention. As is the case with other aspects of business and procedure in this House, convention has been accepted as appropriate for many years - certainly before the departmental Select Committees themselves were created. While Standing Orders must necessarily deal in absolutes, conventions enable the many considerations and factors affecting the work of Select Committees to be taken into account.

4.3 The purpose of these conventions is to allow the development of a way of working which is satisfactory both to the Committee and to the Executive. In addition, the operation of the conventions has sought to preserve two generally agreed principles of Government.

The first of these is that each Minister is responsible to Parliament for the conduct of his Department and for the actions carried out by his Department in pursuit of Government policies or in the discharge of responsibilities laid down upon him as Minister. He has the duty to explain in Parliament the extent of his powers and duties and to give an account to Parliament of what is done by him in his capacity as Minister or by his Department. The second principle is that civil servants, in turn, are responsible to their Ministers for their actions and conduct.

4.4 I believe that the House would not wish this clear line of Ministerial accountability for Departments to be weakened in any way by seeking a new and separate accountability from officials. Certainly that was the view of the Select Committee of Procedure in its 1978 Report. It was there stated that: "it would not, however, be appropriate for the House to seek directly or through its Committee to enforce its right to secure information from the Executive at a level below that of the Ministerial head of the department concerned, since such a practice would tend to undermine rather than strengthen the accountability of Ministers to the House."

4.5 Thus these principles on which the conventions are based are not a novel doctrine designed to meet the circumstances of recent inquiries but, indeed, pre-date the departmental Select Committee system. For as long as Select Committees and their formal unqualified powers have existed, so have existed the qualifications by which they have been tempered. Furthermore, I do not believe that these qualifications have prevented Select Committees from working effectively hitherto.

5. RECENT DIFFICULTIES

5.1 But there have, of course, been times when the Government and the Select Committees have had different perceptions of how the traditional conventions should be applied in a particular case. These difficulties are inevitable given the different standpoints of the Select Committee and the Executive. Although there is a mechanism of last resort for resolving these disagreements, by putting the matter before the House, the practice has always been to seek to find a resolution which is generally acceptable, by using the flexibility which the conventions afford.

5.2 The Government sought to find such a resolution in relation to the Defence Select Committee's inquiry into Westland. In the debate on 15 January, the House had endorsed the Government's recognition of the competence of departmental Select Committees to consider the issues raised by Westland. This did not, of course, mean that the usual conventions should be set aside.

5.3 Amongst these is the practice of the Prime Minister's not appearing before Select Committees to give evidence. I believe it wholly appropriate that uniquely, the Prime Minister should be answerable only on the Floor of the House. In this instance, my Rt Hon Friend has already made a Statement to the House on 23 January this year and taken part in two debates on the incident on 15 January and 27 January before the Select Committee had begun its inquiry. She has also answered orally and in writing to a number of questions on the matter. This, Mr Speaker, is entirely in accordance with the practice of the House and of successive Administrations. A Prime Minister, by convention, is accountable to the House as a whole rather than to individual Select Committees. This aside, there were two areas in which difficulties were experienced in finding an appropriate way forward.

5.4 The first occasion is discussed by the Committee in paragraphs 218-224 of their Report. This concerned the production of two documents which the Committee believed were material to their Inquiry. The Government was reluctant to release the documents themselves, since they included material of a classified and commercially confidential nature. But summaries of the documents were provided at an early stage, and certain parts of the original documents were submitted to the Committee in full. Paragraph 224 states the Committee's view that the efforts of the Permanent Secretary at the Department of Trade and Industry to furnish them with summaries as fully and as accurate as possible "were both conscientious and successful".

5.5 A second area, one of greater difficulty, has been the provision of oral evidence from certain named officials: three from the Department of Trade and Industry, and two from the Prime Minister's Office. The convention in this area is, as I suggested earlier, that it is for Ministers to determine who should represent them before Select Committees. The power to call for the attendance of individually named persons is, of course, formally unqualified as the Select Committee was right to assert in paragraph 228 of its Report. Yet it has always been acknowledged that with regard to Civil Servants, this power must be limited in practice so that the principles of Ministerial accountability are not undermined. In this instance, the officials concerned had already been questioned by the Head of the Home Civil Service in the course of his inquiry, to which the Prime Minister had agreed. They had given him full accounts of their parts in the matter. The Government took the view that it would be unreasonable that they should be subjected to a further round of detailed questioning by the Defence Committee.

But the Government was anxious to be helpful, and the Secretary of the Cabinet therefore offered to give evidence to the Committee on the basis of the information which he had amassed in the course of his inquiry.

5.6 I appreciate that notwithstanding its formal powers in the event the Committee decided, albeit reluctantly, to take evidence from the Cabinet Secretary. Taking advantage of the flexibility afforded by the conventions is the way in which Select Committees and the Executive have traditionally resolved their differences. I recognise at once that such differences are not confined to the Westland inquiry.

5.7 Similar controversy has arisen in relation to the Trade and Industry Committee's report into the tin crisis. In this case the Committee felt that their inquiry was unduly restricted by civil servants refusing to answer questions relating to advice given to Ministers. But as stated in the Memorandum of Guidance for Officials appearing before Select Committees "in order to preserve the collective responsibilities to Ministers, the advice given to Ministers by their Departments should not be disclosed".

This Memorandum is familiar to Select Committees and this rule is well established. It is Ministers and not officials who are responsible to Parliament for the activities of their Departments.

5.8 I recognise that the Trade and Industry Committee investigating the tin crisis found it unsatisfactory that their investigation had to be carried out under this constraint. The Government was acting in accordance with established conventions, which form the basis on which civil servants give evidence before Select Committees. But what the Committee sought would have implied a change in these conventions. The Government believes that it is important that the conventions should continue to obtain and be observed in their present form by Ministers, officials and Select Committees, They are underpinned by the fundamental principle of Ministerial accountability to Parliament.

5.9 In all its dealings with Select Committees the Government has sought to abide by the conventions and to reach a mutually satisfactory arrangement within these traditional practices.

6. GOVERNMENT RESPONSE TO FOURTH REPORT

6.1 I have indicated how in disagreements with Select Committees, the Government has sought to act helpfully within the traditional conventions. It has not altered these conventions, nor does it seek to do so. Indeed, that section of its response to the Defence Select Committee's Fourth Report which deals with Select Committees and accountability is primarily a restatement of the conventions and the principles which lie behind them.

Despite this it has been suggested in Fleet Street over the past days that the Government is in some way breaking new ground and that it seeks to weaken the whole Select Committee system.

This is as damaging as it is untrue.

6.2 In particular, attention has been directed at the final sentence of paragraph 44. This says that the Government proposes to make it clear to civil servants giving evidence to Select Committees that they should not answer questions which are or appear to be directed to the conduct of themselves or of other named civil servants. It has been represented as a way of making any future Select Committee inquiry ineffective. It does not do, and is not intended to do, anything of the kind. Instead, the Government response to the Defence Select Committee seeks to restate the principles of accountability and to reinforce the conventions which support and give effect to these principles.

6.3 I should explain why I believe that this restatement of principles and the setting out of their consequences in our view is necessary. The work of departmental Select Committees is, as I mentioned earlier, of relatively recent origin. The Committees are bound to seek to develop their roles so as to fulfil their responsibilities as they see fit. Evenso, we judge that the signs in certain recent inquiries that Select Committees are looking to assign responsibility to individual named civil servants cut across the principle that it is Ministers who are answerable to this House. We have put down this marker because we believe that this degree of candour should exist between Select Committees and the Government.

6.4 There have been a number of factors which have led us to the view that Select Committees should not act as disciplinary tribunals. The first is the weakening of the overall ministerial accountability to which I have just referred.

6.5 There is also that fact that there is already a comprehensive and detailed disciplinary system for the Civil Service.

6.5 [The principles which govern the conduct of the Home Civil Service are the responsibility of the Prime Minister as Minister for the Civil Service. General procedures to be followed to ensure fairness and consistency of practice are agreed with the representatives of the staff. [The detailed disciplinary rules are set out in the Civil Service Pay and Conditions of Service Code. A copy is available in the Library of the House.

These procedures are designed to help ensure that the standards of conduct laid down for civil servants are properly observed by providing a fair method of dealing with alleged breaches.

The procedures take account of practices in the private sector insofar as they are in line with the Advisory Conciliation and Arbitration Service (ACAS) Code of Practice on Disciplinary and Related Procedures. They are reviewed from time to time to reflect changes, including those in employment protection law and practice. The most recent revision was earlier this year (26 February 1986).]]

I do not believe that Select Committees could properly be grafted on to this system.

6.6 And there is the view that, however carefully it is carried out, examination of conduct by Select Committees must necessarily contain an element of unfairness. The civil servants appearing before them are still subject to the instructions of Ministers in answering questions and are without the safeguards and rights attached to the disciplinary procedures themselves. Given these arguments, the Government's proposal in paragraph 44 of its response to the Defence Select Committee was designed to prevent Select Committees involving themselves in disciplinary matters.

6.7 Unfortunately, however, it has been represented as meaning that no official would in future answer questions about any course of action followed by himself or any of his colleagues. There is no question of this, as I believe hon Members will see when they reflect on the difference between "conduct" and "actions". Select Committees will continue to be able to direct their inquiries to establishing and commenting on what has happened and what has been done. If something has gone amiss, a Select Committee will be as free as ever to seek an account from the Minister concerned or from a senior official representing the Minister. As now, this can range over what has gone amiss, why it went amiss, and what has been done to correct and remedy what has gone amiss and to prevent a recurrence. In short, we do not seek to prevent Select Committees from pursuing their inquiries into the expenditure, administration and policies of departments.

7. HOW THIS WORKS IN PRACTICE

7.1 As far as departmental expenditure is concerned, of course, the Public Accounts Committee has the special function of examining the accounts showing the appropriation of the sums granted by Parliament. The Government is, fully aware of the unique position of, and the conventions surrounding the PAC. I can confirm that it is not at all the Government's intention to alter in any way the basis of the accountability of Accounting Officers to the PAC. It is of course also the case that although the Accounting Officer answers personally to the PAC for the aspects of his Department's activities which concern that Committee, he nevertheless himself remains ultimately responsible to his Minister in all things.

7.2 [[The Government recognised the PAC's position in its reply to the Seventh Report from the Treasury and Civil Service Committee earlier this year. This said:

"Any attempt to make civil servants directly accountable to Parliament, other than the strictly defined case of the Accounting Officer's responsibility, would be difficult to reconcile with Ministers' responsibility for their departments and civil servants' duty to their Ministers."]]

[FOR USE IF MR SHELDON HAS TAKEN PART IN THE DEBATE]

7.3 The House will have noted the authoritative contribution on this point from the Rt Hon Gentleman the Member for Ashton-under-Lyme.

EITHER: [I should be happy to discuss with him any serious difficulty for his Committee's work which he sees arising from the Government's response].

OR: [I am pleased that he is content with the Government's recognition of his Committee's unique role].

7.4 As far as the work of other Select Committees is concerned,

EITHER: [the House will have been interested to hear the contribution to today's debate from my Rt Hon Friend the Member for Worthing. I note the intention of the Treasury and Civil Service Committee]

OR: [the Treasury and Civil Service Committee may well wish to consider further the role of civil servants in relation to Select Committees. I hope that what I have said will be helpful to the Committee in their consideration. I can assure my Rt Hon Friend the Member for Worthing that the Government will seek to contribute constructively to their work, within the general principles set out in the Government's response and in what I have said this evening. I look forward to seeing the result of their inquiry.]

7.5 My Rt Hon Friend has another interest in this area as well, as Chairman of the Liaison Committee. This Committee will, of course, have a special role in looking at how in practice the work of Select Committees evolves in the context of the Government's response and the new guidelines for officials which will be drawn up. These will be intended to sustain, not undermine, existing practices. Evenso, I can assure the House that they will not be finally and formally issued until the Liaison Committee has had a chance to see them.

CONCLUSION

Finally, Mr Speaker, I would suggest to the House that the motion before us - that we adjourn - is particularly appropriate for

omit [this stage of] the discussion about Westlands. We have debated exhaustively the defence implications of the matter and have looked in detail at the decision-making connected with it. We have had the benefit of two Select Committee reports and the Government response to them in our consideration. I recognise that there is interest in the continuing evolution of the work of Select Committees, but that is a separate issue which is not for further discussion now, especially since we can expect a Report from the Treasury and Civil Service Committee. For the present, since the recent and apparent development of the Select Committee as disciplinary tribunal caused some anxiety the Government had a responsibility to make clear its position. This we have done and in such terms that the House is now entitled to move on. I urge my Hon Friends to support the motion.

CONFIDENTIAL



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

MO 26/16/1E

28th October 1986

Dear Nigel,

WESTLANDS DEBATE

/ I attach the current draft of Mr Younger's opening speech for the debate tomorrow.

Copies go to the Private Secretaries to the Lord Privy Seal and the Secretary of State for Trade and Industry, and to Trevor Woolley.

Yours sincerely,

John Howe

(J F HOWE)
Private Secretary

Nigel Wicks Esq
No 10 Downing Street

CONFIDENTIAL

SPEECH BY THE SECRETARY OF STATE FOR DEFENCE

WESTLAND DEBATE

THE TRIGGER FOR OUR DEBATE TODAY IS OF COURSE THE GOVERNMENT'S REPLY, PUBLISHED IN ONE COMMAND PAPER, TO THE THIRD AND FOURTH REPORTS FROM THE DEFENCE COMMITTEE.

I PROPOSE IN THESE OPENING REMARKS TO CONCENTRATE ON THE THIRD REPORT AND THAT PART OF THE GOVERNMENT'S REPLY WHICH DEALT WITH THE MATTERS DISCUSSED IN THE THIRD REPORT.

THE THIRD REPORT TAKES AS ITS SUBJECT A MATTER WITH WHICH WE SHOULD ALL BE DEEPLY CONCERNED: THE DEFENCE IMPLICATIONS OF THE FUTURE OF WESTLAND.

THE HOUSE IS INDEBTED TO THE COMMITTEE FOR A CLEAR AND COGENT EXPOSITION OF THE DEFENCE ISSUES, BASED ON WIDE AND DEEP RESEARCH.

AS CMND 9916 MAKES CLEAR, THE GOVERNMENT AGREE WITH MUCH OF THE COMMITTEE'S ANALYSIS.

INEVITABLY THERE ARE POINTS ON WHICH WE CANNOT GO THE WHOLE WAY WITH THE COMMITTEE, BUT THIS DOES NOT PREVENT US FROM RECOGNISING THE REPORT AS A MAJOR CONTRIBUTION TO THINKING ON THE SUBJECT, AND ONE WHICH IS PROVING VALUABLE IN HELPING US TO FORM OUR OWN VIEWS.

THE COMMITTEE RIGHTLY POINT OUT THAT THE HELICOPTER HAS AN ESTABLISHED PLACE IN BOTH MARITIME AND LAND/AIR WARFARE, AND THAT ITS EXISTING RANGE OF CAPABILITIES IS GRADUALLY BEING EXTENDED.

BOTH THE EXISTING ROLES AND THEIR EXTENSION WERE VIVIDLY DEMONSTRATED DURING THE FALKLANDS CONFLICT AND ITS AFTERMATH, WHEN HELICOPTERS WERE NOT ONLY EMPLOYED FOR ANTI-SUBMARINE WARFARE, AMPHIBIOUS ASSAULT, RECONNAISSANCE AND SURVEILLANCE, RAPID MOVEMENT OF TROOPS ABOUT THE BATTLEFIELD, RE-SUPPLY AND EVACUATION OF CASUALTIES, BUT ALSO ADAPTED AT SHORT NOTICE TO REMEDY OUR LACK OF AIRBORNE EARLY WARNING.

AT THE SAME TIME THE HELICOPTER HAS ITS VULNERABILITIES - TO AIR DEFENCE SYSTEMS, DIRECT FIRE, ATTACK BY OTHER HELICOPTERS AND SO FORTH.

AS THE COMMITTEE HAVE OBSERVED, THE HELICOPTER IS NOT YET ABLE TO REPLACE AN ENTIRE CAPABILITY IN THE LAND/AIR BATTLE.

FOR EXAMPLE, ATTACK HELICOPTERS MUST COMPLEMENT GROUND-BASED LONG RANGE DIRECT FIRE WEAPONS RATHER THAN REPLACING THEM.

THE PROBLEM FOR DEFENCE PLANNERS, AND FOR MINISTERS, IS THEREFORE TO DEFINE THEIR PLACE WITHIN A PROGRAMME OF BALANCED CAPABILITIES, AND ALSO, EQUALLY IMPORTANT, WITHIN THE CONSTRAINTS OF AVAILABILITY OF FUNDS.

AGAINST THIS BACKGROUND, I BELIEVE THE COMMITTEE'S COMMENT THAT QUANTITY HAS BEEN SACRIFICED FOR QUALITY IS A LITTLE SEVERE.

IN ROUND TERMS SOME 850 HELICOPTERS ARE HELD BY THE THREE SERVICES TODAY, A COMPARATIVELY SMALL REDUCTION FROM THE CORRESPONDING TOTAL OF 940 IN THE MID-70S. ALLOWING FOR THE FACT THAT SUCCESSIVE GENERATIONS OF EQUIPMENT ALMOST INVARIABLY COST MORE IN REAL TERMS, WHILE AT THE SAME TIME GIVING GREATER CAPABILITY, I BELIEVE WE CAN CLAIM TO HAVE GIVEN THE HELICOPTER A GOOD PRIORITY IN THE DEFENCE PROGRAMME.

FURTHERMORE, IMPROVED TYPES OF HELICOPTER FEATURE PROMINENTLY IN OUR FUTURE PROGRAMME.

THE NEW ANTI-SUBMARINE HELICOPTER, THE ANGLO/ITALIAN EH101, IS A HIGH PRIORITY PROJECT TO WHICH WE ARE FIRMLY COMMITTED.

ITS HIGHER PAYLOAD WILL ENABLE IT TO OPERATE EFFECTIVELY AT THE VERY LONG RANGES NECESSARY TO DEAL WITH HOSTILE SUBMARINES EQUIPPED WITH STAND-OFF WEAPONS AND SOPHISTICATED DEFENCES. IT WILL THUS EXPLOIT TO THE FULL THE IMPROVED SENSORS AND WEAPONS THAT WILL BE IN SERVICE IN THE NEXT DECADE, AND THEREBY ENHANCE THE PROTECTION GIVEN TO ALLIED SHIPPING.

WESTLAND AND THEIR PARTNERS AGUSTA PLAN TO DEVELOP THREE VERSIONS OF THE HELICOPTER - NAVAL, PASSENGER AND UTILITY - SO AS TO ENABLE THE DEVELOPMENT COSTS TO BE SPREAD OVER LARGER SALES, THEREBY INCREASING VALUE FOR MONEY.

OUR SECOND REQUIREMENT IS FOR A NEW LIGHT ATTACK HELICOPTER IN THE ANTI-TANK ROLE TO REPLACE LYNX FITTED WITH TOW.

ENTRY INTO SERVICE IS PLANNED FOR THE LATE 1990S AND THE PROGRAMME IS THUS AT A SOMEWHAT EARLIER STAGE THAN EH101.

NEVERTHELESS GOOD PROGRESS IS BEING MADE.

TOGETHER WITH OUR PARTNERS ITALY, THE NETHERLANDS AND SPAIN, WE HAVE RECENTLY SIGNED TWO MEMORANDA OF UNDERSTANDING: ONE LAYING DOWN THE FRAMEWORK FOR COLLABORATION ON THE AGUSTA A129 LIGHT ATTACK HELICOPTER, AND THE OTHER COVERING A JOINT FEASIBILITY AND COST DEFINITION STUDY, WHICH IS EXPECTED TO START SHORTLY AND TAKE TWO YEARS TO COMPLETE.

I HOPE AND EXPECT THAT THIS PROJECT TOO WILL COME TO FRUITION IN DUE COURSE.

THE MOST DIFFICULT ISSUE FACING MY DEPARTMENT CONCERNS SUPPORT HELICOPTERS.

THE RAF OPERATES THE WESSEX AND THE PUMA IN THIS ROLE, AS WELL AS THE CHINOOK.

WITHIN THE NEXT 10 YEARS BOTH WESSEX AND PUMA WILL BE APPROACHING THE END OF THEIR COST-EFFECTIVE LIVES AS THEY BECOME PROGRESSIVELY MORE EXPENSIVE TO OPERATE.

THERE IS NO ABSOLUTE CUT-OFF DATE - GIVEN THE NECESSARY OVERHAUL AND UPDATING MOST HELICOPTERS CAN BE KEPT GOING FOR A LONG TIME - AND THE TIMING OF ANY SUCCESSOR SYSTEM IS THEREFORE, TO SOME EXTENT, A MATTER OF DISCRETION.

THERE IS ALSO A MAJOR PRIOR QUESTION; WHAT RANGE OF TASKS DO WE WANT TO USE SUPPORT HELICOPTERS FOR.

ONLY WHEN WE HAVE ANSWERED THIS CAN WE GO ON TO DECIDE WHAT KINDS OF HELICOPTERS WE NEED AND HOW MANY OF THEM.

THE COMMITTEE HAVE COMMENTED THAT THE DELAY IN FORMULATING THE SUPPORT REQUIREMENT HAS EXACERBATED THE PROBLEMS FACED BY WESTLAND AS THE ONLY BRITISH HELICOPTER MANUFACTURER.

I AM AWARE THAT THERE HAS BEEN SOME CRITICISM OF OUR DECISION EARLY LAST YEAR TO LEAVE DECISIONS ON AIR STAFF TARGET 404 IN ABEYANCE, AND I WOULD LIKE TO PUT THIS MATTER INTO PERSPECTIVE. A STAFF TARGET IS NO MORE THAN A BROAD STATEMENT OF THE FUNCTIONS AND DESIRED PERFORMANCE OF A NEW PIECE OF EQUIPMENT, MADE BEFORE THE FEASIBILITY OR METHOD OF MEETING SUCH A NEED HAVE BEEN ASSESSED.

IT IS IN NO SENSE A FULLY DEFINED REQUIREMENT.

THIS PARTICULAR STAFF TARGET DATES BACK TO 1978.

IT CAME INTO PARTICULAR PROMINENCE IN 1980 WHEN MY DEPARTMENT, VERY SENSIBLY, CONSIDERED WHETHER A COMMON HELICOPTER COULD BE FOUND TO CARRY OUT BOTH THE ANTI-SUBMARINE AND THE SUPPORT TASKS.

THE CONCLUSION THEN WAS THAT THIS WAS UNDESIRABLE, AND EH101 WENT AHEAD AS A SEPARATE PROGRAMME.

MEANWHILE IT REMAINED FULLY OPEN TO THE MINISTRY OF DEFENCE TO RE-ASSESS THE MILITARY REQUIREMENT IF NEW EVIDENCE CAME ALONG TO WARRANT IT.

THIS IS PRECISELY WHAT HAPPENED.

THE EXPERIENCE OF EXERCISE LIONHEART IN THE AUTUMN OF 1984, AND THE NEW THINKING IT STIMULATED ABOUT THE ARMY'S HELICOPTER NEEDS, ARE WELL DESCRIBED IN THE COMMITTEE'S REPORT.

IT WAS THEREFORE NECESSARY FOR THE DEFENCE STAFF TO GO BACK TO THE DRAWING BOARD AND TO UNDERTAKE A FUNDAMENTAL STUDY TO REVIEW THE MILITARY REQUIREMENT FOR SUPPORT HELICOPTERS.

THIS STUDY IS LOOKING A LONG WAY AHEAD, IN FACT TO THE YEAR 2010.

IT IS CONSIDERING WHAT CHANGES IN SUPPORT HELICOPTER ROLES AND CAPABILITIES CAN BE EXPECTED UP TO THAT DATE, HOW SUPPORT HELICOPTER ASSETS CAN BE USED MOST EFFECTIVELY TO FULFIL THESE ROLES AND, IN THE LIGHT OF THIS, WHAT THE BEST FORCE MIX WOULD BE.

ON THE BASIS OF THIS A FORCE MIX IS TO BE RECOMMENDED.

AS THE COMMITTEE HAVE RECOGNISED, THESE ISSUES ARE BOUND UP WITH THE QUESTION OF THE ARMY'S AIR MOBILITY NEEDS.

WE HAVE NOTED CAREFULLY THE COMMITTEE'S PRELIMINARY VIEW THAT THERE IS A VERY GOOD CASE FOR FULFILLING A FULLY AIR MOBILE BRIGADE, AND THIS IS BEING BORNE IN MIND IN OUR STUDIES.

THE COMMITTEE HAVE STRESSED THE IMPORTANCE OF RESOLVING THESE MATTERS QUICKLY.

I ACCEPT THIS.

WE SHALL CONTINUE TO WORK AS RAPIDLY AS POSSIBLE ON THE MILITARY ISSUES AND ON THEIR CONSEQUENCES FOR PROCUREMENT AND FOR THE DEFENCE PROGRAMME.

A KEY ASPECT OF THIS IS AFFORDABILITY.

WE CANNOT STATE MILITARY REQUIREMENTS IN A FINANCIAL VACUUM, AND RESOURCES ARE TIGHT.

I CANNOT AT THIS STAGE FORECAST WHAT OUR DECISIONS WILL BE OR WHAT THEIR CONSEQUENCES MAY BE FOR WESTLAND.

BUT I RECOGNISE THE NEED TO RESOLVE THIS AS QUICKLY AS POSSIBLE, AND I CAN TELL THE HOUSE THAT THE DECISION ON THE FUTURE NEEDS OF THE SERVICES IN THIS AREA WILL BE TAKEN IN THE NEW YEAR.

MEANWHILE, I VERY MUCH WELCOME THE COMMITTEE'S COMMENDATION OF OUR DECISION TO CARRY OUT A FUNDAMENTAL REAPPRAISAL OF OUR REQUIREMENTS BEFORE COMMITTING OURSELVES TO PROCUREMENT.

I THINK THE HOUSE WILL RECOGNISE THAT WE WOULD HAVE BEEN FAILING IN OUR DUTY IF WE HAD FUDGED THE DIFFICULT AND COMPLEX JUDGEMENTS ABOUT MILITARY NEEDS IN ORDER TO RUSH TO PROCUREMENT OF HARDWARE.

THIS WOULD HAVE BEEN FAIR NEITHER TO THE SERVICES NOR TO THE TAXPAYER.

THE COMMITTEE HAVE ALSO RAISED THE QUESTION OF SERVICE RESPONSIBILITIES FOR HELICOPTERS, AND HAVE SAID THAT THEY BELIEVE THERE IS A STRONG CASE FOR GIVING THE ARMY, AS USER OF SUPPORT HELICOPTERS, FULL RESPONSIBILITY FOR THEM.

I THINK THEY HAVE RAISED AN INTERESTING QUESTION.

MOST NATO NATIONS ASSIGN RESPONSIBILITY FOR OPERATING ALL BATTLEFIELD HELICOPTERS TO THEIR ARMY.

CANADA AND NORWAY HOWEVER DO SO TO THEIR AIR FORCE.

WE HAVE A SPLIT SYSTEM, WITH THE ARMY OPERATING SMALLER AND LIGHTER HELICOPTERS AND THE RAF THE BIGGER AND HEAVIER ONES.

IT WOULD BE WRONG TO UNDER-ESTIMATE THE UPHEAVAL THAT WOULD BE CAUSED BY GOING DOWN THE ROAD THE COMMITTEE HAVE SUGGESTED. MAJOR CHANGES WOULD BE NECESSARY IN THE TRAINING, MANNING AND SUPPORT ORGANISATIONS AND PLANS OF THE TWO SERVICES CONCERNED, AND IT REMAINS TO BE SEEN WHETHER THE DEMANDS OF THE MODERN AND MORE MOBILE BATTLEFIELD REQUIRE A FUNDAMENTAL CHANGE IN EXISTING ARRANGEMENTS.

MOREOVER, WHILE IT WOULD BE WRONG TO BECOME COMPLACENT, I SHOULD POINT OUT THAT THE FALKLANDS CAMPAIGN DEMONSTRATED THE ABILITY OF ALL THREE SERVICES TO WORK EFFECTIVELY IN INTEGRATED OPERATIONS.

AND UNDER THE REVISED ORGANISATION OF THE MINISTRY OF DEFENCE - ESTABLISHED BY MY RT HON FRIEND, THE PREVIOUS SECRETARY OF STATE - ALL OPERATIONAL REQUIREMENTS ARE CONSIDERED CENTRALLY, WHICH HAS REMOVED THE RISK OF CAPABILITIES WHICH CROSS SERVICE BOUNDARIES NOT BEING GIVEN THEIR RIGHTFUL PRIORITY.

BEFORE EMBARKING ON ANY CHANGE IN OWNERSHIP OF HELICOPTERS, THEREFORE, I WOULD NEED TO BE FULLY SATISFIED THAT ANY BENEFITS WOULD JUSTIFY THE CONSIDERABLE UPHEAVAL AND COULD NOT BE SECURED BY SIMPLER MEANS - FOR EXAMPLE BY SOME CHANGE IN COMMAND AND CONTROL ARRANGEMENTS. NEVERTHELESS THE GOVERNMENT IS CONSIDERING THE MATTER AND IS BEARING THE COMMITTEE'S VIEWS VERY MUCH IN MIND

NATURALLY, MUCH OF THE DEFENCE COMMITTEE'S 3RD REPORT IS CONCERNED WITH CURRENT HELICOPTER PROJECTS AND FUTURE HELICOPTER REQUIREMENTS.

BUT THE COMMITTEE ALSO ADDRESSED THE DEFENCE INDUSTRIAL BASE AND WESTLAND'S PLACE IN IT.

THE MINISTRY OF DEFENCE IS THE LARGEST SINGLE CUSTOMER OF BRITISH INDUSTRY.

DEFENCE PROCUREMENT ACCOUNTS FOR ABOUT HALF THE OUTPUT OF THE AEROSPACE INDUSTRY.

IN THIS AND OTHER SECTORS THE MINISTRY SUSTAINS THROUGH THE WORK OF THE R&D ESTABLISHMENTS AND EXTRA MURAL R&D CONTRACTS MUCH OF THE INDUSTRY'S R&D BASE.

IN TERMS OF EMPLOYEES, WESTLAND IS A RELATIVELY SMALL COMPANY COMPARED WITH THE GIANTS OF THE DEFENCE INDUSTRY SUCH AS GEC AND BAe.

BUT IT IS THE ONLY DOMESTIC SOURCE OF HELICOPTERS AND AS A RESULT IT IS ONE OF THE RELATIVELY FEW COMPANIES TO WHICH THE MOD PAYS MORE THAN £100M PER ANNUM.

INDEED MOD PAYMENTS CURRENTLY RUN AT BETWEEN £150 AND £200M PER ANNUM THUS, THERE ALWAYS HAS BEEN AND CONTINUES TO BE A CLOSE RELATIONSHIP BETWEEN THE MOD AND WESTLAND.

BUT WESTLAND IS MORE THAN A HELICOPTER COMPANY.

UPWARDS OF 40% OF ITS TURNOVER ARISES FROM THE AEROSPACE AND TECHNOLOGIES DIVISIONS WHICH ARE SUCCESSFUL AND COMPETITIVE.

THE SMALLER OF THE TWO, THE AEROSPACE DIVISION, IS NOW THE LARGEST EMPLOYER IN COWES ON THE ISLE OF WIGHT, AND ITS AEROSTRUCTURES AND HOVERCRAFT BUSINESS IS EXPANDING.

THE TECHNOLOGIES DIVISION IS RATHER LARGER AND COMPARABLE IN TURNOVER TO EACH OF THE TWO HELICOPTER DIVISIONS; AND IT IS VERY SUCCESSFUL IN SUCH AREAS AS ENVIRONMENTAL CONTROL AND LIFE SUPPORT SYSTEMS, FILTRATION AND HEAT TRANSFER.

IT IS A SIGNIFICANT SUB-CONTRACTOR TO THE TORNADO PROGRAMME PROVIDING VALVES, TANKS, AND UNDERCARRIAGE COMPONENTS PLUS MANY OTHER ITEMS.

IT IS VERY SUCCESSFUL TOO IN THE CIVIL AND EXPORT FIELD AND IT IS A SUPPLIER TO AIRBUS AND THE US B1 BOMBER AND F18 FIGHTER. THE TECHNOLOGIES DIVISION REPRESENTS THE IDEAL DEFENCE SUPPLIER: SUCCESSFUL, INNOVATIVE AND PROFITABLE BUT NOT WHOLLY DEPENDENT ON THE MOD FOR ORDERS HAVING ACHIEVED WIDE CIVIL AND FOREIGN MILITARY SALES.

THESE TWO DIVISIONS AND THE HELICOPTER CUSTOMER SUPPORT DIVISION HELP TO MAKE WESTLAND WHAT IT IS NOW, A SOUND COMPANY, AND I KNOW THAT THE MANAGEMENT ARE OPTIMISTIC THAT IT IS BETTER PLACED THAN IT HAS BEEN FOR SOMETIME.

BUT IT IS, OF COURSE, THE HELICOPTER DIVISION AT YEOVIL FOR WHICH IT IS BETTER KNOWN.

THIS DIVISION TOO HAS BEEN SUCCESSFUL IN SUPPLYING THE MOD FOR MANY YEARS WITH MOST OF ITS HELICOPTER REQUIREMENTS AND, SUPPORTING THE MOD HELICOPTER FLEET.

THE CORE OF WESTLAND'S FUTURE HELICOPTER BUSINESS RESTS ON THE ANGLO-ITALIAN EH101 HELICOPTER WHICH WILL BE WIDELY DEPLOYED IN THE ROYAL NAVY IN THE 1990S.

WESTLAND ARE ALSO AS I HAVE SAID INVOLVED IN PRELIMINARY WORK ON THE 4 NATION LIGHT ATTACK HELICOPTER FOR THE LATE 1990S BASED UPON THE DEVELOPMENT OF THE ITALIAN A129 HELICOPTER.

I AM GLAD TO SAY THAT WESTLAND'S COLLABORATION WITH ITS EUROPEAN PARTNERS HAS NOT BEEN AFFECTED BY THE INVOLVEMENT WITH SIKORSKY AND FIAT.

IN ADDITION THE COMPANY IS TAKING PART IN SOME MAJOR TECHNOLOGICAL DEVELOPMENTS.

HERE IT HAS A WORLD LEAD AS SHOWN BY ITS RECENT SUCCESS IN RECOVERING FROM THE SOVIET UNION THE WORLD HELICOPTER SPEED RECORD AND BREAKING THE 200 KNOT BARRIER.

IT HAS ALSO SOLD IN THE CIVIL MARKET AND HAD EXPORT SUCCESSES. WE WISH WESTLAND WELL IN ITS CLOSER ASSOCIATION WITH SIKORSKY AND FIAT AND HOPE IT ACHIEVES EARLY EXPORT ORDERS FOR ITS FULL PRODUCT RANGE OF SEA KING, LYNX, BLACKHAWK AND EH101.

THE GOVERNMENT WILL, OF COURSE, GIVE THE COMPANY EVERY ASSISTANCE FOR ITS EXPORTS JUST AS IT DOES FOR OTHER AEROSPACE MANUFACTURERS.

THE COMMITTEE DREW ATTENTION TO THE NATIONAL SECURITY ISSUES THAT CAN ARISE THROUGH FOREIGN INVOLVEMENT IN UK DEFENCE SUPPLIERS.

THIS IS NOT A NEW ISSUE; WE WELCOME FOREIGN INVESTMENT IN THIS COUNTRY'S INDUSTRIES; WHETHER THEY BE DEFENCE OR CIVIL SUPPLIERS AND THIS HAS BEEN THE CASE FOR MANY YEARS.

WHERE NATIONAL INTERESTS ARE AT STAKE AND THERE IS THE POSSIBILITY OF CONTROLLING INTERESTS ARISING, THEN THERE ARE POWERS AVAILABLE UNDER EXISTING LEGISLATION.

OF MORE IMMEDIATE CONCERN HOWEVER, IS THE PROTECTION OF CLASSIFIED INFORMATION AND TECHNOLOGY.

I CAN ASSURE THE HOUSE THAT THERE ARE WELL ESTABLISHED PROCEDURES AND PRACTICES TO PROTECT SUCH INFORMATION AND TECHNOLOGY IN OUR DEFENCE INDUSTRIES JUST AS THERE ARE IN DEFENCE ESTABLISHMENTS.

I CANNOT, OF COURSE, GO INTO DETAIL, BUT WE TAKE MANY FACTORS INTO ACCOUNT.

IN THE CASE OF WESTLAND, AS WE WOULD WITH ANY OTHER FIRM WHERE THERE HAS BEEN A SIGNIFICANT CHANGE IN FOREIGN INVOLVEMENT, THE PROTECTION OF CLASSIFIED MATTERS HAS BEEN POSITIVELY CONFIRMED.

THE DEFENCE COMMITTEE RIGHTLY DREW ATTENTION TO THE DEFENCE INDUSTRIAL BASE AND WESTLAND'S POSITION IN IT.

THE GOVERNMENT'S POSITION WAS WELL EXPRESSED BY MY RT HON FRIEND THE PRIME MINISTER ON 15 JANUARY WHEN SHE SAID THAT THE GOVERNMENT'S CONCERN WAS TO SEE A FINANCIAL RECONSTRUCTION OF WESTLAND AS SOON AS POSSIBLE WHICH MAINTAINED A BRITISH HELICOPTER, DESIGN, DEVELOPMENT AND MANUFACTURING CAPABILITY, SUPPORTED UK PARTICIPATION IN COLLABORATION WITH NATO ALLIES AND SAFEGUARDED THE INTERESTS OF THE COMPANY, ITS EMPLOYEES AND SHAREHOLDERS.

WE ARE PLEASED THAT A FINANCIAL RECONSTRUCTION CAME ABOUT WHICH HAS PUT THE COMPANY ON A SOUNDER FINANCIAL FOOTING AND THAT A BRITISH HELICOPTER CAPABILITY HAS BEEN MAINTAINED WHICH CAN SUPPORT THE MOD FLEET, MEET CURRENT ORDERS FOR LYNX AND SEA KING HELICOPTERS AND PARTICIPATE IN THE COLLABORATIVE PROJECTS I HAVE MENTIONED.

THE GOVERNMENT AND WESTLAND HAVE A LONG AND SUCCESSFUL HISTORY OF WORKING TOGETHER.

I KNOW AND ACCEPT THAT WESTLAND NEED A CLEARER INDICATION OF THE GOVERNMENT'S INTENTIONS AGAINST WHICH THE COMPANY CAN PLAN ITS FUTURE, AND AS I HAVE SAID DECISIONS ON THE FUTURE NEEDS OF THE SERVICES IN THE AREA OF SUPPORT HELICOPTERS WILL BE TAKEN IN THE NEW YEAR.

THE 3RD REPORT FROM THE DEFENCE COMMITTEE HAS PROVED VALUABLE IN TAKING FORWARD OUR VIEWS ON THESE AND OTHER MATTERS, AND WE ARE GRATEFUL TO THE COMMITTEE FOR THE WORK THEY HAVE DONE.

I NOW TURN TO THE FOURTH REPORT.

THE SUBJECT MATTER OF THE FOURTH REPORT - THE GOVERNMENT'S DECISION-MAKING -RELATES TO EVENTS, SOME OF WHICH ARE NOW OVER A YEAR OLD.

MANY OF THESE EVENTS ARE, IT MUST BE HOPED, UNIQUE AND NOT LIKELY TO BE REPEATED.]! out

IN ADDITION, I HAVE TO POINT OUT THAT THERE IS LITTLE MORE THAT CAN BE SAID ON THIS, BY ME OR ANYONE ELSE.

MY RT HON FRIEND THE LEADER OF THE HOUSE WILL OF COURSE ADDRESS HIMSELF TO THE QUESTIONS OF SELECT COMMITTEES AND MINISTERIAL ACCOUNTABILITY, WHICH FORM PART OF THE GOVERNMENT'S REPLY. BUT AS TO THE BULK OF THE FOURTH REPORT, AS THE GOVERNMENT REPLY ITSELF NOTES IN PARAGRAPH 28:

"FULL ACCOUNTS OF THE MATTERS WITH WHICH THE FOURTH REPORT IS CONCERNED HAVE ALREADY BEEN GIVEN BY MINISTERS IN STATEMENTS IN PARLIAMENT, SPEECHES IN DEBATES AND ANSWERS TO PARLIAMENTARY QUESTIONS, AND BY THE HEAD OF THE HOME CIVIL SERVICE IN HIS EVIDENCE TO THE COMMITTEE. THE GOVERNMENT STANDS BY THOSE ACCOUNTS, SEES NO REASON TO QUALIFY OR ADD TO THEM, AND NO POINT IN REPEATING YET AGAIN THE SEQUENCE OF EVENTS AND DECISIONS COVERED BY THE REPORT".

I HAVE NO WISH OR INTENTION MYSELF TO ADD TO THE ACCOUNTS THAT HAVE ALREADY BEEN GIVEN.

I WOULD VENTURE TO SUGGEST THAT HON. MEMBERS FOLLOW MY LEAD AND THAT OUR DEBATE TODAY CONCENTRATE ON THE DEFENCE IMPLICATIONS OF THE FUTURE OF WESTLAND.

DRAFT OUTLINE OF A SPEECH

During the last year this House has discussed matters concerning the Westland Company on [give dates] [] occasions; Ministers including myself, have answered many Parliamentary Questions; the Select Committee on Defence has conducted extensive examination, during which it met the former Secretaries of State for Defence and Trade and Industry and took evidence from the Head of the

Civil Service for ? hours; the House has before it the Select Committee's two reports to which the Government has given a full reply in Cmnd 9916; and the Select Committee on Trade and Industry are still engaged in their own examination of certain aspects of the matter, and the Government will of course reply to their report in the normal way. So Mr Speaker this House had had opportunity for the fullest discussion and debate of all matters concerning the affairs of this helicopter company.

Mr Speaker during all this Parliamentary activity,
the Westland plc, its board, management, employees,
have had the difficult task of winning orders,
building a good product, reconstructing their
business and finances in a harshly competitive
world. I rather doubt whether they have welcomed
the spotlight of publicity focussed upon them while
they are engaged in the difficult task of
safeguarding their own livelihoods and their

company's future. It is a tribute to the company and its workforce that they have come through these difficult times, despite the pressures put upon them, and that they are now seeking to build a more prosperous future for themselves.

This debate will, I believe, focus on three matters.

It will be about policies for the manufacture and procurement of helicopters, about international collaboration with Europe and with the United

States. Above all, it should be about how we can provide our armed forces with the best possible equipment which they need for the task of defending this country and our liberty.

The debate will no doubt focus too on the constitutional issues concerning the role of Select Committees of this House and their relations with civil servants and Ministers. These matters have been debated constantly. It will no doubt too be

concerned with the circumstances of the disclosure of parts of the Solicitor General's letter.

I shall deal with these three things in turn.

First, helicopters. The central issue of helicopter manufacture and procurement, central because of its importance for the defence of our country.

Finally I turn to the matters referred to in the Fourth Report of the Defence Committee. This House debated the matters discussed in the Defence Committee's Report on [say when]. I gave the most detailed account to the House of the events that occurred. Strenuous efforts were made to check all the answers and facts given with officials concerned and with the Departments concerned. The Head of the Civil Service gave his evidence to the Select Committee. As we said in Cmnd 9916 the Government

stands by these accounts and we see no reason to qualify or add to them. There is just no point in repeating yet again the sequence of events and decisions covered by the Committee's Report. The plain fact is that the Members of the Opposition were determined to exploit the difficulties of the company for nothing more than their own narrow political advantage. The rt hon Gentleman has been given the facts and he does not like them. But that is the rt hon Gentleman's way.



10 DOWNING STREET

Mr. Wicks.

It could make more

of two basic points:

① Thanks in good part to
the Government's decisions i.e.
writing off loan aid, and
leaving it to the Company's
Board and shareholders to
decide the Group's future,
worked in a stronger
company with better prospects
now than it was a year
ago.

② despite the gloomy
prognostications, was a single

one of Westland's
collaborative ventures in
Europe has been
adversely affected by
the partnership with
Sikorsky / Fiat.

CDP

There is credit
to be claimed
politically on the
defense aspects & we
should ~~secure~~ ^{secure} it

MR WICKS



70 WHITEHALL, LONDON SW1A 2AS

01-233 8319

From the Secretary of the Cabinet and Head of the Home Civil Service

Sir Robert Armstrong GCB CVO

Ref. A086/3037

MISS ALISON SMITH

Thank you for sending me a copy of your minute of 24 October to the Lord Privy Seal, and of the first draft of his wind-up speech for 29 October.

2. I have some drafting suggestions on the material, which I attach in the form of a revised version of paragraph 5.4 and of the section from paragraph 6.4 to the end of the draft. I have added a paragraph dealing with what Mr Terence Higgins is expected to say.

3. Please let me know if I can be of any help in further drafting.

4. I am sending copies of this minute and attachment to Mr Wicks at 10 Downing Street and to Mrs Lynda Brown (Cabinet Office, MPO).

Travis Walling

(Private Secretary)

*approved by Sir Robert Armstrong
and signed in his absence.*

5.4 An area of greater difficulty has been the provision of oral evidence from certain named officials: three from the Department of Trade and Industry, and two from the Prime Minister's Office. The convention in this area is, as I suggested earlier, that it is for Ministers to determine who should represent them in giving evidence to a Select Committee. In this instance, the officials concerned had already been questioned by the Head of the Home Civil Service in the course of his inquiry, and had given him full accounts of their parts in the matter. The Government took the view that it would have been not only contrary to the established conventions but also unfair and unreasonable that they should be subjected to a further round of detailed questioning by the Defence Committee. But the Government was anxious to be as helpful as possible, and the Head of the Home Civil Service therefore expressed his own willingness to give evidence to the Committee on the basis of the information which he had obtained in the course of his inquiry.

6.4 In particular attention has been directed at the final sentence of paragraph 44 of the Government's response. This says that the Government proposes to make it clear to civil servants giving evidence to Select Committees that they should not answer questions which are or appear to be directed to the conduct of themselves or other named individual civil servants. This has been represented as a way of making any further Select Committee inquiry ineffective. It does not do, and is not intended to do, anything of the kind. What we have sought to do in the concluding paragraphs of the response is to restate the principles of accountability which are, I believe, generally accepted, and reinforce the conventions which support and give effect to these principles. More particularly we have made quite clear our views of the danger and inappropriateness of Select Committees becoming disciplinary tribunals and judging the conduct of individual named civil servants. Indeed, I do not believe that it was ever intended that Select Committees should usurp this role. We therefore decided that we must make these views clear to witnesses appearing before Select Committees on behalf of Ministers. But that is in no way intended to prevent civil servants, on behalf of their Ministers, being as helpful as their responsibilities to Ministers and their duties of confidentiality allow to Select Committees inquiring into the expenditure, administration and policies of departments.

6.5 In more than one investigation recently there have been signs that Select Committees have been keen to investigate the conduct of, and assign blame to, named individual civil servants. I judge, and I think that the House as a whole would judge, that this is not an appropriate function for them. We shall of course apply the general instructions reasonably and sensitively, so as not to prevent Select Committees from pursuing their inquiries into the expenditure, administration and policies of departments; and I envisage that there may be occasions when a Minister may wish himself to give evidence, relating to matters where the actions of individual civil servants are in question. But there seem to me to be valid and significant reasons why Select Committees should not take upon themselves the task of inquiring into matters of conduct.

First, there is a comprehensive and detailed disciplinary system for the Civil Service. The principles which govern the conduct of the Home Civil Service are the responsibility of the Prime Minister as Minister for the Civil Service. General procedures are laid down so as to ensure fairness and consistency of practice. These procedures are agreed with the representatives of the staff. The detailed disciplinary rules are set out in the Civil Service Pay and Conditions of Service Code. A copy is available in the Library of the House.

These procedures are designed to help ensure that the standards of conduct laid down for civil servants are properly observed by providing a fair method of dealing with alleged breaches. The procedures take account of practices in the private sector in so far as they are in line with the Advisory Conciliation and Arbitration Service (ACAS) Code of Practice on Disciplinary and Related Procedures. They are reviewed from time to time to reflect changes, including those in employment protection law and practice. The most recent revision was earlier this year (26 February 1986).

It will be clear from this that a comprehensive system already exists. I do not believe that Select Committees could properly be grafted on to this.

In addition, there is a risk that the process of questioning in a Select Committee may be affected by political considerations. The risk is inevitably greatest where politically controversial matters are involved. Any questions by a Select Committee into the conduct of an individual civil servant would be both public and privileged, while the civil servant himself would be without the safeguards and rights attached to the proper disciplinary procedures. This cannot be fair.

I believe, therefore, that there are strong arguments which militate against Select Committees involving themselves in inquiring into the conduct of named individual civil servants. The Government's proposal does not, as some have suggested, preclude officials from answering on behalf of their Minister about any course of action followed by the department. There is no question of this, as I believe Members will see when they reflect on the difference between "conduct" and "actions". Select Committees will continue to be able to direct their inquiries to establishing and commenting on what has happened and what has been done. If something has gone amiss, a Select Committee will be as free as ever to seek an account from the Minister concerned or from a senior official representing the Minister of what has gone amiss, why it went amiss, and what has been done to correct and remedy what has gone amiss and to prevent a recurrence.

In all this the accountability of Ministers to Parliament will be preserved. Direct accountability of civil servants to Parliament would weaken the direct accountability of Ministers to this House, and would undermine the relationship of confidence between Ministers and civil servants on which the effective discharge of departmental business depends. I cannot believe that the House would wish to see this accountability weakened in any way.

6.9 I note from my Rt Hon Friend, the Member for Worthing that the Treasury and Civil Service Committee intend to consider these matters further, and report to the House. I hope that what I have said will be helpful to the Committee in their consideration, and I can assure him that the Government will seek to contribute constructively to their work, within the general principles set out in the Government's response and in what I have said this evening.



MINISTRY OF DEFENCE

MAIN BUILDING WHITEHALL LONDON SW1A 2HB

Telephone 01-218 2839..... (Direct Dialling)

01-218 9000 (Switchboard)

PERMANENT UNDER-SECRETARY OF STATE

24th October, 1986.

JSPB/V86/839

*CP, file correct off
heads off line.
Any comments?
N. L. W.
27-10*

Dear Mr Wicks

.... As we agreed, I attach the material which has been prepared here for use by the Defence Secretary and the Lord Privy Seal next Wednesday. You will see that it is still very much in draft form.

*Yours sincerely
J.S. Pitt-Brooke*

J.S. PITT-BROOKE
Private Secretary

N. L. Wicks, Esq, CBE,
PPS/Prime Minister,
10 Downing Street,
SW1.

1. I wish to deal with the Defence Committee's Third Report, which is concerned with the defence implications of the future of Westland plc. The House is indebted to the Committee for a clear and cogent exposition of the defence issues, based on wide and deep research. As Cmnd 9916 makes clear, the Government agree with much of the Committee's analysis. Inevitably there are points on which we cannot go the whole way with the Committee, but this does not prevent us from recognising the Report as a major contribution to thinking on the subject, and one which is proving valuable in helping us to form our own views.

2. The Committee rightly point out that the helicopter has an established place in both naval and land/air warfare, and that its existing range of capabilities is gradually being extended. Both the existing roles and their extension were vividly demonstrated during the Falklands conflict and its aftermath, when helicopters were not only employed for anti-submarine warfare, amphibious assault, reconnaissance and surveillance, rapid movement of troops about the battlefield, re-supply and evacuation of casualties, but also adapted at short notice to remedy our lack of airborne early warning. At the same time the helicopter has its vulnerabilities - to air defence systems, direct fire, attack by other helicopters and so forth. As the Committee have observed, the helicopter is not yet able to replace an entire capability in the land/air battle. For example, attack

helicopters must complement ground-based long range direct fire weapons rather than replacing them.

3. The problem for defence planners, and for Ministers, is therefore to define their place within a programme of balanced capabilities, and also, equally important, within the constraints of availability of funds.

4. Against this background, I believe the Committee's comment that quantity has been sacrificed for quality is a little severe. In round terms there are 850 helicopters in service with the Armed Forces today, a comparatively small reduction from the corresponding total of 940 in the mid-70s. Allowing for the fact that successive generations of equipment almost invariably cost more in real terms, while at the same time giving greater capability, I believe we can claim to have given the helicopter a good priority in the defence programme.

5. Furthermore, improved types of helicopter feature prominently in our future programme. The new anti-submarine helicopter, the Anglo/Italian EH101, is a high priority project to which we are firmly committed. Its higher payload will enable it to carry sufficient fuel to operate at very long ranges in search of hostile submarines, thereby exploiting to the full the improved sensors that will be in service in the next decade and giving greater protection to

the Fleet. It is noteworthy that Westland and their partners Agusta will be building three versions of the helicopter - naval, passenger and utility - thus enabling the development costs to be spread over larger sales and increasing value for money.

6. Our second requirement is for a new light attack helicopter in the anti-tank role to replace Lynx fitted with TOW. Entry into service is planned for the late 1990s and it is thus at a somewhat earlier stage than EH 101. Nevertheless good progress is being made. Together with our partners Italy, the Netherlands and Spain, we shall shortly be embarking on a joint feasibility study and cost definition phase, which is expected to last two years. I am optimistic that this project too will come to fruition in due course.

7. The most difficult issue facing my Department concerns support helicopters. The RAF operates the Wessex and the Puma in this role. Within the next 10 years both will be approaching the end of their air-worthiness lives and will have become progressively less economic to operate. There is no absolute cut-off date - most aircraft can be patched up and kept going for a very long time - and the timing of any successor system is therefore to some extent a matter of discretion. There is also a major prior question, what we want to use support helicopters for. Only when we have answered this can we go on to decide what kinds of helicopters we need and how many of them.

8. The Committee have commented that the delay in formulating the light support requirement has exacerbated the problems faced by Westland as the only British helicopter manufacturer. I am aware that there has been some criticism of our decision early last year to leave decisions on Air Staff Target 404 in abeyance, and I would like to put this matter into perspective. A Staff Target is no more than a broad statement of the functions and desired performance of a new piece of equipment, made before the feasibility or method of meeting such a need have been assessed. It is in no sense a fully defined requirement. This particular Staff Target dates back to 1978. It came into particular prominence in 1980 when my Department, very sensibly, considered whether a common helicopter could be found to carry out both the anti-submarine and the support tasks. The conclusion was that this was undesirable, and EH 101 went ahead as a separate programme. Meanwhile it remained fully open to the Ministry of Defence to re-assess the military requirement if new evidence came along to warrant it. This is precisely what happened. The experience of Exercise LIONHEART in the autumn of 1984, and the new thinking it stimulated about the Army's helicopter needs, are well described in the Committee's Report.

9. It was therefore necessary for the Defence Staff to go back to the drawing board and undertake a fundamental study

to define the operational concept and the consequential military requirement for helicopters. This study is looking a long way ahead, in fact to the year 2010. It is considering what changes in support helicopter roles and capabilities can be expected up to that date, how support helicopter assets can be used most effectively to fulfil these roles and in the light of this what the best force mix would be. On the basis of this a force mix is to be recommended.

10. As the Committee have recognised, these issues are bound up with the question of the Army's air mobility needs. We have noted carefully the Committee's preliminary view that there is a very good case for fulfilling a fully air mobile brigade, and this is being borne in mind in our studies.

11. The Committee have stressed the importance of resolving these matters quickly. I accept this. We shall continue to work as rapidly as possible on the military issues and on their consequences for procurement and for the defence programme. A key aspect of this is affordability. We cannot state military requirements in a financial vacuum, and resources are tight. I cannot at this stage forecast what our decisions will be or what their consequences may be for Westland. But I recognise the need to resolve this as quickly as possible, and I can tell the House that the military studies are nearing completion and that decisions on any consequential procurement will be taken in the New Year.

12. Meanwhile, I very much welcome the Committee's commendation of our decision to carry out a fundamental re-appraisal of our requirements before committing ourselves to procurement. I think the House will recognise that we would have been failing in our duty if we had fudged the difficult and complex judgements about military needs in order to rush to procurement of hardware. This would have been fair neither to the Services nor to the taxpayer.

13. The Committee have also raised the question of Service responsibilities for helicopters, and have said that they believe there is a strong case for giving the Army, as user of support helicopters, full responsibility for them. I am not sure whether a strong case is the same thing as a conclusive case in the Committee's mind, but I think they have raised an interesting question. Most NATO nations assign responsibility for operating all battlefield helicopters to their Army. Canada and Norway however do so to their Air Force. We have a split system, with the Army operating smaller and lighter helicopters and the RAF the bigger and heavier ones.

14. It would be wrong to under-estimate the upheaval that would be caused by going down the road the Committee have suggested. Major changes would be necessary in the training, manning and support organisations and plans of the two

Services concerned. Before embarking on such a course, therefore, I would need to be fully satisfied that the benefits involved justify the upheaval and could not be secured by simpler means - for example by some change in command and control arrangements. Nevertheless the Government is considering the matter and is bearing the Committee's views very much in mind.

DRAFT

1. THE MINISTRY OF DEFENCE IS THE LARGEST SINGLE CUSTOMER OF BRITISH INDUSTRY. DEFENCE PROCUREMENT ACCOUNTS FOR ABOUT HALF THE OUTPUT OF THE AEROSPACE INDUSTRY. IN THIS AND OTHER SECTORS THE MINISTRY SUSTAINS THROUGH THE WORK OF THE R&D ESTABLISHMENTS AND EXTRA MURAL R&D CONTRACTS MUCH OF THE INDUSTRY'S R&D BASE. IN TERMS OF EMPLOYEES, WESTLAND IS A RELATIVELY SMALL COMPANY COMPARED WITH THE GIANTS OF THE DEFENCE INDUSTRY SUCH AS GEC AND BAe. BUT IT IS THE ONLY DOMESTIC SOURCE OF HELICOPTERS AND AS A RESULT IT IS ONE OF THE RELATIVELY FEW COMPANIES TO WHICH THE MOD PAYS MORE THAN £100M P.A. INDEED MOD PAYMENTS CURRENTLY RUN AT BETWEEN £150 AND £200M P.A. THUS, THERE ALWAYS HAS BEEN AND CONTINUES TO BE A CLOSE RELATIONSHIP BETWEEN THE MOD AND WESTLAND.

2. BUT WESTLAND IS MORE THAN A HELICOPTER COMPANY. UPWARDS OF 40% OF ITS TURNOVER ARISES FROM THE AEROSPACE AND TECHNOLOGIES DIVISIONS WHICH ARE SUCCESSFUL AND COMPETITIVE. THE SMALLER OF THE TWO, THE AEROSPACE DIVISION IS NOW THE LARGEST EMPLOYER IN COWES ON THE ISLE OF WIGHT, [AND ITS AEROSTRUCTURES AND HOVERCRAFT BUSINESS IS EXPANDING. RECENTLY THERE HAVE BEEN, I AM PLEASED TO SAY, EXPORT ORDERS FOR HOVERCRAFT INDICATING AN UPTURN IN THIS MARKET.] THE TECHNOLOGIES DIVISION IS RATHER LARGER AND COMPARABLE IN TURNOVER TO EACH OF THE TWO HELICOPTER DIVISIONS; AND IT IS VERY SUCCESSFUL IN SUCH AREAS AS ENVIRONMENTAL CONTROL AND

LIFE SUPPORT SYSTEMS, FILTERATION AND HEAT TRANSFER. IT IS A SIGNIFICANT SUB-CONTRACTOR TO THE TORNADO PROGRAMME PROVIDING VALVES, TANKS, AND UNDERCARRIAGE COMPONENTS PLUS MANY OTHER ITEMS. IT IS VERY SUCCESSFUL TOO IN THE CIVIL AND EXPORT FIELD AND ITS A SUPPLIER TO AIRBUS AND THE US B1 BOMBER AND F18 FIGHTER. THE TECHNOLOGIES DIVISION REPRESENTS THE IDEAL DEFENCE SUPPLIER: SUCCESSFUL, INNOVATIVE AND PROFITABLE BUT NOT WHOLLY DEPENDENT ON THE MOD FOR ORDERS HAVING ACHIEVED WIDE CIVIL AND FOREIGN MILITARY SALES.

3. THESE TWO DIVISIONS AND THE HELICOPTER CUSTOMER SUPPORT DIVISION HELP TO MAKE WESTLAND WHAT IT IS NOW, A SOUND COMPANY, AND I KNOW THAT THE MANAGEMENT ARE OPTIMISTIC THAT IT IS BETTER PLACED THAN IT HAS BEEN FOR SOMETIME. BUT IT IS, OF COURSE, THE HELICOPTER DIVISION AT YEOVIL FOR WHICH IT IS BETTER KNOWN. THIS DIVISION TOO HAS BEEN SUCCESSFUL SUPPLYING THE MOD FOR MANY YEARS WITH MOST OF ITS HELICOPTER REQUIREMENTS, SUPPORT OF THE MOD FLEET AND TAKING PART IN SOME MAJOR TECHNOLOGICAL DEVELOPMENTS WHERE IT HAS A WORLD LEAD AS SHOWN BY ITS RECENT SUCCESS IN RECOVERING FROM THE SOVIET UNION THE WORLD HELICOPTER SPEED RECORD AND BREAKING THE 200 KNOT BARRIER. IT HAS ALSO SOLD IN THE CIVIL MARKET AND EXPORTED.

4. WESTLAND'S HELICOPTER BUSINESS WAS ORIGINALLY BUILT UPON THE LICENSED PRODUCTION OF HELICOPTERS DESIGNED AND DEVELOPED BY THE AMERICAN SIKORSKY COMPANY. OVER THE YEARS

WESTLAND EXPANDED THE BRITISH DESIGN AND DEVELOPMENT ELEMENT OF THEIR WORK AS IN THE SUCCESSFUL SEA KING SERIES OF HELICOPTERS WHICH THEY HAVE SOLD IN LARGE NUMBERS TO OUR OWN ARMED FORCES AND WHICH HAS ALSO BEEN A PARTICULARLY SUCCESSFUL EXPORT PRODUCT SELLING TO [] COUNTRIES. WESTLAND, TOO, WAS INVOLVED IN SOME OF THE EARLIEST COLLABORATIVE EQUIPMENT PROJECTS IN EUROPE THROUGH THE ANGLO-FRENCH HELICOPTER AGREEMENTS OF THE LATE 1960s. ONE OF THE FRUITS OF THAT COLLABORATION - THE LYNX - HAS NOW BEEN SOLD TO [] COUNTRIES. THE CORE OF WESTLAND'S FUTURE HELICOPTER BUSINESS RESTS ON THE ANGLO-ITALIAN EH101 HELICOPTER WHICH WILL BE WIDELY DEPLOYED IN THE ROYAL NAVY IN THE 1990s. WESTLAND ARE ALSO INVOLVED IN THE PRELIMINARY WORK ON A 4 NATION LIGHT ATTACK HELICOPTER FOR THE LATE 1990s BASED UPON THE DEVELOPMENT OF THE ITALIAN A129 HELICOPTER.

5. THE HCDC RIGHTLY DREW ATTENTION TO THE DEFENCE INDUSTRIAL BASE AND WESTLAND'S POSITION IN IT. THE GOVERNMENT'S POSITION WAS WELL EXPRESSED BY MY RIGHT HONOURABLE FRIEND THE PRIME MINISTER ON 15 JANUARY WHEN SHE SAID THAT THE GOVERNMENT'S CONCERN WAS TO SEE A FINANCIAL RECONSTRUCTION OF WESTLAND AS SOON AS POSSIBLE WHICH MAINTAINED A BRITISH HELICOPTER, DESIGN, DEVELOPMENT AND MANUFACTURING CAPABILITY, SUPPORTED UK PARTICIPATION IN COLLABORATION WITH NATO ALLIES AND SAFEGUARDED THE INTERESTS OF THE COMPANY AND ITS EMPLOYEES AND SHAREHOLDERS. WE ARE PLEASED THAT THE

FINANCIAL RECONSTRUCTION CAME ABOUT AND THAT A BRITISH HELICOPTER CAPABILITY HAS BEEN MAINTAINED WHICH CAN SUPPORT THE MOD FLEET, MEET CURRENT ORDERS FOR LYNX AND SEA KING HELICOPTERS AND PARTICIPATE IN THE COLLABORATIVE PROJECTS I HAVE MENTIONED. WE WISH WESTLAND WELL IN ITS CLOSER ASSOCIATION WITH SIKORSKY AND FIAT AND HOPE IT ACHIEVES EARLY EXPORT ORDERS FOR ITS FULL PRODUCT RANGE OF SEA KING, LYNX, BLACKHAWK AND EH101. THE GOVERNMENT WILL OF COURSE, GIVE THE COMPANY EVERY ASSISTANCE FOR ITS EXPORTS JUST AS IT DOES FOR OTHER AEROSPACE MANUFACTURERS.

6. THE COMMITTEE DREW ATTENTION TO THE NATIONAL SECURITY ISSUES THAT CAN ARISE THROUGH FOREIGN INVOLVEMENT IN UK DEFENCE SUPPLIERS. THIS IS NOT A NEW ISSUE; WE WELCOME FOREIGN INVESTMENT IN THIS COUNTRY'S INDUSTRIES; WHETHER THEY BE DEFENCE OR CIVIL SUPPLIERS AND THIS HAS BEEN THE CASE FOR MANY YEARS. WHERE NATIONAL INTERESTS ARE AT STAKE AND THERE IS THE POSSIBILITY OF CONTROLLING INTERESTS ARISING, THEN THERE ARE POWERS AVAILABLE UNDER EXISTING LEGISLATION. OF MORE IMMEDIATE CONCERN HOWEVER, IS THE PROTECTION OF CLASSIFIED INFORMATION AND TECHNOLOGY. I CAN ASSURE THE HOUSE THAT THERE ARE WELL ESTABLISHED PROCEDURES AND PRACTICES TO PROTECT SUCH INFORMATION AND TECHNOLOGY IN OUR DEFENCE INDUSTRIES JUST AS THERE IS IN DEFENCE ESTABLISHMENTS. I CANNOT, OF COURSE, GO INTO DETAIL, BUT WE TAKE MANY FACTORS INTO ACCOUNT AND ONE OF THESE WILL BE THE EXTENT AND NATURE OF THE VARIOUS SHAREHOLDINGS. IN THE CASE

OF WESTLAND, AS WE WOULD WITH ANY OTHER FIRM WHERE THERE HAS
BEEN A SIGNIFICANT CHANGE IN FOREIGN INVOLVEMENT, THE
PROTECTION OF CLASSIFIED MATTERS HAS BEEN POSITIVELY
CONFIRMED.

CONFIRMED



LORD PRIVY SEAL

c Sir Robert Armstrong

Attached is the first draft of your wind-up speech for Wednesday. It has been discussed with Michael Townley and with MPO. The sections we have not yet been able to draft in full are:

1. Introduction
2. General comments on the defence implications

and final sections dealing with the application in practice of the principles restated by the Government (including references to Terence Higgins, Liaison Committee and continued interest of TCSC).

The draft is somewhere around 2,400 words (about 20 minutes).

JFB.

AS

pp.

24.10.86

3. BACKGROUND TO DISCUSSION OF SELECT COMMITTEES

3.1 I turn now to the Select Committee issues which have arisen both in the Fourth Report of the Defence Select Committee and the Government Response to it. There have been several references to them in the course of this debate. But I believe that before discussing these issues specifically, it would be for the benefit of the House if I say a few words to put them into context.

3.2 The House will, of course, recall that the present structure of Select Committees dates only from 1979. The present system was set up then by the House on the initiative of this Government following the comprehensive recommendations of the Select Committee of Procedure in their First Report of the Session 1977/78. While there had been Select Committees of the House before then - I believe that even in the sixteenth century five Committees used to be appointed each session - the present departmental Select Committee structure was a new creation, and I believe it is one which has proved its effectiveness. While some doubts were expressed at the outset about how they would work and the role they would perform, I believe there is now no longer any serious argument about their continued existence.

3.3 This Government took the initiative in setting up the Select Committees: it has no intention of seeking to hinder or impede their effective scrutiny of the Executive. This follows an undertaking given by the then Leader of the House, my Rt Hon Friend the Member for Chelmsford on 25 June 1979. During the debate on Select Committees he said:

"I give the House the pledge on the part of the Government that every Minister from the most senior Cabinet Minister to the most junior Under-Secretary will do all in his or her power to co-operate with the new system of Committees and to make it a success. I believe that declaration of intent to be a better guarantee than formal provisions laid down in Standing Orders".

4. SELECT COMMITTEE POWERS

4.1 The formal powers of Select Committees are set out in Standing Orders. As set out there, they are far-reaching and without qualification. The powers of departmental Select Committees specifically are set out in SO.99. Amongst other powers, this says clearly that departmental Select Committees can send for persons, papers and records. No limitation to this is made.

4.2 In practice, however, these formal powers are tempered by conventions. As is the case with other aspects of business and procedure in this House, convention has been accepted as appropriate for many years - certainly before the departmental Select Committees themselves were created. While Standing Orders must necessarily deal in absolutes, conventions enable the many considerations and subtleties affecting the work of Select Committees to be taken into account.

4.3 The purpose of these conventions is to allow a way of working which is satisfactory both to the Committee and to the Executive to evolve. For example, the power to call for the attendance of individually named persons, including Civil Servants is formally unqualified except so far as Members of the other place and Members of this House are concerned. But it has always been acknowledged that with regard to Civil Servants, this power must be limited in practice. In his memorandum to the 1977/78 Procedure Committee, for example, the then Clerk to the House explained the general recognition that it was to the advantage of all Parties to work in accordance with this convention. In paragraph 15 of this memorandum, he said:

"Finally it may be noted that, by long-standing practice, committees requiring evidence from officials of a department of state or other body have usually left it to them to select the person or persons to give evidence. There is no doubt, however, that a Committee possessing PPR could summon a named official if it so wished, but to summon an individual civil servant against the wishes of the Minister to whom he is responsible might lead to his being instructed by that Minister not to answer a committee's questions in his official capacity."

4.4 This is a clear example of the way in which working within the agreed conventions can assist a Select Committee in its investigation. More generally, for as long as Select Committees and their formal unqualified powers have existed, so have the qualifications by which they have been tempered. I do not think anyone would seek to argue that these qualifications have prevented Select Committees from working effectively hitherto.

5. RECENT DIFFICULTIES

5.1 But there have, of course, been times when the Government and the Select Committees have had different perceptions of how the traditional conventions should be applied in a particular case. I believe this is a necessary part of the creat^{ive}~~ed~~ tension between Select Committees and the Government. If there were never these difficulties, this might be a sign that the relationship between the Committees and the Executive had become too cosy. Although there is a mechanism of last resort for resolving these disagreements, by putting the matter before the House, the practice has always been to seek to find a resolution which is generally acceptable, by using the flexibility which the conventions afford.

5.2 The Government sought to find such a resolution in relation to the Defence Select Committee's inquiry into Westland. In the debate on 15 January, the House had endorsed the Government's recognition of the competence of departmental Select Committees to consider the issues raised by Westland. Thus, there is no question of the Government's seeking to avoid having this matter looked into by a Select Committee. This did not, of course, mean that the usual conventions should be set aside. There were two areas in which difficulties were experienced in finding an appropriate way forward, given that the normal Select Committee conventions were working in a particularly highly charged atmosphere. Nonetheless, the aim was not to seek a confrontation for its own sake, but to find ways in which information which the Committee sought could be provided so far as possible in accordance with normal Select Committee practices.

2.3 For example, in their Report, the Committee deals specifically in paragraphs 218-224 with the production of two documents which the Committee believed were material to their Inquiry. [A minute of 4 October from Mr Leon Brittan to the Prime Minister and the record of a meeting on 17 October between Mr Brittan and Mr John Cuckney].

The Government was reluctant to release these documents, since they included material of a classified and commercially confidential nature. Summaries of the documents were provided at an early stage, and the documents themselves were eventually scrutinised by my Rt Hon Friend, the Member for Spelthorne, as Chairman of the Committee and by the senior Opposition Member, the Rt Hon Member for Dudley East [to be checked]. In addition, certain parts were submitted to the Committee in full. Paragraph 224 states the Committee's view that the efforts of the Permanent Secretary at the Department of Trade and Industry to furnish them with summaries as fully and as accurate as possible "were both conscientious and successful".

3.4 An area of greater difficulty has been the provision of oral evidence from certain named officials: three from the Department of Trade and Industry, and two from the Prime Minister's Office. The convention in this area is, as I suggested earlier, that it is for Ministers to determine who should represent them to the Select Committee.

[In this instance, it would not have been fair or reasonable to expect the named officials to submit to detailed questions from the Committee, in view of the full accounts they had already given to the Secretary of the Cabinet in the course of his inquiry into the circumstances surrounding the disclosure of the Solicitor General's letter.]

But the Government was anxious to be as helpful as possible, and the Secretary of the Cabinet therefore expressed his own willingness to give evidence to the Committee on the basis of the information which he had amassed in the course of his inquiry.

(Part in square brackets MPO suggestion).

5.5 The Select Committee is formally correct to assert that given its power to send for persons, papers or records, its powers to secure the attendance of an individually named Civil Servant is unqualified (paragraph 228). I appreciate that in the event the Committee decided to take advantage of the flexibility afforded by the conventions. This is entirely within the spirit in which they have traditionally been applied.

5.6 Similar controversy has arisen in relation to the Trade and Industry Committee's report into the tin crisis. In this case the Committee felt that their inquiry was unduly restricted by civil servants refusing to answer questions relating to advice given to Ministers. But as stated in the Memorandum of Guidance for Officials appearing before Select Committees "in order to preserve the collective responsibilities to Ministers, the advice given to Ministers by their Departments should not be disclosed".

This Memorandum is familiar to Select Committees and this rule is well established. It is Ministers and not officials who are responsible to Parliament for the activities of their Departments.

5.7 I recognise that the Committee found it unsatisfactory that their investigation had to be carried out under this constraint. The Government was acting in accordance with established conventions, which form the basis on which civil servants give evidence before Select Committees. But what the Committee sought was a change in these conventions. The Government believes that it is important that the conventions should continue to obtain and be observed in their present form by Ministers, officials and Select Committees, They are underpinned by the fundamental principle of Ministerial accountability to Parliament.

6. GOVERNMENT RESPONSE TO FOURTH REPORT

6.1 I have indicated how in disagreements with Select Committees, the Government has sought to act helpfully within the traditional conventions. It has not altered these conventions, nor does it seek to do so. Indeed, that section of its response to the Defence Select Committee's Fourth Report which deals with Select Committees and accountability is primarily a restatement of the conventions and the principles which lie behind them.

6.2 As the response says, (para 40) each Minister is responsible to Parliament for the conduct of his Department and for the actions carried out by his Department in pursuit of Government policies or in the discharge of responsibilities laid upon him as Minister. He has the duty to explain in Parliament the extent of his powers and duties and to give an account to Parliament of what is done by him in his capacity as Minister or by his Department. Civil servants, in turn, are responsible to their Ministers for their actions and conduct.

I believe that the House would not wish this clear line of Ministerial accountability for Departments to be weakened in any way by seeking a new and separate accountability from officials.

Certainly that was the view of the Select Committee of Procedure in its 1978 report: "it would not, however, be appropriate for the House to seek directly or through its Committee to enforce its right to secure information from the Executive at a level below that of the Ministerial head of the department concerned, since such a practice would tend to undermine rather than strengthen the accountability of Ministers to the House".

6.3 The basic principles set out in the Government's response, are clearly, then, not an innovation but a restatement of the existing position. Equally, the consequences of these basic principles do not represent a new threat to Select Committees.

Rather they are a restatement of what until recently have been almost universally accepted constitutional practices. Despite this it has been suggested in the Press over the past days that the Government is in some way breaking new ground and that it seeks to weaken the whole Select Committee system. This is simply not so.

6.4 In particular attention has been directed at the final sentence of paragraph 44. This says that the Government proposes to make it clear to civil servants giving evidence to Select Committees that they should not answer questions which are or appear to be directed to the conduct of themselves or of other named civil servants. It has been represented as a way of making any future Select Committee inquiry ineffective. What we have sought to do in our response is to reinforce existing conventions. **M**ore particularly in the concluding paragraphs we have made quite clear our views of the dangers and inappropriateness of Select Committees becoming disciplinary tribunals and judging the conduct of individual civil servants. We therefore decided that we should make these views clear to official witnesses appearing before Select Committees on behalf of Ministers.

In more than one investigation recently there have been signs that the Select Committees concerned have been keen to assign blame to individual named civil servants. I judge, and I think that the House as a whole would judge, that this is not an appropriate function for them. There may be exceptional circumstances in which the general instructions about not answering questions on the conduct of named civil servants will not be wholly appropriate, but there seem to me significant reasons why Select Committees should not routinely take upon themselves the task of enquiring into matters of conduct.

First, there is a perfectly adequate disciplinary system for the Civil Service. The principles which govern the conduct of the Home Civil Service are the responsibility of the Prime Minister as Minister for the Civil Service. The Prime Minister lays down the general procedures to be followed to ensure fairness and consistency of practice. The detailed disciplinary rules are set out in the Civil Service Pay and Conditions of Service Code. A copy is available in the Library of the House.

These procedures are designed to help ensure that the standards of conduct laid down for civil servants are properly observed by providing a fair method of dealing with alleged breaches. The procedures take account of practices in the private sector insofar as they are in line with the Advisory Conciliation and Arbitration Service (ACAS) Code of Practice on Disciplinary and Related Procedures. They are reviewed from time to time to reflect changes, including those in employment protection law and practice. The most recent revision was earlier this year (26 February 1986).

It will be clear from this that a comprehensive system already exists. I do not believe that Select Committees could properly be grafted on to this.

In addition, there is a risk that the process of questioning in a Select Committee may be affected by political considerations. The risk is inevitably greatest where politically controversial matters are involved. Any questions by a Select Committee into the conduct of an individual civil servant would be both public and privileged, while the civil servant himself would be without the safeguards and rights attached to the proper disciplinary procedures. This cannot be fair.

Furthermore, direct accountability of civil servants to Parliament would weaken the direct accountability of the Minister to this House for the conduct of his Department. I have already set out the Government's statement on this in its response to the Defence Select Committee (paragraph 46). I cannot believe that the House would wish to see this accountability weakened in any way.

I believe, therefore, that there are strong arguments which militate against Select Committees involving themselves in disciplinary matters. Unfortunatly, the Government's proposal in paragraph 44 of its response has been taken to mean that no official would in future answer questions about any course of action followed by himself or any of his colleagues. There is no question of this, as I believe the House will see when we reflect on the difference between "conduct" and "actions". Any investigation of a Government Department by a Select Committee should be concerned with establishing what happened and with drawing out the facts.



COMMITTEE OFFICE
HOUSE OF COMMONS
LONDON SW1A 0AA

01-219 (Direct Line)
01-219 3000 (Switchboard)

DEFENCE COMMITTEE

INFORMATION FOR THE PRESS: FOR IMMEDIATE RELEASE

At its meeting this morning the Defence Committee considered the Government's Reply (Cmd 9916) to the Committee's Third Report of the present Session, The Defence Implications of the Future of Westland plc, HC 518, and the Committee's Fourth Report, Westland plc; the Government's Decision Making, HC 519.

The Committee broadly welcomes the Government's response to the Third Report.

The Committee considers that the Government's response to the Committee's Fourth Report raises a number of questions. The Committee will wish to examine these matters further following the forthcoming debate.

The Committee sees no reason to modify any part of its Fourth Report in the light of the Government's Reply.

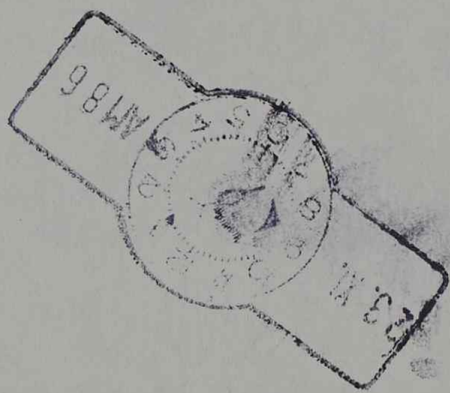
Robert Rogers
Clerk to the Committee

NOT FOR PUBLICATION

For further information, telephone the Committee staff
on 01-219 3280/3281/6168/6105/5745

22 October 1986

NW to all
CRA
(has New copy)
M



PRIME MINISTER

THE MOTION FOR THE WESTLAND DEBATE

Following discussions with Sir Robert Armstrong, the Chief Whip suggests that the motion for the Westland Debate should be:-

"That this House approves the Government's response (Cmnd 9916) to the Third and Fourth Reports from the Select Committee on Defence, while recognising that the application of the principles of accountability described in the response to the work of Select Committees will need to be the subject of further consideration."

Apparently, the Opposition want to open the debate with Denzil Davies and wind with John Smith. The Chief Whip will be suggesting that George Younger opens for the Government and Paul Channon closes.

If you are content with the terms of the motion, the Chief Whip will now show it to Terence Higgins. It is clearly important that he should be content with it since if he can speak in favour, the Select Committee lobby in the House on the Government's side will probably follow him. Hence the reference at the end of the motion to the need for further consideration of ".... the application of the principles of accountability described in the response to the work of Select Committees" ...". NB. Here it is the application of the principles which will be considered further, not the principles themselves.

Content with the draft motion?

N.L. Wicks

21 October 1986

CONFIDENTIAL

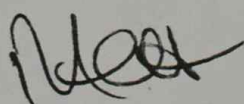
From: R A C HEWES

Date: 20 October 1986

MR McLEAN

WESTLAND MOTION

1. We discussed on Friday the terms and handling of the Government motion for the debate on 29 October. I agreed to have a shot at a possible form of words for the motion so that we could have a further talk about it later today.
2. I think we are agreed on the parameters for the motion. On the one hand it must be firm and clear in seeking the House's approval for both the Government's substantive decisions on Westland (dealt with in the Third Report) and its response to the criticisms (in the Fourth Report) on the Government's handling of the matter, including Sir Robert's inquiry. On the other hand it needs to avoid being unnecessarily provocative to Select Committee chairmen on the subject of civil servants' accountability without, however, suggesting that the Government is having second thoughts on the matter.
3. As we recognised, the Treasury and Civil Service Committee and the Liaison Committee, of both of which Terence Higgins is chairman, are likely to want an opportunity to give further thought to this whole subject. Nor is it necessarily unhelpful for the debate on accountability to be continued in this way, since it offers the prospects that in the process some of the wilder statements can be shown up for what they are.
4. I am not sanguine though that either Committee would come up with a prescription that could be adopted. I believe that we would stand a fair chance of either Committee being convinced that the final sentences of paragraph 44 of the Westland reply do no more than seek to restore matters to their former state before recent departures by certain Committees: But I fear that they would argue that in the light of Westland that former state is no longer acceptable and would persist in pressing the case for some form of direct accountability of civil servants to Parliament.
5. For that reason - as well as because it smacks of second thoughts - I think it would be unwise for the motion to say anything which could be taken as the Government remitting the subject to a Select Committee. Any suggestion for a further Select Committee report on the matter should be allowed to emerge during the debate, so that the Minister winding up the debate can acknowledge the appropriateness of this without implying that the Government feels a need for it or would be in any way committed to its conclusions.
6. All that by way of preamble to explain my thinking behind the draft motion attached. It is not at all elegant and can no doubt be improved by others, but I hope that it strikes the right sort of balance between the different ingredients without offering hostages to fortune. I shall be happy to discuss if you think that would be helpful.



R A C HEWES

Suggested Draft Motion for Westland Debate

"That this House approves both the Government's response to the Third Report from the Defence Committee on the defence implications of the future of Westland plc and the Government's comments on its decision-making in its response to the Fourth Report from the Defence Committee and notes the Government's comments on the accountability of Ministers and civil servants and their relationships with Select Committees, recognising also the related comments on this matter in the Seventh Report from the Treasury and Civil Service Committee and the Government's response to that report."



70 WHITEHALL, LONDON SW1A 2AS

01-233 8319

From the Secretary of the Cabinet and Head of the Home Civil Service

Sir Robert Armstrong GCB CVO

Ref. A086/2864

MR MACLEAN

cc Mr Wicks

We were discussing last week the possible form of the Government's Motion for the debate on the responses to the Third and Fourth Reports from the Defence Committee about Westland plc.

2. I suppose that the Government will want the Motion to be more positive than "take note". The best verb would be "approve"; a verb which would not specifically commit the House but would still be positive might be "welcome". I hope that we can go for "approve".

3. Mr Terence Higgins has made it clear that in the light of the last paragraph he would have problems if the Motion simply invited the House to approve the response. If we need to make qualifications in the Motion, I hope that we can still retain the thought that the House approves the principles of accountability described in the response: it is only their application to the work of Select Committees that is in issue.

4. With these suggestions in mind I suggest the following:

"That this House approves [welcomes] the Government's response (Cmnd 9916) to the Third and Fourth Reports from the Select Committee on Defence, while recognising that

the application of the principles of accountability described in the response to the work of Select Committees will need to be the subject of further consideration [discussion]."

Robert H. Mustang

20 October 1986

WESTLAND plc

That this House takes note of the Third Report of the Defence Committee of the current session on the defence implications of the future of Westland plc (H.C.518) and of its Fourth Report on Westland plc: The Government's Decision Making (H.C.519); approves the Government's response to these Reports (Command 9916) with regard to the conduct of affairs relating to Westland plc; and reaffirms the principle concerning evidence before Select Committees charged with examining the expenditure, administration and policies of Government departments, that it would not normally be appropriate for this House to seek to enforce its right to secure information from the Executive at a level below that of the Ministerial head of the department concerned.

(i.e. PAC
P.C.A.).

See
below

greater part of the time of the House, and since much of the time available to backbench Members is allocated in advance by ballot, committees cannot as of right secure time for debate on a motion for an Address or an Order for the return of papers, as was the practice until the Government secured precedence for its business at the great majority of sittings of the House.

Proposed changes in the powers of select committees

7.19. We believe that the powers of committees, and the procedure for enforcing those powers, need strengthening to bring them in line with the central requirement of select committees to secure access to the information held by the Government and its agencies. Although we would expect new formal powers, and new enforcement procedures, to be used only rarely, we believe that doubts about the rights of committees to seek access to such information, either directly or through the House, could seriously undermine attempts to establish departmentally-related committees as effective agencies of the House for scrutinising departmental administration, expenditure and policies, and there is sufficient evidence to suggest that such doubts have weakened the authority of existing select committees.

7.20. The over-riding principle concerning access to government information should be that the House has power to enforce the responsibility of Ministers for the provision of information or the refusal of information. It would not, however, be appropriate for the House to seek directly or through its committees to enforce its rights to secure information from the Executive at a level below that of the ministerial head of the department concerned (normally a Cabinet Minister), since such a practice would tend to undermine rather than strengthen the accountability of Ministers to the House.

7.21. We recommend that in future select committees should be empowered by the House to order the attendance of Ministers to give evidence to them. We recognise that such orders could not be made in the case of Ministers who are Members of the House of Lords, although we have no doubt that if the House accept this recommendation Ministers in the House of Lords would recognise an obligation to conform with the spirit of the rule applied to their colleagues in the House of Commons. We do not think it necessary to extend this rule to non-Ministerial Members of the House, who are not responsible to the House for the implementation of policies approved by the House or for the expenditure of money voted by the House. On the very rare occasions when the attendance of other Members was required but resisted, the House could, as at present, be asked to order their attendance.

7.22. We further recommend that select committees should be empowered to order the production of papers and records by all Ministers, including Secretaries of State. As we have noted, the increase in modern times in the number of government departments headed by a Secretary of State has rendered almost nugatory the powers of select committees in relation to the production of government papers and records. The distinction between departments headed by Secretaries of State and those headed by other Ministers appears to have no contemporary justification. Although the enforcement of such orders against Ministers—as in the case of other committee orders—would require the authority of the House, we believe it desirable that the power of select committees to send for papers and records should be regarded as embracing all papers, from whatever source, which

Will the Prime Minister accept responsibility for the conduct of her officials?

- The Government's response (para 40) sets out quite clearly the responsibilities of Ministers and officials.

If pressed:

- I have already said on several occasions, and it is repeated in the Government's response (para 38), that I regret that the Solicitor General's letter was disclosed in the way it was.

If further pressed:

- I note from the constant harping on this matter that the Leader of the Opposition has not the slightest interest in any of the events which have taken place since I last answered questions in the House on 24 July, including the Reykjavik meeting, the economy, the Health Service, education or anything else.

Timetable of events and motives of those involved?

- I have nothing to add to the response which has just been published and to the full account of events already given in statements, in answers given by me and other Ministers, in debates, and by the Head of the Civil Service to the Defence Committee.

Government's response amounts to gagging the Select Committee system?

- The Government's response makes quite clear that we are not stopping Civil Servants from giving evidence to Select Committees. But the report also confirms Civil Servants doing so are accountable to their Ministers for the evidence they give. The Government does not believe that Select Committees are a suitable instrument for enquiring into the conduct of individual Civil Servants.

How can the Prime Minister have confidence in her officials when the Select Committee report says they behaved in an "improper" way, and when it says the failure to take disciplinary action against any of those officials is "extraordinary"?

- I made quite clear to the House on 24 July, and I repeat again, that my Rt hon Friend the Secretary of State for Trade and Industry and I have total confidence in our officials referred to in the report. As the Head of the Civil Service explained to the Committee disciplinary proceedings were not called for, and no disciplinary action is to be taken. I therefore have nothing to add to what is said in the Government's response (para 38).

When will there be a debate?

- I know that my Rt hon Friend the Leader of the House will take note of the hon Gentleman's request. The timing of such a Debate would of course be a matter for the usual channels.

Does this mark a new departure in Government relations with Select Committees?

- No. It simply makes explicit the long-standing position that it is Ministers and not individual Civil Servants who are accountable to Parliament and its Select Committees. It is not the intention to inhibit the effective working of Select Committees in accordance with conventions that have hitherto been accepted.

Quotations from the First Report from the Select Committee on Procedure, 1978

"Civil Servants are presumed to attend on behalf of Ministers and under their directions...".

"Although we recognise that there may be occasions when Ministers may wish to resist requests for information - on grounds of national security, for instance - it should ultimately be the responsibility of Ministers to justify their actions in each case either to the committee concerned, or if necessary, to the House."

"It would not be appropriate for the House to seek directly or through its committees to enforce its rights to secure information from the Executive at a level below that of the ministerial head of the department concerned (normally a Cabinet Minister), since such a practice would tend to undermine rather than strengthen the accountability of Ministers to the House."

Memorandum by the Clerk of the House

"...by long standing practice, committees requiring evidence from officials of a department of state or other body have ususally left it to them to select the person or persons to give evidence.

...to summon an individual civil servant against the wishes of the Minister to whom he is responsible might lead to his being instructed by that Minister not to answer a committee's questions in his official capacity."

"...it would seem that committees acknowledge that a servant of the Crown may have instructions from the Crown's Ministers as to how he should reply and that the proper remedy lies against the Minister concerned."

20 October 1986

KK10/2



70 WHITEHALL, LONDON SW1A 2AS

01-233 8319

From the Secretary of the Cabinet and Head of the Home Civil Service

Sir Robert Armstrong GCB CVO

Ref. A086/2973

20 October 1986

Dear Ken,

Westland: Sunday Times Interest

Thank you for your letter of 17 October. Sir Robert Armstrong has noted that no Department of Trade and Industry officials accepted invitations to brief Mr Simon Jenkins prior to the publication of his article in yesterday's "Sunday Times".

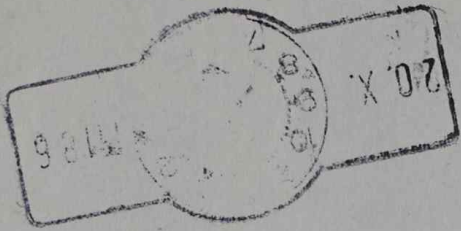
I am sending copies of this letter to Nigel Wicks and John Pitt-Brooke.

Yours ever,

Travis Woolley

(T A Woolley)
Private Secretary

Ken Lussey Esq
Department of Trade and Industry



AEROSPACE
WESTLOND
PT 6



THE SUNDAY TIMES

● Westland will return to haunt Margaret Thatcher this week. Even Tory MPs want to reduce the bureaucratic shield that protected her last winter. SIMON JENKINS report

ON January 27 this year, Mrs Thatcher told a close colleague that she feared she might have to resign over the Westland affair. She had lost two senior ministers and had been threatened with the loss of a third over the leaking of a letter from the solicitor-general to the defence secretary, Michael Heseltine. Westminster was girding itself for an emergency debate, expecting to hear of more skeletons in cupboards uncomfortably close to Downing Street.

The sheer relentlessness of the crisis was undermining not the government, but Thatcher's conduct of it. She was heard to murmur that "by six o'clock" she might no longer be prime minister.

Her immediate saviour was Neil Kinnock. Perhaps unaware that he had his opponent on the ropes, his speech was a disaster, verbose and omitting the telling questions Thatcher's supporters had feared. Her own speech had been drafted by a

team of unprecedented seniority: the home secretary, the foreign secretary, Lord Whitelaw, the chief whip and the attorney-general were all summoned to help. Passages had to be "negotiated" with the departed Leon Brittan, lest he step out of line in the debate.

Thatcher fought back, recovered her morale and won the most precious commodity in a political crisis — time. Soon Libya, South Africa and other matters stole the headlines. Westland sank from view and by the end of the session this summer was treated by her party as embarrassing history, safely left to the eccentricities of Labour's Tam Dalyell.

More crucial to Thatcher's recovery, however, were the remarkable manoeuvres plot-

ted throughout the crisis by her chief whip, John Wakeham, and the cabinet secretary, Sir Robert Armstrong. Together they constructed a ramshackle but effective escape route by exploiting a series of constitutional conventions governing the relations of civil servants to parliament. These conventions were criticised by the Commons treasury and civil service select committee as an "accountability gap".

Unlike Westland, this gap will not go away. In a flurry of missives between Commons select committees and the government throughout the summer, MPs have sought greater freedom to cross-question civil servants on their work. Government has sought to stop them. The result, as parliament re-assembles this week, is a battle between legislature and executive that both sides are determined not to lose.

WESTLAND, which parliament is to debate again in two weeks' time, was the ultimate challenge to parliament's capacity to seek out wrongdoing in Whitehall. The leaking of a law officer's letter was regarded by most MPs as a major scandal, not just a matter of "confidential advice between officials and ministers" gone a bit wrong. The prime minister's private secretary and her press officer were waging a dangerous campaign to undermine the defence secretary, Michael Heseltine. They were obliged to do so, it was argued, because he was flouting collective government responsibility and because Thatcher would not sack him.

Officials were plainly acting under Thatcher's ministerial authority, confirmed at regular campaign meetings during the long Westland saga, and specifically at a secret meeting at Chequers the day before the leak. Thatcher herself has made no attempt to deny this, stating she too wanted the letter "in the public domain", regretting only the means of disclosure.

Her press secretary, Bernard Ingham, wisely as it turned out, was reluctant to leak it himself but ordered the trade and industry press officer, Colette Bowe, to do so instead. He did not want Downing Street's fingerprints on it. The concept that Brittan "authorised" it, when he plainly requested that authorisation to come from Downing Street, was a seon it. The concept that Brittan "authorised" it, when he plainly requested that authorisation to come from Downing Street, was a semantic way of deflecting blame from No 10.

The leak technically flouted the Official Secrets Act rules for handling law officers' advice, the civil servants' Estacode of conduct and a battery of proprieties: mischief enough for any parliament to feel that it merits inquiry. But politics is

a rough game and Downing Street is not for the squeamish. Thatcher told her colleagues she was delighted with the leak the following day.

All this might have remained shrouded in lobby secrecy had not the law officers proved squeamish to a fault. The attorney-general, Sir Michael Havers, is believed to have threatened to send the police into Downing Street unless an inquiry was set up. He had been through the bruising of the Ponting case and was worried about any accusation of a political double standard. A week later, Thatcher gave in and instructed a reluctant Armstrong to hold an inquiry, despite the relevant facts being well known.

THE inquiry, and Armstrong's defence of it before Commons select committees, are regarded in Whitehall (though not in Westminster) as a masterpiece of the mandarin's craft. Unlike such predecessors as Sir William Armstrong and Lord Hunt, Armstrong had not been a central figure in the informal cabal that encircles a prime minister in Downing Street. He was the cabinet's Jeeves rather than Grand Vizier of the government machine. For five years he was upstaged in Thatcher's affections by her principal private secretaries, Clive (now Sir Clive) Whitmore and Robin Butler. A conservative traditionalist of public administration, to the Thatcherites he was not "one of us".

Armstrong approached the Westland affair with obvious distaste. It had shattered each of the conventions of his Whitehall upbringing: collective ministerial responsibility, civil servants as impartial advisers to ministers, clear lines of accountability to parliament. Here were ministers playing fast and loose with interdepartmental co-ordination; officials behaving like party hacks; uncontrolled leaking everywhere. It was a horrible mess. Bit by bit, Armstrong (his office untainted by Westland) had to re-establish the sanctity of constitutional conventions. He also found them extremely useful in his, and Wakeham's, efforts to salvage Thatcher's reputation.

In each of their moves, Armstrong and Wakeham could use a protective shield of secrecy and convention inconceivable in America or most democratic countries. Armstrong and Wakeham could use a protective shield of secrecy and convention inconceivable in America or most democratic countries. Armstrong's inquiry into the leak was wholly secret, with those involved given immunity from prosecution. Its central finding, that the whole matter had been a "difference of understanding" between groups of officials, was ingenious — the only possible way of decently exonerating those involved.

It was also incredible, both to parliament when announced by Thatcher on January 23 and to the defence select committee. The latter reported in July that: "we do hope [Sir Robert's] credulity was as sorely taxed as ours". That devastating conclusion, however, was not published until

the day after the royal wedding, when Westland could safely be dismissed with a groan.

Most useful of all, Wakeham and Armstrong could impose a total ban on any of the five civil servants publicly named — swiftly dubbed the "gang of five" — being cross-examined by the

ment was somewhat eccentric. But that was the convention. A minority on the defence committee demanded that the two officials from No 10, Charles Powell and Bernard Ingham, be summoned by the full House of Commons, but were outvoted by their Tory colleagues.

All five civil servants were thus left unable to defend themselves against charges made against them in the

defence or trade and industry select committees, both of which were showing an interest in Westland. What they did was entirely for ministers to explain to parliament.

Since Leon Brittan had resigned and the prime minister does not appear before select committees, this argu-

Continued on page 31

Continued from page 27

press, in parliament and even in Thatcher's account of what had happened.

As a stalling measure, Wakeham finally offered up the two relevant permanent secretaries, Sir Brian Hayes of the trade and industry department and Sir Robert himself from the Cabinet Office. Sir Robert put up one of the most effective stonewalling jobs ever seen in a committee room. Permanent-secretary accountability appears to have supplanted ministerial where an official is under real pressure.

Two of the five civil servants are believed to have been so incensed by their treatment at this time that they wrote their accounts of what happened and sealed them in a bank vault. All they had for their pains was Thatcher's expression of her total confidence in them.

Much of the problem is that many MPs believe ministers are supposed to resign when things go wrong in their departments. Yet ministerial resignation is always a political, not constitutional, act. Brittan went not because of



Wakeham: willing ally

any blame for the leak but because he felt he had lost the confidence of his party backbenchers — as did Lord Carrington after the Falklands invasion. Departments make mistakes all the time but nobody (except opposition MPs) expects ministers to depart as a result. Yet if they do not, and if civil servants do not resign either, asked the Treasury select committee last summer, "then who is accountable?"

Matters are even more opaque at No 10. Here the relevant minister for Ingham and Powell, most senior of the gang of five, was Margaret Thatcher. She was protected both by the convention that she is cross-questioned only at the dispatch box of the House, and by the doctrine of "proportionality".

This holds that whatever blame might attach to her for the leak, a prime ministerial resignation would be quite out of proportion. Yet for her officials to go instead — as Brittan's friends thought they would after his resignation — would be unfair on them, as well as an offence against ministerial responsibility. It is a Catch 22 that leaves parliamentary accountability well out in the cold.

THE SCENE is now set for a head-on confrontation between government and parliament. First blood is likely to go to the defence select committee, chaired by the Tory ex-minister, Sir Humphrey Atkins. It meets on Wednesday to respond, probably angrily, to a Downing Street paper sent last week in reply to its own highly critical comments on Number 10's handling of the Westland affair.

The paper, drafted by Wakeham and Armstrong in collaboration with the prime

minister, stated categorically that if a committee of MPs does not like what ministers tell them, "it should not insist upon calling on a civil servant to remedy the deficiency". After the trauma of Westland, Whitehall never again wants to see officials' names in the political spotlight, let alone subject to partisan cross-examination.

The paper restates the old convention that officials are accountable only to ministers and ministers to parliament. It was this convention that the defence civil servant, Clive Ponting, flouted in the Belgrano affair, claiming he also had a responsibility to parliament. In future civil servants are to be ordered, if they are summoned before a parliamentary committee, "not to answer questions which are... directed to the conduct of themselves or of other named individuals civil servants".

The target for the defence committee's zeal will be Sir Robert Armstrong, who is expected to have to appear before it yet again. A mandarin of the old school (of Hankey and Bridges), he is a liberal and open-minded man, receptive to recent pressure for more open government and a more flexible executive. But Westland forced him to defend and restate the old verities. Last week's response to the defence committee showed he has found willing allies in the two dominant personalities of Downing Street at present, John Wakeham and Thatcher herself. They will be at his side again.

He will state, as he has stated interminably before, the classical view that civil servants must remain wholly at the disposal of ministers of the crown, not of parliament. Damage this central principle and a thousand Clive Pontings will be choosing each day which master to serve: minister or some future parliamentary select committee. This might make good copy for journalists, but would not help ministers and would breed the divided counsels familiar in Washington.

Such talk sounds to many MPs, and many younger civil servants, like a feeble attempt to prop up an already doomed edifice. Joe Haines, a former Downing Street press officer, described Sir Robert to the Treasury select committee as a man trying to maintain "the amateur captaincy in county cricket". Terence Higgins, Tory chairman of the liaison group of select committee chairmen (and no radical), sees an ever-widening gap in accountability between what ministers may choose to say to parliament and what their civil servants actually do in their name.

"Ministers do not resign when things go wrong in their departments," he says. "If there has been a mistake, they can simply say, I'm responsible but don't intend to do anything about it. In such circumstances, how can accountability be made effective?" Short of using the nuclear weapon of a vote of censure on the floor of the House, parliament's scrutiny powers soon become a charade.

To the radicals, government nowadays is too vast an enterprise for 150 ministers to "account" for it, either to parliament or to anyone else.

An archaic constitution may have helped save a prime minister from disproportionate punishment for an official error. But the price of enforcing the old conventions seems certain to be yet more Westlands: government by leaks, counter-leaks, broken secrets and "accusations made under parliamentary privilege".

THE OBSERVER

(F)

Thatcher defies new Westland attack

WITHIN the next few days MPs will be debating the charges of incompetence and double-dealing levelled at the Government by the Defence Select Committee inquiry into its handling of the Westland affair.

Last week, in response to these stinging criticisms, the Government advanced a new version of Ministerial accountability. In future, it appears Ministers will seek to avoid responsibility for their actions by pinning the blame on civil servants who will be gagged in case they spill the beans.

Nearly a year has gone by since Westland first hit the headlines, but the spectre of this single most disreputable episode of Mrs Thatcher's period in office still haunts her Government. The only way it could be exorcised would be to acknowledge openly that it was an aberration caused by a breakdown, not just of collective responsibility, but of proper behaviour.

Last week's Government White Paper, 'Westland plc — The Government's decision-making' — takes an altogether stiffer-necked approach. The nearest it gets to an apology is the following:

The Prime Minister, the then Secretary of State for Trade and the Head of the Home Civil Service have all expressed their regret that the Solicitor General's letter was disclosed in the way it was disclosed. But the Government is satisfied that those concerned acted in good faith, and remains of the view that, having regard to all the circumstances, disciplinary proceedings were not called for.

This version of events is extraordinary. Mrs Thatcher is not just seeking to deny her own very considerable role in the leaking of a Law Officer's letter aimed at discrediting one of her Cabinet colleagues, but in addition is claiming that all concerned who committed this potentially criminal offence 'acted in good faith.'

Contrast this approach with the famous Crichton Down case 40 years ago, which is always quoted as the textbook guide to Ministerial conduct. The then Minister of Agriculture, Sir Thomas

POLITICS



BY
ADAM
RAPHAEL

Dugdale, was at the centre of a row over compulsorily purchased land which his department had mishandled without his knowledge. Though he had taken no direct part in the matter, Sir Thomas immediately resigned.

This purist doctrine of how Government works may be a counsel of perfection but it is surely not too much to ask of Ministers that they should take the blame for actions they themselves have initiated. It is, of course, true that one Ministerial head did roll as a result of the Westland affair—Leon Brittan's — but, as he made clear in his resignation letter, this was not because he felt he had done anything wrong but because 'I no longer command the full confidence of my colleagues.'

Bigger target

The then Industry Secretary's own view of the proper relationship between Ministers and their civil servants is summed up in a revealing exchange before the Select Committee. Asked why he had ordered an Under-Secretary in his department to brief MPs against the European deal when the Government was meant to be neutral, Mr Brittan said that if he were to have done the briefing personally this would be 'open to misconstruction' — whereas, if his officials did, no such misunderstanding would arise. The Select Committee's report rightly comments that this attitude was at the heart of what subsequently took place.

Mr Brittan has paid a heavy price for his folly, but is he merely the scapegoat for a much bigger target? Mrs Thatcher's responsibility for what took place has deliberately been obscured. In her statements to the Commons on 23 and 27 January, she acknowledged that

her private office had acted in accordance with her wish that the contents of the Solicitor-General's letter 'should become public knowledge as soon as possible.' Yet she has also repeatedly disclaimed any responsibility for the form of the leak and has refused to clarify when she was told what had been done in her name.

Mr Brittan is in no doubt where the responsibility should lie. 'I would particularly stress, it all had to be subject to the agreement of No. 10,' he told the Select Committee. When the Prime Minister was challenged by the Shadow Attorney-General, John Morris, who asked her in a letter if she had pre-planned the leak and whether she had set up an inquiry knowing the circumstances of how it occurred, she refused point-blank to reply, claiming that she had already given a full account. 'I have nothing to add,' she wrote.

Sadly, the Westland affair has exposed the inability of the House of Commons to hold Ministers accountable for their actions. The Defence Select Committee — which, it should be noted, is chaired by a former Chief Whip, Sir Humphrey Atkins, and has a Conservative majority — did a good job in asking the right questions and nailing the evasive answers. But as its report admits, its members did not succeed in getting at the truth. In pinning the blame on civil servants, they deliberately concentrated on what they knew was the wrong target in the hope of flushing out their real quarry.

'Truth is stranger than fiction,' Mrs Thatcher said at a particularly strained moment during the Westland crisis. Why the affair, despite fading memories, is still so potentially dangerous for this Government is that everyone at Westminster and many outside know that the truth has not been told. Instead, it has been falsified in order to hide where the responsibility lies. Westland is no Watergate. Mrs Thatcher, thanks to the loyalty of her personal staff and her colleagues, has survived but her reputation for straight dealing has been permanently sullied.



DEPARTMENT OF TRADE AND INDUSTRY

1-19 VICTORIA STREET
LONDON SW1H 0ET

Telephone (Direct dialling) 01-215 5422
GTN 215
(Switchboard) 01-215 7877

Secretary of State for Trade and Industry

PS/

17 October 1986

Mark Addison Esq
Private Secretary to the
Prime Minister
10 Downing Street
LONDON
SW1

GR

*Pl confirm with MoD
that the letter has been
sent. The receiver submit
above M&T*

Dear Mark,

Thank you for your letter of 1 October, enclosing one from Mr Jerry Wiggin MP to the Prime Minister.

... Much of the material in Mr Wiggin's letter relates to matters which are principally the responsibility of the Ministry of Defence, and the attached draft reply has been prepared in consultation with MoD officials. It follows the approach set out in the Secretary of State for Defence's minute to the Prime Minister on 23 September. As you will see, the draft refers to the reply Mr Younger will be sending to Mr Wiggin's letter to him. I attach a copy of the draft MoD officials are submitting; no doubt Mr Younger's office will confirm whether the letter has been sent as drafted.

I am sending copies of this letter and enclosures to David Woodhead (Ministry of Defence), Andrew Lansley (Mr rabbit's Office) and Trevor Woolley (Cabinet Office).

Yours sincerely

CR

Bradley

CATHERINE BRADLEY
Private Secretary

*D71 now tell me that
MoD will be replying on PM's
behalf. Pl check that it's done.
This can then be ignored.*

DW3BDN

M&T 20/10

*Copy will come when
issued VC 20/10.*

17 86
19 86
BOARD OF TRADE
BICENTENARY

DRAFT

From: Prime Minister

To: Jerry Wiggin Esq, TD, MP

1. Thank you for your letter of 30 September about Westland, and for setting out your view of the company's situation.

2. As you say George Younger and Paul Channon had a meeting with Sir John Cuckney recently, and I have of course had a report on that meeting. I understand Sir John set out very clearly his assessment of the difficulties facing the company over the next few years. He also expressed satisfaction with the outcome of the company's capital reconstruction and both he and Sir John Treacher were optimistic that the company was better placed now than it had been for some time. Nevertheless, as you say, the company still has a number of problems to solve arising from over-capacity in world helicopter production and the decline in civil and military orders. Naturally, we hope that the UTC/Fiat stake in the company will be of some assistance in this respect.

3. You refer in your third paragraph to the Services' requirements for helicopters. I assume you have in mind particularly the question of support helicopters which you raised in your letter to George Younger. I have seen

George's reply to you and I agree with what he says. Helicopters are an important weapon in modern warfare, but it is essential to define the military requirement properly before deciding what to buy and with what priority.

4. I shall of course be continuing to take a personal interest in the issues which you have raised. We hope to be able to give Sir John Cuckney a response in the New Year, which is the timeframe which he has indicated to us would be helpful to the Company.

5. I am copying this letter to George Younger, Norman Tebbit and Paul Channon.

DRAFT

From: Defence Secretary

To: Jerry Wiggin Esq, TD, MP

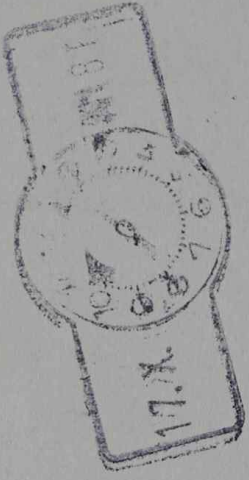
1. Thank you for your letter of 30 September. As you say, we went through many of these arguments when you came to see me on 12 June, and I took careful note of the points you made.

2. On the question of support helicopters which is the central theme of your letter, the need to resolve the matter quickly is fully recognised, as is made clear in the Government's reply [earlier this week] to the Defence Committee's Third Report. This is not a simple issue but, as you yourself recognise, is bound up with difficult military judgements about the role of the helicopter in the land/air battle in the Central Region and how this might develop in future years. Carrying out the necessary studies has inevitably taken time. We are working as quickly as possible on the military issues and their procurement and programme implications, including the important question of affordability. If you will forgive my saying so, the suggestion that particular interests in MOD are dragging their feet is rather fanciful. The Air Staff Target to which you refer was not and could never have been the last word in our definition of the operational requirement. Genuinely

difficult questions of military judgement are involved, and I look to my advisers to give me the best advice possible rather than to skimp things in order to achieve a quick solution.

3. Decisions on whether further helicopter orders are needed to meet the requirements of the armed services, and if so what kind, how many, and in what timescale, will be taken as soon as possible thereafter, but realistically this will not be until the New Year. This is the timeframe which Sir John Cuckney has indicated to us would be helpful. I cannot forecast what the decisions will be or what comfort they might or might not bring to Westlands. But I certainly acknowledge an obligation not to keep the company in a state of uncertainty longer than is absolutely necessary.

4. I am copying this letter to the Prime Minister, Norman Tebbit and Paul Channon.



no



Sir Brian Hayes KCB
Permanent Secretary

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

Telephone (Direct dialling) 01-215)
GTN 215)
(Switchboard) 01-215 7877

CR

*cc Harold Radwan
+ B Lyle*

Trevor Woolley Esq
PS/Sir Robert Armstrong
Cabinet Office
70 Whitehall

17 October 1986

*NLU
17-80*

Dear Trevor

WESTLAND: SUNDAY TIMES INTEREST

I thought you should know that our press office reports that Mr Simon Jenkins, who is apparently freelancing for the Sunday Times, is preparing an article on the issues raised by the Defence Select Committee reports on Westland, and on the Government's responses.

Mr Jenkins has approached Miss Bowe and asked her for a briefing on the Government's response. She, of course, declined to give one. Neither of the other officials named in the Westland reports has been approached by Mr Jenkins, but they would of course also decline to brief if invited to do so.

I am sending copies of this letter to Nigel Wicks and John Pitt-Brooke.

Yours ever

KEN LUSSEY

KENABN

17. X. AM 86



[Faint, illegible handwritten text]

Mr Wicks

R. Addin

~~Question~~ (~~wefted~~)

Ref. A086/2865

MR HEWES

Defence Committee Reports: Question and Answer Briefing

I am responding to Mrs Brown's minute of 10 October about the reply to question C4 in the question and answer briefing.

2. Her minute has prompted me to look again at all the questions listed in Section C of the briefing. I recognise that questions C1, C2, C3 and C4 are all questions which may be raised, following the Defence Committee's Report and the Government's Response. But answering any of them substantively would be inconsistent with the Government's decision in paragraph 28 of the Response, that it stands by the accounts already given, and sees no reason to qualify or add to them.

3. If any of these questions C1, C2, C3 or C4 - or indeed any other questions which invite additions or qualifications to the accounts already given - are put to press spokesmen this afternoon, they should say that the Government has nothing to add to the Response that has just been published and to the full accounts already given by Ministers in statements in Parliament, speeches and debates and answers to Parliamentary Questions, and by the Head of the Home Civil Service in his evidence to the Defence Committee.

4. I am sending copies of this minute to Mr Wicks and Mr Ingham (10 Downing Street), Sir Clive Whitmore, Sir Brian Hayes and Mr Michael Saunders (Law Officers' Department).

RTA

ROBERT ARMSTRONG

13 October 1986

Mr Adder

CF

Mr MacLean

From: Mrs L J Brown
Date: 10 October 1986

Mr Wicks

cc PS/Lord Privy Seal
PS/Mr Luce
PS/Sir Robert Armstrong
Miss M. L. L.
Mr Hewes
Mr Townley

DEFENCE COMMITTEE REPORTS ON WESTLAND: GOVERNMENT REPLY

I understand that the Chief Whip is seeing both Sir Humphrey Atkins and Mr Higgins on Monday, to give them a copy of the Government's reply to the Defence Committee's Reports on Westland.

I enclose three copies of the White Paper, one for the Chief Whip's own use and the other two to be handed over. I also enclose a speaking note and some defensive briefing.

L. J. Brown

Mrs L J Brown
Cabinet Office (MPO)
233 7250

ENC

- RTA's office to send over Qad A.

SPEAKING NOTE FOR USE ON MONDAY 13 OCTOBER BY:

LORD PRIVY SEAL
CHIEF WHIP

DEFENCE COMMITTEE REPORT ON WESTLAND: GOVERNMENT REPLY

In the Third Report, the Government found the Committee's discussion of the various issues well-informed and most interesting.

The Committee raised a number of points in the Third Report, and the views of the Committee have been noted and are being taken into account by the Government.

The reply to the Fourth Report deliberately seeks not to go over yet again the events of earlier this year; the Government stands by the very full accounts that have already been provided to Parliament.

The Government has, however, commented on some of the Fourth Report's judgements and conclusions, in particular the final paragraphs dealing with accountability.

The reply sets out clearly the basic principles of Ministerial and civil service accountability, both to Parliament and to Select Committees; this builds on what was said in reply to the Seventh Report from the Treasury and Civil Service Committee.

The Government wishes to maintain the long-standing principles of accountability, and has been disturbed by recent moves by various Select Committees to call individual civil servants to account, instead of Ministers. Therefore, to ensure that these principles are maintained, the Government is making clear to civil servants one logical extension of Ministerial accountability - that they should not answer questions put by Select Committees about their own or other civil servants' conduct.

DEFENSIVE

Q. Is this consistent with the Government's pledges to assist the work of Select Committees.

A. Yes. We have no intention of going back on these pledges. The Government wishes to maintain a posture of constructive helpfulness to Select Committees, consistent with Ministerial accountability. We do not consider that Committees' attempts to pillory individual civil servants serve in any way the cause of open and informed debate. It is personal attacks on civil servants we are seeking to prevent, not the legitimate questioning of either them or Ministers.

Q. What is meant by 'conduct'?

A. We do not want to prescribe this in advance. We are not seeking to prevent Select Committees from legitimate questioning of civil servants or Ministers. It is the assumption of the role of a disciplinary tribunal that we consider inappropriate.

Q. Does the Government propose to change Standing Orders? On what constitutional basis will witnesses withhold this information?

A. Standing Orders are of course a matter for the House as a whole, not the Government. I can see no need to change them. We are simply pointing out the long-standing convention that Ministers, not civil servants, are accountable to the House.

Q. Will it be possible for Parliament to continue to carry out effective enquiries, such as the ones into de Lorean and the Crown Agents?

A. I can see no reason why this point should make any difference to the efficiency of Parliamentary scrutiny. It is not intended to.

Q. Would the same restriction apply to Select Committees other than departmental ones?

A. Yes.

[NOTE: The position with regard to the PAC is difficult, because Accounting Officers, not Ministers, give evidence to that Committee. If pressed on the PAC, you are advised to avoid giving a definite answer, on the lines of:

The PAC is in a special position, which we shall bear in mind.]

CONFIDENTIAL



VCZAMK
cpc

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

MR STARK
CABINET OFFICE

DEFENCE COMMITTEE: WESTLAND PLC:
QUESTION AND ANSWER BRIEF

Your minute of 8 October asked for comments by today on the Q & A brief on the reply to the Defence Committee's report on Westland.

As many questions as possible should be answered by reference to the Prime Minister's statements, the Attorney General's statement, Sir Robert Armstrong's evidence or the Government's reply. It should be very much the exception to stray beyond that, and questions C1-C4 at least could be answered in this way. I have no objection to C5 and D1-D3.

I am copying this minute to Sir Clive Whitmore, Sir Brian Hayes, Mr. Saunders and Mr. Ingham.

CHARLES POWELL

9 October 1986

GA

CONFIDENTIAL

Ref. A086/2836

MR WICKS

Defence Committee: Westland plc: Question and Answer Brief

Although it has been agreed that there should not be a press notice or press conference when the Government reply is published, there are bound to be questions from the press shortly afterwards. It will naturally fall to the Ministry of Defence to handle those questions that relate to defence issues as such. Most of those relating to the Government's handling of the matter will no doubt come to No 10, though the Department of Trade and Industry, Cabinet Office (MPO) and the Ministry of Defence may also be approached.

2. The Cabinet Office have had a first shot at drafting the Q and A brief, on non-defence issues, referred to in Sir Robert's minutes of 1 and 30 September, which might be used by various press offices in handling inquiries. The draft attached --- falls essentially into four sections:

- With
NLW?
- a. those - the majority - which will be answered by reference to the Prime Minister's statements of 23 and 27 January or to Sir Robert's session of evidence before the Defence Committee;
 - b. those to which the answers will be contained in the Government reply;
 - c. those to which the MPO are unable to draft the reply; either a substantive reply, or a 'no-comment' reply, will need to be provided by those to whom this minute is circulated;



d. a few slightly more procedural questions, to which some sort of reply can be given.

3. The brief does not attempt to cover every single question which could arise under a. or b., since on many of them Bernard Ingham will need no briefing. The brief does, however, cover a few in these categories which appear to us to be open-ended statements in the Defence Committee Reports and which are unanswered in the earlier statements or in the Government's reply.

4. I shall be grateful if copy recipients would offer answers to questions in category c. that fall to their Departments and if they would suggest any more questions that they consider need to be covered.

5. In view of the proposed timing for publication of the reply, it would be helpful if comments on the brief and additional contributions could reach me by close of play on Thursday 9 October at the very latest, so that a final version can be circulated by the end of Friday.

6. I am copying this minute to the Private Secretaries to Sir Clive Whitmore and Sir Brian Hayes; to Michael Saunders (Law Officers' Department); and to Bernard Ingham.

M C STARK

8 October 1986



A: Answer by Reference to Earlier Statements

- A1 Did any No 10 official instigate the writing of the letter by the Solicitor General? Were they acting with the Prime Minister's authority?
- A2 Why did No 10 officials not tell the Prime Minister on 7 January what had transpired on 6 January? Mr Ingham, at least, must have realised what was going on? Was he just trying to distance the Prime Minister?
- A3 Why did the Department of Trade and Industry officials not just tell Sir John Cuckney about the Solicitor General's letter instead of the Press Association (paras 159-60 of Fourth Report), or use the press notice already prepared for issue at the Westland Press Conference (paras 181-2)?
- A4 Aside from the actual leaking of the letter, is it usual for civil servants to seek to discredit and counter a Minister in another Department, either with or without their own Minister's knowledge or authorisation?
- A5 Why did Sir Robert Armstrong not interview Mr Britten as soon as he realised that he had authorised the leak?

REPLY

As the Government's response makes clear, the Government does not propose to add to or qualify the full account already given in Parliamentary statements by the Prime Minister, answers to Questions by her and other Ministers, and the evidence which the Head of the Home Civil Service gave to the Defence Committee.



B: Answer by Reference to Government Reply

B1 Will officials be allowed to assist the Select Committee further in their inquiry? Are the five officials under any official constraint in this? Have any of them expressed a wish to take up the offer in paragraph 240?

REPLY

The Government's reply (Cmnd.) deals with these questions (paras 38-45). Not aware of any wish to take up the offer in para 240.

B2 Surely civil servants consider that the Head of the Home Civil Service is their ultimate superior?

REPLY

The reply sets out the role of the Head of the Home Civil Service in relation to officials at the Department of Trade and Industry, and in the Prime Minister's office. He is neither the direct nor the ultimate superior of civil servants in any Department other than the Cabinet Office. He has, however, certain disciplinary responsibilities in relation to Grades 1 and 2 throughout the Service. In relation to appeals on matters of conscience, the Head of the Home Civil Service has accepted that any home civil servant may appeal to him if they are unable to resolve their differences within their own Department. (Govt reply to TCSC, Cmnd 9841).

B3 In January and February, the Attorney General indicated that he knew there was no possibility of a prosecution (27 January, Col 357; 3 February, Col 14/15). In July, he said



that he was not aware of the full circumstances (24 July, Col 323/4). Why has the Attorney General's story changed? [Hansard extracts attached]

REPLY

There is no inconsistency in these statements, which are dealt with in the Government reply

B4 Is it really the case that there are no grounds for disciplining the civil servants concerned?

REPLY

The Government's reply deals with this matter.



C: Answer to be Provided

C1 Does not the Report show (para 144) that the Department of Trade and Industry officials were waiting and ready to leak the Solicitor General's letter even before they formally received it?

REPLY

This inference has no basis of fact.

C2 On what basis were the specific passages disclosed - the Defence Report says (para 162) they were calculated to do the maximum damage to Mr Heseltine's case and to his personal credibility?

REPLY

This inference has no basis of fact.

C3 Why were further disclosures made to the Press Association after the first one?

C4 Did Miss Bowe refuse to give evidence without immunity?

REPLY

Nothing to add to statements made by on behalf of Attorney General.

C5 Are the civil servants concerned still in the same posts? Will they soon be moved? Has this episode damaged their career prospects? On what basis has Mr Mogg been promoted.



REPLY

Yes, except for Mr Mogg.

No present plans

No.

Because he was the most suitable candidate for the vacancy to which he was appointed.



D: Lesser Points

D1 Will there be a debate on this report and reply?

REPLY

That is a matter for the Government's Business Managers to consider

D2 When will the instruction referred to in paragraph 45 be issued?

REPLY

The instruction is being sent to Permanent Secretaries in Departments. It will be up to them to make it known to those civil servants who will have dealings with Select Committees.

D3 What will the reaction of Select Committees be to this?

REPLY

That is for them to say. The Government hopes that Select Committees will understand and accept the basic principles of Ministerial accountability, which are very important - that it is Ministers and not civil servants who are accountable to Parliament, and that it is through Ministers that Select Committees work.

Law Act 1967 and was replaced by a new offence of impeding the apprehension or prosecution of an offender. I take the question to refer to a possible offence under section 4 of the Criminal Law Act 1967. There is no evidence to justify the prosecution of Mr. Salah Abdessalem Ben Rabha for such or any other offence.

Westland plc

Mr. Bell asked the Attorney-General if he will outline the grounds on which he based his statement to the Prime Minister that he was satisfied that the offer of immunity from prosecution to an individual in connection with the disclosure of official information relating to the Westland affair in no way interfered with the course of justice; and if he will make a statement.

Mr. Winnick asked the Attorney-General when the Solicitor-General was first informed that extracts from his letter to the then Secretary of State for Defence had been publicly disclosed; and how he was so informed.

The Attorney-General: Before I authorised the Head of the Civil Service to inform the person concerned that, provided that she gave a full and truthful account of what she knew about this matter, she would not be prosecuted, I satisfied myself, on the basis of what he was already able to report to me, that she was unwilling, unless given such an assurance, to provide the full and frank account of the facts which was essential if the inquiry was to be successful. I was also satisfied that there was in any event no possibility that proceedings would be instituted against her in respect of the part which she had played in this matter.

Mr. Bell asked the Attorney-General on what date the Director of Public Prosecutions was consulted about the possibility of instituting proceedings against any persons concerned in the disclosure of official information relating to the Westland affair; on what date senior Treasury counsel were consulted on the same question; and what was their specific role in the matter.

The Attorney-General: Both the Director of Public Prosecutions and senior Treasury counsel were consulted on 23 January. Their role was to advise me whether the facts of this case justified the institution of criminal proceedings against any person under section 2 of the Official Secrets Acts 1911. My consultation of them was in accordance with the usual practice in matters of this kind.

Mr. Bell asked the Attorney-General on what date and at what hour his right hon. and learned Friend the Solicitor-General first became aware that extracts from his letter of 6 January to the then Secretary of State for Defence, the right hon. Member for Henley (Mr. Heseltine) had been communicated to the Press Association; what was his source of information on this point; and if he will make a statement.

The Attorney-General: My hon. and learned Friend the Solicitor-General first learned of the disclosure at about 3 pm on 6 January as a result of my Department being asked to comment on it by representatives of the media shortly before that time.

Mr. Winnick asked the Attorney-General when he was first informed that extracts from the letter from the Solicitor-General to the then Secretary of State for

Defence, the right hon. Member for Henley (Mr. Heseltine) had been disclosed; and if he will make a statement.

The Attorney-General: I first learned of the disclosure when I heard reports on the radio at about 5 pm on 6 January.

Mr. Redmond asked the Attorney-General if he will publish in the *Official Report* the full text of (a) the letter dated 6 January from his right hon. and learned Friend the Solicitor-General to the then Secretary of State for Defence and (b) the further letter from the Solicitor-General to the then Secretary of State relating to Westland plc.

The Attorney-General: A copy of my hon. and learned Friend's letter of 6 January was placed in the Library of the House on 15 January. A copy of his further letter of 7 January has today been placed in the Library. I understand that a copy of the letter of 6 January from my right hon. Friend the then Secretary of State for Defence to which that further letter was a reply has also been placed in the Library.

Official Information (Disclosures)

Mr. Bell asked the Attorney-General what is his policy towards the offering to named individuals of immunity from prosecution in cases of inquiries into disclosure of official information; what conditions he requires to be fulfilled in such cases before granting his consent to the offering of immunity; and if he will make a statement.

The Attorney-General: My policy in this matter is to authorise an assurance being given to a witness that he will himself not be prosecuted only if I am satisfied that it is unlikely that he will otherwise be willing to give a full and truthful account of what he knows and that it is necessary, if the true facts are to be established or, as the case may be, if evidence is to be obtained which may permit proceedings to be instituted against others, that he should give that account. Such an assurance is always conditional upon his telling the truth.

It is often a relevant consideration that there is no prospect of criminal proceedings being instituted against him, whatever his own anxieties on that matter, or that there is no evidence against him upon which such proceedings could be founded other than what he himself may say.

EMPLOYMENT

Community Programme

Mr. Wainwright asked the Paymaster General how many vacancies currently available under the community programme are part-time; and what proportion this number represents of the total number of advertised vacancies under this scheme.

Mr. Alan Clark: There were about 17,000 unfilled part-time community programme vacancies on 6 December, which was about 77 per cent. of the total number of unfilled vacancies. Part-time jobs on the programme are defined as those involving work for less than 35 hours per week.

stated on numerous occasions that advice between Law Officers and members of the Cabinet is in forbidden territory.

The Attorney-General: I agree with my hon. Friend. It has been a long-standing convention that neither the fact nor the content of advice should be disclosed.

Mr. Alex Carlile: Bearing in mind that the Solicitor-General gave his advice on the usual confidential terms, will the Attorney-General tell us first, whether the prosecution of Mr. Bernard Ingham under section 2 of the Official Secrets Act has been considered, and secondly, why it has not been proceeded with?

The Attorney-General: As my right hon. Friend the Prime Minister said in her statement, after consultation with the Director of Public Prosecutions and senior Treasury counsel, I took the view that my guidelines would not be fulfilled by any prosecution.

Mr. Cash: Does my right hon. and learned Friend agree that the Opposition are following a line of disreputable questioning? Are they not pleading confidentiality when it suits them while taking the opposite view when that suits them?

The Attorney-General: I agree with my hon. Friend. It is to be regretted that the statement of my right hon. Friend the Prime Minister and her speech have not been accepted as they should have been.

Mr. John Morris: When the Attorney-General replied to the House in a written answer on 16 January that the internal inquiry into the leak was "still some considerable way from being completed"—[*Official Report*, 16 January 1986; Vol. 89, c. 614.] was he then aware that it was an inquiry into an official leak, and what legal advice was he then tendering? Was his Department consulted in any way on the proposed use of the Solicitor-General's letter? Are there precedents for Law Officers' letters being used as weapons for publicly chastising ministerial colleagues?

The Attorney-General: I consulted the Cabinet Secretary and expressed my view that it was essential that an inquiry into the leak should be set up. I did not know any more about the inquiry until I was informed of the results. I was informed first in summary form and then I was provided with the actual document on 22 January, the same day on which it was given to my right hon. Friend the Prime Minister. As for leaking, I have nothing to add to what has already been said. I agree entirely with what my hon. and learned Friend the Solicitor-General said in his letter of 7 January.

52. **Mr. Winnick** asked the Attorney-General if he will make a statement on the offer of immunity to a civil servant arising from the inquiry into the leak of the letter sent by the Solicitor-General to the then Secretary of State for Defence on the Westland affair.

The Attorney-General: I refer the hon. Member to what my right hon. Friend the Prime Minister said to the House with my agreement on 23 January, and to my three written answers to the hon. Member for Middlesborough (Mr. Bell) on 27 January.

Mr. Winnick: Why did the director of information in the Department of Trade and Industry require immunity from prosecution? Is it not clear that she was

understandably anxious not to be used as a scapegoat in this affair? Will the private secretaries who have been involved in the matter at No. 10 and the Department of Trade and Industry be given immunity, if they so require it, as a result of the latest developments? Does the Attorney-General accept that it is most unfortunate that the Solicitor-General was used in the first place by the Prime Minister in her war against the right hon. Member for Henley (Mr. Heseltine)?

The Attorney-General: There is no question of my hon. and learned Friend the Solicitor-General being used — [Interruption.] When his attention was drawn on Saturday by the then Secretary of State for Trade and Industry to the letter which had been published in full in *The Times* from the then Secretary of State for Defence, he telephoned the then Secretary of State for Defence and told him of his anxieties about the inaccuracies in the letter and wrote a letter, entirely of his own decision, on the Monday morning.

Mr. Winnick: Why was immunity given?

The Attorney-General: The answer to that question is the one which I have already given in a number of replies to the hon. Member for Middlesborough.

Mr. Spencer: Does my right hon. and learned Friend agree that it is a constitutional necessity that Law Officers' advice should be confidential?

The Attorney-General: That is a long-established convention and one which the House should think carefully about before seeking to change it.

Mr. Campbell-Savours: Did the Solicitor-General discuss his letter to the then Secretary of State for Defence with the Prime Minister on 6, 7, 8 or 9 January? Secondly, if the Solicitor-General is asked to give evidence to the Select Committee on Defence, will he be able to do so?

The Attorney-General: The answer to the first part of the hon. Gentleman's supplementary question is no. There was no such communication on any of those days. As for the second part of his supplementary question, I would need notice.

Sir John Biggs-Davison: Does my right hon. and learned Friend agree that the use by any Government of leaks by public servants is demoralising to the public service? May we be assured that the practice will now cease?

The Attorney-General: I cannot give that assurance, save on behalf of my own Department. I am happy to say that there have been no leaks from my Department since I have been in office. I agree with my hon. Friend that leaking of any sort is deplorable. I agree entirely with the phrase used by my hon. and learned Friend the Solicitor-General at the end of his letter of 7 January.

Mr. John Morris: Is it a fair summary to say that the Solicitor-General was being used by other Ministers, and the Attorney-General was hoodwinked in that he was not told the proper basis for the inquiry, the salient facts were known to the Prime Minister from the start, and in the bogus inquiry he was persuaded to grant immunity when he knew, or should have known, or should have been told, that there was no question of a prosecution and that it was an official leak?

The Attorney-General: There is no truth in the allegation that my hon. and learned Friend was being

When I was asked to grant immunity because the girl—the information officer—was refusing to give evidence unless she had immunity and her evidence was uniquely important in the pursuance of the inquiry, I was also told enough to make it clear to me that under no circumstances would I have prosecuted her in any event.

OVERSEAS DEVELOPMENT

Aid and Trade Provision

54. **Mr. Deakins** asked the Secretary of State for Foreign and Commonwealth Affairs to what extent the aid and trade provision in 1985-86 and 1986-87 is to be funded from sources outside his Department.

The Minister for Overseas Development (Mr. Timothy Raison): The aid and trade provision is a separate allocation of funds within the aid programme. It is not funded from any other source.

Mr. Deakins: Is it not inequitable that the Department of Trade and Industry, which gets most of the benefit from the ATP makes no contribution towards the total and rising cost of that provision? Will the Minister consider seriously for the future asking his colleagues in the Department of Trade and Industry for a contribution either in whole or in part?

Mr. Raison: The hon. Gentleman must understand that the funds for the ATP come from public expenditure funds as a whole. It is important to remember that the ATP provides both jobs and employment in Britain, and schemes of real developmental value in the Third world.

Mr. Forman: Will my right hon. Friend tell the House whether, if the ATP were to come from a different departmental budget, for example the Department of Trade and Industry budget, the scheme, which is admirable and needs to be expanded, might fall foul of GATT rules?

Mr. Raison: My hon. Friend is broadly right. The important point is that this is aid. It counts as, and is recorded as, aid, and is directed to developmental as well as commercial ends.

Mr. Beith: Is it not the case that the ATP has virtually trebled in size while provision for rural development has decreased? Is it not inevitable that such emphasis on the ATP will distort the priorities which the Minister's Department should have as its main concern?

Mr. Raison: The ATP has certainly increased in size over the years since it was started by the right hon. Member for Clydesdale (Dame J. Hart). However, we are now putting increasing emphasis on rural development, and I recently announced some valuable schemes.

Indonesia

55. **Mr. Tom Clarke** asked the Secretary of State for Foreign and Commonwealth Affairs what has been the level of overseas aid to Indonesia in each of the last five years.

Mr. Raison: Gross bilateral aid to Indonesia includes capital aid, technical co-operation, aid and trade provision and investment by the Commonwealth Development Corporation. In each of the years 1980 to 1984 aid amounted to £11.19 million, £15.35 million, £17.22 million, £12.36 million and £28.24 million, respectively.

Mr. Clarke: Notwithstanding those generous figures and the supply of arms from that country, Indonesia has continued its policy of suppression against its own people, those in East Timor, and refugees in Papua New Guinea. What protest will be made?

Mr. Raison: The Indonesian Government are well aware of our position—that we are against abuses of human rights, wherever they occur. However, the fact remains that Indonesia needs aid and can make good use of it.

Zambia

56. **Mr. Mc Crindle** asked the Secretary of State for Foreign and Commonwealth Affairs what steps he is taking to help the Zambian economy.

Mr. Raison: We have pledged more than £30 million to the Zambian Government since last summer. In June we agreed to provide £4 million in programme aid, and £10 million to be associated with the World Bank's special facility. In December we undertook to provide a further £8 million in programme aid, and £5 million in association with the special facility. We also agreed a special grant of more than £1.5 million to permit the clearance of arrears of payments on aid loans. In addition, I have agreed to provide £3.17 million for a continuation of the integrated rural development project.

Mr. McCrindle: In welcoming that package of measures, may I ask my right hon. Friend to update the House on the present state of negotiations between the IMF and the Zambian Government, and particularly on the degree of dependence of the Zambian economy on mining, because the fall in copper prices recently must clearly have had adverse effect?

Mr. Raison: I think it is well known that the major problem facing Zambia has been the fact that its economy in earlier years was heavily dependent on copper prices which, of course, have fallen in recent years. That has helped produce its substantial problems. Zambia is making good progress in its discussions with the IMF and I am glad to be able to support it.

Mr. Deakins: Does the Minister intend to help Zambian agriculture by making an appropriate contribution to the international fund for agricultural development?

Mr. Raison: I am glad to say that agreement has just been reached within IFAD. I have also just announced a new contribution to the integrated rural development programme in Zambia.

Mozambique

57. **Mr. Soames** asked the Secretary of State for Foreign and Commonwealth Affairs what further aid he proposes to make available to Mozambique.

Mr. Raison: As I told Mozambican Ministers on 28 January, I am making available to Mozambique additional capital aid of £6 million for developmental purposes and £1 million for emergency relief.

Mr. Soames: I note my right hon. Friend's answer. Will he tell the House what the remaining aid programme is being spent on in Mozambique?

24 July

EXTRACT FROM HANSARD.

DATE ~~28~~ 7. 86

COL ~~323-324~~

ATTORNEY-GENERAL

Westland plc

Sir Edward Gardner asked the Attorney-General if he will make a statement on those aspects of the fourth report from the Defence Committee on Westland plc., the Government's decision-making, which fall within his responsibilities.

The Attorney-General: The Select Committee state that if, when I authorised an offer of immunity from prosecution to one of the officials concerned in the Head of the Home Civil Service's inquiry into the circumstances of the disclosure of the Solicitor General's letter of 6 January, I was able at that stage to say that under no circumstances would I have prosecuted the official concerned, I must have known, and must have learnt from the head of the Home Civil Service, that the disclosure had been authorised.

I wish to make it absolutely clear that at the time ~~then~~ I advised that an inquiry be instituted I did not know by whom the disclosure had been made or that it had been authorised by the then Secretary of State for Trade and Industry or at all.

At the time when I granted immunity to the official concerned, while I had reason to believe that the disclosure had been made by the official concerned and that the official concerned had acted in complete good faith, I was not aware of the full circumstances. It was important that the inquiry should discover as fully as possible the circumstances in which the disclosure came to be made, and should provide those concerned with the opportunity of giving their accounts of their part in the affair. It was clear that the testimony of the official in question would be vital to the inquiry, and I judged it right that possible impediment to full co-operation in the inquiry should be removed. I was and am satisfied that that in no way interfered with the course of justice: the facts as disclosed in the inquiry confirmed my judgment that there would have been no question of proceeding against the official concerned.

As the Select Committee recognises, I was not told of the direct involvement of the then Secretary of State for Trade and Industry until 22 January.

AEROSPACE Westland of PE 6.



FILE
RESTRICTED



CC CJP

10 DOWNING STREET

From the Principal Private Secretary

SIR ROBERT ARMSTRONG

DEFENCE COMMITTEE: WESTLAND PLC

I have shown the Prime Minister your minute of 6 October and the further draft of the Government response to the Third and Fourth Reports from the Defence Committee.

She is content with the amendments made to the draft, which you draw attention to in the second paragraph of your minute.

Of the amendments which you discussed with Mr. Brittan, the Prime Minister is content that the quotation from her statement in paragraph 36 should come before the quotation from his speech. She can also agree that the quotation from her statement should include the words about his position which she used on 23 January. She does not wish to delete the words in paragraph 38 "believing that Ministerial authority had been given for what was done", and wishes to retain the drafting in the version of the draft response circulated with your minute of 3 October. Nor would she wish to include a reference to the principle of collective responsibility in the statement of basic principles in paragraph 40.

I am sending copies of this minute to the Private Secretaries to the Lord President, the Secretary of State for Defence, the Lord Privy Seal, the Secretary of State for Trade and Industry, the Attorney General, the Chief Whip and the Minister of State, Privy Council Office.

D. Green

pp N. L. Wicks

7 October 1986

da

PRIME MINISTER

Seen by PM 7/10

DEFENCE COMMITTEE: WESTLAND PLC

I think we have at last got the Westland passage right. Robert and I have agreed the following.

Paragraph 38 should take in the last two sentences of paragraph 35 to read as follows;

"The Prime Minister, the then Secretary of State for Trade and Industry and the Head of the Home Civil Service have all expressed their regret that the Solicitor General's letter was disclosed in the way it was disclosed. But the Government is satisfied that those concerned acted in good faith and remains of the view that, having regard to all the circumstances, disciplinary proceedings were not called for. As the Prime Minister said in the House of Commons on 24 July:

'My right hon. Friend (sc the Secretary of State for Industry) and I have total confidence in our officials referred to in the Report.'

(Official Report, 24 July 1986, cols. 588 & 589)."

The last two sentences of paragraph 35 would then be deleted.

This drafting adds nothing new whatsoever, exposes no flank for further questioning, puts the argument into more logical order and is fair to all concerned.

Attached are the relevant paragraphs in their final form.

N.L.W.

N. L. Wicks

7 October 1986

PM said this was in final form

*N.L.W.
8.10*

35. The Committee say that they do not believe that the authority of the Secretary of State for Trade and Industry was sufficient to make public parts of a document which contained the advice of a Law Officer without the knowledge or permission of the Law Officer. As the Committee make clear, there is a rule that it is not permissible, save with the prior authority of the Law Officers, to disclose to anybody outside the United

Kingdom Government service what advice the Law Officers have given in a particular question or whether they have given, or have been or may be asked to give, such advice. In this case the prior authority of the Law Officer concerned was not sought or given. ~~The Prime Minister, the then Secretary of State for Trade and Industry and the Head of the Home Civil Service have all expressed their regret that the Solicitor General's letter was disclosed in the way it was disclosed. But it remains the Government's view that, having regard to all the circumstances, disciplinary proceedings were not called for.~~

36. The Prime Minister said in the House of Commons on 23 and 27 January:

"He [sc the then Secretary of State for Industry] took the view that the fact that the Solicitor General had written to the then Secretary of State for Defence, and the opinion he had expressed, should be brought into the public domain as soon as possible. He asked his officials to discuss with my office whether the disclosure should be made, and, if so, whether it should be made from 10 Downing Street, as he said he would prefer.

He made it clear that, subject to the agreement of my office, he was giving authority for the disclosure to be made from the Department of Trade and Industry, if it was not made from 10 Downing Street. He expressed no view as to the form in which the disclosure should be made, though it was clear to all concerned that in the circumstances it was not possible to proceed by way of an agreed statement."
(House of Commons, Official Report, 23 January 1986, col 450.)

"Officials in the Department of Trade and Industry approached officials in my office, who made it clear that it was not intended to disclose the Solicitor General's letter from 10 Downing Street; but, being told that the

Secretary of State for Trade and Industry had authorised the disclosure, they accepted that the Department of Trade and Industry should make it and they accepted the means by which it was proposed that the disclosure should be made.

My officials made it clear to the inquiry that they did not seek my agreement. They told the inquiry that they did not believe that they were being asked to give my authority, and they did not do so."

(Official Report, 27 January 1986, col 655.)

"They considered - and they were right - that I should agree with my right hon. Friend the Secretary of State for Trade and Industry that the fact that the then Defence Secretary's letter of 3 January was thought by the Solicitor General to contain material inaccuracies which needed to be corrected should become public knowledge as soon as possible, and before Sir John Cuckney's press conference. It was accepted that the Department of Trade and Industry should disclose the fact and that, in view of the urgency of the matter, the disclosure should be made by means of a telephone communication to the Press Association. Had I been consulted, I should have said that a different way must be found of making the relevant facts known."

(Official Report, 23 January 1986, col 450.)

37. Mr Leon Brittan, who was the Secretary of State for Trade and Industry at the relevant time, said in a speech in the House of Commons on 27 January:

"As my right hon Friend said in her statement to the House last Thursday, I made it clear to my officials at the Department of Trade and Industry that - subject to the agreement of No 10 - I was giving authority for the

disclosure of the Solicitor General's letter to be made. I therefore accept full responsibility for the fact and the form of that disclosure.

The House knows of the extraordinary, perhaps unprecedented circumstances in which we were working - the circumstances of the persistent campaigning of my right hon. Friend the former Secretary of State for Defence and the urgency of the need to ensure that the contents of the Solicitor General's letter should become known. But for all that, and in retrospect, I must make it clear to the House that I accept that the disclosure of that information - urgent and important as it was - should not have taken place in that way, and I profoundly regret that it happened.

I must also make it clear that at all times the Department of Trade and Industry officials acted in accordance with my wishes and instructions. What they did was with my full authority. They are not to be blamed. Indeed, they gave me good and loyal service throughout my time as Secretary of State for Trade and Industry."

(House of Commons, Official Report, 27 January 1986, col 671.)

38. The Prime Minister, the then Secretary of State for Trade and Industry and the Head of the Home Civil Service have all expressed their regret that the Solicitor General's letter was disclosed in the way it was disclosed. But the Government is satisfied that those concerned acted in good faith and remains of the view that, having regard to all the circumstances, disciplinary proceedings were not called for. As the Prime Minister said in the House of Commons on 24 July:

"My right hon. Friend (sc the Secretary of State for Trade and Industry) and I have total confidence in our officials referred to in the Report."

(Official Report, 24 July 1986, cols. 588 & 589).

Paragraph 38:

The Prime Minister, the then Secretary of State for Trade and Industry and the Head of the Home Civil Service have all expressed their regret that the Solicitor General's letter was disclosed in the way it was disclosed. But the Government is satisfied that those concerned acted in good faith and remains of the view that, having regard to all the circumstances, disciplinary proceedings were not called for. As the Prime Minister said in the House of Commons on 24 July

etc.

PRIME MINISTER

DEFENCE COMMITTEE: WESTLAND PLC

I am very sorry to have to revert to the drafting of the Government's response.

Paragraph 38 reads;

"The Government is satisfied that those concerned acted ~~in~~ ⁱⁿ good faith, believing that Ministerial authority had been given for what was done....."

of
Robert thinks, and not just because/Leon Brittan's comments, that it would be better if the paragraph read:

"The Government is satisfied that those concerned acted in good faith, believing that there was sufficient authority for what was to be done ..."

I am content with this draft. So is Charles. I don't think Bernard would object.

Agree?

N.L.W.

N. L. Wicks

7 October 1986



D/S of S/PS/20/197

MINISTRY OF DEFENCE
 MAIN BUILDING WHITEHALL LONDON SW1
 Telephone 01 ~~930 7022~~ 218 6169

7 October 1986

e DP
7/x

Per Nigel

DEFENCE COMMITTEE: WESTLAND PLC

The Defence Secretary has seen Sir Robert Armstrong's minute of 3rd October and is content with the terms of the draft response which was circulated with it. I am afraid, though, that he did not have an opportunity to consider the further draft circulated with Sir Robert's minute of 6th October within the timescale necessary if publication on 13th October is to be achieved. I note, however, that the changes in this latest draft do not affect that section of the response which deals with the Defence Committee's Third Report.

The Defence Secretary has noted the arrangements being made for publication of the Government response.

I am copying this letter to the Private Secretaries to the Lord President, the Lord Privy Seal, the Secretary of State for Trade and Industry, the Attorney General, the Chief Whip, the Minister of State, Privy Council Office and to Sir Robert Armstrong.

Yours sincerely
David Woodhead

(DAVID WOODHEAD)
 Private Secretary

N L Wicks Esq
 No 10 Downing Street

PRIME MINISTER

The intention was for Robert to show Leon Brittan the draft of the Government's response on the Defence Committee's report so that he could be forewarned before it was published, not to give him the opportunity to comment on the draft. He has, however, given some comments which Robert discusses below. Some, I think, we can accept; others not. See my marginalia.

N.L.W.

N. L. Wicks

6 October 1986

R. B.

~~CONFIDENTIAL~~ RESTRICTED

Ref. A086/2802

MR WICKS

Defence Committee: Westland plc

--- I attach a further draft of the Government Response to the Third and Fourth Reports from the Defence Committee.

2. In the light of discussion with the Prime Minister this morning, I have taken out paragraph 40 of the previous draft (which discussed the implications of the basic principles of accountability for the individual responsibility of Ministers). We agreed that it was not strictly necessary for the argument in this section of the Response, and could expose a flank for hostile questioning. I have also reordered the fourth sentence in paragraph 44 of the previous draft, to avoid misunderstanding. I have taken out the quotation from Mr Stevas, which adds nothing to the argument; I have modified the last sentence of the old paragraph 45 to soften the impact without changing the meaning; and I have run paragraphs 44 and 45 together to make a single paragraph - a proposal which we discussed in connection with an earlier draft.

All OK.

3. I have also discussed the draft as so amended with Mr Brittan. He made four points:

OK

1. On paragraph 36 he thought that the quotation from the Prime Minister's statement should come before the quotation from his speech; and he asked that the quotation from the Prime Minister's statement should include the words about his position which she used on 23 January.

This is on the record already,

but it does slant the draft a bit in L B's direction. But leave in if keeps him quiet.

ALTERNATIVE DRAFT.

(This was stapled to paragraph 5)

The Government is satisfied that, given the circumstances and in particular the constraint of time under which they were working, the officials concerned acted reasonably, believing in good faith that there was sufficient authority for what was to be done.

I think we should keep the substance of this. See alternative copy typed RTH + I have cooked up.

Exposes flank. ? leave out.

Note of his business

2. In the succeeding paragraph, Mr Brittan strongly objected to the words "believing that Ministerial authority had been given for what was done". If those words were deleted, he would accept that the paragraph should begin with a reference back to the quotations in the previous paragraph, such as "in the light of these statements".

3. He suggested that the statement of basic principles should include a reference to the principle of collective responsibility.

4. He did not disagree with the last sentence of the draft response, but he thought that it would be seen as somewhat confrontational, and would encourage rather than discourage further debate and argument. I said that the sentence had been very carefully considered by the Prime Minister and her senior colleagues.

x

4. The draft attached includes changes in paragraphs 36 to 40 to take account of Mr Brittan's comments. I rather regret the disappearance of the phrase "believing that Ministerial authority had been given for what was done"; but I doubt whether it is worth retaining if it is going to lead Mr Brittan to make an unhelpful intervention in the debate. I do not think that a reference to collective responsibility is strictly necessary to the argument in the last section of the Response; but I can see why Mr Brittan would like to include it, and I have therefore added a new "first principle" accordingly.

We arrange debate at the Govt's convenience, next LBs!

5. Mr Brittan asked about the timetable for publication and debate. I said that I thought that the intention was to publish the Response before the House of Commons resumed with a view to a debate during the spillover. Mr Brittan said that he hoped that it would be possible to arrange a debate before 2 November, as he was going to be out of the country for the week beginning 3 November.

CONFIDENTIAL

6. I understand that the intention is that the Report should be published on Monday 13 October at 3.30 pm; and that the Chief Whip should see Sir Humphrey Atkins and the Minister of State, Privy Council Office should see Mr Higgins at, say, 12.00 noon that day, to give them advance copies of the Report.

Confidential Final Revises will be circulated to members of the Cabinet on Friday 10 October. I am advised that, if this timetable is to be achieved, the text of the Response must be finalised by midday tomorrow; I should therefore be grateful for your early comments.

7. I am sending copies of this minute and the revised draft to the Private Secretaries to the Lord President, the Secretary of State for Defence, the Lord Privy Seal, the Secretary of State for Trade and Industry, the Attorney General, the Chief Whip and the Minister of State, Privy Council Office.

RA

ROBERT ARMSTRONG

6 October 1986

File LB

MR. COE

WESTLAND REPLY

The Prime Minister has seen Bernard Ingham's minute of 3 October about the arrangement for the publication of the Government's response to the Defence Committee's Reports on Westland.

As you will have seen from my minute to Sir Robert Armstrong, the Prime Minister generally agrees with Bernard's advice. But she does not like the additional gloss on the line pending publication of the Government's response which Bernard suggests in the penultimate paragraph of his minute. She therefore would not want you to use the material beginning "As you know, so much has been said".

I am copying this minute to the Private Secretaries of the Lord President, Lord Privy Seal, the Chief Whip and to Sir Robert Armstrong.

N. L. WICKS

6 October 1986

LB

L04AGN



10 DOWNING STREET

File X16
cc TV Jim Coe
(Press Office)

From the Principal Private Secretary

SIR ROBERT ARMSTRONG

DEFENCE COMMITTEE: WESTLAND PLC

The Prime Minister has considered your advice of 3 October concerning the latest draft of the Government's response to the 3rd and 4th Reports of the Defence Committee. She has commented as follows on this latest draft:-

(i) Paragraph 39

The amendment made to the latest draft is an improvement and should be retained.

(ii) Paragraph 40

This paragraph, which does not respond directly to any particular statement in the Defence Committee's Reports, is not necessary and should be omitted.

(iii) Paragraph 44

The 4th sentence beginning "Particularly if politically" should be amended to read: "There is a risk that the process of questioning may be affected by political considerations, particularly if politically controversial matters are involved."

The word "no" should be inserted before "rights" in the 5th line on page 18.

Everything should be omitted from "As the then Leader of the House of Commons" to "..... of his Department."

(iv) Paragraph 45

The second sentence should read:

"Accordingly, the Government proposes to make it clear to civil servants giving evidence to Select Committees that they should not answer questions

X16

which are, or appear to be, directed to the conduct of themselves or of other named individual civil servants."

The Prime Minister would like the Government's response to be published at 1530 on Monday 13 October unless the Lord President, Lord Privy Seal or Chief Whip would advise otherwise. There should be no press notice and no press conference. Advance copies should be given, just before publication, by the Chief Whip to Sir Humphrey Atkins, Chairman of the Select Committee on Defence, and by the Minister of State, Privy Council Office, Mr. Richard Luce, to Mr. Terence Higgins, Chairman of the TSC. The White Paper should be circulated to the Cabinet on Friday 10 October.

I am copying this minute to the Private Secretaries to the Lord President, Secretary of State for Defence, Lord Privy Seal, the Secretary of State for Trade and Industry, the Attorney General, the Chief Whip and the Minister of State, Privy Council Office.

N. L. WICKS

6 October 1986

~~CONFIDENTIAL~~

MUFAX'D TO
RESTRICTED BOURNEMOUTH

6/10.

Reply sent

CDP
7/x

Ref. A086/2802

MR WICKS

Defence Committee: Westland plc

--- I attach a further draft of the Government Response to the Third and Fourth Reports from the Defence Committee.

2. In the light of discussion with the Prime Minister this morning, I have taken out paragraph 40 of the previous draft (which discussed the implications of the basic principles of accountability for the individual responsibility of Ministers). We agreed that it was not strictly necessary for the argument in this section of the Response, and could expose a flank for hostile questioning. I have also reordered the fourth sentence in paragraph 44 of the previous draft, to avoid misunderstanding. I have taken out the quotation from Mr Stevas, which adds nothing to the argument; I have modified the last sentence of the old paragraph 45 to soften the impact without changing the meaning; and I have run paragraphs 44 and 45 together to make a single paragraph - a proposal which we discussed in connection with an earlier draft.

3. I have also discussed the draft as so amended with Mr Brittan. He made four points:

1. On paragraph 36 he thought that the quotation from the Prime Minister's statement should come before the quotation from his speech; and he asked that the quotation from the Prime Minister's statement should include the words about his position which she used on 23 January.

2. In the succeeding paragraph, Mr Brittan strongly objected to the words "believing that Ministerial authority had been given for what was done". If those words were deleted, he would accept that the paragraph should begin with a reference back to the quotations in the previous paragraph, such as "in the light of these statements".

3. He suggested that the statement of basic principles should include a reference to the principle of collective responsibility.

4. He did not disagree with the last sentence of the draft response, but he thought that it would be seen as somewhat confrontational, and would encourage rather than discourage further debate and argument. I said that the sentence had been very carefully considered by the Prime Minister and her senior colleagues.

4. The draft attached includes changes in paragraphs 36 to 40 to take account of Mr Brittan's comments. I rather regret the disappearance of the phrase "believing that Ministerial authority had been given for what was done"; but I doubt whether it is worth retaining if it is going to lead Mr Brittan to make an unhelpful intervention in the debate. I do not think that a reference to collective responsibility is strictly necessary to the argument in the last section of the Response; but I can see why Mr Brittan would like to include it, and I have therefore added a new "first principle" accordingly.

5. Mr Brittan asked about the timetable for publication and debate. I said that I thought that the intention was to publish the Response before the House of Commons resumed with a view to a debate during the spillover. Mr Brittan said that he hoped that it would be possible to arrange a debate before 2 November, as he was going to be out of the country for the week beginning 3 November.

CONFIDENTIAL

6. I understand that the intention is that the Report should be published on Monday 13 October at 3.30 pm; and that the Chief Whip should see Sir Humphrey Atkins and the Minister of State, Privy Council Office should see Mr Higgins at, say, 12.00 noon that day, to give them advance copies of the Report. Confidential Final Revises will be circulated to members of the Cabinet on Friday 10 October. I am advised that, if this timetable is to be achieved, the text of the Response must be finalised by midday tomorrow; I should therefore be grateful for your early comments.

7. I am sending copies of this minute and the revised draft to the Private Secretaries to the Lord President, the Secretary of State for Defence, the Lord Privy Seal, the Secretary of State for Trade and Industry, the Attorney General, the Chief Whip and the Minister of State, Privy Council Office.

REA

ROBERT ARMSTRONG

6 October 1986

DEFENCE COMMITTEE: THIRD REPORT AND FOURTH REPORTS

Draft Government Response

Draft of 6 October 1986

In this memorandum the Government responds to the two reports from the Select Committee on Defence relating to Westland plc which were published on 24 July 1986:

Third Report (HC 518, Session 1985-86)

The Defence Implications of the Future of Westland plc

Fourth Report (HC 519, Session 1985-86)

Westland plc: the Government's decision-making

THIRD REPORT

2. The Government notes with interest the discussion of the various issues raised and the Committee's views on a number of points. These are the subject of more detailed comments in the following paragraphs.

Future Developments of the Military Helicopter (paragraphs 30-32)

3. The Government shares the Committee's view of the growing importance of helicopters in the land battle. Their inherent flexibility and mobility when allied to improving anti-armour weapons are likely to secure them a growing role in anti-armour operations, and the advent of systems to allow more comprehensive use at night and in bad weather will enhance their utility in all roles. Like any system, however, helicopters have their limitations and due regard will continue to need to be given both to the threats to their operations (which may be

expected to grow in the battle area, not least in response to their own effectiveness) and to competing systems in each role for their relative cost effectiveness.

Helicopters in service with British forces (paragraphs 33-40)

4. The Government agrees generally with the Committee's analysis, but considers that the "sacrifice of quantity" referred to in paragraph 36 should not be exaggerated. The current holding is 867 helicopters (excluding the 60 or so referred to in the Committee's report as awaiting disposal or beyond economic repair) as against 940 in 1975.

5. The Government notes the Committee's reference (paragraph 37) to replacement of current helicopter types. The EH101 is, as the Committee say, planned to replace the ASW Sea King (in this case, Sea King V/VI). It is, however, the Sea King IV which is already replacing the Wessex 5 in the Commando role.

Future British Requirements (paragraphs 41-75)

6. The Government notes the Committee's support for the idea of equipping EH101 with the Sea Eagle anti-ship missile (paragraph 46) and will bear this in mind in future consideration of the possibility. It remains to be seen, however, whether such an enhancement of capability is feasible and can be afforded.

7. As regards support helicopters, the Government agrees that the options for the future are much as the Committee have described them in paragraph 71, though for the sake of completeness it could have been added that additional medium lift capacity could be obtained by purchasing additional Chinooks instead of additional EH101s (paragraph 71(c)). It follows from the Committee's analysis of the options that the

statement in paragraph 68 that there is no doubt that a new support helicopter will be needed in substantial numbers in the early 1990s goes too far at this stage, though plainly there is a strong possibility that such a requirement will be identified as a result of the studies currently being undertaken. The possibility of acquiring more medium lift capacity, which the Committee believe should remain open (paragraph 55), is being actively addressed in these studies.

8. The Government accepts the Committee's view that the Services' requirement for support helicopters, and the way in which any such requirement might be met, should be resolved quickly (paragraph 67). The Government welcomes the Committee's recognition of the desirability of reappraising the military requirement for support helicopters from first principles before procurement decisions are taken (paragraph 68).

9. The Government notes the Committee's preliminary view that there is a very good case for maintaining a fully airmobile brigade (paragraph 70), following the mechanisation of the present 6th Air Mobile Brigade which together with the addition of a new armoured regiment will begin in 1988. The Government will take account of the Committee's view in its further consideration of the possibility of retaining an airmobile capability.

10. The Government notes the Committee's view that there is a strong case for giving the Army, as users of support helicopters, full responsibility for them (paragraph 75). The Government points out, however, that account has to be taken of the breadth of helicopter tasks undertaken outside the Central Region and of the implications of transfer not only for command and control, but for training, manning and support arrangements. Nevertheless, the Government is bearing the Committee's views in mind in their current examination.

International Helicopter Production (paragraphs 76-90)

11. The Government accepts the analysis of the international helicopter market set out in the Committee's report; and it is specifically in acknowledgement of the high level of capital investment required for the design and development of advanced new helicopter types (paragraph 77) that the Government has for many years been looking towards collaborative solutions to its helicopter requirements whenever these are practicable. In the innovative arrangements established for the EH101 project the United Kingdom and Italian Governments, together with Westland and Agusta, have also recognised the benefits that may be derived from maximising the market potential of a single basic design with military, commercial and utility variants.

12. The Government has confirmed its continued adherence to the 1978 Four Nation Declaration of Principles, and our partner nations also maintain their support.

The Recession in the Helicopter Industry and Westland's Situation (paragraphs 91-98)

13. The Government notes and generally accepts the Committee's analysis of the effects of over capacity in the world helicopter industry and the decline in opportunities in the civil and military markets.

European Collaboration in Helicopter Production (paragraphs 99-118)

14. Whilst the Committee are correct in pointing out that the collaborative projects launched in pursuance of the Declaration of Principles have not taken the precise form originally envisaged (paragraph 104), they do nevertheless offer the prospect of a substantial improvement in rationalisation within Europe. The EH101 would be the European transport/ASW

helicopter in the 13 tonne class, and NH90 could still continue if the United Kingdom were to decide not to continue its participation due to lack of a requirement. Although for historical reasons it has not proved possible to arrive at a single anti-tank helicopter project, it must be remembered that the United Kingdom, France, Germany and Italy currently each operate different helicopters in this role.

15. It should also be remembered that NH90 and A-129 MKII have attracted the support of nations who were not signatories to the 1978 Declaration - respectively the Netherlands, and the Netherlands and Spain. In addition, collaborative arrangements have been established with Europe for the development and production of a range of engines capable of powering all four of the collaborative helicopters.

16. Following the acquisition by UTC of a stake in Westland, the Government has considered the status of the various collaborative helicopter projects in which the United Kingdom is participating. The current position is as follows.

EH101

17. The EH101 programme remains a high priority project for the United Kingdom, and the Government is continuing to provide for its share of the cost of the helicopter development and introduction into service. The Italian Government and Agusta have indicated to us that their position has not changed.

Light Attack Helicopter

18. It is intended that a Memorandum of Understanding (MOU) for a Feasibility Study to be undertaken on a Light Attack Helicopter based on the Agusta A-129 will be signed shortly by the Ministries of Defence of Italy, Netherlands, Spain and the

United Kingdom. The association between UTC and Westland has not hindered the negotiations which have led to this satisfactory conclusion.

19. Following agreement by the Secretary of State for Defence and his Italian counterpart, the French and German Governments have been notified of the intention to proceed with this collaborative project; and that we remain ready to discuss the possibility of harmonisation of the work on the A-129 with that of France and Germany on the PAH2/MAP/HAC3G if they so wish. This readiness to continue discussions on harmonisation has been noted by our allies.

NH90

20. The NH90 Feasibility Study is continuing and the participating companies are due to report to the five Governments during the autumn. United Kingdom future participation in this project will depend on the results of this study and of the extensive work being carried out within the Ministry of Defence on the future requirement for support helicopters. The next stage in the NH90 programme would be a Project Definition Study.

21. Whilst there are clearly a number of factors to take into account in determining how the United Kingdom should best work towards the replacement of the Wessex and Puma helicopters, the relationship between UTC and Westland has not so far been a problem in respect of the NH90 studies. The Government reiterates its view that future participation by the United Kingdom in the NH90 programme should not be precluded by that relationship. In that context the Government notes the Committee's arguments in paragraphs 116-118, including the references to the potential relationship between the Super Puma and NH90.

Control (paragraphs 119-152)

22. The Government notes the Committee's statement that "it is the responsibility of Government to satisfy itself that the ownership of shares in defence contractors of national importance has no implications for national security" (paragraph 144). It is important to distinguish between the influence that a foreign shareholder might bring to bear on commercial operation of a UK defence contractor on the one hand, and the protection of classified information or technology, in the interests of national security, on the other. The Committee can be assured that, whenever a foreign company becomes involved with a contractor to the Ministry of Defence, the Government takes the necessary steps to ensure that classified information is protected. Indeed, in the particular example of the Libyan involvement in Fiat, and therefore in Westland (after the company's reconstruction), the protection of classified matters has been positively confirmed.

23. On the subject of commercial control, as noted by the Committee, action may be taken in certain circumstances under the Fair Trading Act 1973 to refer the acquisition by a foreign company of material influence over the policy of a defence contractor for investigation by the Monopolies and Mergers Commission if the Secretary of State considers that the acquisition raises public interest issues. In the event of an adverse public interest finding by the Commission, powers are available to the Secretary of State to prevent or reverse the acquisition or to impose conditions. Moreover, powers under the Industry Act 1975 are available if the Government considers that commercial involvement by foreign parties is in itself against the national interest. The Secretary of State's powers under the Companies Act 1985 to investigate the ownership of shares may also be used where there is good reason to do so. All these powers are currently exercisable by the Secretary of State for Trade and Industry.

24. It is noted that the Committee wish to examine this aspect when taking evidence on the next Statement on the Defence Estimates.

The Defence Industrial Base (paragraphs 153-175)

25. The Government notes the Committee's discussion of the defence industrial base and Westland's importance to it. The defence industrial base is a major national asset whose health and future are of great importance. The pursuit of value for money in defence procurement, to which the Committee refer in paragraph 156 of their report, takes full account of the longer-term considerations which bear on the continued existence of companies or capabilities within the defence industrial base. The considerations were set out in the Open Government Document "Value for Money in Defence Equipment Procurement" (OGD 83/01) published by the Ministry of Defence in 1983. While the various considerations, short and longer term, will not always point in the same direction when selecting a procurement source, it is the Government's view that only by bearing them all in mind can long-term value for money be secured. In this respect, as the Committee noted (paragraph 163), the benefits of collaboration have to be fully taken into account, though this may involve difficult decisions.

26. As regards the importance of Westland to the defence industrial base, the Government notes the Committee's conclusion (paragraph 173) that the Board of Westland had the right and responsibility to make and defend its decision whether to associate with UTC-Sikorsky or the European consortium. This was and remains the view of the Government.

27. The Government attaches at least as much importance as the Committee to the quality of the working relationships between the Ministry of Defence and the Department of Trade and Industry. It repeats the assurances given to the Committee in

evidence that these relationships, both formal and informal, are excellent. For example, the Department of Trade and Industry is represented at meetings of the Ministry of Defence's Equipment Policy Committee and Defence Research Committee, and both Departments are represented at senior level on the Board of Management of the British National Space Centre. Among the many less formal links Ministers of both Departments meet from time to time to discuss industrial issues of mutual interest, as do officials. Nevertheless, both Departments are always on the look-out for ways of strengthening the links and making consultation more effective. The Government does not believe, however, that the quality of these relationships would be enhanced by imposing on them the formal structure of a Ministerial Aerospace Board.

FOURTH REPORT

28. Full accounts of the matters with which the Fourth Report is concerned have already been given by Ministers in statements in Parliament, speeches in debates and Answers to Parliamentary Questions, and by the Head of the Home Civil Service in his evidence to the Committee. The Government stands by those accounts, sees no reason to qualify or add to them, and no point in repeating yet again the sequence of events and decisions covered by the report.

29. The Committee make a number of comments on the inquiry into the circumstances in which the existence and part of the gist of the Solicitor General's letter of 6 January 1986 to the then Secretary of State for Defence came to be disclosed:

- a. that the fact that the disclosure had been authorised by the then Secretary of State for Trade and Industry must have been known to a number of people before the inquiry began (paragraph 196);

b. that in undertaking the inquiry the Head of the Home Civil Service was inquiring into the conduct of someone whose direct Civil Service superior he was (paragraph 215);

c. that the inquiry did not result in disciplinary proceedings against any of the officials involved (paragraph 213).

30. The Attorney General said in his answer to a Parliamentary Question on 24 July (House of Commons Official Report, 24 July 1986, Written Answers, col 323-4):

"At the time when I advised that an inquiry be instituted I did not know by whom the disclosure had been made or that it had been authorised by the then Secretary of State for Trade and Industry or at all.

At the time when I granted immunity to the official concerned, while I had reason to believe that the disclosure had been made by the official concerned and that the official concerned had acted in complete good faith, I was not aware of the full circumstances. It was important that the inquiry should discover as fully as possible the circumstances in which the disclosure came to be made, and should provide those concerned with the opportunity of giving their accounts of their part in the affair".

31. The Head of the Home Civil Service had reason, before he began his investigations, to think that the disclosure had been made by an official who believed that due authority had been given for the disclosure. He did not, however, know at that time what that authority consisted of or how it was conveyed or expressed. Like the Attorney General, he took the view that it was important to discover as fully as possible the circumstances in which the disclosures came to be made, and to hear the accounts of those concerned (all of whom co-operated fully in

his inquiry), before reporting his findings, so that conclusions and decisions could be based on as full a knowledge as possible of the facts and circumstances.

32. The officials questioned in the inquiry were in the Department of Trade and Industry and the Prime Minister's Office. The Head of the Home Civil Service is not the direct superior of officials in the Department of Trade and Industry. The Head of the Home Civil Service does not supervise, and has never supervised, the day-to-day work of members of the Prime Minister's Office: he is their superior only as a result of the Prime Minister's Office being treated for "pay and rations" purposes as part of the Cabinet Office (Management and Personnel Office) (in exactly the same way as it has always been treated as part of the Department of which the Head of the Home Civil Service has from time to time been the permanent head). The Head of the Home Civil Service did not, by virtue of the "dual role" under which the post of Head of the Home Civil Service is combined with that of Secretary of the Cabinet, face any problem that his predecessors as Head of the Home Civil Service would not have faced in a similar situation.

33. As to the question of the "dual role", the Government sees no reason to take a different view of the matter in the light of the Fourth Report from the Defence Committee from that which it took in its response to the Seventh Report of the Treasury and Civil Service Committee (Cmnd 9841):

"41. The current arrangement, under which the post of Head of the Home Civil Service is combined with the Secretaryship of the Cabinet, has clear benefits. The Secretary of the Cabinet, although not "the Prime Minister's Permanent Secretary", is of all the Permanent Secretaries the closest to the Prime Minister. As Permanent Secretary for the Cabinet Office (including the Management and Personnel Office), he is responsible to the

Minister of State, Privy Council Office, and to the Prime Minister for the matters for which she has particular responsibility as Minister for the Civil Service. He also sees many of the senior staff in action and is therefore in a good position to advise the Prime Minister, as Minister for the Civil Service, on Grade 1 and 2 appointments. As to the matter of the load of work, the Government believes that, provided that the incumbent delegates sensibly, his burden is manageable.

42. Against this background the Government sees no grounds for changing the existing organisation at the present time."

34. The Government has already made clear to the House of Commons, in the Prime Minister's answers to questions on 24 July (House of Commons, Official Report, 24 July 1986, cols 587-590) and in the speech by the Minister of State, Privy Council Office on 25 July (ibid, 25 July 1986, cols 858-862), that it does not agree with the Committee's suggestion that the Head of the Home Civil Service failed to give a clear example and a lead in these matters. On the contrary, as the Minister of State said of his part in the matter:

"Far from that being a failure of leadership, it demonstrates the exercise of leadership with great responsibility and integrity." (Official Report, 25 July 1986, col 862.)

35. The Committee say that they do not believe that the authority of the Secretary of State for Trade and Industry was sufficient to make public parts of a document which contained the advice of a Law Officer without the knowledge or permission of the Law Officer. As the Committee make clear, there is a rule that it is not permissible, save with the prior authority of the Law Officers, to disclose to anybody outside the United

Kingdom Government service what advice the Law Officers have given in a particular question or whether they have given, or have been or may be asked to give, such advice. In this case the prior authority of the Law Officer concerned was not sought or given. The Prime Minister, the then Secretary of State for Trade and Industry and the Head of the Home Civil Service have all expressed their regret that the Solicitor General's letter was disclosed in the way it was disclosed. But it remains the Government's view that, having regard to all the circumstances, disciplinary proceedings were not called for.

36. The Prime Minister said in the House of Commons on 23 and 27 January:

"He [sc the then Secretary of State for Industry] took the view that the fact that the Solicitor General had written to the then Secretary of State for Defence, and the opinion he had expressed, should be brought into the public domain as soon as possible. He asked his officials to discuss with my office whether the disclosure should be made, and, if so, whether it should be made from 10 Downing Street, as he said he would prefer.

He made it clear that, subject to the agreement of my office, he was giving authority for the disclosure to be made from the Department of Trade and Industry, if it was not made from 10 Downing Street. He expressed no view as to the form in which the disclosure should be made, though it was clear to all concerned that in the circumstances it was not possible to proceed by way of an agreed statement."
(House of Commons, Official Report, 23 January 1986, col 450.)

"Officials in the Department of Trade and Industry approached officials in my office, who made it clear that it was not intended to disclose the Solicitor General's letter from 10 Downing Street; but, being told that the

Secretary of State for Trade and Industry had authorised the disclosure, they accepted that the Department of Trade and Industry should make it and they accepted the means by which it was proposed that the disclosure should be made.

My officials made it clear to the inquiry that they did not seek my agreement. They told the inquiry that they did not believe that they were being asked to give my authority, and they did not do so."

(Official Report, 27 January 1986, col 655.)

"They considered - and they were right - that I should agree with my right hon. Friend the Secretary of State for Trade and Industry that the fact that the then Defence Secretary's letter of 3 January was thought by the Solicitor General to contain material inaccuracies which needed to be corrected should become public knowledge as soon as possible, and before Sir John Cuckney's press conference. It was accepted that the Department of Trade and Industry should disclose the fact and that, in view of the urgency of the matter, the disclosure should be made by means of a telephone communication to the Press Association. Had I been consulted, I should have said that a different way must be found of making the relevant facts known."

(Official Report, 23 January 1986, col 450.)

37. Mr Leon Brittan, who was the Secretary of State for Trade and Industry at the relevant time, said in a speech in the House of Commons on 27 January:

"As my right hon Friend said in her statement to the House last Thursday, I made it clear to my officials at the Department of Trade and Industry that - subject to the agreement of No 10 - I was giving authority for the

disclosure of the Solicitor General's letter to be made. I therefore accept full responsibility for the fact and the form of that disclosure.

The House knows of the extraordinary, perhaps unprecedented circumstances in which we were working - the circumstances of the persistent campaigning of my right hon. Friend the former Secretary of State for Defence and the urgency of the need to ensure that the contents of the Solicitor General's letter should become known. But for all that, and in retrospect, I must make it clear to the House that I accept that the disclosure of that information - urgent and important as it was - should not have taken place in that way, and I profoundly regret that it happened.

I must also make it clear that at all times the Department of Trade and Industry officials acted in accordance with my wishes and instructions. What they did was with my full authority. They are not to be blamed. Indeed, they gave me good and loyal service throughout my time as Secretary of State for Trade and Industry."

(House of Commons, Official Report, 27 January 1986, col 671.)

38. In the light of these statements, the Government is satisfied that those concerned acted in good faith. As the Prime Minister said in the House of Commons on 24 July:

"My right hon Friend [sc the Secretary of State for Industry] and I have total confidence in our officials referred to in the Report."

(Official Report, 24 July 1986, cols 588 and 589.)

39. The Defence Committee's Fourth Report reverts, in its final paragraphs, to the matter of accountability.

40. The basic principles on this matter are clear:

- Ministers are collectively responsible for the policies and decisions of the Government of which they are members.

- Each Minister is responsible to Parliament for the conduct of his Department, and for the actions carried out by his Department in pursuit of Government policies or in the discharge of responsibilities laid upon him as a Minister.

- A Minister is accountable to Parliament, in the sense that he has a duty to explain in Parliament the exercise of his powers and duties and to give an account to Parliament of what is done by him in his capacity as a Minister or by his Department.

- Civil servants are responsible to their Ministers for their actions and conduct.

41. As the Government's response to the Seventh Report of the Treasury and Civil Service Committee suggested, these principles have implications for the relationship of Select Committees to Ministers and civil servants. Select Committees exercise their formal powers to inquire into the policies and actions of Departments by virtue of the accountability of Ministers to Parliament. Civil servants who appear before them do so as representatives of, and subject to the instructions of, the Minister. The civil servant is accountable to his Minister for the evidence he gives to a Select Committee on his Minister's behalf.

42. Under Standing Orders a Select Committee has the right to send for any person whom it chooses; but it does not, and in the Government's view should not attempt to, oblige a civil servant to answer a question or to disclose information which his Minister has instructed him not to answer or disclose, or which

it is contrary to his duty of confidentiality to answer or disclose. If in giving evidence to a Select Committee a civil servant refuses to answer a question on the ground that his Minister has so instructed, the Committee's recourse must in the end be to the Minister. Similarly, if a Select Committee is not satisfied with the manner in which or the extent to which the Minister's accountability has been discharged, the Committee should not insist upon calling on a civil servant to remedy the deficiency, and thus in effect to exercise an accountability to Parliament separate from and overriding his accountability to his Minister. As the Select Committee on Procedure stated in its First Report of 1977-78:

"it would not, however, be appropriate for the House to seek directly or through its Committees to enforce its right to secure information from the Executive at a level below that of the Ministerial head of the department concerned, since such a practice would tend to undermine rather than strengthen the accountability of Ministers to the House".

43. The individual civil servant is accountable through his senior officers to his Minister, and if he has done amiss, it is to his Minister that he and his seniors are ultimately answerable. There are established means available - eg internal inquiry, disciplinary proceedings - whereby the Head of a Department can bring an individual civil servant to account, and can penalise him if penalties are called for, with safeguards and rights of appeal as appropriate.

X
44. The Government does not believe that a Select Committee is a suitable instrument for inquiring into or passing judgment upon the actions or conduct of an individual civil servant. As a witness the civil servant is liable to be constrained in his answers by his instructions from or his accountability to his Minister or by his duty of confidentiality, and therefore unable

to speak freely in his own defence. The fact that a Select Committee's proceedings are privileged does not absolve him from the obligation to comply with those instructions and that duty. There is a further risk that the process of questioning may be affected by political considerations, particularly if politically controversial matters are involved. A Select Committee inquiry into the actions and conduct of an individual civil servant, conducted in public and protected by privilege, would give the civil servant concerned no safeguards and no rights, though his reputation and even his career might be at risk. These considerations reinforce the case for not blurring or cutting across the lines of accountability - from civil servants to Ministers, and from Ministers to Parliament - and confirm the Government in its view that it is not appropriate for the inquiries of Select Committees to be extended to cover the conduct of individual civil servants. Accordingly the Government proposes to make it clear to civil servants giving evidence to Select Committees that they should not answer questions which are or appear to be directed to the conduct of themselves or of other named individual civil servants.



File SLH

10 DOWNING STREET

THE PRIME MINISTER

6 October 1986

Dear Sir John

Thank you for your letter of
2 October.

It was good of you to write as you
did, I do appreciate it, it was a
difficult time for all of us - not
least yourself.

Warm regards,

Yours sincerely

Sir John Cuckney

Margaret Thatcher

CAJ

CONFIDENTIAL

Prime Minutes
(1) Agree publication
at 3.30 pm on Monday
c: Mr Coe

13 October?

(2) I would not say X
overleaf. Agree? *Agree not*

MR WICKS

WESTLAND REPLY

So far as I can see, publication on Monday, October 13 is not merely OK but desirable. The Queen is starting her tour of China and Reagan/Gorbachev in Iceland will dominate the press.

N.L.U.

3.10

There is very little else in our diary of political interest for that day; the sexiest other bit seems to be the producer price index. The rest of the week is not at this distance very exciting apart from DES policy developments on October 14.

The only argument is the timing of publication. If we let the evenings have it - and the Standard blows it up - that will encourage Fleet Street and radio and television to run with it later. If, on the other hand, the evenings find it boring, Fleet Street is less likely to be excited.

My own choice would be to put it into the Lobby at 3.30 - ie mid-afternoon - without press notice.

Such a publication date will give ample time - including presumably two weekends - for examination before debate. You may feel that the lesser of two evils is more publicity for the report without a procedural row, rather than a procedural row which would enhance the publicity for the subject and probably content of the report, or lack of it.

If in the interim we are asked when the report is coming, I suggest we take the following unattributable line:

- the broad intention is to have it debated in the spill over, so we shall publish the Government's reply as soon as it is available from the printer (which won't

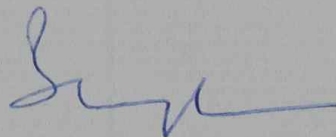
CONFIDENTIAL

be during conference week). At this stage we can't say when.

*Better not
to put this
in. X*

It is for consideration whether we should add: "As you know, so much has been said in the House on this subject that we can't see there is much left to add. In other words we would expect the response to bring together what has already been said."

I am copying to the offices of the Lord President, Lord Privy Seal, Chief Whip and Sir Robert Armstrong.



BERNARD INGHAM

3 October 1986

Ref. A086/2779

MR WICKS

Defence Committee: Westland plc

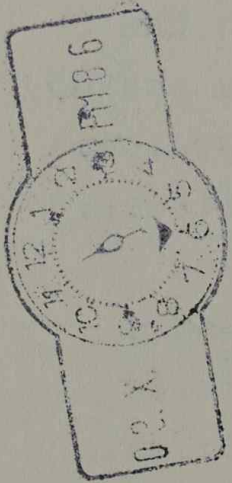
I attach a submission to the Prime Minister, covering the latest draft of the Government response to the Third and Fourth Reports from the Defence Committee.

2. At the meeting we paused over the last words of the first turet of paragraph 39. I have looked at that again, and now propose that they should read "duties laid upon him as a Minister". I think that that is an improvement on "duties laid upon him by Parliament" - not least in that it covers the case where the powers exercised are those of the prerogative and are not conferred by statute.

3. I am asking the Attorney General specifically to check the wording of paragraphs 39 and 40.

4. As to paragraph 45, we have searched the debates in the House of Commons when the Select Committee structure was set up. There is no quotation which refers specifically to the position of individual civil servants in relation to Select Committees. The quotation we have found (and reproduced in the revised paragraph 45 of the draft) is the nearest we can find, and I think that it will bear the weight of the argument, if it is linked to a restatement of the lines of accountability (civil servants to Ministers, Ministers to Parliament) on the lines now suggested in the draft. But I should be surprised if this particular significance was in Mr Stevas's mind when he used the words.

I think the quotation adds nothing - and would be best left out





5. I have kept paragraph 45 as a separate paragraph, and not run it into paragraph 44, because it seemed to me that a combined paragraph would be uncomfortably long. But that could easily be changed.

6. There is one procedural point still to be resolved (apart from the actual date of publication). The convention, as stated in Questions of Procedure for Ministers, is that:

"even when it is agreed that no issue requiring collective consideration is involved, it is customary to circulate all White Papers to the Cabinet before publication".

(C(P)(83) 5, paragraph 109.)

Cabinet colleagues other than those directly involved have not yet seen the draft response at any stage. It would probably be prudent to ensure that they have an opportunity to read it before publication. I suggest, therefore, that the draft should be circulated to the Cabinet in proof copies, under cover of a note by the Secretary of the Cabinet, on Friday 10 October. Final printing and distribution could then be carried out from Monday 13 October, with a view to publication on Thursday 16 October. That procedure and timetable would not be possible if publication were to be on Monday or Tuesday 13 or 14 October, since final printing would then have to be completed before the weekend.

5. I should be grateful if you could let me know whether the Prime Minister agrees that we should proceed accordingly.

6. I am sending copies of this minute to the Private Secretaries to the Lord President, the Lord Privy Seal and the Chief Whip.

RA

3 October 1986

ROBERT ARMSTRONG

B

Ref. A086/2780

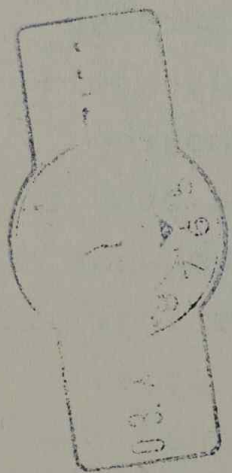
PRIME MINISTER

Defence Committee: Westland plc

I attach a further draft of the Government response to the Third and Fourth Reports of the Defence Committee on Westland plc.

2. This draft includes an amendment to paragraph 39 (the last words of the first tiret), a revision of paragraph 45 in the light of the discussion at your meeting yesterday, and the revised text of paragraph 40 approved at that meeting.

3. Subject to your approval, and that of the other Ministers to whom this minute is being copied, this text will be sent to the printers next week, so that copies may be available for publication in the week beginning 13 October. The actual date of publication in that week is still to be decided. Other things being equal, I suggest that it should be published towards the end of the week, so that it is not lying around for comment for too long before the House of Commons resumes: say, on Thursday 16 October. It could be published at, say, 2.30 pm: this would enable the Chief Whip to give an advance copy to Sir Humphrey Atkins and the Minister of State, Privy Council Office a copy to Mr Terence Higgins (if that is finally decided upon: I was not sure whether it was definitely agreed at yesterday's meeting) at, say, 12.00 noon. There would be no press notice and no press conference; the No 10 Press Office and other Press Offices concerned will be given "Question and Answer" briefing.





4. It was agreed at your meeting that the Government response should be laid as a Command paper presented by the Prime Minister, the Secretary of State for Defence, the Secretary of State for Trade and Industry and the Minister of State, Privy Council Office.

5. I am sending copies of this submission and the revised draft to the Lord President, the Secretary of State for Defence, the Lord Privy Seal, the Secretary of State for Trade and Industry, the Attorney General, the Chief Whip and the Minister of State, Privy Council Office.

ROBERT ARMSTRONG

3 October 1986

DEFENCE COMMITTEE: THIRD REPORT AND FOURTH REPORTS

Draft Government Response

Draft of 3 October 1986

In this memorandum the Government responds to the two reports from the Select Committee on Defence relating to Westland plc which were published on 24 July 1986:

Third Report (HC 518, Session 1985-86)

The Defence Implications of the Future of Westland plc

Fourth Report (HC 519, Session 1985-86)

Westland plc: the Government's decision-making

THIRD REPORT

2. The Government notes with interest the discussion of the various issues raised and the Committee's views on a number of points. These are the subject of more detailed comments in the following paragraphs.

Future Developments of the Military Helicopter (paragraphs 30-32)

3. The Government shares the Committee's view of the growing importance of helicopters in the land battle. Their inherent flexibility and mobility when allied to improving anti-armour weapons are likely to secure them a growing role in anti-armour operations, and the advent of systems to allow more comprehensive use at night and in bad weather will enhance their utility in all roles. Like any system, however, helicopters have their limitations and due regard will continue to need to be given both to the threats to their operations (which may be

expected to grow in the battle area, not least in response to their own effectiveness) and to competing systems in each role for their relative cost effectiveness.

Helicopters in service with British forces (paragraphs 33-40)

4. The Government agrees generally with the Committee's analysis, but considers that the "sacrifice of quantity" referred to in paragraph 36 should not be exaggerated. The current holding is 867 helicopters (excluding the 60 or so referred to in the Committee's report as awaiting disposal or beyond economic repair) as against 940 in 1975.

5. The Government notes the Committee's reference (paragraph 37) to replacement of current helicopter types. The EH101 is, as the Committee say, planned to replace the ASW Sea King (in this case, Sea King V/VI). It is, however, the Sea King IV which is already replacing the Wessex 5 in the Commando role.

Future British Requirements (paragraphs 41-75)

6. The Government notes the Committee's support for the idea of equipping EH101 with the Sea Eagle anti-ship missile (paragraph 46) and will bear this in mind in future consideration of the possibility. It remains to be seen, however, whether such an enhancement of capability is feasible and can be afforded.

7. As regards support helicopters, the Government agrees that the options for the future are much as the Committee have described them in paragraph 71, though for the sake of completeness it could have been added that additional medium lift capacity could be obtained by purchasing additional Chinooks instead of additional EH101s (paragraph 71(c)). It follows from the Committee's analysis of the options that the

statement in paragraph 68 that there is no doubt that a new support helicopter will be needed in substantial numbers in the early 1990s goes too far at this stage, though plainly there is a strong possibility that such a requirement will be identified as a result of the studies currently being undertaken. The possibility of acquiring more medium lift capacity, which the Committee believe should remain open (paragraph 55), is being actively addressed in these studies.

8. The Government accepts the Committee's view that the Services' requirement for support helicopters, and the way in which any such requirement might be met, should be resolved quickly (paragraph 67). The Government welcomes the Committee's recognition of the desirability of reappraising the military requirement for support helicopters from first principles before procurement decisions are taken (paragraph 68).

9. The Government notes the Committee's preliminary view that there is a very good case for maintaining a fully airmobile brigade (paragraph 70), following the mechanisation of the present 6th Air Mobile Brigade which together with the addition of a new armoured regiment will begin in 1988. The Government will take account of the Committee's view in its further consideration of the possibility of retaining an airmobile capability.

10. The Government notes the Committee's view that there is a strong case for giving the Army, as users of support helicopters, full responsibility for them (paragraph 75). The Government points out, however, that account has to be taken of the breadth of helicopter tasks undertaken outside the Central Region and of the implications of transfer not only for command and control, but for training, manning and support arrangements. Nevertheless, the Government is bearing the Committee's views in mind in their current examination.

International Helicopter Production (paragraphs 76-90)

11. The Government accepts the analysis of the international helicopter market set out in the Committee's report; and it is specifically in acknowledgement of the high level of capital investment required for the design and development of advanced new helicopter types (paragraph 77) that the Government has for many years been looking towards collaborative solutions to its helicopter requirements whenever these are practicable. In the innovative arrangements established for the EH101 project the United Kingdom and Italian Governments, together with Westland and Agusta, have also recognised the benefits that may be derived from maximising the market potential of a single basic design with military, commercial and utility variants.

12. The Government has confirmed its continued adherence to the 1978 Four Nation Declaration of Principles, and our partner nations also maintain their support.

The Recession in the Helicopter Industry and Westland's Situation (paragraphs 91-98)

13. The Government notes and generally accepts the Committee's analysis of the effects of over capacity in the world helicopter industry and the decline in opportunities in the civil and military markets.

European Collaboration in Helicopter Production (paragraphs 99-118)

14. Whilst the Committee are correct in pointing out that the collaborative projects launched in pursuance of the Declaration of Principles have not taken the precise form originally envisaged (paragraph 104), they do nevertheless offer the prospect of a substantial improvement in rationalisation within Europe. The EH101 would be the European transport/ASW

helicopter in the 13 tonne class, and NH90 could still continue if the United Kingdom were to decide not to continue its participation due to lack of a requirement. Although for historical reasons it has not proved possible to arrive at a single anti-tank helicopter project, it must be remembered that the United Kingdom, France, Germany and Italy currently each operate different helicopters in this role.

15. It should also be remembered that NH90 and A-129 MKII have attracted the support of nations who were not signatories to the 1978 Declaration - respectively the Netherlands, and the Netherlands and Spain. In addition, collaborative arrangements have been established with Europe for the development and production of a range of engines capable of powering all four of the collaborative helicopters.

16. Following the acquisition by UTC of a stake in Westland, the Government has considered the status of the various collaborative helicopter projects in which the United Kingdom is participating. The current position is as follows.

EH101

17. The EH101 programme remains a high priority project for the United Kingdom, and the Government is continuing to provide for its share of the cost of the helicopter development and introduction into service. The Italian Government and Agusta have indicated to us that their position has not changed.

Light Attack Helicopter

18. It is intended that a Memorandum of Understanding (MOU) for a Feasibility Study to be undertaken on a Light Attack Helicopter based on the Agusta A-129 will be signed shortly by the Ministries of Defence of Italy, Netherlands, Spain and the

United Kingdom. The association between UTC and Westland has not hindered the negotiations which have led to this satisfactory conclusion.

19. Following agreement by the Secretary of State for Defence and his Italian counterpart, the French and German Governments have been notified of the intention to proceed with this collaborative project; and that we remain ready to discuss the possibility of harmonisation of the work on the A-129 with that of France and Germany on the PAH2/MAP/HAC3G if they so wish. This readiness to continue discussions on harmonisation has been noted by our allies.

NH90

20. The NH90 Feasibility Study is continuing and the participating companies are due to report to the five Governments during the autumn. United Kingdom future participation in this project will depend on the results of this study and of the extensive work being carried out within the Ministry of Defence on the future requirement for support helicopters. The next stage in the NH90 programme would be a Project Definition Study.

21. Whilst there are clearly a number of factors to take into account in determining how the United Kingdom should best work towards the replacement of the Wessex and Puma helicopters, the relationship between UTC and Westland has not so far been a problem in respect of the NH90 studies. The Government reiterates its view that future participation by the United Kingdom in the NH90 programme should not be precluded by that relationship. In that context the Government notes the Committee's arguments in paragraphs 116-118, including the references to the potential relationship between the Super Puma and NH90.

Control (paragraphs 119-152)

22. The Government notes the Committee's statement that "it is the responsibility of Government to satisfy itself that the ownership of shares in defence contractors of national importance has no implications for national security" (paragraph 144). It is important to distinguish between the influence that a foreign shareholder might bring to bear on commercial operation of a UK defence contractor on the one hand, and the protection of classified information or technology, in the interests of national security, on the other. The Committee can be assured that, whenever a foreign company becomes involved with a contractor to the Ministry of Defence, the Government takes the necessary steps to ensure that classified information is protected. Indeed, in the particular example of the Libyan involvement in Fiat, and therefore in Westland (after the company's reconstruction), the protection of classified matters has been positively confirmed.

23. On the subject of commercial control, as noted by the Committee, action may be taken in certain circumstances under the Fair Trading Act 1973 to refer the acquisition by a foreign company of material influence over the policy of a defence contractor for investigation by the Monopolies and Mergers Commission if the Secretary of State considers that the acquisition raises public interest issues. In the event of an adverse public interest finding by the Commission, powers are available to the Secretary of State to prevent or reverse the acquisition or to impose conditions. Moreover, powers under the Industry Act 1975 are available if the Government considers that commercial involvement by foreign parties is in itself against the national interest. The Secretary of State's powers under the Companies Act 1985 to investigate the ownership of shares may also be used where there is good reason to do so. All these powers are currently exercisable by the Secretary of State for Trade and Industry.

24. It is noted that the Committee wish to examine this aspect when taking evidence on the next Statement on the Defence Estimates.

The Defence Industrial Base (paragraphs 153-175)

25. The Government notes the Committee's discussion of the defence industrial base and Westland's importance to it. The defence industrial base is a major national asset whose health and future are of great importance. The pursuit of value for money in defence procurement, to which the Committee refer in paragraph 156 of their report, takes full account of the longer-term considerations which bear on the continued existence of companies or capabilities within the defence industrial base. The considerations were set out in the Open Government Document "Value for Money in Defence Equipment Procurement" (OGD 83/01) published by the Ministry of Defence in 1983. While the various considerations, short and longer term, will not always point in the same direction when selecting a procurement source, it is the Government's view that only by bearing them all in mind can long-term value for money be secured. In this respect, as the Committee noted (paragraph 163), the benefits of collaboration have to be fully taken into account, though this may involve difficult decisions.

26. As regards the importance of Westland to the defence industrial base, the Government notes the Committee's conclusion (paragraph 173) that the Board of Westland had the right and responsibility to make and defend its decision whether to associate with UTC-Sikorsky or the European consortium. This was and remains the view of the Government.

27. The Government attaches at least as much importance as the Committee to the quality of the working relationships between the Ministry of Defence and the Department of Trade and Industry. It repeats the assurances given to the Committee in

evidence that these relationships, both formal and informal, are excellent. For example, the Department of Trade and Industry is represented at meetings of the Ministry of Defence's Equipment Policy Committee and Defence Research Committee, and both Departments are represented at senior level on the Board of Management of the British National Space Centre. Among the many less formal links Ministers of both Departments meet from time to time to discuss industrial issues of mutual interest, as do officials. Nevertheless, both Departments are always on the look-out for ways of strengthening the links and making consultation more effective. The Government does not believe, however, that the quality of these relationships would be enhanced by imposing on them the formal structure of a Ministerial Aerospace Board.

FOURTH REPORT

28. Full accounts of the matters with which the Fourth Report is concerned have already been given by Ministers in statements in Parliament, speeches in debates and Answers to Parliamentary Questions, and by the Head of the Home Civil Service in his evidence to the Committee. The Government stands by those accounts, sees no reason to qualify or add to them, and no point in repeating yet again the sequence of events and decisions covered by the report.

29. The Committee make a number of comments on the inquiry into the circumstances in which the existence and part of the gist of the Solicitor General's letter of 6 January 1986 to the then Secretary of State for Defence came to be disclosed:

- a. that the fact that the disclosure had been authorised by the then Secretary of State for Trade and Industry must have been known to a number of people before the inquiry began (paragraph 196);

b. that in undertaking the inquiry the Head of the Home Civil Service was inquiring into the conduct of someone whose direct Civil Service superior he was (paragraph 215);

c. that the inquiry did not result in disciplinary proceedings against any of the officials involved (paragraph 213).

30. The Attorney General said in his answer to a Parliamentary Question on 24 July (House of Commons Official Report, 24 July 1986, Written Answers, col 323-4):

"At the time when I advised that an inquiry be instituted I did not know by whom the disclosure had been made or that it had been authorised by the then Secretary of State for Trade and Industry or at all.

At the time when I granted immunity to the official concerned, while I had reason to believe that the disclosure had been made by the official concerned and that the official concerned had acted in complete good faith, I was not aware of the full circumstances. It was important that the inquiry should discover as fully as possible the circumstances in which the disclosure came to be made, and should provide those concerned with the opportunity of giving their accounts of their part in the affair".

31. The Head of the Home Civil Service had reason, before he began his investigations, to think that the disclosure had been made by an official who believed that due authority had been given for the disclosure. He did not, however, know at that time what that authority consisted of or how it was conveyed or expressed. Like the Attorney General, he took the view that it was important to discover as fully as possible the circumstances in which the disclosures came to be made, and to hear the accounts of those concerned (all of whom co-operated fully in

his inquiry), before reporting his findings, so that conclusions and decisions could be based on as full a knowledge as possible of the facts and circumstances.

32. The officials questioned in the inquiry were in the Department of Trade and Industry and the Prime Minister's Office. The Head of the Home Civil Service is not the direct superior of officials in the Department of Trade and Industry. The Head of the Home Civil Service does not supervise, and has never supervised, the day-to-day work of members of the Prime Minister's Office: he is their superior only as a result of the Prime Minister's Office being treated for "pay and rations" purposes as part of the Cabinet Office (Management and Personnel Office) (in exactly the same way as it has always been treated as part of the Department of which the Head of the Home Civil Service has from time to time been the permanent head). The Head of the Home Civil Service did not, by virtue of the "dual role" under which the post of Head of the Home Civil Service is combined with that of Secretary of the Cabinet, face any problem that his predecessors as Head of the Home Civil Service would not have faced in a similar situation.

33. As to the question of the "dual role", the Government sees no reason to take a different view of the matter in the light of the Fourth Report from the Defence Committee from that which it took in its response to the Seventh Report of the Treasury and Civil Service Committee (Cmnd 9841):

"41. The current arrangement, under which the post of Head of the Home Civil Service is combined with the Secretaryship of the Cabinet, has clear benefits. The Secretary of the Cabinet, although not "the Prime Minister's Permanent Secretary", is of all the Permanent Secretaries the closest to the Prime Minister. As Permanent Secretary for the Cabinet Office (including the Management and Personnel Office), he is responsible to the

Minister of State, Privy Council Office, and to the Prime Minister for the matters for which she has particular responsibility as Minister for the Civil Service. He also sees many of the senior staff in action and is therefore in a good position to advise the Prime Minister, as Minister for the Civil Service, on Grade 1 and 2 appointments. As to the matter of the load of work, the Government believes that, provided that the incumbent delegates sensibly, his burden is manageable.

42. Against this background the Government sees no grounds for changing the existing organisation at the present time."

34. The Government has already made clear to the House of Commons, in the Prime Minister's answers to questions on 24 July (House of Commons, Official Report, 24 July 1986, cols 587-590) and in the speech by the Minister of State, Privy Council Office on 25 July (ibid, 25 July 1986, cols 858-862), that it does not agree with the Committee's suggestion that the Head of the Home Civil Service failed to give a clear example and a lead in these matters. On the contrary, as the Minister of State said of his part in the matter:

"Far from that being a failure of leadership, it demonstrates the exercise of leadership with great responsibility and integrity." (Official Report, 25 July 1986, col 862.)

35. The Committee say that they do not believe that the authority of the Secretary of State for Trade and Industry was sufficient to make public parts of a document which contained the advice of a Law Officer without the knowledge or permission of the Law Officer. As the Committee make clear, there is a rule that it is not permissible, save with the prior authority of the Law Officers, to disclose to anybody outside the United

Kingdom Government service what advice the Law Officers have given in a particular question or whether they have given, or have been or may be asked to give, such advice. In this case the prior authority of the Law Officer concerned was not sought or given. The Prime Minister, the then Secretary of State for Trade and Industry and the Head of the Home Civil Service have all expressed their regret that the Solicitor General's letter was disclosed in the way it was disclosed. But it remains the Government's view that, having regard to all the circumstances, disciplinary proceedings were not called for.

36. Mr Leon Brittan, who was the Secretary of State for Trade and Industry at the relevant time, said in a speech in the House of Commons on 27 January (House of Commons, Official Report, 27 January 1986, col 671):

"As my right hon. Friend said in her statement to the House last Thursday, I made it clear to my officials at the Department of Trade and Industry that - subject to the agreement of No 10 - I was giving authority for the disclosure of the Solicitor General's letter to be made. I therefore accept full responsibility for the fact and the form of that disclosure.

The House knows of the extraordinary, perhaps unprecedented circumstances in which we were working - the circumstances of the persistent campaigning of my right hon. Friend the former Secretary of State for Defence and the urgency of the need to ensure that the contents of the Solicitor General's letter should become known. But for all that, and in retrospect, I must make it clear to the House that I accept that the disclosure of that information - urgent and important as it was - should not have taken place in that way, and I profoundly regret that it happened.

I must also make it clear that at all times the Department of Trade and Industry officials acted in accordance with my wishes and instructions. What they did was with my full authority. They are not to be blamed. Indeed, they gave me good and loyal service throughout my time as Secretary of State for Trade and Industry."

The Prime Minister said in the House of Commons on 23 and 27 January:

"Officials in the Department of Trade and Industry approached officials in my office, who made it clear that it was not intended to disclose the Solicitor General's letter from 10 Downing Street; but, being told that the Secretary of State for Trade and Industry had authorised the disclosure, they accepted that the Department of Trade and Industry should make it and they accepted the means by which it was proposed that the disclosure should be made.

My officials made it clear to the inquiry that they did not seek my agreement. They told the inquiry that they did not believe that they were being asked to give my authority, and they did not do so."

(Official Report, 27 January 1986, col 655)

"They considered - and they were right - that I should agree with my right hon. Friend the Secretary of State for Trade and Industry that the fact that the then Defence Secretary's letter of 3 January was thought by the Solicitor General to contain material inaccuracies which needed to be corrected should become public knowledge as soon as possible, and before Sir John Cuckney's press conference. It was accepted that the Department of Trade and Industry should disclose the fact and that, in view of the urgency of the matter, the disclosure should be made by means of a telephone communication to the Press

Association. Had I been consulted, I should have said that a different way must be found of making the relevant facts known."

(Official Report, 23 January 1986, col 450)

37. The Government is satisfied that those concerned acted in good faith, believing that Ministerial authority had been given for what was done. As the Prime Minister said in the House of Commons on 24 July:

"My right hon. Friend and I have total confidence in our officials referred to in the Report."

(Official Report, 24 July 1986, cols 588 and 589).

38. The Defence Committee's Fourth Report reverts, in its final paragraphs, to the matter of accountability.

39. The basic principles on this matter are clear:

Agreed with | - Each Minister is responsible to Parliament for the conduct of his Department, and for the actions carried out by his Department in pursuit of Government policies or in the discharge of responsibilities laid upon him as a Minister.

- A Minister is accountable to Parliament, in the sense that he has a duty to explain in Parliament the exercise of his powers and duties and to give an account to Parliament of what is done by him in his capacity as a Minister or by his department.

- Civil Servants are responsible to their Ministers for their actions and conduct.

40. As to the implications of these principles for the individual responsibility of Ministers, it has been accepted for many years that a Minister is not bound to endorse the actions of his officials, if he did not know of them and would have disapproved of them had he known of them. If the policies or actions of a Department are criticised, the Minister remains constitutionally responsible to Parliament, and is accountable to Parliament in the sense that it is his duty to give an account to Parliament of the policies or actions in question, and of anything done or to be done in response to the criticism. But there is not, and never has been, a convention that a Minister is bound to resign in every case where his Department is criticised: it depends on all the circumstances in the case.

41. As the Government's response to the Seventh Report of the Treasury and Civil Service Committee suggested, these principles have implications for the relationship of Select Committees to Ministers and civil servants. Select Committees exercise their formal powers to inquire into the policies and actions of Departments by virtue of the accountability of Ministers to Parliament. Civil servants who appear before them do so as representatives of, and subject to the instructions of, the Minister. The civil servant is accountable to his Minister for the evidence he gives to a Select Committee on his Minister's behalf.

42. Under Standing Orders a Select Committee has the right to send for any person whom it chooses; but it does not, and in the Government's view should not attempt to, oblige a civil servant to answer a question or to disclose information which his Minister has instructed him not to answer or disclose, or which it is contrary to his duty of confidentiality to answer or disclose. If in giving evidence to a Select Committee a civil servant refuses to answer a question on the ground that his Minister has so instructed, the Committee's recourse must in the

end be to the Minister. Similarly, if a Select Committee is not satisfied with the manner in which or the extent to which the Minister's accountability has been discharged, the Committee should not insist upon calling on a civil servant to remedy the deficiency, and thus in effect to exercise an accountability to Parliament separate from and overriding his accountability to his Minister. As the Select Committee on Procedure stated in its First Report of 1977-78:

"it would not, however, be appropriate for the House to seek directly or through its Committees to enforce its right to secure information from the Executive at a level below that of the Ministerial head of the department concerned, since such a practice would tend to undermine rather than strengthen the accountability of Ministers to the House".

43. The individual civil servant is accountable through his senior officers to his Minister, and if he has done amiss, it is to his Minister that he and his seniors are ultimately answerable. There are established means available - eg internal inquiry, disciplinary proceedings - whereby the Head of a Department can bring an individual civil servant to account, and can penalise him if penalties are called for, with safeguards and rights of appeal as appropriate.

44. The Government does not believe that a Select Committee is a suitable instrument for inquiring into or passing judgment upon the actions or conduct of an individual civil servant. As a witness the civil servant is liable to be constrained in his answers by his instructions from or his accountability to his Minister or by his duty of confidentiality, and therefore unable to speak freely in his own defence. The fact that a Select Committee's proceedings are privileged does not absolve him from the obligation to comply with those instructions and that duty.

Particularly if politically controversial matters are involved,

Was this
in before

There is a risk that the process of questioning may be affected by political considerations. A Select Committee inquiry into the actions and conduct of an individual civil servant, conducted in public and protected by privilege, would give the civil servant concerned no safeguards and ^{no} rights, though his reputation and even his career might be at risk. These arguments reinforce the case for not blurring or cutting across the lines of accountability: from civil servants to Ministers, and from Ministers to Parliament. (As the then Leader of the House of Commons said at the time when the new Select Committee structure was created:

"The objective of the new Committee structure will be to strengthen the accountability of Ministers to the House for the discharge of their responsibilities".

(House of Commons, Official Report, 25 June 1979, col 44.)

A Minister's responsibilities of course include responsibility for the conduct of his Department.)

45. These considerations confirm the Government in its view that it is not appropriate for the inquiries of Select Committees to be extended to cover the conduct of individual civil servants. Accordingly the Government proposes to ^{*} ~~make it~~ ^{tell} a ~~standing instruction to~~ civil servants giving evidence to Select Committees not to answer questions which are or appear to be directed to the conduct of themselves or of other named individual civil servants.

Suggest "to make it clear to civil servants giving evidence to Select Committees that they should not answer etc."

PRIME MINISTER

DEFENCE COMMITTEE: WESTLAND PLC

Questions on Robert Armstrong's minutes at Flags A and B are:

1. The amendment to paragraph 39 looks better. Agree?

*Agreed
no*

2. The redraft of paragraphs 44 and 45 reduces, but does not entirely eliminate, the confrontational aspect of the text. But I think that it will just about do, though see the possible small change to paragraph 45 which I have marked. I do not think it matters whether paragraph 45 is subsumed into paragraph 44. What are your views on the paragraphs?

redraft. a) Was the political sentence in before? b) The phrase adds nothing in bill etc

3. Bernard advises in his minute at Flag C that the Response should be published at 3.30 pm on Monday, 13 October. Robert prefers Thursday, 16 October. I suggest you agree Monday, 13 October unless the Lord President, Lord Privy Seal or Chief Whip think otherwise. Agree?

*! don't like the
Day 1
see the
previous
redraft int*

4. Robert suggests that advance copies should be given, just before publication, by the Chief Whip to Sir Humphrey Atkins and by Mr. Luce to Mr. Terence Higgins, Agree?

Yes no

5. Robert suggests the White Paper should be circulated to the Cabinet on Friday, 10 October. Agree?

Yes no

6. Finally, paragraph 40 which has caused us so much trouble. I don't think that the drafting can be improved. But I do wonder, re-reading the passage in its context and in the light of the points made by the Defence Committee, whether the paragraph is needed at all. I will take this up with Robert on Monday morning and we can settle the matter once and for all when you see him on another matter on Monday morning. Agree to have a further look at the need for this paragraph?

N.L.W.
(N. L. WICKS)

3 October 1986



10 DOWNING STREET

PRIME MINISTER

No reply needed to Sir John
Cuckney's letter, but you
might like to write very
briefly as below.

N.h.W.

N L WICKS

3 October 1986

FROM SIR JOHN CUCKNEY

Prime Minister

45 BERKELEY STREET
LONDON W1A 1EB
01-499 4000

2 October 1986

The Rt. Hon. Margaret Thatcher, MP
Prime Minister,
10, Downing Street,
London, SW1.

Dear Prime Minister,

I have for some time wished to write to you to thank you for your support for the decision to let Westland sort out its own problems at no cost to the taxpayer. I write not only as Chairman of Westland but also as a member of the Conservative Party and of Central Office's City and Industrial Liaison Council, and generally as an industrialist and banker. My board colleagues at Westland and many of my City and industrial friends greatly respected your stand over allowing a board freedom of choice to decide its own fate solely in the light of what it thought was best for its shareholders and employees.

I believe we all owe you a debt of gratitude and I for my part wish to express my personal thanks.

Yours sincerely,
John Cuckney

CONFIDENTIAL



hlc

JD

SUBJECT CC MASTER

Filed on AEROSPACE Westlands PT6

10 DOWNING STREET

From the Principal Private Secretary

Sir Robert Armstrong

DEFENCE COMMITTEE: WESTLAND PLC

The Prime Minister held a meeting today with the Lord President, the Lord Privy Seal, the Chief Whip and yourself to discuss the outstanding questions on the Government's response to the Defence Committee's reports on Westland plc in the light of the advice in your two minutes of 1 October.

The following was agreed:

1. The response should use the alternative formulation of paragraph 40 of the draft response suggested in your minute of 1 October, subject to confirmation from the Attorney General that he was content with this text.

2. The drafting of paragraph 45 of the response (concerning a standing instruction to civil servants not to answer questions directed to their conduct etc.) was thought to be somewhat confrontational and to risk needless provocation of the select committees generally. It was therefore agreed that you would submit a further draft of this paragraph. Ideally this should refer back to any Government statements in the original debate establishing the select committees which established the position of civil servants before select committees on the lines of paragraph 45. If that were not possible, the draft might use the phrase ".....the Government reaffirms this view that select committees". There might be advantage too in subsuming paragraph 45 into paragraph 46. But whatever the drafting, it was agreed that this White Paper provided a good opportunity to lay down a firm line about the position of civil servants before select committees.

3. The drafting points referred to in paragraph 4 of your minute of 1 October were agreed, as were the alterations to paragraphs 32 and 33.

4. The Government's response should be presented in the names of the Prime Minister, the Secretaries of State for Defence and Trade and Industry, and the Minister of State,

CONFIDENTIAL

EA

Privy Council Office (Mr. Luce). (The Prime Minister has this afternoon asked Mr. Luce whether he would be content to have his name appear on the front of the White Paper, and he has agreed.)

5. The response should be published in the week 13 October. The precise date needed further discussion with Mr. Ingham. One possibility was 13 October when the news should be dominated by the outcome of the Reykjavik Summit.

6. Ministers would consider further which Government Ministers would open and close the debate. First thoughts suggested that the Secretary of State for Defence should open, and the Minister of State, Privy Council Office, should wind.

7. Since the Defence Committee had not given the Press confidential final revised copies, there seemed no reason why the Government should do so. There should be no press notice on the issue of the report. The Chief Whip should let the Chairman of the Defence Select Committee, Sir Humphrey Atkins, and the Chairman of the Treasury and Civil Service Committee, Mr. Terence Higgins, have copies of the report before it was published. Sir Robert Armstrong should show the report to Mr. Leon Brittan in its final form before publication so that he was not caught unawares.

8. Since the Opposition might take the same view as the Government about the conduct of civil servants before select committees (referred to in paragraph 45 of the report), the Chief Whip should do what he can to enlist their support for this aspect of the Government's response.

9. There should be no Press Notice on the issue of the report.

Copies of this minute go to Miss MacNaughton (Lord President's Office), Mr. Wood (Lord Privy Seal's Office), Mr. Maclean (Chief Whip's Office) and to Mr. Ingham for his advice on the timing of the publication of the response.

N.L.W.

NLW

2 October, 1986.

JD3AQU



10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

Acc/ 1 October 1986

I enclose a copy of a letter which the Prime Minister has received from Jerry Wiggin MP.

I should be grateful if you would let me have a draft reply for the Prime Minister's signature, to reach this office by Wednesday 15 October.

I am sending copies of this letter and its enclosure to David Woodhead (Ministry of Defence), Andrew Lansley (Mr. Tebbit's Office) and Michael Stark (Cabinet Office).

Mark Addison

MR

Miss Catherine Bradley,
Department of Trade and Industry



MINISTRY OF DEFENCE
MAIN BUILDING WHITEHALL LONDON SW1
Telephone 01-~~930 7022~~ 218 6169

✓CCPC
CCB-4P.

D/S of S/20/197V

1st October 1986

John Nigel

DEFENCE COMMITTEE: WESTLAND PLC

The Defence Secretary has seen Sir Robert Armstrong's recent minutes on this subject.

He is content with the draft of the combined response attached to the minute of 25th September, apart from one or two drafting points in the section dealing with the Third Report which we shall pass on to Sir Robert Armstrong's office.

On the question of the presentation of the reports, the Defence Secretary understands that this will be by the Prime Minister and the two Secretaries of State jointly, as suggested in Sir Robert's minute of 23rd September. The alternative of the Defence Secretary alone presenting the combined reports would, in Mr Younger's view, be inappropriate given the ground covered by the Fourth Report.

I am sending copies of this letter to the Private Secretaries to the Lord President, the Secretary of State for Trade and Industry, the Lord Privy Seal, the Attorney General, the Chief Whip, the Minister of State in the Privy Council Office and to Sir Robert Armstrong.

D J Woodhead

(D J WOODHEAD)
Private Secretary

Nigel Wicks Esq
No 10 Downing Street



MINISTRY OF DEFENCE
MAIN BUILDING WHITE HALL LONDON ESW1
Telephone 01-203000



CONFIDENTIAL

Prime Minister

CCBGT
CCBUP

Ref. A086/2754

MR WICKS

Defence Committee: Westland plc

There are a few procedural questions which the Prime Minister may like to consider with her colleagues at tomorrow's meeting.

Timing

2. It has been agreed that the reply should be published in the week beginning 13 October. It will be helpful to have some idea of the date at which we are aiming. I am inclined to the second half of the week - perhaps Thursday 16 October.

Advance Copies

3. We have to consider whether to give confidential final revised copies to the Defence Committee and to the press.

4. The Defence Committee were at pains to make sure that the Government received no advance copies of their reports - in order (as they made clear) not to give Mr Ingham any chance to rubbish them. The Government therefore owes the Defence Committee no favours in this matter. I am inclined to favour no advance copies either to the Defence Committee or to the press, but publication at, say, 11.00 am on Thursday 16 October. Ministers will, however, wish to consider whether they would like to give Sir Humphrey Atkins a personal copy an hour or two before publication.

5. The decision is, I think, determined entirely by considerations relating to the Response to the Fourth Report. The earlier part - the Response to the Third Report - is straightforward and uncontentious and, if it were being published on

CONFIDENTIAL

its own, the Ministry of Defence would expect to give the Defence Committee some advance notice. They are still inclined to think that it would be unnecessarily antagonistic not to give the Committee even a few hours notice ahead of the press; but I doubt whether we should diminish their antagonism very much by that means.

Press Notice

6. I see no need for any kind of press notice on this occasion: there is no particular feature of the Report to which we would wish to draw press attention.

Questions and Answers Briefing

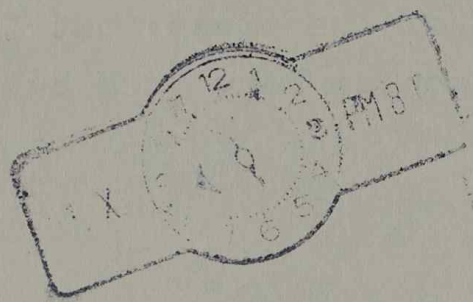
7. The preparation of material, in Question and Answer form, for briefing is in hand.

8. I am sending copies of this minute to Joan MacNaughton, Steven Wood and Murdo MacLean.

RA

ROBERT ARMSTRONG

1 October 1986



CONFIDENTIAL

CCB/G
✓
CCB/UP
CCMA

Ref. A086/2753

MR WICKS

Defence Committee: Westland plc

file with NLW.

Thank you for your minute of 29 September.

2. As to paragraph 40 of the draft response to the two reports from the Defence Committee, I have three comments on the draft which the Prime Minister has suggested:

*In my
minute
at Fly
D below.*

(a) I find difficulty with the phrase "a proper account of the events in question" it is not clear what is to be regarded as a proper account, and who is to be the judge of what is proper; and it is not clear what is meant by "the events in question": there could be a danger that that would be taken as a reference to the Westland events.

(b) I note that the Prime Minister would like to take out the sentence to the effect that Ministers are not required to endorse actions of officials which they did not know about and would not have approved if they had. It still seems to me that something on those lines is an important part of the argument, and indeed for the protection of Ministers; and I think that the Prime Minister's own position is covered since, though she thought that Bernard Ingham and Charles Powell were right to think that she would want it to become publicly known that there were thought to be material inaccuracies in Mr Heseltine's letter of 3 January, she made it clear that she did not know about or approve the method of disclosure which was adopted with Bernard Ingham's concurrence.

(c) I am not sure about the word "accusations" in the last sentence of the redraft. And it still seems to me that, if we say that Ministers are not bound to resign if their Departments do something wrong, it is difficult not to say anything about what their position is.

3. With those considerations in mind, I offer the following alternative:

"As to the implications of these principles for the individual responsibility of Ministers, it has been accepted for many years that a Minister is not bound to endorse the actions of his officials, if he did not know of them and would have disapproved of them if he had known of them. If the policies or actions of a Department are criticised, the Minister remains constitutionally responsible to Parliament, and is accountable to Parliament in the sense that it is his duty to give an account to Parliament of the policies or actions in question, and of anything done or to be done in response to the criticism. But there is not, and never has been, a convention that a Minister is bound to resign in any case where his Department is criticised: it depends on all the circumstances in the case".

4. As to your fine drafting points, I would be content to take "or" in line 5 of paragraph 31. In line 6 of paragraph 28, I think that the last two words have to be either "nor any" or "and no". I do not mind which, but I do not think that "or any" would be right.

5. A number of minor drafting changes have been proposed since --- the last draft, and I am attaching with this minute a copy of the revised draft which reflects these amendments. They are

CONFIDENTIAL

mostly very minor indeed - as you might say fine drafting - but paragraph 32 and 33 have suffered more significant drafting alterations which constitute, as I think, improvements.

5. I am sending copies of this minute and the revised draft ^{to} Joan MacNaughton, Steven Wood and Murdo MacLean.

RA

ROBERT ARMSTRONG

1 October 1986

DEFENCE COMMITTEE: THIRD REPORT AND FOURTH REPORTS

Draft Government Response

Draft of 1 October 1986

In this paper the Government responds to the two reports from the Select Committee on Defence relating to Westland plc which were published on 24 July 1986:

Third Report (HC 518, Session 1985-86)

The Defence Implications of the Future of Westland plc

Fourth Report (HC 519, Session 1985-86)

Westland plc: the Government's decision-making

THIRD REPORT

2. The Government notes with interest the discussion of the various issues raised and the Committee's views on a number of points. These are the subject of more detailed comments in the following paragraphs.

Future Developments of the Military Helicopter (paragraphs 30-32)

3. The Government shares the Committee's view of the growing importance of helicopters in the land battle. Their inherent flexibility and mobility when allied to improving anti-armour weapons are likely to secure them a growing role in anti-armour operations, and the advent of systems to allow more comprehensive use at night and in bad weather will enhance their utility in all roles. Like any system, however, helicopters have their limitations and due regard will continue to need to be given both to the threats to their operations (which may be expected to grow in the battle area, not least in response to

their own effectiveness) and to competing systems in each role for their relative cost effectiveness.

Helicopters in service with British forces (paragraphs 33-40)

4. The Government agrees generally with the Committee's analysis, but considers that the "sacrifice of quantity" referred to in paragraph 36 should not be exaggerated. The current holding is 867 helicopters (excluding the 60 or so referred to in the Committee's report as awaiting disposal or beyond economic repair) as against 940 in 1975.

5. The Government notes the Committee's reference (paragraph 37) to replacement of current helicopter types. The EH101 is, as the Committee say, planned to replace the ASW Sea King (in this case, Sea King V/VI). It is, however, the Sea King IV which is already replacing the Wessex 5 in the Commando role.

Future British Requirements (paragraphs 41-75)

6. The Government notes the Committee's support for the idea of equipping EH101 with the Sea Eagle anti-ship missile (paragraph 46) and will bear this in mind in future consideration of the possibility. It remains to be seen, however, whether such an enhancement of capability is feasible and can be afforded.

7. As regards support helicopters, the Government agrees that the options for the future are much as the Committee have described them in paragraph 71, though for the sake of completeness it could have been added that additional medium lift capacity could be obtained by purchasing additional Chinooks instead of additional EH101s (paragraph 71(c)). It follows from the Committee's analysis of the options that the statement in paragraph 68 that there is no doubt that a new

support helicopter will be needed in substantial numbers in the early 1990s goes too far at this stage, though plainly there is a strong possibility that such a requirement will be identified as a result of the studies currently being undertaken. The possibility of acquiring more medium lift capacity, which the Committee believes should remain open (paragraph 55), is being actively addressed in these studies.

8. The Government accepts the Committee's view that the Services's requirement for support helicopters, and the way in which any such requirement might be met, should be resolved quickly (paragraph 67). The Government welcomes the Committee's recognition of the desirability of reappraising the military requirement for support helicopters from first principles before procurement decisions are taken (paragraph 68).

9. The Government notes the Committee's preliminary view that there is a very good case for maintaining a fully airmobile brigade (paragraph 70), following the mechanisation of the present 6th Air Mobile Brigade which together with the addition of a new armoured regiment will begin in 1988. The Government will take account of the Committee's view in its further consideration of the possibility of retaining an airmobile capability.

10. The Government notes the Committee's view that there is a strong case for giving the Army, as users of support helicopters, full responsibility for them (paragraph 75). Nevertheless, account has to be taken of the breadth of helicopter tasks undertaken outside the Central Region and of the implications of transfer not only for command and control, but for training, manning and support arrangements. Nevertheless, the Government is bearing the Committee's views in mind in their current examination.

International Helicopter Production (paragraphs 76-90)

11. The Government accepts the analysis of the international helicopter market set out in the Committee's report; and it is specifically in acknowledgement of the high level of capital investment required for the design and development of advanced new helicopter types (paragraph 77) that the Government has for many years been looking towards collaborative solutions to its helicopter requirements whenever these are practicable. In the innovative arrangements established for the EH101 project the United Kingdom and Italian Governments, together with Westland and Agusta, have also recognised the benefits that may be derived from maximising the market potential of a single basic design with military, commercial and utility variants.

12. The Government has confirmed its continued adherence to the 1978 Four Nation Declaration of Principles, and our partner nations also maintain their support.

The Recession in the Helicopter Industry and Westland's Situation (paragraphs 91-98)

13. The Government notes and generally accepts the Committee's analysis of the effects of over capacity in the world helicopter industry and the decline in opportunities in the civil and military markets.

European Collaboration in Helicopter Production (paragraphs 99-118)

14. Whilst the Committee is correct in pointing out that the collaborative projects launched in pursuance of the Declaration of Principles have not taken the precise form originally envisaged (paragraph 104), they do nevertheless offer the prospect of a substantial improvement in rationalisation within Europe. The EH101 would be the European transport/ASW

helicopter in the 13 tonne class, and NH90 could still continue if the United Kingdom were to decide not to continue its participation due to lack of a requirement. Although for historical reasons it has not proved possible to arrive at a single anti-tank helicopter project, it must be remembered that the United Kingdom, France, Germany and Italy currently each operate different helicopters in this role.

15. It should also be remembered that NH90 and A-129 MKII have attracted the support of nations who were not signatories to the 1978 Declaration - respectively the Netherlands, and the Netherlands and Spain. In addition, collaborative arrangements have been established with Europe for the development and production of a range of engines capable of powering all four of the collaborative helicopters.

16. Following the acquisition by UTC of a stake in Westland, the Government has considered the status of the various collaborative helicopter projects in which the United Kingdom is participating. The current position is as follows.

EH101

17. The EH101 programme remains a high priority project for the United Kingdom, and the Government is continuing to provide for its share of the cost of the helicopter development and introduction into service. The Italian Government and Agusta have indicated to us that their position has not changed.

Light Attack Helicopter

18. It is intended that a Memorandum of Understanding (MOU) for a Feasibility Study to be undertaken on a Light Attack Helicopter based on the Agusta A-129 will be signed shortly by the Ministries of Defence of Italy, Netherlands, Spain and the

United Kingdom. The association between UTC and Westland has not hindered the negotiations which have led to this satisfactory conclusion.

19. Following agreement by the Secretary of State for Defence and his Italian counterpart, the French and German Governments have been notified of the intention to proceed with this collaborative project; and that we remain ready to discuss the possibility of harmonisation of the work on the A-129 with that of France and Germany on the PAH2/MAP/HAC3G if they so wish. This readiness to continue discussions on harmonisation has been noted by our allies.

NH90

20. The NH90 Feasibility Study is continuing and the participating companies are due to report to the five Governments during the autumn. United Kingdom future participation in this project will depend on the results of this study and of the extensive work being carried out within the Ministry of Defence on the future requirement for support helicopters. The next stage in the NH90 programme would be a Project Definition Study.

21. Whilst there are clearly a number of factors to take into account in determining how the United Kingdom should best work towards the replacement of the Wessex and Puma helicopters, the relationship between UTC and Westland has not so far been a problem in respect of the NH90 studies. The Government reiterates its view that future participation by the United Kingdom in the NH90 programme should not be precluded by that relationship. In that context the Government notes the Committee's arguments in paragraphs 116-118, including the references to the potential relationship between the Super Puma and NH90.

Control (paragraphs 119-152)

22. The Government notes the Committee's statement that "it is the responsibility of Government to satisfy itself that the ownership of shares in defence contractors of national importance has no implications for national security" (paragraph 144). It is important to distinguish between the influence that a foreign shareholder might bring to bear on commercial operation of a UK defence contractor on the one hand, and the protection of classified information or technology, in the interests of national security, on the other. The Committee can be assured that, whenever a foreign company becomes involved with a contractor to the Ministry of Defence, the Government takes the necessary steps to ensure that classified information is protected. Indeed, in the particular example of the Libyan involvement in Fiat, and therefore in Westland (after the company's reconstruction), the protection of classified matters has been positively confirmed.

23. On the subject of commercial control, as noted by the Committee, action may be taken in certain circumstances under the Fair Trading Act 1973 to refer the acquisition by a foreign company of material influence over the policy of a defence contractor for investigation by the Monopolies and Mergers Commission if the Secretary of State considers that the acquisition raises public interest issues. In the event of an adverse public interest finding by the Commission, powers are available to the Secretary of State to prevent or reverse the acquisition or to impose conditions. Moreover, powers under the Industry Act 1975 are available if the Government considers that commercial involvement by foreign parties is in itself against the national interest. The Secretary of State's powers under the Companies Act 1985 to investigate the ownership of shares may also be used where there is good reason to do so. All these powers are currently exercised by the Secretary of State for Trade and Industry.

24. It is noted that the Committee wishes to examine this aspect when taking evidence on the next Statement on the Defence Estimates.

The Defence Industrial Base (paragraphs 153-175)

25. The Government notes the Committee's discussion of the defence industrial base and Westland's importance to it. The defence industrial base is a major national asset whose health and future are of great importance. The pursuit of value for money in defence procurement, to which the Committee refer in paragraph 156 of their report, takes full account of the longer-term considerations which bear on the continued existence of companies or capabilities within the defence industrial base. The considerations were set out in the Open Government Document "Value for Money in Defence Equipment Procurement" (OGD 83/01) published by the Ministry of Defence in 1983. While the various considerations, short and longer term, will not always point in the same direction when selecting a procurement source, it is the Government's view that only by bearing them all in mind can long-term value for money be secured. In this respect, as the Committee noted (paragraph 163), the benefits of collaboration have to be fully taken into account, though this may involve difficult decisions.

26. As regards the importance of Westland to the defence industrial base, the Government notes the Committee's conclusion (paragraph 175) that the Board of Westland had the right and responsibility to make and defend its decision whether to associate with UTC-Sikorsky or the European consortium. This was and remains the view of the Government.

27. The Government attaches at least as much importance as the Committee to the quality of the working relationships between the Ministry of Defence and the Department of Trade and Industry. It repeats the assurances given to the Committee in

evidence that these relationships, both formal and informal, are excellent. For example, the Department of Trade and Industry is represented at meetings of the Ministry of Defence's Equipment Policy Committee and Defence Research Committee, and both Departments are represented at senior level on the Board of Management of the British National Space Centre. Among the many less formal links Ministers of both Departments meet from time to time to discuss industrial issues of mutual interest, as do officials. Nevertheless, both Departments are always on the look-out for ways of strengthening the links and making consultation more effective. The Government does not believe, however, that the quality of these relationships would be enhanced by imposing on them the formal structure of a Ministerial Aerospace Board.

FOURTH REPORT

28. Full accounts of the matters with which the Fourth Report is concerned have already been given by Ministers in statements in Parliament, speeches in debates and Answers to Parliamentary Questions, and by the Head of the Home Civil Service in his evidence to the Committee. The Government stands by those accounts, sees no reason to qualify or add to them, nor any point in repeating yet again the sequence of events and decisions covered by the report.

29. The Committee make a number of comments on the inquiry into the circumstances in which the existence and part of the gist of the Solicitor General's letter of 6 January 1986 to the then Secretary of State for Defence came to be disclosed:

- a. that the fact that the disclosure had been authorised by the then Secretary of State for Trade and Industry must have been known to a number of people before the inquiry began (paragraph 196);

b. that in undertaking the inquiry the Head of the Home Civil Service was inquiring into the conduct of someone whose direct Civil Service superior he was (paragraph 215);

c. that the inquiry did not result in disciplinary proceedings against any of the officials involved (paragraph 213).

30. The Attorney General said in his answer to a Parliamentary Question on 24 July (House of Commons Official Report, 24 July 1986, Written Answers):

"At the time when I advised that an inquiry be instituted I did not know by whom the disclosure had been made or that it had been authorised by the then Secretary of State for Trade and Industry or at all.

At the time when I granted immunity to the official concerned, while I had reason to believe that the disclosure had been made by the official concerned and that the official concerned had acted in complete good faith, I was not aware of the full circumstances. It was important that the inquiry should discover as fully as possible the circumstances in which the disclosure came to be made, and should provide those concerned with the opportunity of giving their accounts of their part in the affair".

31. The Head of the Home Civil Service had reason, before he began his investigations, to think that the disclosure had been made by an official who believed that due authority had been given for the disclosure. He did not, however, know at that time what that authority consisted of or how it was conveyed or expressed. Like the Attorney General, he took the view that it was important to discover as fully as possible the circumstances in which the disclosures came to be made, and to hear the accounts of those concerned (all of whom co-operated fully in

his inquiry), before reporting his findings, so that conclusions and decisions could be based on as full a knowledge as possible of the facts and circumstances.

32. The officials questioned in the inquiry were in the Department of Trade and Industry and the Prime Minister's Office. The Head of the Home Civil Service is not the direct superior of officials in the Department of Trade and Industry. The Head of the Home Civil Service does not supervise, and has never supervised, the day-to-day work of members of the Prime Minister's Office: he is their superior only as a result of the Prime Minister's Office being treated for "pay and rations" purposes as part of the Cabinet Office (Management and Personnel Office) (in exactly the same way as it has always been treated as part of the Department of which the Head of the Home Civil Service has from time to time been the permanent head). The Head of the Home Civil Service did not, by virtue of the "dual role" under which the post of Head of the Home Civil Service is combined with that of Secretary of the Cabinet, face any problem that his predecessors as Head of the Home Civil Service would not have faced in a similar situation.

33. As to the question of the "dual role", the Government sees no reason to take a different view of the matter in the light of the Fourth Report from the Defence Committee from that which it took in its response to the Seventh Report of the Treasury and Civil Service Committee (Cmnd 9841):

"41. The current arrangement, under which the post of Head of the Home Civil Service is combined with the Secretaryship of the Cabinet, has clear benefits. The Secretary of the Cabinet, although not "the Prime Minister's Permanent Secretary", is of all the Permanent Secretaries the closest to the Prime Minister. As Permanent Secretary for the Cabinet Office (including the

Management and Personnel Office), he is responsible to the Minister of State, Privy Council Office, and to the Prime Minister for the matters for which she has particular responsibility as Minister for the Civil Service. He also sees many of the senior staff in action and is therefore in a good position to advise the Prime Minister, as Minister for the Civil Service, on Grade 1 and 2 appointments. As to the matter of the load of work, the Government believes that, provided that the incumbent delegates sensibly, his burden is manageable.

42. Against this background the Government sees no grounds for changing the existing organisation at the present time."

34. The Government has already made clear to the House of Commons, in the Prime Minister's answers to questions on 24 July (House of Commons, Official Report, 24 July 1986, cols 587 to 590) and in the speech by the Minister of State, Privy Council Office on 25 July (ibid, 25 July 1986, cols 858 to 862), that it does not agree with the Committee's suggestion that the Head of the Home Civil Service failed to give a clear example and a lead in these matters. On the contrary, as the Minister of State said of his part in the matter:

"Far from that being a failure of leadership, it demonstrates the exercise of leadership with great responsibility and integrity." (Official Report, 25 July 1986, col 862).

35. The Committee say that they do not believe that the authority of the Secretary of State for Trade and Industry was sufficient to make public parts of a document which contained the advice of a Law Officer without the knowledge or permission of the Law Officer. As the Committee make clear, there is a rule that it is not permissible, save with the prior authority of the Law Officers, to disclose to anybody outside the United Kingdom Government service what advice the Law Officers have given in a particular question or whether they have given, or have been or may be asked to give, such advice. In this case the prior authority of the Law Officer concerned was not sought or given. The Prime Minister, the then Secretary of State for Trade and Industry and the Head of the Home Civil Service have all expressed their regret that the Solicitor General's letter was disclosed in the way it was disclosed. But it remains the Government's view that, having regard to all the circumstances, disciplinary proceedings were not called for.

36. Mr Leon Brittan, who was the Secretary of State for Trade and Industry at the relevant time, said in a speech in the House of Commons on 27 January (House of Commons, Official Report, 27 January 1986, col 671):

"As my right hon. Friend said in her statement to the House last Thursday, I made it clear to my officials at the Department of Trade and Industry that - subject to the agreement of No 10 - I was giving authority for the disclosure of the Solicitor General's letter to be made. I therefore accept full responsibility for the fact and the form of that disclosure.

The House knows of the extraordinary, perhaps unprecedented circumstances in which we were working - the circumstances of the persistent campaigning of my right hon. Friend the former Secretary of State for Defence and the urgency of the need to ensure that the contents of the Solicitor

General's letter should become known. But for all that, and in retrospect, I must make it clear to the House that I accept that the disclosure of that information - urgent and important as it was - should not have taken place in that way, and I profoundly regret that it happened.

I must also make it clear that at all times the Department of Trade and Industry officials acted in accordance with my wishes and instructions. What they did was with my full authority. They are not to be blamed. Indeed, they gave me good and loyal service throughout my time as Secretary of State for Trade and Industry."

The Prime Minister said in the House of Commons on 23 and 27 January:

"Officials in the Department of Trade and Industry approached officials in my office, who made it clear that it was not intended to disclose the Solicitor General's letter from 10 Downing Street; but, being told that the Secretary of State for Trade and Industry had authorised the disclosure, they accepted that the Department of Trade and Industry should make it and they accepted the means by which it was proposed that the disclosure should be made.

My officials made it clear to the inquiry that they did not seek my agreement. They told the inquiry that they did not believe that they were being asked to give my authority, and they did not do so."

(Official Report, 27 January 1986, col 655)

"They considered - and they were right - that I should agree with my right hon. Friend the Secretary of State for Trade and Industry that the fact that the then Defence Secretary's letter of 3 January was thought by the Solicitor General to contain material inaccuracies which

needed to be corrected should become public knowledge as soon as possible, and before Sir John Cuckney's press conference. It was accepted that the Department of Trade and Industry should disclose the fact and that, in view of the urgency of the matter, the disclosure should be made by means of a telephone communication to the Press Association. Had I been consulted, I should have said that a different way must be found of making the relevant facts known."

(Official Report, 23 January 1986, col 450)

37. The Government is satisfied that those concerned acted in good faith, believing that Ministerial authority had been given for what was done. As the Prime Minister said in the House of Commons on 24 July:

"My right hon. Friend and I have total confidence in our officials referred to in the Report."

(Official Report, 24 July 1986, cols 588 and 589).

38. The Defence Committee's Fourth Report reverts, in its final paragraphs, to the matter of accountability.

39. The basic principles on this matter are clear:

- Each Minister is responsible to Parliament for the conduct of his Department, and for the actions carried out by his Department, in pursuit of Government policies or in the discharge of responsibilities laid upon him by Parliament.

- A Minister is accountable to Parliament, in the sense that he has a duty to explain in Parliament the exercise of his powers and duties and to give an account to Parliament of what is done by him in his capacity as a Minister or by his department.

- Civil Servants are responsible to their Ministers for their actions and conduct.

40. As to the implications of these principles for the individual responsibility of Ministers, it has been accepted for many years that a Minister is not bound to endorse the actions of his officials, if he did not know of them and would have disapproved of them had he known of them. If something has gone wrong in his Department, he remains constitutionally responsible to Parliament, and he is accountable to Parliament in the sense that it is his duty to give Parliament an account of what has gone wrong, and of what has been done or will be done to deal with and put right (so far as possible) what has gone wrong and to prevent it from happening again. But there is not, and there never has been, a convention that a Minister is bound to resign in the event of any instance whatever of wrongful action or misconduct of his department.

41. As the Government's response to the Seventh Report of the Treasury and Civil Service Committee suggested, these principles have implications for the relationship of Select Committees to Ministers and civil servants. Select Committees exercise their formal powers to inquire into the policies and actions of Departments by virtue of the accountability of Ministers to Parliament. Civil servants who appear before them do so as representatives of, and subject to the instructions of, the Minister. The civil servant is accountable to his Minister for the evidence he gives to a Select Committee on his Minister's behalf.

42. Under Standing Orders a Select Committee has the right to send for any person whom it chooses; but it does not, and in the Government's view should not attempt to, oblige a civil servant to answer a question or to disclose information which his Minister has instructed him not to answer or disclose, or which it is contrary to his duty of confidentiality to answer or

disclose. If in giving evidence to a Select Committee a civil servant refuses to answer a question on the ground that his Minister has instructed him to do so, the Committee's recourse must in the end be to the Minister. Similarly, if a Select Committee is not satisfied with the manner in which or the extent to which the Minister's accountability has been discharged, the Committee should not insist upon calling on a civil servant to remedy the deficiency, and thus in effect to exercise an accountability to Parliament separate from and overriding his accountability to his Minister. As the Select Committee on Procedure stated in its First Report of 1977-78:

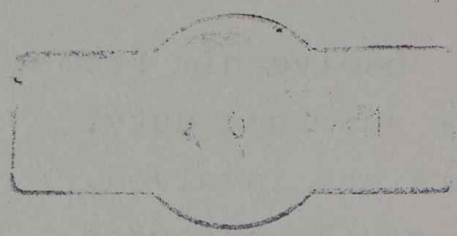
"it would not, however, be appropriate for the House to seek directly or through its Committees to enforce its right to secure information from the Executive at a level below that of the Ministerial head of the department concerned, since such a practice would tend to undermine rather than strengthen the accountability of Ministers to the House".

43. The individual civil servant is accountable through his senior officers to his Minister, and if he has done amiss, it is to his Minister that he and his seniors are ultimately answerable. There are established means available - eg internal inquiry, disciplinary proceedings - whereby the Head of a Department can bring an individual civil servant to account, and can penalise him if penalties are called for, with safeguards and rights of appeal as appropriate.

44. The Government does not believe that a Select Committee is a suitable instrument for inquiring into or passing judgment upon the actions or conduct of an individual civil servant. As a witness the civil servant is liable to be constrained in his answers by his instructions from or his accountability to his Minister or by his duty of confidentiality, and therefore unable to speak freely in his own defence. The fact that a Select

Committee's proceedings are privileged does not absolve him from the obligation to comply with those instructions and that duty. Particularly if politically controversial matters are involved, there is a risk that the process of questioning may be affected by political considerations. A Select Committee inquiry into the actions and conduct of an individual civil servant, conducted in public and protected by privilege, would give the civil servant concerned no safeguards and rights, though his reputation and even his career might be at risk.

45. For these reasons the Government considers that Select Committees should not seek to extend their inquiries to cover the conduct of individual civil servants, and proposes to make it a standing instruction to civil servants giving evidence to Select Committees not to answer questions which are or appear to be directed to the conduct of themselves or of other named individual civil servants.



CONFIDENTIAL

CONFIDENTIAL



From Jerry Wiggin, T. D., M. P.
HOUSE OF COMMONS

LONDON SW1A 0AA

Tel. 01-219 4466

21 30th. September 1986

cc: Mr. Alison

Dear Prime Minister,

*CR 01 PM
cc: ()
AL ()
MC ()*

It is over a year ago that the Government was informed of the difficulties that faced Westlands. Since then the Company has been restructured and is currently busy and profitable. The future of most of its divisions looks good. The exception is helicopters where the underlying problem remains. Because several Government Departments are involved I hope that you will take a personal interest in the resolution of this problem which is of fundamental importance to the defence of the nation as well as having huge electoral implications in the West Country. I am writing seperately to George Younger, Paul Channon and Norman Tebbit and rather than repeat the arguments I am enclosing copies of those letters.

At a recent meeting between Sir John Cuckney, George Younger and Paul Channon the case was set out in detail and I assume that there will be collective consideration of the matter. It is imperative that this should be very soon or there is a real danger of another ghastly row if Westlands start laying people off before the Government's wishes are known.

I believe the Services are wrong about the requirement and quick to forget the lessons that should have been learnt in the Falklands. You will remember how the lack of helicopters delayed the advance from San Carlos and the repercussions of the loss of the Chinooks in the Atlantic Conveyer. The Russians and the Americans take a very different view and I believe they are right.

While I do have a major Constituency interest in this matter it is a fact that only about one third of each machine is actually made by Westlands and the rest by about ninety companies, some sixty of whom have Conservative M.P.s. I do hope that this matter can now be resolved internally and expeditiously.

Yours ever

The Rt. Hon. Mrs. Margaret Thatcher, M. P.
10, Downing Street,
London S. W. 1



From Jerry Wiggin, T. D., M. P.
HOUSE OF COMMONS

LONDON SW1A 0AA
30th. September 1986

Dear *George*,

You recently had a meeting with Paul Channon to hear from Sir John Cuckney about the problems that face the helicopter division of Westlands. You will remember that Westlands have their product support and spares factory in Weston-super-Mare which is the largest employer in the town.

I fully accept that it is not the business of your Department to support ailing industries, nor is it the business of Westlands to try and tell you what you should be ordering. On the other hand, a single supplier of this sort does need to know what is required and if orders are not forthcoming shortly to cover the crucial period then I am in no doubt that Sir John means to severely curtail helicopter production which will have serious implications for the EH101 programme and cause widespread repercussions in other high technology companies.

It is not just for Constituency reasons that I press you on this and you are already aware of my view that the Services are seriously short of helicopters. We went through this when you kindly saw me the other day and I made some positive suggestions as to how the problem might be solved. I appreciate that you are awaiting advice from the central staff but this seems to be a very long time coming, particularly since the subject ought to be under continuous review. Agreement had been reached on an Air Staff Target, but this was abandoned a year ago, and still you do not have advice before you. Could it be that those who oppose an increase in helicopter numbers are deliberately delaying things? You will shortly be into L.T.C. time and if the Government delays a decision for even a few weeks it will be claimed that everything is frozen and nothing can be done.

The detailed case has been put to you by Westlands and I wished to add my view that this is more than just a matter of the fate of one part of one company but is of crucial importance to the defence of the nation.

I have also written to the Prime Minister, Norman Tebbit and Paul Channon and enclose copies of those letters.

Yours ever
Jerry

The Rt. Hon. George Younger, M. P.
The Secretary of State,
Ministry of Defence,
Whitehall, London SW1 2HB.



From Jerry Wiggin, T. D. , M. P.
HOUSE OF COMMONS
LONDON SW1A 0AA

30th. September 1986

Dear *Paul,*

You recently attended a meeting with George Younger to hear from Sir John Cuckney about the problems that face the helicopter division of Westlands. You may know that Westlands have their product support and spares factory in Weston-super-Mare which is the largest employer in the town. If they were to retreat into Yeovil and shut that factory the consequences would be far reaching.

Everything to do with aerospace is expensive and mostly controversial and I appreciate that taking a view about such things is one of your heaviest crosses. Sir John is in real earnest when he seeks guidance from the Government since I am in no doubt that he is now in a position to serve his shareholders properly without continuing in helicopter production.

I believe that the country would not understand if we allowed U.K. helicopter production to cease after all the recent fuss and even if this is an emotional reaction it would be most unwise to trigger it off. Technically the company has made great strides and the recent capture of the world speed record shows it is the world leader in blade technology which is one of the key factors in helicopter design.

The gap in the order book is only of some two years duration and compared with some of the other industries which this Government has helped the problem is relatively small. Your Department has already invested considerable sums in the industry and this is certainly not the time to pull out if a satisfactory return is to be achieved.

The political implications are also serious and I have covered these in my letter to Norman. The greatest disaster would be if there were to be a squabble between the DTI and the MOD and the baby left with the bathwater. Some ninety companies provide about two thirds of the value of a helicopter with Westlands at the centre of a complex operation that is nearly all in the forefront of technology. They are also tied in to American and European co-operation in a way that must be unique and leaves them with a very real incentive to get over this particular hurdle. I suggest that the country cannot throw up this opportunity either. Surely after more than a year considering the problem there can now be a quick and favourable decision.

I am enclosing copies of letters to the Prime Minister, George Younger and Norman Tebbit on the same subject.

The Rt. Hon. Paul Channon M. P.
The Secretary of State,
Department of Trade and Industry.

Yours ever
Jerry

From: Jerry Wiggin, T.D., M.P.



HOUSE OF COMMONS

LONDON SW1A 0AA

~~30th~~ September, 1986.

Dear *Norman*,

You will be aware that there has been a recent meeting between George Younger and Paul Channon at which Sir John Cuckney, Chairman of Westlands, set out the problems that face the helicopter division of that Company. You may know that Westlands have their product support and spares factory in Weston-super-Mare which is the largest employer in the town and involves some 1,500 jobs.

A reduction in the work force of Westlands by 2,500 would almost certainly mean that they would shut the factory in Weston-super-Mare and retreat into Yeovil. This would be a financial and economic catastrophe for the town and would have severe political repercussions. Of the three major bases of Westlands, the Isle of Wight and Yeovil already have Liberal Members and I really could not give a very optimistic forecast about my own chances if Westlands were to close in Weston-super-Mare. I gather that our candidate in the Isle of Wight is making a good impression and I hope that we may win back that seat. Westlands is the largest employer in the Isle of Wight and there might well be some backlash to our disadvantage.

One third of the value of an helicopter is actually made by Westlands while some 90 other companies spread around the country provide the rest of the work. Some 60 of these have Conservative Members of Parliament so this is not just a plea from a constituency Member. The whole West Country is a difficult area for employment at the best of times and such a major change would have a huge impact on the Counties of Somerset, Avon and Dorset.

I appreciate that there are problems of political philosophy involved in this matter but I must emphasize that great damage will be caused to the Party if an early solution is not reached.

I have written to the Prime Minister, George Younger and Paul Channon dealing with their aspects of the problem and I enclose copies of these letters.

Yours ever

The Right Hon. Norman Tebbit, M.P.
Conservative Central Office,
32 Smith Square,
LONDON SW1A 0AA.

A handwritten signature in black ink, appearing to read 'Jerry Wiggin', with a large circular flourish at the end.



10 DOWNING STREET

Pour l'avis

See list of
questions on page 2
for agenda for
discussion -

N. L. W.

30.9

CONFIDENTIAL



SL2AJE

file

10 DOWNING STREET

From the Principal Private Secretary

SIR ROBERT ARMSTRONG

DEFENCE COMMITTEE: WESTLAND PLC

I have shown the Prime Minister your minute of 25 September to which you attach a draft of the combined response to the two reports from the Defence Committee.

The Prime Minister is generally content with this draft, though she would like to discuss it through with the Lord President, Lord Privy Seal, Chief Whip and yourself before it is finally agreed. This need not, I think, delay printing arrangements for proof copies, provided that there is still opportunity for any amendments agreed in the Prime Minister's meeting with these ministers to be incorporated into the final text. Save to paragraph 40 (on which more below) I would not expect such changes to be major.

Turning now to drafting:

Paragraph 36: The Prime Minister believes that this paragraph is helpful and would like it to be retained as drafted.

Paragraph 40: She is still not happy with the drafting of this paragraph and suggests that it should read as follows: "As to the implications of these principles for the individual responsibility of Ministers, the Minister remains constitutionally responsible to Parliament, and is accountable to Parliament in the sense that it is his duty to give Parliament a proper account of the events in question. But there is not, and never has been, a convention that a Minister is bound to resign because of particular accusations to his department".

Incidentally, on two fine drafting points, should not the 'nor' in line 6 of paragraph 28 and 5 of paragraph 31 both be 'or'?

As I said earlier, the Prime Minister would like to discuss the Government's response with the Lord President, Lord Privy Seal, Chief Whip and yourself later this week. Our office will be in touch about timing. I suggest that the agenda for discussion should be as follows:

CONFIDENTIAL

LG

(i) Confirm that Ministers are generally content with the response.

(ii) Consider the Prime Minister's suggested draft above of paragraph 40.

Prime Minister

There is no question of your having to speak.

We need to make sure we

give no protest for fear to be called to speak.

(iii)

Decide, in the light of advice in your minute of 23 September, which Ministers are to present the report to Parliament. If the response is to be presented by the Prime Minister and the Secretaries of State for Defence and for Trade and Industry, would this make it more, or less, likely that the Prime Minister would need to speak in the debate.

(iv)

Decide which Ministers should speak in the debate and its timing. In connection with timing, the Prime Minister has expressed an inclination for the debate to take place on a Monday, Wednesday, or Friday, not on a Tuesday or Thursday when she is answering Questions.

WCU

30-9

I am sending a copy of this minute to Joan MacNaughton (Lord President's Office), Steven Wood (Lord Privy Seal's Office), and Murdo Maclean (Chief Whip's Office), but not to the Private Secretaries to the other Ministers to whom you copied your minute of 25 September.

N L WICKS

29 September 1986

CONFIDENTIAL



CCPC
CC Blue

MINISTER OF STATE, PRIVY COUNCIL OFFICE

PRIME MINISTER

29 September 1986

DEFENCE COMMITTEE: WESTLAND PLC

at Nap.
Sir Robert Armstrong sent me copies of his minutes to you of 19, 23 and 25 September enclosing drafts of the replies to the Defence Committee's Reports on Westland. *on file.*

in mtg today
2. Although most of the responses are concerned with specific matters relating to the Westland affair, pages 15 to 18 of the reply to the Fourth Report deal with some important issues that are of wider relevance to the management of the Civil Service. I was very concerned earlier this year that the approach of certain Select Committees, in wanting to summon and question individual civil servants on matters that were more properly for Ministers to answer, could be damaging to the whole basis on which we ask officials to give evidence to Select Committees. I therefore strongly welcome the restatement in this reply of the principle of Ministerial accountability, reinforcing what we said in the reply to the Seventh Report of the Treasury and Civil Service Committee.

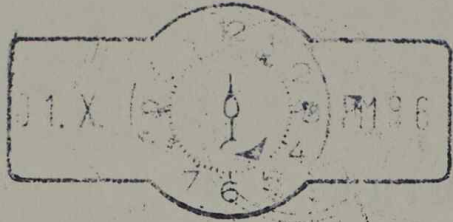
3. The proposition (in paragraph 45 of the draft) that civil servants should be instructed not to answer a Select Committee's questions directed at the conduct of named individual civil servants may not be welcome to the Committee, but it is a step that I support. If we are to expect civil servants to give evidence to Committees on behalf of their Ministers and subject to the constraints that that properly implies, we must be seen to be matching that by giving them the proper protection which can only be given by a Minister.

4. I am copying this minute to Sir Robert Armstrong and to copy recipients of his minute.

RICHARD LUCE

CONFIDENTIAL

AEROSPACE : Westlands Pt 6



UNITED STATES OF AMERICA

CONFIDENTIAL

PRIME MINISTER

We need to discuss the Government's Response to the Defence Committee's Report on Westland with the Lord President, the Lord Privy Seal, the Chief Whip and Sir Robert Armstrong. The only time that we can find is Thursday lunchtime.

Content to have lunch with these Ministers and Robert in the small dining room on Thursday? (Also useful opportunity for general discussion with Business Managers.)

Bf. //

NLW

29 September 1986

PRIME MINISTER

DEFENCE COMMITTEE: WESTLAND PLC

There are three minutes from Robert Armstrong below on the response to the Defence Committee's Report.

First, the revised draft of the response (Flag A). This looks in much better shape now. The first 27 paragraphs deal with the Committee's Defence Implications Report, is innocuous and need not concern you. Paragraph 28 et seq deals with the Committee's Decision Making Report. You will want to read through this, in the light of Robert's covering minute. My comments are as follows:

(i) Paragraph 36: I strongly agree with Robert that if Mr. Brittan's defence of DTI officials is included, your defence of No. 10 officials ought to be included too. The essential question is whether this paragraph will help produce a calm reception to the Government's response, or whether it will stimulate a row. On balance, I think the paragraph is helpful and should be retained.

Do you agree?

Yes - I agree MT.

(ii) Paragraph 40: This passage, dealing with Ministerial responsibility, is the most sensitive of all. I would certainly omit the quotation from Finer, which would only provoke unhelpful comments. I am not very happy with the rest of the paragraph and suggest it should be discussed at a short meeting with the Lord President, Lord Privy Seal, Chief Whip and Sir Robert Armstrong, which I recommend below.

What are your views?

Include the paragraph?

The quotation from Finer should in my view

For the rest, the paragraphs look unexceptional.

*to be included. One view
would be to include (from
very unedited article) for one authority - we should
have to make many others. However it is not a scholarly
reference etc*

Second, a minute on the procedural question: in which Ministers name(s) should the White Papers be presented to Parliament? (Flag B). This raises some difficult issues of Parliamentary handling (including who should speak in the debate) which I suggest you should discuss with the Lord President, Lord Privy Seal, Chief Whip and Robert Armstrong at a meeting early next week. There is a free space in Monday's diary at, say, 1530 hours.

Shall we try for a meeting then?

Yes - can we refer the same with my addendum?

Third, there is a personal note from Robert (Flag C) about Ministerial responsibility, with which I entirely agree. Fascinating as it is, I do not think you need to read Professor Finer's article. In this connection, I have looked through the Hola Camp debates in 1958 and 1959. I think that you must be recalling Enoch Powell's speech on 27 July 1959 (which Tim Flesher showed you in January 1984). But there is nothing in that speech or in the debate which is relevant.

N. L. W.

N. L. Wicks

26 September 1986



Ref. A086/2689

MR WICKS

Defence Committee: Westland plc

--- I attach a minute covering the latest version of the draft response.

2. In the light of your private minute of 25 September I have looked with particular care at the drafting of what is now paragraphs 39 and 40. I really do not think that it leaves the Prime Minister vulnerable to calls for her resignation. She has made it clear that she did not know what her officials were doing (or rather saying), that they did not consult her (or think that they needed to consult her) before saying what they said, and that she did not and does not endorse the method of what was done. All that emerges clearly from the quotations now included in paragraph 36. Moreover she has amply fulfilled her duty to give Parliament an account of the matter, in her statement of 23 January, in her speech on 27 January and in sundry Answers to Parliamentary Questions.

3. The main authority on this subject is Professor Finer, --- in an article in Public Administration in 1956. I attach a copy of extracts from that article, which I hope will meet the requirement in the third paragraph of your minute.

RA

ROBERT ARMSTRONG

25 September 1986

Public Administration
Vol 34, 1956

A.

(EXTRACTS)

The Individual Responsibility of Ministers

By PROFESSOR S. E. FINER

Recent events have focused attention on that important principle of the British constitution—Ministerial responsibility. Professor Finer here examines the cases in which a Minister has resigned or been removed to see what light they throw on the working of the convention.

SIR THOMAS DUGDALE'S resignation over the Crichton Down affair was widely hailed as the timely application of a constitutional convention and the triumphant exercise of a constitutional remedy. The convention is familiarly known as the "individual responsibility of Ministers." The remedy, as *The Economist* expressed it, is that if Ministers "fail to take early and effective action to counter potential miscarriages of justice or policy within their departments they must expect to step down from office."¹

There is a good deal of constitutional folk-lore on this subject, to be true, but whether it adds up to a convention is very questionable. And as to whether such enforced resignations as Sir Thomas's can be deemed a certain and effective constitutional remedy for mismanagement, the answer is not in any doubt. They cannot.

I. THE SUPPOSED CONVENTION OF MINISTERIAL RESPONSIBILITY

"Each Minister," says Sir Ivor Jennings, "is responsible to Parliament for the conduct of his Department. The act of every Civil Servant is by convention regarded as the act of his Minister."²

This is as good a starting point as any. The statement looks very clear. In fact there are three important obscurities. First, what is this "Department" for which the Minister is said to be responsible? Next, what precise meaning is to be attached to the word "responsible"? Thirdly, in what sense is the Minister rather than his civil servants regarded as "responsible"?

1. For what is the Minister Responsible to Parliament?

Most authorities—lawyers, political scientists and politicians—concur in Sir Ivor Jennings's formulations: it is his Department for which the Minister is responsible.³ But, as Mr. D. N. Chester has pointed out, "a ministerial department is a Minister of the Crown to whom powers have been given either explicitly by name of his office or in the name of a body which by convention or declaration is clearly understood to mean that Minister."⁴ As he points out, it is the Minister who is normally charged, whether by statute or convention; powers not usually "being given to a department as a corporate body."

More strictly, one should say, "the Minister is responsible for the duties allocated to him." Some attach to him by virtue of his conventional duty (as manifested in certain formal documents, e.g., Orders in Council, Signs Manual and Letters Patent) to execute certain prerogative acts of the Crown, and others are recited by statute. This being so, the Minister is responsible

to Parliament, as a Clerk of the House put it, for "anything the Minister is allowed to do either by his administrative powers as Head of his Department or by powers which the Act gives him."⁵

From this a number of difficulties may arise.

(a) Sometimes it proves very hard to determine which Minister is responsible, or for precisely what he is responsible, or indeed whether *any* Minister is responsible. This may involve the midnight perusal of statutes, reports and stacks of old Hansards.⁶

(b) Occasionally, when the duties are charged upon a Board, it is unclear where the Minister's duties cease. Thus when Lowe was in trouble in 1864 as Vice-President of the Education Department of the Privy Council, it was unclear whether he, or Earl Granville the Lord President, was responsible for the delinquencies in the Education Department.⁷

(c) Currently, two quite serious difficulties have arisen: the difficulty of determining the exact extent of a Minister's responsibility for a nationalised industry⁸ and the imbroglio over Sir Winston Churchill's "Overlords."⁹ This case became confused by two questions: first, on which matters did the "Overlord" answer questions and on which did the departmental Minister; and second, whether the allocation of duties to an "Overlord" by the Prime Minister was simply domestic to the secret sessions of the Cabinet or necessarily carried with it responsibility to Parliament also?

It is not proposed to carry discussion of these matters further in this paper. It is sufficient to show that the issue may have important practical consequences for "the individual responsibility of Ministers." For present purposes, however, all that is necessary is to state that individual Ministers are charged with particular powers and duties, and it is these for which they are responsible to Parliament.

2. *What is Meant by "Responsible"?*

It is clear that:

(a) Ministers are expected to explain and defend the exercise of their powers and duties in Parliament;

(b) Any Minister who has lost the confidence of the House can by vote of censure or other devices, be compelled to resign; and that

(c) The second may occur as a consequence of the first.

This set of propositions does not constitute a convention. It states a truism. To be a convention three qualities must be added: first that Proposition (b) must result from Proposition (a), next that this causal sequence tends to recur, and thirdly that this is imperative. In short, that "the second proposition tends to recur as a result of the first and it ought to do so."

Whether resignation does in fact tend to recur as a consequence of failures to explain and defend conduct satisfactorily will be dealt with in

THE INDIVIDUAL RESPONSIBILITY OF MINISTERS

Part II. But there seems to be some obscurity as to whether Ministers *should* as a rule resign in such circumstances and this is radical.

The difficulty seems to be linguistic. "Responsible" may mean "answerable to." It may also mean "answerable for" in the sense of "censurable for," and in this sense carries the implication that a penalty may be exacted. The language of some authorities is so cautious on the subject of resignation as to identify "responsibility" with simple "answerability to Parliament." Wade and Phillips seem to take it in such a sense. They concede (p. 67) that "Ministers may in the last resort be dismissed (by whom?) on political grounds," but this statement occurs two pages later than the discussion of the individual responsibility of Ministers and this is defined in terms of the anonymity of the Civil Servant. "For every act or neglect of his department a Minister must answer. . . . For what an unnamed official does or does not do, his Minister alone must answer in Parliament."

If we have interpreted this correctly, then "individual ministerial responsibility" means simply that Ministers and nobody but Ministers must explain and defend to Parliament the actions carried out on their behalf. In which case there is self-evidently no convention imposing the duty to resign on a Minister as a result of Parliamentary dissatisfaction. If there is no such convention then there is no correlated constitutional remedy for departmental mismanagement, and we have answered our original question.

It is open to the reader to take this view: to dismiss *The Economist's* comments as idle chatter and to set aside similar views expressed in Parliament during the Crichton Down debate. But another view exists supported by good authority: a political tradition exists: and a mass of folk-lore exists—to the effect that responsible means "the liability to lose office."¹⁰

As Macaulay pointed out, impeachment—quite certainly a constitutional remedy for mismanagement—was abandoned only because a tenderer age deemed "the loss of office and public disapprobation as punishments sufficient for errors in the administration not imputable to public corruption."¹¹ This sentence was approved by Todd (1867).¹² Bagehot expresses a similar view (1872).¹³ Sidney Low reformulates it (albeit only to depreciate its importance as a remedy).¹⁴ Keith (1939) says specifically that "under the doctrine of ministerial responsibility Ministers may be punished by Parliament for improper advice given to the Crown by loss of office, censure or, in theory, impeachment."¹⁵ And Sir Ivor Jennings also defines individual responsibility in terms of possible forfeiture of office in face of disapproval by the House.¹⁶ Supporting this is a veritable canon of Parliamentary *obiter dicta*, culminating in the Crichton Down debate.

The view to be explored then is that the individual responsibility of Ministers means two things:

(a) Each Minister has a positive duty to answer to the House for the matters with which he, specifically, is charged.

(b) Arising from or because of the expressed feeling of the House the Minister may be constrained to tender his resignation.

In short, responsible means "answerable to" and "answerable for."

3. *Why the Minister?*

If we follow the formal language of the grant of powers then, as we have seen, the "department" is the Minister. He alone is charged by statute; or, in the case of prerogative powers, he alone is designated by the formal Order, Warrant, Commission or Letter Patent through which the prerogative power is conveyed to him.

In this case, it must follow that only the Minister gives explanations to the House, never his officials: and that he is answerable for any misdeeds of his officials.

In fact it does not appear that the relationship of civil servant to Minister and to Parliament, has ever been settled by reference to this *formal* situation. On the contrary, as Sir Ivor Jennings says in the quotation under discussion, "the act of every civil servant is *by convention* regarded as the act of his Minister."

It is certainly true that the only channel is *via* the appropriate Minister. In broad principle this position has never been in serious doubt, the logic being this. In the sixteenth and seventeenth centuries the King, personally, is the head of the Executive branch, and even in the eighteenth century this is still to some extent so in practice, and wholly so in theory. In the eighteenth and nineteenth centuries the prerogative power of the Crown comes to be (except for personal prerogatives) wholly undertaken by Ministers, who can be held to account for this by Parliament. Thus the exercise of administration is nominally the Crown's but in fact carried out by Ministers.

The precise degree to which Parliament could interfere with the Executive, however, had never been settled even in the eighteenth century, and the modern convention does not seem to have become quite settled till about 1870. The abolition of recruitment by patronage in the Civil Service did much to render the civil servant anonymous, since it severed personal allegiances between Minister and civil servants so that personal cases were less frequently debated.¹⁷ But as late as 1864, when civil servants carried complaints about their department to M.Ps. who used this against the Minister (Lowe) with such deadly effect as to force his resignation, Lord Robert Cecil could say, unrebuked, that civil servants had the right of direct approach to M.Ps. on what seemed to them to be abuses in their departments.¹⁸ The authentic modern note was struck in 1873, however, in the Scudamore scandal, where Scudamore, a high official of the Post Office, took personal blame for a misappropriation of funds, and where the Chancellor of the Exchequer, the responsible Minister, was disposed to accept this view. The Commons tending to take the same view, Bernal Osborne (a Tory M.P.) stated what is today the firm convention: "This House has nothing to do with Mr. Scudamore. He is not responsible to us. We ought to look at the Heads of Departments."¹⁹ This view had its repercussions in the Crichton Down affair. As *The Times* said, for the House to demand further disciplinary action from the Minister would be "the most direct form of political interference with the Civil Service possible." It was not the Commons' right but the Minister's to prescribe disciplinary measures.²⁰ Indeed, many M.Ps. reproached Sir Thomas with having ever established the facts by public enquiry, and with the fact that disciplinary measures had

THE INDIVIDUAL RESPONSIBILITY OF MINISTERS

been left to a special committee. In these ways, they claimed, he had both abdicated his own responsibilities as a Minister and necessarily dragged civil servants, by name, into public controversy.²¹ The Minister, in short, is not only a channel between Parliament and Civil Service: he is a wall.

Although the doctrine became established that Ministers alone are answerable to Parliament in respect of every act or omission of their civil servants, there seems no evidence that it was also established that—in the words of Wade and Phillips—“no Minister can shield himself by blaming his official” (p. 65). And indeed, as Sir David Maxwell Fyfe himself observed, it is not true that “Ministers are obliged to extend total protection to their officials and endorse their acts,” or that “well justified criticism of civil servants cannot be made on a suitable occasion.”²² But it is clear from the cases to be cited below that Ministers do not have to defend subordinates who defy instructions or who act reprehensibly in circumstances of which the Minister could not have become aware. It is equally clear that Ministers have defended themselves by blaming their officials and firing them. And it is also true that the House does not censure the Minister who can show that the delinquency was against his express instructions, or that he could not physically have known of it—provided he makes it clear, by speech or action, that the offender has been dealt with and that therefore the delinquency is unlikely to recur.

The following four cases are instructive on these points :

(1) *The Lowe Affair*, 1864

Lowe was accused of censoring the reports of H.M.Is. contrary to Parliament's intentions, denied this, and was confronted with evidence produced by the H.M.Is. themselves. Six days later he resigned, alleging that his honour had been impugned, and then explained that although the censorship was indeed continuing, contrary to his original statement to the Commons, he did not know this at the time; he had forbidden the practice, but could not know of its continuance because owing to his poor sight (he was nearly blind) he never read the reports but had them read to him. A Select Committee confirmed this story and later the House was told that Lowe's resignation “was totally and entirely unnecessary.”²³

(2) *The Captain Affair*, 1870-71

By the Order in Council of 1869 Childers, as First Lord, took responsibility for all that passed at the Admiralty.²⁴ In 1870 the *Captain*, an ironclad of novel design, perished at sea with enormous loss of life. Despite the verdict of a court martial which acquitted the Chief Controller of blame, Childers, after an inquiry, published a minute laying responsibility on this Chief Controller, Sir Spencer Robinson. The case was vigorously debated in the Lords, but Sir Spencer was not reappointed to his office as Controller (the term of which had just expired) and was superseded in his other capacity of Third Lord.²⁵

(3) *The Trafalgar Square Riots*, 1886

Childers took office as Home Secretary on the very day that serious

THE INDIVIDUAL RESPONSIBILITY OF MINISTERS

debate, also, that the Opposition were more tender towards him than were his own side. Evidently his back benchers disliked the policy of his department as well as his administration, whereas many Labour M.Ps. applauded his policy and regretted his departure as a "surrender of the 1947 Act."

In the light of these examples, it seems then that a precondition of the fall of the Minister is either the fluidity of party lines or a back bench revolt.

III. CONCLUSION

The convention implies a form of punishment for a delinquent Minister. That punishment is no longer an act of attainder, or an impeachment, but simply loss of office.

If each, or even very many charges of incompetence were habitually followed by the punishment, the remedy would be a very real one: its deterrent effect would be extremely great. In fact, that sequence is not only exceedingly rare, but arbitrary and unpredictable. Most charges never reach the stage of individualisation at all: they are stifled under the blanket of party solidarity. Only when there is a minority Government, or in the infrequent cases where the Minister seriously alienates his own back benchers, does the issue of the individual culpability of the Minister even arise. Even there it is subject to hazards: the punishment may be avoided if the Prime Minister, whether on his own or on the Minister's initiative, makes a timely re-shuffle. Even when some charges get through the now finely woven net, and are laid at the door of a Minister, much depends on his nicety, and much on the character of the Prime Minister. Brazen tenacity of office can still win a reprieve. And, in the last resort—though this happens infrequently—the resignation of the Minister may be made purely formal by reappointment to another post soon afterwards.

We may put the matter in this way: whether a Minister is forced to resign depends on three factors, on himself, his Prime Minister and his party. On himself—as Austen Chamberlain resigned though possessing the confidence of his Prime Minister and his party, whereas Ayrton remained in office despite having neither. On the Prime Minister—as Salisbury stood between Matthews, his Home Secretary, and the party that clamoured for his dismissal.⁶⁷ On the party—as witness the impotence of Palmerston to save Westbury, Balfour to save Wyndham, Asquith to save Birrell. For a resignation to occur all three factors have to be just so: the Minister compliant, the Prime Minister firm, the party clamorous. This conjuncture is rare, and is in fact fortuitous. Above all, it is indiscriminate—which Ministers escape and which do not is decided neither by the circumstances of the offence nor its gravity. A Wyndham and a Chamberlain go for a peccadillo, a Kitchener will remain despite major blunders.

A remedy ought to be certain. A punishment, to be deterrent, ought to be certain. But whether the Minister should resign is simply the (necessarily) haphazard consequence of a fortuitous concomitance of personal, party and political temper.

Is there then a "convention" of resignation at all?

A convention, in Dicey's sense, is a rule which is not enforced by the Courts. The important word is "rule." "Rule" does not mean merely

an observed uniformity in the past; the notion includes the expectation that the uniformity will continue in the future. It is not simply a description; it is a prescription. It has a compulsive force.

Now in its first sense, that the Minister alone *speaks* for his Civil Servants to the House and to his Civil Servants for the House, the convention of ministerial responsibility has both the proleptic and the compulsive features of a "rule." But in the sense in which we have been considering it, that the Minister *may be punished, through loss of office* for all the misdeeds and neglects of his Civil Servants which he cannot prove to have been outside all possibility of his cognisance and control, the proposition does not seem to be a rule at all.

What is the compulsive element in such a "rule"? All it says (on examination) is that if the Minister is yielding, his Prime Minister unbending and his party out for blood—no matter how serious or trivial the reason—the Minister will find himself without Parliamentary support. This is a statement of fact, not a code. What is more, as a statement of fact it comes very close to being a truism: that a Minister entrusted by his Prime Minister with certain duties must needs resign if he loses the support of his majority. The only compulsive element in the proposition is that if and when a Minister loses his majority he ought to get out rather than be kicked out.

Moreover, even as a simple generalisation, an observed uniformity, the "convention" is, surely, highly misleading? It takes the wrong cases: it generalises from the exceptions and neglects the common run. There are four categories of delinquent Ministers: the fortunate, the less fortunate, the unfortunate, and the plain unlucky. After sinning, the first go to other Ministries; the second to Another Place; the third just go. Of the fourth there are but twenty examples in a century: indeed, if one omits Neville Chamberlain (an anomaly) and the "personal" cases, viz., Mundella, Thomas and Dalton, there are but sixteen. Not for these sixteen the honourable exchange of offices, or the silent and not dishonourable exit. Their lot is public penance in the white sheet of a resignation speech or letter. (Sir Ben Smith is the only exception: neither shuffle nor white sheet for him, but highly uncommunicative disappearance: Sir Winston put it as *spurlös versunken*, "sunk without trace.") It is on some sixteen or at most nineteen penitents and one anomaly that the generalisation has been based.

"When Diagoras, the so-called atheist, was at Samothrace one of his friends showed him several votive tablets put up by people who had survived very dangerous storms. 'See,' he says, 'you who deny a Providence, how many people have been saved by their prayers to the Gods.' 'Yes,' rejoins Diagoras, 'I see those who were saved. Now show me the tablets of those who were drowned.'"⁶⁸

¹The Economist, 24th July, 1954, p. 263.

²Law and the Constitution (4th edition), pp. 189-190.

³A. B. Keith, Constitutional Law (7th edition), p. 155. Wade and Phillips, Constitutional Law (4th edition), p. 65.

⁴"Public Corporations and the Classification of Administrative Bodies." (*Political Studies*, Vol. I, pp. 43-44.) My italics.

⁵Report from the Select Committee on Nationalised Industries (H.C. 332-1 of 1952), Minutes of Evidence, Q. 398.

(Anthony H. Birch: *The British System of Government*, 6th Ed. 1983, George Allen & Unwin.)

B.

200 *The British System of Government*

constantly being made, and from time to time they are exposed or admitted, but it is quite exceptional for a minister to resign on this account. The most conspicuous failures of postwar British governments have led to stormy debates in Parliament and to scathing comments in the press, but they have not led to the resignation of the ministers concerned. The total failure of British policy in Palestine between 1945 and 1948 did not lead the Foreign Secretary to think of resigning, even though he had said in a rash moment that he would stake his political future on his ability to deal with the problem. The fiasco of the groundnuts scheme in 1949 did not lead the Minister of Food to resign, though he was urged to do so by the Opposition and the majority of newspapers. The humiliating collapse of British policy towards Egypt at the time of the Suez expedition was not followed by the resignation on political grounds of any of the ministers concerned, though ill-health forced the Prime Minister to resign a few weeks later. The waste of vast sums of public money on the design of missiles and aircraft which have never been produced has not led to the resignation of any of the Ministers of Aviation and Defence who were responsible for it. The list could be extended to include the various failures of economic policy in the past twenty years, the minor fuel crises that occur whenever the weather is unseasonably cold, the slaughter of eleven prisoners in a Mau-Mau detention camp in Kenya who were clubbed to death by warders acting in pursuance of their instructions to force the prisoners to work, and many other examples.

Looking at the matter another way, S. E. Finer has traced only sixteen cases of a minister resigning as the result of parliamentary criticism of his department between 1855 (when the first case occurred) and 1955.² Since there were no cases between 1955 and 1979, this makes sixteen cases in 124 years. The smallness of the number indicates that it is only in exceptional circumstances that failure leads to loss of office, and Finer has shown that what made these cases exceptional was not the gravity of the failures but, in general, the fact that the ministers had lost popularity or respect within their own party. The only clear postwar example of resignation, that of Sir Thomas Dugdale in 1954, is a good instance. Dugdale did not mention resignation when he made his statement to the House of Commons following the publication of the Crichton Down report, and his decision to resign five weeks later was the result of backbench criticism expressed at private meetings of the Conservative Party's Food and Agriculture Committee.

Of course, the exposure of departmental failings may affect a minister's career even though it does not lead to his resignation. In the next Cabinet reshuffle he may find that he is transferred to a less attractive ministry or 'moved upstairs' to the House of Lords. But

often failures do not have a
or not depends on the star
Prime Minister, not on the
parliamentary criticism. I
convention of individual
renders the minister liable
comes under fire.

The first part of the con
tance. The fact that minist
gives MPs the right to dem
sions, whether these be re
with individual citizens. M
by questions in Parliamen
enables Members to inves
their constituents at the hig
done is a comfort to co
changed.

In the second place, th
servants is affected by the
offend a member of the pu
a few days later. The nar
disclosed, but no official
actions to his superiors
minister, knowing that the
moment, on his shoulders
has increased far more rap
questions asked, the char
parliamentary question r
dence that this has led
possibility of a question, a
following comment by a s
ment:

One may say of the Bri
no immediate outlet
working tacitly with t
mean something to the
that can happen, only
explanation in the Par

In the third place, the
actions in Parliament fac
use parliamentary quest
ment's policies and lack

AGCOSPACB Westlands PT6

Ref. A086/2690

MR WICKS

Defence Committee: Westland plc

Thank you for your minute of ^{file with NEW} 25 September, recording the Prime Minister's comments on my minutes of 19 and 23 September and on the shorter version of the draft Government response to the Defence Committee's Fourth Report attached to my submission of 23 September.

--- 2. I attach a draft of the combined response to the two Reports from the Defence Committee. The first part - the response to the Third Report - is fully agreed with Departments and remains unchanged, save for editorial changes as a result of combination. The second part - the response to the Fourth Report - has been revised in the light of the Prime Minister's comments.

3. At the suggestion of the Department of Trade and Industry, I have also reinstated in paragraph 36 of the new draft, references - in the form of quotations from Hansard - to what the then Secretary of State for Trade and Industry and the Prime Minister said in January about Ministerial authority for the disclosure of the Solicitor General's letter. The Department of Trade and Industry consider that it strengthens the defence of the decision not to institute disciplinary proceedings against DTI officials if the then Secretary of State's acceptance of full responsibility for the fact and the form of the disclosure is quoted. If the then Secretary of State's statements are to be quoted, it seems to me that it will also be necessary to quote the Prime Minister's statements relating to officials in her office.



4. I have recast the paragraphs about Ministerial accountability somewhat, to reflect the Prime Minister's comments. One sentence which she suggested deleting I have retained, because it seems to me indispensable to the argument; but I have sought to present the paragraph in question (paragraph 40 in this draft) as (in effect) a summary of the constitutional authorities, so as to distance it from particular situations.

5. I am sending copies of this minute and the revised draft to the Private Secretaries to the Lord President, the Secretary of State for Defence, the Secretary of State for Trade and Industry, the Lord Privy Seal, the Attorney General, the Chief Whip and the Minister of State, Privy Council Office.

RA

ROBERT ARMSTRONG

25 September 1986

DEFENCE COMMITTEE: THIRD REPORT AND FOURTH REPORTS

Draft Government Response

Draft of 25 September 1986

In this paper the Government responds to the two reports from the Select Committee on Defence relating to Westland plc which were published on 24 July 1986:

Third Report (HC 518, Session 1985-86)

The Defence Implications of the Future of Westland plc

Fourth Report (HC 519, Session 1985-86)

Westland plc: the Government's decision-making

THIRD REPORT

2. The Government notes with interest the discussion of the various issues raised and the Committee's views on a number of points. These are the subject of more detailed comments in the following paragraphs.

Future Developments of the Military Helicopter (paragraphs 30-32)

3. The Government shares the Committee's view of the growing importance of helicopters in the land battle. Their inherent flexibility and mobility when allied to improving anti-armour weapons is likely to secure them a growing role in anti-armour operations, and the advent of systems to allow more comprehensive use at night and in bad weather will enhance their utility in all roles. Like any system, however, helicopters have their limitations and due regard will continue to need to be given both to the threats to their operations (which may be expected to grow in the battle area, not least in response to

their own effectiveness) and to competing systems in each role for their relative cost effectiveness.

Helicopters in service with British forces (paragraphs 33-40)

4. The Government agrees generally with the Committee's analysis, but considers that the "sacrifice of quantity" referred to in paragraph 36 should not be exaggerated. The current holding is 867 helicopters (excluding the 60 or so referred to in the Committee's report as awaiting disposal or beyond economic repair) as against 940 in 1975.

5. The Government notes the Committee's reference (paragraph 37) to replacement of current helicopter types. The EH101 is, as the Committee say, planned to replace the ASW Sea King (in this case, Sea King V/VI). It is, however, the Sea King IV which is already replacing the Wessex 5 in the Commando role.

Future British Requirements (paragraphs 41-75)

6. The Government notes the Committee's support for the idea of equipping EH101 with the Sea Eagle anti-ship missile (paragraph 46) and will bear this in mind in future consideration of the possibility. It remains to be seen, however, whether such an enhancement of capability is feasible and can be afforded.

7. As regards support helicopters, the Government agrees that the options for the future are much as the Committee have described them in paragraph 71, though for the sake of completeness it could have been added that additional medium lift capacity could be obtained by purchasing additional Chinooks instead of additional EH101s (paragraph 71(c)). It follows from the Committee's analysis of the options that the statement in paragraph 68 that there is no doubt that a new

support helicopter will be needed in substantial numbers in the early 1990s goes too far at this stage, though plainly there is a strong possibility that such a requirement will be identified as a result of the studies currently being undertaken. The possibility of acquiring more medium lift capacity, which the Committee believes should remain open (paragraph 55), is being actively addressed in these studies.

8. The Government accepts the Committee's view that the Services's requirement for support helicopters, and the way in which any such requirement might be met, should be resolved quickly (paragraph 67). The Government welcomes the Committee's recognition of the desirability of reappraising the military requirement for support helicopters from first principles before procurement decisions are taken (paragraph 68).

9. The Government notes the Committee's preliminary view that there is a very good case for maintaining a fully airmobile brigade (paragraph 70), following the mechanisation of the present 6th Air Mobile Brigade which together with the addition of a new armoured regiment will begin in 1988. The Government will take account of the Committee's view in its further consideration of the possibility of retaining an airmobile capability.

10. The Government notes the Committee's view that there is a strong case for giving the Army, as users of support helicopters, full responsibility for them (paragraph 75). Nevertheless, account has to be taken of the breadth of helicopter tasks undertaken outside the Central Region and of the implications of transfer not only for command and control, but for training, manning and support arrangements. Nevertheless, the Government is bearing the Committee's views in mind in their current examination.

International Helicopter Production (paragraphs 76-90)

11. The Government accepts the analysis of the international helicopter market set out in the Committee's report; and it is specifically in acknowledgement of the high level of capital investment required for the design and development of advanced new helicopter types (paragraph 77) that the Government has for many years been looking towards collaborative solutions to its helicopter requirements whenever these are practicable. In the innovative arrangements established for the EH101 project the United Kingdom and Italian Governments, together with Westland and Agusta, have also recognised the benefits that may be derived from maximising the market potential of a single basic design with military, commercial and utility variants.

12. The Government has confirmed its continued adherence to the 1978 Four Nation Declaration of Principles, and our partner nations also maintain their support.

The Recession in the Helicopter Industry and Westland's Situation (paragraphs 91-98)

13. The Government notes and generally accepts the Committee's analysis of the effects of over capacity in the world helicopter industry and the decline in opportunities in the civil and military markets.

European Collaboration in Helicopter Production (paragraphs 99-118)

14. Whilst the Committee is correct in pointing out that the collaborative projects launched in pursuance of the Declaration of Principles have not taken the precise form originally envisaged (paragraph 104), they do nevertheless offer the prospect of a substantial improvement in rationalisation within Europe. The EH101 would be the European transport/ASW

helicopter in the 13 tonne class, and NH90 could still continue if the United Kingdom were to decide not to continue its participation due to lack of a requirement. Although for historical reasons it has not proved possible to arrive at a single anti-tank helicopter project, it must be remembered that the United Kingdom, France, Germany and Italy currently each operate different helicopters in this role.

15. It should also be remembered that NH90 and A-129 MKII have attracted the support of nations who were not signatories to the 1978 Declaration - respectively the Netherlands, and the Netherlands and Spain. In addition, collaborative arrangements have been established with Europe for the development and production of a range of engines capable of powering all four of the collaborative helicopters.

16. Following the acquisition by UTC of a stake in Westland, the Government has considered the status of the various collaborative helicopter projects in which the United Kingdom is participating. The current position is as follows.

EH101

17. The EH101 programme remains a high priority project for the United Kingdom, and the Government is continuing to provide for its share of the cost of the helicopter development and introduction into service. The Italian Government and Agusta have indicated to us that their position has not changed.

Light Attack Helicopter

18. It is intended that a Memorandum of Understanding (MOU) for a Feasibility Study to be undertaken on a Light Attack Helicopter based on the Agusta A-129 will be signed shortly by the Ministries of Defence of Italy, Netherlands, Spain and the

United Kingdom. The association between UTC and Westland has not hindered the negotiations which have led to this satisfactory conclusion.

19. Following agreement by the Secretary of State for Defence and his Italian counterpart, the French and German Governments have been notified of the intention to proceed with this collaborative project; and that we remain ready to discuss the possibility of harmonisation of the work on the A-129 with that of France and Germany on the PAH2/MAP/HAC3G if they so wish. This readiness to continue discussions on harmonisation has been noted by our allies.

NH90

20. The NH90 Feasibility Study is continuing and the participating companies are due to report to the five Governments during the autumn. United Kingdom future participation in this project will depend on the results of this study and of the extensive work being carried out within the Ministry of Defence on the future requirement for support helicopters. The next stage in the NH90 programme would be a Project Definition Study.

21. Whilst there are clearly a number of factors to take into account in determining how the United Kingdom should best work towards the replacement of the Wessex and Puma helicopters, the relationship between UTC and Westland has not so far been a problem in respect of the NH90 studies. The Government reiterates its view that future participation by the United Kingdom in the NH90 programme should not be precluded by that relationship. In that context the Government notes the Committee's arguments in paragraphs 116-118, including the references to the potential relationship between the Super Puma and NH90.

Control (paragraphs 119-152)

22. The Government notes the Committee's statement that "it is the responsibility of Government to satisfy itself that the ownership of shares in defence contractors of national importance has no implications for national security" (paragraph 144). It is important to distinguish between the influence that a foreign shareholder might bring to bear on commercial operation of a UK defence contractor on the one hand, and the protection of classified information or technology, in the interests of national security, on the other. The Committee can be assured that, whenever a foreign company becomes involved with a contractor to the Ministry of Defence, the Government takes the necessary steps to ensure that classified information is protected. Indeed, in the particular example of the Libyan involvement in Fiat, and therefore in Westland (after the company's reconstruction), the protection of classified matters has been positively confirmed.

23. On the subject of commercial control, as noted by the Committee, action may be taken in certain circumstances under the Fair Trading Act 1973 to refer the acquisition by a foreign company of material influence over the policy of a defence contractor for investigation by the Monopolies and Mergers Commission if the Secretary of State considers that the acquisition raises public interest issues. In the event of an adverse public interest finding by the Commission, powers are available to the Secretary of State to prevent or reverse the acquisition or to impose conditions. Moreover, powers under the Industry Act 1975 are available if the Government considers that commercial involvement by foreign parties is in itself against the national interest. The Secretary of State's powers under the Companies Act 1985 to investigate the ownership of shares may also be used where there is good reason to do so. All these powers are currently exercised by the Secretary of State for Trade and Industry.

24. It is noted that the Committee wishes to examine this aspect when taking evidence on the next Statement on the Defence Estimates.

The Defence Industrial Base (paragraphs 153-175)

25. The Government notes the Committee's discussion of the defence industrial base and Westland's importance to it. The defence industrial base is a major national asset whose health and future are of great importance. The pursuit of value for money in defence procurement, to which the Committee refer in paragraph 156 of their report, takes full account of the longer-term considerations which bear on the continued existence of companies or capabilities within the defence industrial base. The considerations were set out in the Open Government Document "Value for Money in Defence Equipment Procurement" (OGD 83/01) published by the Ministry of Defence in 1983. While the various considerations, short and longer term, will not always point in the same direction when selecting a procurement source, it is the Government's view that only by bearing them all in mind can long-term value for money be secured. In this respect, as the Committee noted (paragraph 163), the benefits of collaboration have to be fully taken into account, though this may involve difficult decisions.

26. As regards the importance of Westland to the defence industrial base, the Government notes the Committee's conclusion (paragraph 175) that the Board of Westland had the right and responsibility to make and defend its decision whether to associate with UTC-Sikorsky or the European consortium. This was and remains the view of the Government.

27. The Government attaches at least as much importance as the Committee to the quality of the working relationships between the Ministry of Defence and the Department of Trade and Industry. It repeats the assurances given to the Committee in

evidence that these relationships, both formal and informal, are excellent. For example, the Department of Trade and Industry is represented at meetings of the Ministry of Defence's Equipment Policy Committee and Defence Research Committee, and both Departments are represented at senior level on the Board of Management of the British National Space Centre. Among the many less formal links Ministers of both Departments meet from time to time to discuss industrial issues of mutual interest, as do officials. Nevertheless, both Departments are always on the look-out for ways of strengthening the links and making consultation more effective. The Government does not believe, however, that the quality of these relationships would be enhanced by imposing on them the formal structure of a Ministerial Aerospace Board.

FOURTH REPORT

28. Full accounts of the matters with which the Fourth Report is concerned have already been given by Ministers in statements in Parliament, speeches in debates and Answers to Parliamentary Questions, and by the Head of the Home Civil Service in his evidence to the Committee. The Government stands by those accounts, sees no reason to qualify or add to them, *(nor* any point in repeating yet again the sequence of events and decisions covered by the report.

*should
be "or"*

29. The Committee make a number of comments on the inquiry into the circumstances in which the existence and part of the gist of the Solicitor General's letter of 6 January 1986 to the then Secretary of State for Defence came to be disclosed:

- a. that the fact that the disclosure had been authorised by the then Secretary of State for Trade and Industry must have been known to a number of people before the inquiry began (paragraph 196);

- b. that in undertaking the inquiry the Head of the Home Civil Service was inquiring into the conduct of someone whose direct Civil Service superior he was (paragraph 215);
- c. that the inquiry did not result in disciplinary proceedings against any of the officials involved (paragraph 213).

30. The Attorney General said in his answer to a Parliamentary Question on 24 July (House of Commons Official Report, 24 July 1986, Written Answers):

"At the time when I advised that an inquiry be instituted I did not know by whom the disclosure had been made or that it had been authorised by the then Secretary of State for Trade and Industry or at all.

At the time when I granted immunity to the official concerned, while I had reason to believe that the disclosure had been made by the official concerned and that the official concerned had acted in complete good faith, I was not aware of the full circumstances. It was important that the inquiry should discover as fully as possible the circumstances in which the disclosure came to be made, and should provide those concerned with the opportunity of giving their accounts of their part in the affair".

31. The Head of the Home Civil Service had reason, before he began his investigations, to think that the disclosure had been made by an official who believed that due authority had been given for the disclosure. He did not, however, know at that time what that authority consisted of nor how it was conveyed or expressed. Like the Attorney General, he took the view that it was important to discover as fully as possible the circumstances in which the disclosures came to be made, and to hear the accounts of those concerned (all of whom co-operated fully in

should be
"or"

his inquiry), before reporting his findings, so that conclusions and decisions could be based on as full a knowledge as possible of the facts and circumstances.

32. The officials questioned in the inquiry were in the Department of Trade and Industry and the Prime Minister's Office. The Head of the Home Civil Service is not the direct superior of officials in the Department of Trade and Industry. Nor is he the direct superior of those in the Prime Minister's office, save in the purely formal sense that the Prime Minister's office is treated for "pay and rations" purposes as part of the Cabinet Office (Management and Personnel Office) (in exactly the same way as it has always been treated as part of the Department of which the Head of the Home Civil Service has from time to time been the permanent head): he does not supervise the day-to-day work of members of the Prime Minister's office. The Head of the Home Civil Service did not, by virtue of the "dual role" under which the post of Head of the Home Civil Service is combined with that of Secretary of the Cabinet, face any problem that his predecessors as Head of the Home Civil Service would not have faced in a similar situation.

33. As to the questions of the "dual role", the duties of the Head of the Home Civil Service as such are not sufficient to justify it as a full-time appointment on its own: the title, and the duties that go with it, need to be attached to a Permanent Secretary post at the centre of government. The decision as to the post to which they should be attached will depend upon a number of factors, including the distribution of functions and the organisation of business at the centre of government. As the Government said in its response to the Seventh Report of the Treasury and Civil Service Committee (Cmnd 9841):

"41. The current arrangement, under which the post of Head of the Home Civil Service is combined with the

Secretaryship of the Cabinet, has clear benefits. The Secretary of the Cabinet, although not "the Prime Minister's Permanent Secretary", is of all the Permanent Secretaries the closest to the Prime Minister. As Permanent Secretary for the Cabinet Office (including the Management and Personnel Office), he is responsible to the Minister of State, Privy Council Office, and to the Prime Minister for the matters for which she has particular responsibility as Minister for the Civil Service. He also sees many of the senior staff in action and is therefore in a good position to advise the Prime Minister, as Minister for the Civil Service, on Grade 1 and 2 appointments. As to the matter of the load of work, the Government believes that, provided that the incumbent delegates sensibly, his burden is manageable.

42. Against this background the Government sees no grounds for changing the existing organisation at the present time."

34. The Government has already made clear to the House of Commons, in the Prime Minister's answers to questions on 24 July (House of Commons, Official Report, 24 July 1986, cols 587 to 590) and in the speech by the Minister of State, Privy Council Office on 25 July (ibid, 25 July 1986, cols 858 to 862), that it does not agree with the Committee's suggestion that the Head of the Home Civil Service failed to give a clear example and a lead in these matters. On the contrary, as the Minister of State said of his part in the matter:

"Far from that being a failure of leadership, it demonstrates the exercise of leadership with great responsibility and integrity." (Official Report, 25 July 1986, col 862).

35. The Committee say that they do not believe that the authority of the Secretary of State for Trade and Industry was sufficient to make public parts of a document which contained the advice of a Law Officer without the knowledge or permission of the Law Officer. As the Committee make clear, there is a rule that it is not permissible, save with the prior authority of the Law Officers, to disclose to anybody outside the United Kingdom Government service what advice the Law Officers have given in a particular question or whether they have given, or have been or may be asked to give, such advice. In this case the prior authority of the Law Officer concerned was not sought or given. The Prime Minister, the then Secretary of State for Trade and Industry and the Head of the Home Civil Service have all expressed their regret that the Solicitor General's letter was disclosed in the way it was disclosed. But it remains the Government's view that having regard to all the circumstances, disciplinary proceedings were not called for.

36. Mr Leon Brittan, who was the Secretary of State for Trade and Industry at the relevant time, said in a speech in the House of Commons on 27 January (House of Commons, Official Report, 27 January 1986, col 671):

"As my right hon. Friend said in her statement to the House last Thursday, I made it clear to my officials at the Department of Trade and Industry that - subject to the agreement of No 10 - I was giving authority for the disclosure of the Solicitor General's letter to be made. I therefore accept full responsibility for the fact and the form of that disclosure.

The House knows of the extraordinary, perhaps unprecedented circumstances in which we were working - the circumstances of the persistent campaigning of my right hon. Friend the former Secretary of State for Defence and the urgency of the need to ensure that the contents of the Solicitor

General's letter should become known. But for all that, and in retrospect, I must make it clear to the House that I accept that the disclosure of that information - urgent and important as it was - should not have taken place in that way, and I profoundly regret that it happened.

I must also make it clear that at all times the Department of Trade and Industry officials acted in accordance with my wishes and instructions. What they did was with my full authority. They are not to be blamed. Indeed, they gave me good and loyal service throughout my time as Secretary of State for Trade and Industry."

The Prime Minister said in the House of Commons on 23 and 27 January:

"Officials in the Department of Trade and Industry approached officials in my office, who made it clear the it was not intended to disclose the Solicitor General's letter from 10 Downing Street; but, being told that the Secretary of State for Trade and Industry had authorised the disclosure, they accepted that the Department of Trade and Industry should make it and they accepted the means by which it was proposed that the disclosure should be made.

My officials made it clear to the inquiry that they did not seek my agreement. They told the inquiry that they did not believe that they were being asked to give my authority, and they did not do so."

(Official Report, 27 January 1986, col 655)

"They considered - and they were right - that I should agree with my right hon. Friend the Secretary of State for Trade and Industry that the fact that the then Defence Secretary's letter of 3 January was thought by the Solicitor General to contain material inaccuracies which

needed to be corrected should become public knowledge as soon as possible, and before Sir John Cuckney's press conference. It was accepted that the Department of Trade and Industry should disclose the fact and that, in view of the urgency of the matter, the disclosure should be made by means of a telephone communication to the Press Association. Had I been consulted, I should have said that a different way must be found of making the relevant facts known."

(Official Report, 23 January 1986, col 450)

37. The Government is satisfied that those concerned acted in good faith, believing that Ministerial authority had been given for what was done. As the Prime Minister said in the House of Commons on 24 July:

"My right hon. Friend and I have total confidence in our officials referred to in the Report."

(Official Report, 24 July 1986, cols 588 and 589).

38. The Defence Committee's Fourth Report reverts, in its final paragraphs, to the matter of accountability.

39. The basic principles on this matter are clear:

- Each Minister is responsible to Parliament for the conduct of his Department, and for the actions carried out by his Department, in pursuit of Government policies or in the discharge of responsibilities laid upon him by Parliament.

- A Minister is accountable to Parliament, in the sense that he has a duty to explain in Parliament the exercise of his powers and duties and to give an account to Parliament of what is done by him in his capacity as a Minister or by his department.

- Civil Servants are responsible to their Ministers for their actions and conduct.

40. As to the implications of these principles for the individual responsibility of Ministers, ~~it is clear from the authorities that the received and established doctrine is that a Minister is not bound to endorse the actions of his officials, if he did not know of them and would have disapproved of them had he known of them.~~ *which authority* ~~If something has gone wrong in his Department, he~~ ^{The Minister} remains constitutionally responsible to Parliament, and ~~he~~ is accountable to Parliament in the sense that it is his duty to give Parliament an account of ~~what has gone wrong, and of what has been done or will be done to deal with and put right~~ ^{events} (so far as possible) ~~(what has gone wrong and to prevent it from happening again.~~ But there is not, and there never has been, a convention that a Minister is bound to resign in the event of any instance whatever of wrongful action ~~or misconduct~~ of his department. ~~[One authority, summing up his conclusions on this point, put it as follows:~~

"Whether the Minister should resign is simply the (necessarily) haphazard consequence of a fortuitous concomitance of personal, party and political temper."

(S E Finer, The Individual Responsibility of Ministers, Public Administration vol 34 (1956), page 393).

41. As the Government's response to the Seventh Report of the Treasury and Civil Service Committee suggested, these principles have implications for the relationship of Select Committees to Ministers and civil servants. Select Committees exercise their formal powers to inquire into the policies and actions of Departments by virtue of the accountability of Ministers to Parliament. Civil servants who appear before them do so as

representatives of, and subject to the instructions of, the Minister. The civil servant is accountable to his Minister for the evidence he gives to a Select Committee on his Minister's behalf.

42. Under Standing Orders a Select Committee has the right to send for any person whom it chooses; but it does not, and in the Government's view should not attempt to, oblige a civil servant to answer a question or to disclose information which his Minister has instructed him not to answer or disclose, or which it is contrary to his duty of confidentiality to answer or disclose. If in giving evidence to a Select Committee a civil servant refuses to answer a question on the ground that his Minister has instructed him to do so, the Committee's recourse must in the end be to the Minister. Similarly, if a Select Committee is not satisfied with the manner in which or the extent to which the Minister's accountability has been discharged, the Committee should not insist upon calling on a civil servant to remedy the deficiency, and thus in effect to exercise an accountability to Parliament separate from and overriding his accountability to his Minister. As the Select Committee on Procedure stated in its First Report of 1977-78:

"it would not, however, be appropriate for the House to seek directly or through its Committees to enforce its right to secure information from the Executive at a level below that of the Ministerial head of the department concerned, since such a practice would tend to undermine rather than strengthen the accountability of Ministers to the House".

43. The individual civil servant is accountable through his senior officers to his Minister, and if he has done amiss, it is to his Minister that he and his seniors are ultimately answerable. There are established means available - eg internal inquiry, disciplinary proceedings - whereby the Head of a

Department can bring an individual civil servant to account, and can penalise him if penalties are called for, with safeguards and rights of appeal as appropriate.

44. The Government does not believe that a Select Committee is a suitable instrument for inquiring into or passing judgment upon the actions or conduct of an individual civil servant. As a witness the civil servant is liable to be constrained in his answers by his instructions from or his accountability to his Minister or by his duty of confidentiality, and therefore unable to speak freely in his own defence. The fact that a Select Committee's proceedings are privileged does not absolve him from the obligation to comply with those instructions and that duty. Particularly if politically controversial matters are involved, there is a risk that the process of questioning may be affected by political considerations. A Select Committee inquiry into the actions and conduct of an individual civil servant, conducted in public and protected by privilege, would give the civil servant concerned no safeguards and rights, though his reputation and even his career might be at risk.

45. For these reasons the Government considers that Select Committees should not seek to extend their inquiries to cover the conduct of individual civil servants, and proposes to make it a standing instruction to civil servants giving evidence to Select Committees not to answer questions which are or appear to be directed to the conduct of themselves or of other named individual civil servants.

AGROSPACG Washmanas PR6





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

Telephone (Direct dialling) 01-215 5422
GTN 215
(Switchboard) 01-215 7877

Secretary of State for Trade and Industry
PS/

CONFIDENTIAL

25 September 1986

Nigel Wicks Esq
Principal Private Secretary to the
Prime Minister
10 Downing Street
LONDON
SW1

Dear Nigel

DEFENCE COMMITTEE : WESTLAND PLC

at 11.15
Sir Robert Armstrong sent me a copy of his minute to you of 23 September enclosing a revised draft of the Government's response to the Defence Committee's Fourth Report.

My Secretary of State has read the revised draft and wishes to make only one comment, which however he regards as important. In his view the omission of much of the substance of paragraph 13 of the previous draft (enclosed with Sir Robert Armstrong's minute of 19 September to the Prime Minister) has resulted in a text (in paragraph 6 of the revised draft) which fails to explain adequately the actions of officials, and therefore by implication fails to justify the decision not to have disciplinary proceedings. He preferred the original text; but if that is felt to be too long, he feels that the revised text should be amended to meet this point.

The simplest form of amendment would be to insert, in the penultimate sentence, the word "correctly" before the words "believing that Ministerial authority had been given for what was done". If it is felt that this fails to meet the point that a Minister does not have the right to authorise a breach of the rule about the confidentiality of Law Officers' advice, an alternative would be to substitute for this clause the words "and in accordance with Ministerial instructions". By one means or another he thinks it should be made clear that officials in this Department acted, as Mr Brittan told the House, in accordance with the wishes and

JF4AGX

17
19
86
BOARD OF TRADE
BICENTENARY



CONFIDENTIAL

instructions of their Secretary of State and are not to be blamed for having done so.

I am sending copies of this letter to Sir Robert Armstrong and to the other recipients of his minute.

Yours on

A handwritten signature in dark ink, appearing to be 'Timothy Walker', written in a cursive style.

TIMOTHY WALKER
Private Secretary

JF4AGX

AEROSPACG Westland PT6.





File

392BKC

10 DOWNING STREET

From the Principal Private Secretary

SIR ROBERT ARMSTRONG

DEFENCE COMMITTEE: WESTLAND PLC

I have sent you in a separate minute the Prime Minister's comments on the draft responses to the Defence Committee's Reports which you submitted in your minutes of 19 and 23 September, with copies to other interested Ministers. But I thought that I ought to minute you alone to register the Prime Minister's considerable concern about paragraph 7 of the draft response attached to your minute of 23 September. On reading this, it seemed to the Prime Minister that this would cause her critics to call for her resignation and raise all manner of difficult issues. She would therefore be grateful if you could particularly look at the drafting of this paragraph, in the light of the comments in my other minute which I have sent you today.

You should know that in this connection the Prime Minister has asked me to look out the Hansard references to the Hola Camp case in, I think, 1958 when she recalls that the whole question of Ministerial responsibility to Parliament was debated. I am trying to find the necessary references.

As I have already told Michael Stark, it would be very helpful in this connection if you could provide a note for the Prime Minister on the doctrine of ministerial responsibility to Parliament, which summarises circumstances in which Ministers have, and have not, resigned.

N.L.W.

N. L. Wicks

24 September 1986

SAC



10 DOWNING STREET

From the Principal Private Secretary

SIR ROBERT ARMSTRONG

DEFENCE COMMITTEE: WESTLAND PLC

Herewith the 'authorised' version of the minute which I handed to you early today. No changes of substance but stylistic titivation. !

N.L.W.

N L WICKS

24 September 1986

BM



file

DG2BKB

cc LPS.

10 DOWNING STREET

From the Principal Private Secretary

SIR ROBERT ARMSTRONG

DEFENCE COMMITTEE: WESTLAND PLC

I showed the Prime Minister your minutes of 19 and 23 September about the Government's responses to the Defence Committee's Third and Fourth Reports.

Subject to the views of other Ministers, the Prime Minister agrees that the Government's responses to these two Reports should be published together as a single document, in a Command Paper. She agrees, too, that the response should be published in the week beginning 13 October with a view to a debate during the two weeks beginning 20 October. The Business Managers will, of course, need to confirm the acceptability of these arrangements.

On the drafts of the Government's responses, the Prime Minister is content with the draft response attached to your minute of 19 September to the Defence Committee's Third Report ("The Defence Implications of the Future of Westland plc"), provided that the other Departments concerned (principally the Ministry of Defence and the Department of Trade and Industry) are content too.

As to the response to the Fourth Report ("Westland plc: the Government's Decision-making"), the Prime Minister prefers the shorter version attached to your minute of 23 September, though she fully takes your point that we have to beware of making this response so perfunctory that it stimulates rather than avoids further probing. The Prime Minister therefore wonders whether the draft might not be filled out by the inclusion of non-controversial material which will not run any risk of stimulating controversy or further questions. To that end, she suggests that the response should quote in full wherever possible, either in reported speech or verbatim as appropriate, the references mentioned in the Report. She has in mind, in particular, the Attorney General's answer of 24 July referred to in paragraph 3 of the draft, paragraphs 36-42 from the Seventh Report of the TCSC Committee and her and the Minister of State, Privy Council Office's statements of 24 and 25 July respectively which are referred to in paragraph 5 of the draft. The Prime Minister thinks, too,

BM

that the draft could benefit by splitting some of the longer paragraphs (e.g. paragraphs 5, 8 and 9) into two or more paragraphs.

The Prime Minister's detailed comments on the draft response attached to your minute of 23 September are as follows:

- (i) Paragraph 1: Amend the last sentence to read:
"The Government stands by those accounts, sees no need to qualify or add to them, nor any point in repeating yet again the sequence of events and decisions covered by the Report."
- (ii) Paragraph 5: Omit the words "....for which they are answerable directly to the Prime Minister" at the end of the third sentence.
- (iii) Paragraph 6: Amend the fifth sentence to read:
"But it remains the Government's view that, having regard to all the circumstances, disciplinary proceedings were not called for."
- (iv) Paragraph 7: The fifth sentence (beginning "This does not mean ..."), the sixth sentence (beginning "Nor does the fact ...") and the eighth sentence (beginning "His personal position ...") should be omitted. As for the earlier part of this paragraph, the Prime Minister wonders whether it is not preferable to use the formulation which you had originally proposed in paragraph 15 of the draft attached to your minute of 19 September (though omitting "all" in the third line, and substituting "they" for "Ministers" in the seventh line).

BF // Could I suggest that you now should amend the drafts in the light of these and other comments, and let the Prime Minister have a further combined version of the two responses.

I am sending copies of this minute to the Private Secretaries to the Lord President, the Secretaries of State for Defence and for Trade and Industry, the Attorney General, the Chief Whip and the Minister of State, Privy Council Office.

N.L.W.

N. L. Wicks

24 September 1986



B

Ref. A086/2648

MR WICKS

Defence Committee: Westland plc*with new?*

Further to my submissions of 19 September and 23 September (Refs A086/2614 and 2634) there is one other procedural question which Ministers will need to consider: in whose name the White Papers containing the responses are presented to Parliament.

2. If the two responses are presented as separate documents, the response to the Third Report should in my view be presented by the Secretary of State for Defence. The response to the Fourth Report could then be presented either by the Prime Minister on her own or by the Prime Minister and the Secretary of State for Trade and Industry together.

3. If the two responses are presented as a single document, it could be presented by the Prime Minister and the two Secretaries of State jointly; but it is arguable that, since it would be the response to the Defence Committee's Reports, it should be presented by the Secretary of State for Defence on his own.

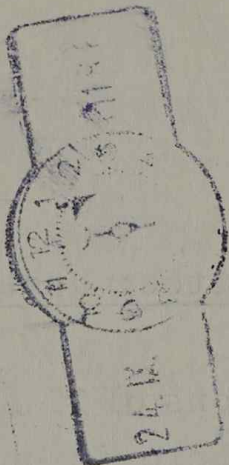
4. Apart from the political significance of this choice, it has some practical implications: the choice of presenting Minister or Ministers will determine which Department handles the publication arrangements.

5. I am sending copies of this minute to the Private Secretaries to the Lord President, the Secretary of State for Defence, the Secretary of State for Trade and Industry, the Lord Privy Seal, the Attorney General, the Chief Whip and the Minister of State, Privy Council Office.

RA

ROBERT ARMSTRONG

23 September 1986



Faint, illegible text covering the majority of the page, likely bleed-through from the reverse side.



MO 26/16/1E

PRIME MINISTERWESTLAND PLC

Prime Minister
 We have some time
 in hand: but the
 problem is in essence
 the same as we faced
 18 months ago, if
 less acute. CDP
 24/9

We had planned to have a discussion at E(A) this week about the difficulties facing Westland and the various Government measures they have sought which would provide the company with more work. The issues were set out in the Secretary of State for Trade and Industry's letter of 28th July. ^{at 11am PTS} As a preliminary to the E(A) discussion, Paul Channon and I met Sir John Cuckney on 11th September to hear from him the prospects for the company.

2. Sir John said that Westland was now a transformed company and he expected to announce in December profits before tax of about £30M for this financial year. However, while Westland was currently fairly healthy, the gap in the order book of the helicopter division in the period 1989 to 1992 was a major problem. There were prospects of major exports, for example in the Middle East, tied to early development of the RTM322 engine for Blackhawk, and of the EH101 to Canada. But the company still needed additional British Government orders to sustain the helicopter division at a minimum viable level. If they were not forthcoming it would be necessary to consider running down the helicopter design, development and manufacturing capability to protect the shareholders' interests. This would affect the company's ability to take part in collaborative projects such as EH101, and could



also have consequences for the support of the MOD's fleet of helicopters. The site at Weston-Super-Mare might close and there could be redundancies of about 1,500 in addition to the 1,000 already planned over the next two to three years.

3. Sir John Cuckney said that the company needed to know where it stood before March 1987. Thereafter, it would take whatever steps were necessary to avoid drifting into a new financial crisis. We therefore have time to consider in a measured way the scope and justification, if any, for Government action - whether by the MOD or DTI - and I have agreed with the Secretary of State for Trade and Industry that an early meeting of E(A) is not now necessary.

4. I intend to reach a view on the defence requirement for support helicopters by the end of the year, although, as I told Sir John, the prospects for orders in the short term are not encouraging because of pressures on the defence budget. I have also asked my officials, in consultation with those in the DTI, to assess whether it is of strategic importance to maintain an indigenous design, development and manufacturing capability for helicopters and, if so, at what level and the cost of doing so. As an element in this further work, they will need to explore in more detail with Westland the basis of the company's estimates of its future workload, including civil, export and non-helicopter business, as well as Government orders. We can then consider collectively early in the New Year the issues arising.



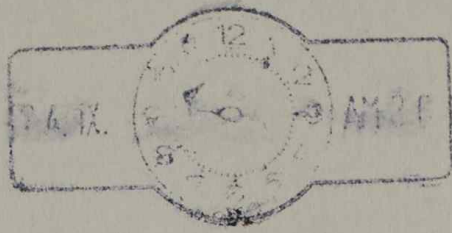
5. I am copying this minute to the members of E(A) and to Sir Robert Armstrong.

A.Y.

Ministry of Defence

23rd September 1986

AGROSPACE Westlands PT6.



PRIME MINISTER

cc Mr. Ingham

Mr. Powell

DEFENCE COMMITTEE: WESTLAND PLC

Sir Robert Armstrong, in his minute at Flag A, suggests the tactics for handling the Government's response to the Defence Committee's two Westland reports. He suggests, and I agree:

- (i) They should be published together as a single document, in a Cmnd paper. (At 'X').
- (ii) The response should be published in the week beginning 13 October with a view to a debate during the two weeks 20 October. (At 'Y').

Do you agree?

Subject to the views of Ministers, I think that the debate should be handled by the Secretaries of State for Defence and Trade and Industry, though your name may have to appear on the White Paper together with theirs (since Civil Service matters would be dealt with). Do you agree?

Yes mb

I felt that Robert's original draft response to the Committee's 4th Report, on Government's decision-making, was too long as well as containing some hostages to fortune. Robert has therefore put forward an alternative, much shorter, draft. The shorter version, which I prefer, is at Flag B and the longer original at Flag C. Two points on the draft at Flag B:

- (i) Robert points out very fairly in his minute at Flag B that this shorter response (to a 240-paragraph and 68-page long report) may be regarded as so perfunctory that it stimulates rather than avoids further probing.

Certainly we do not want to annoy Parliament by appearing to brush off their Defence Committee's report. But nor do we want to publish material which will only stimulate further questioning. One possibility, which might harmlessly expand the length of our response, would be to quote in full some of the material from July's TCSC report on Civil Servants and Ministers, (eg. in paragraph 5 of the shorter draft response which simply refers to paragraphs 36-42 of the TCSC report).

Agree to ask Robert to see whether the response can be increased in length in this way? The draft at Flag B would also benefit by splitting some of the longer paragraphs into two.

Yes
Yes

- (ii) You will want to read the draft carefully. Most of it seems to be innocuous. But could I draw your attention to paragraph 7, especially to the passage x - x about the circumstances for ministerial resignations.

May we discuss

Please could we have any comments on the draft response at Flag B.

Flag D gives the draft of the response on the Committee's report on defence implications of the Westland affair (which would, of course, be combined into the response at Flag B if you agreed that the two responses should be published as one document). This draft looks to be innocuous and I do not think you need spend much time on it.

N.L.W.

N L WICKS

23 September 1986



B

13

Ref. A086/2634

MR WICKS

Defence Committee: Westland plc

We discussed yesterday the possibility of a shorter response to the Defence Committee's Fourth Report than the draft attached to my submission of 19 September (a086/2614), so as to expose the least possible flank.

2. I attach a revised draft accordingly.

3. The only point I would wish to make at this stage is that I think that we have to beware of the opposite danger of making the response so perfunctory that it stimulates rather than avoids further probing.

4. I am sending copies of this minute and the revised draft to the Private Secretaries to the Lord President, the Secretary of State for Defence, the Secretary of State for Trade and Industry, the Lord Privy Seal, the Attorney General, the Chief Whip and the Minister of State, Privy Council Office.

ROBERT ARMSTRONG

23 September 1986

CONFIDENTIAL

SHORTER
VERSION

DEFENCE COMMITTEE: FOURTH REPORT

Draft Government Response

Draft of 23 September 1986

The Fourth Report from the Defence Committee ("Westland plc: the Government's decision-making": HC 519, Session 1985-86) is concerned with the ways in which decisions about Westland plc were made by the Government. Full accounts of these matters have already been given by Ministers in statements in Parliament, speeches in debates and Answers to Parliamentary Questions, and by the Head of the Home Civil Service in his evidence to the Committee. The Government stands by those accounts, ^{and} ~~sees no need to qualify or add to them~~ ^{and does not} ~~propose to rehearse~~ ^{in separate} yet again the sequence of events and decisions covered by the report. } }

2. The Committee made a number of comments on the inquiry into the circumstances in which the existence and part of the gist of the Solicitor General's letter of 6 January 1986 to the then Secretary of State for Defence came to be disclosed:

a. that the fact that the disclosure had been authorised by the then Secretary of State for Trade and Industry must have been known before the inquiry began to a number of people (paragraph 196);

b. that in undertaking the inquiry the Head of the Home Civil Service was inquiring into the conduct of someone whose direct Civil Service superior he was (paragraph 215);

c. that the inquiry did not result in disciplinary proceedings against any of the officials involved (paragraph 213).

*Do we
not quote
the whole of
the written
reply?*

3. The Attorney General has made clear in answer to Parliamentary Question (HC Official Report, 24 July 1986, Written Answers) that, at the time when he advised that an inquiry should be instituted, he did not know by whom the disclosure had been made nor that it had been authorised. He also made clear that, although he had reason to believe when, some days after the inquiry was instituted, he agreed to an offer of immunity to the person concerned that the disclosure had been made by that official acting in complete good faith, he was not aware of the full circumstances.

4. The Head of the Home Civil Service had reason, before he began his investigations, to think that the disclosure had been made by an official who believed that due authority had been given for the disclosure. He did not, however, know at that time what that authority consisted of nor how it was conveyed or expressed. The view was taken - and the subsequent events suggest that it was reasonable for that view to be taken - that the formal inquiry should discover as fully as possible the circumstances in which the disclosure came to be made, and the accounts of those concerned of their parts in the affair, before findings were arrived at and reported.

5. The officials questioned in the inquiry, all of whom co-operated fully in it, were in the Department of Trade and Industry and the Prime Minister's office. The Head of the Home Civil Service is not the direct superior of officials in the Department of Trade and Industry. Nor is he the direct superior of those in the Prime Minister's office, save in the purely formal sense that the Prime Minister's office is treated for "pay and rations" purposes as part of the Cabinet Office (Management and Personnel Office), (in exactly the same way as

it has always been treated as part of the department of which the Head of the Home Civil Service has from time to time been the permanent head): he does not supervise the day-to-day work of members of the Prime Minister's office ~~for which they are answerable directly to the Prime Minister~~. The Head of the Home Civil Service did not, by virtue of the "dual role" under which the post of Head of the Home Civil Service is combined with that of Secretary of the Cabinet, face any problem that his predecessors as Head of the Home Civil Service would not have faced in a similar situation. The Government made observations on the question of the dual role in its response to the Seventh Report of the Treasury and Civil Service Committee (Cmnd 9841, paras 36 to 42), and sees no reason to take a different view of the matter in the light of the Fourth Report of the Defence Committee. The Government has already made clear to the House of Commons, in the Prime Minister's answers to questions on 24 July and in the speech by the Minister of State, Privy Council Office on 25 July, that it does not agree with the Committee's suggestion that the Head of the Home Civil Service failed to give a clear example and a lead in these matters. On the contrary, as the Minister of State said, his part in the matter demonstrated the exercise of leadership with great responsibility and integrity.

6. The Committee say that they do not believe that the authority of the Secretary of State for Trade and Industry was sufficient to make public parts of a document which contained the advice of a Law Officer without the knowledge or permission of the Law Officer. As the Committee make clear, there is a rule that it is not permissible, save with the prior authority of the Law Officers, to disclose to anybody outside the United Kingdom Government service what advice the Law Officers have given in a particular question or whether they have given, or have been or may be asked to give, such advice. In this case the prior authority of the Law Officer concerned was not sought or given. The Prime Minister, the then Secretary of State for

Trade and Industry and the Head of the Home Civil Service have all expressed their regret that the Solicitor General's letter was disclosed in the way it was disclosed. But it remains the Government's view that [in the circumstances it was entirely reasonable for those responsible to decide,] having regard to all the circumstances; that disciplinary proceedings were not called for. The Government is satisfied that those concerned acted in good faith, believing that Ministerial authority had been given for what was done. As the Prime Minister said in the House of Commons on 24 July, the Government has total confidence in the officials referred to in the Committee's Report.

7. The Defence Committee's Fourth Report reverts, in its final paragraphs, to the matter of accountability. The basic principles on this matter are clear. Civil servants are responsible to Ministers for their actions and conduct. Each Minister is responsible to Parliament for the conduct of his Department, and accountable to Parliament; ~~in the sense that~~ he has a duty to give an account to Parliament of what is done by him in his capacity as a Minister or by his department. ~~(This does not mean that a Minister is bound to endorse the actions of his officials, whatever they may be, if he did not know of them and would have disapproved of them had he known of them.)~~ ~~(Nor does the fact that he is accountable mean that he has necessarily to accept a personal sanction.)~~ ~~X~~ There is not and never has been a convention that a Minister is bound to resign in the event of any instance of wrongful action or misconduct of his department. His personal position is a matter of political judgment in all the circumstances. ~~X~~

May
we
discuss
this

8. As the Government's response to the Seventh Report of the Treasury and Civil Service Committee suggested, these principles have implications for the relationship of Select Committees to Ministers and civil servants. Select Committees exercise their formal powers to inquire into the policies and actions of

Departments by virtue of the accountability of Ministers to Parliament. Civil servants who appear before them do so as representatives of, and subject to the instructions of, the Minister. The civil servant is accountable to his Minister for the evidence he gives to a Select Committee on his Minister's behalf. Under Standing Orders a Select Committee has the right to send for any person whom it chooses; but it does not, and in the Government's view should not attempt to, oblige a civil servant to answer a question or to disclose information which his Minister has instructed him not to answer or disclose, or which it is contrary to his duty of confidentiality to answer or disclose. If in giving evidence to a Select Committee a civil servant refuses to answer a question on the ground that his Minister has instructed him to do so, the Committee's recourse must in the end be to the Minister. Similarly, if a Select Committee is not satisfied with the manner in which or the extent to which the Minister's accountability has been discharged, the Committee should not insist upon calling on a civil servant to remedy the deficiency, and thus in effect to exercise an accountability to Parliament separate from and overriding his accountability to his Minister. As the Select Committee on Procedure stated in its First Report of 1977-78:

"it would not, however, be appropriate for the House to seek directly or through its Committees to enforce its right to secure information from the Executive at a level below that of the Ministerial head of the department concerned, since such a practice would tend to undermine rather than strengthen the accountability of Ministers to the House".

9. The individual civil servant is accountable through his senior officers to his Minister, and if he has done amiss, it is to his Minister that he and his seniors are ultimately answerable. There are established means available - eg internal inquiry, disciplinary proceedings - whereby the Head of a

Department can bring an individual civil servant to account, and can penalise him if penalties are called for, with safeguards and rights of appeal as appropriate. The Government does not believe that a Select Committee is a suitable instrument for inquiring into or passing judgment upon the actions or conduct of an individual civil servant. As a witness the civil servant could be constrained in his answers by his instructions from or his accountability to his Minister or by his duty of confidentiality, and therefore unable to speak freely in his own defence. The fact that a Select Committee's proceedings are privileged does not absolve him from that duty. Particularly if politically controversial matters are involved, there is a risk that the process of questioning may be affected by political considerations. A Select Committee inquiry into the actions and conduct of an individual civil servant, conducted in public and protected by privilege, would give the civil servant concerned no safeguards and rights, though his reputation and even his career might be at risk. For these reasons the Government considers that Select Committees should not seek to extend their inquiries to cover the conduct of individual civil servants, and proposes to make it a standing instruction to civil servants giving evidence to Select Committees not to answer questions which are or appear to be directed to the conduct of themselves or of other named individual civil servants.

A
A
ccdr
BI
Ref. A086/2614PRIME MINISTER

Defence Committee: Westland plc

On 24 July two reports by the Select Committee on Defence relating to Westland plc were published:

- the Third Report, relating to defence implications;
- the Fourth Report, relating to the Government's decision-making.

2. You answered questions about the Fourth Report in the House of Commons that afternoon (OR 24 July 1986, cols 587 to 590); and the Minister of State, Privy Council Office, responded to a debate on the adjournment on the same subject the following day (OR 25 July 1986, cols 858 to 862).

3. Draft Government responses to both reports have been prepared and are attached. Both have been prepared in consultation with the Departments principally concerned (the Cabinet Office, the Ministry of Defence, the Department of Trade and Industry, and (in the case of the response to the Fourth Report) the Law Officers' Department).

4. As to the response to the Fourth Report, the object has been to avoid going over the whole story again, and to minimise the number of comments on the Committee's judgments. But it seems necessary to deal with their criticisms relating to my inquiry and to the decision not to bring disciplinary proceedings; and with their observations on accountability.



5. You will wish to consider both draft responses with your colleagues principally concerned, to whom I am sending copies of this minute and the drafts. Apart from questions of substance and drafting, there are a number of procedural and timing issues to be decided.

6. Ministers will wish to consider whether the responses should be published separately, or together as a single document. This is very much a matter of Parliamentary tactics, but I am inclined to think that, in the interests of confining any subsequent Parliamentary debate to a single day, they should be published together as a single document, in a Command paper.

7. As to timing, I have had some preliminary discussion with the Chief Whip. It seems inevitable that the publication of the responses will give rise to demands for a Parliamentary debate. It would be desirable to get the debate over during the spill-over, in the hope of getting the issue as far as possible behind us when the new Session begins (though I fear that the Select Committee on Trade and Industry will not complete their inquiry and submit their report until some time into the new Session). It would be prudent to defer publication until after the party conference season. This suggests that the response (or responses) should be published in the week beginning 13 October, with a view to a debate during the two weeks beginning 20 October.

1/8.

CONFIDENTIAL

8. I am sending copies of this minute and the draft responses to the Lord President, the Secretary of State for Defence, the Secretary of State for Trade and Industry, the Attorney General, the Chief Whip and the Minister of State, Privy Council Office.

RA

ROBERT ARMSTRONG

19 September 1986

C C

LONGER
VERSION

DEFENCE COMMITTEE: FOURTH REPORT

Draft Government Response

Draft of 19 September 1986

The Fourth Report from the Defence Committee ("Westland plc: the Government's decision-making": HC 519, Session 1985-86) is concerned with the ways in which decisions about Westland plc were made by the Government. Full accounts of these matters have already been given by Ministers in statements in Parliament, speeches in debates and Answers to Parliamentary Questions, and by the Head of the Home Civil Service in his evidence to the Committee. (The Government does not propose to rehearse yet again the sequence of events and decisions covered by the report.) The Government has, however, some comments to make on some of the Committee's judgments and conclusions.

2. In considering the record of events, and the Committee's comments upon it, it is necessary to emphasise the significance for the events described of a phenomenon upon which the Committee themselves remark. It was consistent with the policy of the Government that the possibility of a European option for the reconstruction of Westland plc should be explored, and, as the Committee recognise, there was good reason to suppose that, because of the involvement of other European governments with the relevant industries in their own countries, such a possibility could not be brought into being without some involvement of the British Government. But it was the Government's policy that the choice between options should be left to the commercial judgment of the company and its shareholders, and it was not consistent with that policy that a member of the Government should positively and publicly promote one option in preference to another. From about the middle of December 1985 one Secretary of State was pursuing a course which

was increasingly out of line with the policy on which the Government as a whole was agreed. One of the difficulties at the time was to judge when exploring and bringing into being the possibility of a European option merged into the promotion of a European option in preference to the other option available. But there was during this period an increasingly sharply defined, and increasingly publicly apparent, difference of view within the Government which (once the policy of Government was authoritatively stated) put an increasing strain on collective responsibility, and from which sprang many of the tensions which coloured subsequent thoughts and actions.

3. The Committee comment critically on the inquiry into the circumstances in which the existence and part of the gist of the Solicitor General's letter of 6 January 1986 to the then Secretary of State for Defence came to be disclosed, on a number of grounds:

a. that the fact that the disclosure had been authorised by the then Secretary of State for Trade and Industry must have been known before the inquiry began to a number of people (paragraph 196);

b. that in undertaking the inquiry the Head of the Home Civil Service was inquiring into the conduct of someone whose direct Civil Service superior he was (paragraph 215);

c. that the inquiry did not result in disciplinary proceedings against any of the officials involved (paragraph 213).

4. The Attorney General has made clear in answer to Parliamentary Question (HC Official Report, 24 July 1986, Written Answers) that, at the time when he advised that an inquiry should be instituted, he did not know by whom the

disclosure had been made nor that it had been authorised. He also made clear that, although he had reason to believe when, some days after the inquiry was instituted, he agreed to an offer of immunity to the person concerned that the disclosure had been made by that official acting in complete good faith, he was not aware of the full circumstances.

5. The Head of the Home Civil Service had reason, before he began his investigations, to think that the disclosure had been made by an official who believed that due authority had been given for the disclosure. He did not, however, know at that time what that authority consisted of nor how it was conveyed or expressed. The view was taken - and the subsequent events suggest that it was reasonable for that view to be taken - that the formal inquiry should discover as fully as possible the circumstances in which the disclosure came to be made, and the accounts of those concerned of their parts in the affair, before findings were arrived at and reported.

6. The officials questioned in the inquiry were in the Department of Trade and Industry and the Prime Minister's office. The Head of the Home Civil Service is not the direct superior of officials in the Department of Trade and Industry. Nor is he the direct superior of those in the Prime Minister's office, save in the purely formal sense that the Prime Minister's office is treated for "pay and rations" purposes as part of the Cabinet Office (Management and Personnel Office), in exactly the same way as it has always been treated as part of the department of which the Head of the Home Civil Service has from time to time been the permanent head. He does not supervise the day-to-day work of members of the Prime Minister's office; they are answerable for that directly to the Prime Minister (in the case of the Private Secretaries through the Principal Private Secretary), though if any of them wished to consult a Permanent Secretary on some personal problem arising from the exercise of his duties, the official to whom he would

normally turn would be the Secretary of the Cabinet and Head of the Home Civil Service, as the Prime Minister's senior official adviser and the permanent head of the Department of which the Prime Minister's office is a part.

7. The Head of the Home Civil Service did not, by virtue of the "dual role" under which the post of Head of the Home Civil Service is combined with that of Secretary of the Cabinet, face any problem that his predecessors as Head of the Home Civil Service would not have faced in a similar situation. The Government made observations on the question of the dual role in its response to the Seventh Report of the Treasury and Civil Service Committee (Cmnd 9841, paras 36 to 42), and sees no reason to take a different view of the matter in the light of the Fourth Report of the Defence Committee.

8. The Government has already made clear to the House of Commons, in the Prime Minister's answers to questions on 24 July and in the speech by the Minister of State, Privy Council Office on 25 July, that it does not agree with the Committee's suggestion that the Head of the Home Civil Service failed to give a clear example and a lead in these matters. On the contrary, as the Minister of State said, his part in the matter demonstrated the exercise of leadership with great responsibility and integrity.

9. The Committee say (paragraph 173) that they do not believe that the authority of the Secretary of State was sufficient, or would be regarded by senior officials in key positions as sufficient, to make public parts of a document:

- which was classified;

- which did not originate in the Secretary of State's own department;

- which contained the advice of a Law Officer;
- which was to be disclosed without the knowledge or permission of the Law Officer.

10. The authority of a Secretary of State would be sufficient for the disclosure of a classified document originating in his Department, if classification was the only objection to disclosure. There is no written rule which forbids the disclosure by a Minister on his sole authority of a document not originating in his own department; but considerations of courtesy and of the maintenance of good relations between one Minister and his Department and another would suggest that in such circumstances the consent of the originating department (and if necessary its Minister) should be sought before disclosure. That was not done in this case.

11. As the Committee make clear, however, there is a rule that it is not permissible, save with the prior authority of the Law Officers, to disclose to anybody outside the United Kingdom Government service what advice the Law Officers have given in a particular question or whether they have given, or have been or may be asked to give, such advice. In this case the prior authority of the Law Officer concerned was not sought or given. The then Secretary of State for Trade and Industry did not instruct his officials to seek that authority, or make his own authority conditional upon the Solicitor General's agreement; and none of the officials concerned sought to look behind the Secretary of State's authority, in the sense that, though some of them had reservations on the point, none of them sought to discover whether the Solicitor General's authority had been obtained, or suggest that it should be, before the disclosure was made.

12. The Prime Minister, the then Secretary of State for Trade and Industry and the Head of the Home Civil Service have all expressed their regret that the Solicitor General's letter was disclosed in the way it was disclosed. But it remains the Government's view that in the circumstances it was entirely reasonable for those responsible to decide, having regard to all the circumstances, that disciplinary proceedings were not called for.

13. As the Committee note, the then Secretary of State for Trade and Industry made clear to the House of Commons on 27 January (Official Report, 27 January 1986, Col 671) that officials in his Department acted at all times in accordance with his wishes and instructions, that what they did was with his full authority, that they were not to be blamed, and that he accepted full responsibility for the fact and form of the disclosure. The Prime Minister told the House of Commons on 23 January and 27 January (Official Report, 23 January 1986, col 450, and 27 January 1986, col 655) that, when officials in her office were consulted, they were told that the then Secretary of State had authorised the disclosure; and that, though they did not seek her agreement and did not believe that they were being asked to give her authority, they considered - and were right to consider - that she would agree with the then Secretary of State for Trade and Industry that the fact that the then Secretary of State for Defence's letter of 3 January was thought by the Solicitor General to contain material inaccuracies should become public knowledge as soon as possible, and before Sir John Cuckney's press conference on the afternoon of 6 January, and they accepted, in view of the urgency of the matter, the means by which it was proposed the disclosure should be made. The Government is satisfied that those concerned acted in good faith, believing that Ministerial authority had been given for what was done. As the Prime Minister said in the House of Commons on 24 July, the Government has total confidence in the officials referred to in the Committee's Report.

14. The Defence Committee's Fourth Report reverts, in its final paragraphs, to the matter of accountability.

15. The basic principles on this matter are clear:

- Each Minister is responsible to Parliament for the conduct of his Department, and for all the actions carried out by his Department in pursuit of Government policies or in the discharge of responsibilities laid upon him by Parliament.

- ^{They} ~~Ministers~~ are accountable to Parliament, in the sense that it is their responsibility to explain in Parliament the exercise of their powers and duties and the policies and actions of their departments.

- Civil servants are accountable to their Ministers for their actions and conduct.

16. As the Government's response to the Seventh Report of the Treasury and Civil Service Committee suggested, this has implications for the relationship of Select Committees to Ministers and civil servants. Select Committees exercise their formal powers to inquire into the policies and actions of Departments by virtue of the accountability of Ministers to Parliament, as the conventions and practices which they follow demonstrate. Civil servants who appear before them do so as representatives of, and subject to the instructions of, the Minister. The civil servant is accountable to his Minister for the evidence he gives to a Select Committee on his Minister's behalf. A Select Committee is given by Standing Orders the right to send for any person whom it chooses; but it does not, and should not attempt to, oblige a civil servant to answer a question or to disclose information which his Minister has instructed him not to answer or disclose, or which it is contrary to his duty of confidentiality to answer or disclose.

If in giving evidence to a Select Committee a civil servant refuses to answer a question on the ground that his Minister has instructed him to do so, the Committee's recourse must in the end be to the Minister. As the Procedure Committee stated in its First Report of 1977-78:

"it would not, however, be appropriate for the House to seek directly or through its Committees to enforce its right to secure information from the Executive at a level below that of the Ministerial head of the department concerned, since such a practice would tend to undermine rather than strengthen the accountability of Ministers to the House".

17. Similarly, if a Select Committee is not satisfied with the manner in which or the extent to which the Minister's accountability has been discharged, the Committee should not insist upon calling on a civil servant to remedy the deficiency, and thus in effect to exercise an accountability to Parliament separate from and overriding his accountability to his Minister. The Select Committee's remedy against the Minister lies in other means - in the last resort, if it remains dissatisfied, in its ability to report its dissatisfaction to the House.

18. The individual civil servant is accountable through his senior officers to his Minister, and if he has done amiss, it is to his Minister that he and his seniors are ultimately answerable. There are established means available - eg internal inquiry, disciplinary proceedings - whereby the Head of a Department can bring an individual civil servant to account, and can penalise him if penalties are called for, with safeguards and rights of appeal as appropriate.

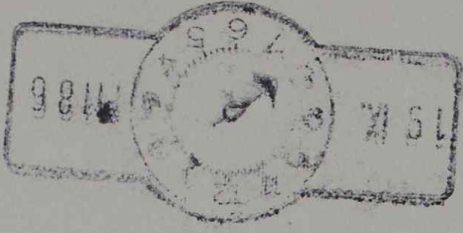
19. The Select Committee is an apt instrument for inquiring into the policies and actions of a Minister and the Department for which he is responsible, but the Government does not believe

that it is a suitable instrument for inquiring into or passing judgment upon the actions or conduct of an individual civil servant. As a witness he could be constrained in his answers by his instructions from or his accountability to his Minister or by his duty of confidentiality, and therefore unable to speak freely in his own defence. The fact that a Select Committee's proceedings are privileged does not absolve him from that duty, or from the risks of breaking it. Particularly if politically controversial matters are involved, there is a risk that the process of questioning may be distorted by the temptation to look for opportunities of making political capital out of the inquiry. A Select Committee inquiry into the actions and conduct of an individual civil servant, conducted in public and protected by privilege, would give the civil servant concerned no safeguards and rights, though his reputation and even his career might be at risk. For these reasons the Government considers that Select Committees should not seek to extend their inquiries to cover the conduct of individual civil servants, and proposes to make it a standing instruction to civil servants giving evidence to Select Committees not to answer questions which are or appear to be directed to the conduct of themselves or of other named individual civil servants.

20. The accountability of Ministers to Parliament means just that: that the Minister has a duty to give an account to Parliament of what is done by him in his capacity as a Minister or by his department. This does not mean that a Minister is bound to endorse the actions of his officials, whatever they may be, if he did not know of them and would have disapproved of them had he known of them. Nor does the fact that he is accountable mean that he has necessarily to accept a personal sanction. There is not and never has been a convention that a Minister is bound to resign in the event of any instance of wrongful action or misconduct of his department. If something has gone wrong in his department, he remains constitutionally responsible to Parliament, and he is accountable to Parliament

in the sense that it is his duty to give Parliament an account of what has gone wrong, and of what has been done or will be done to deal with and put right (so far as possible) what has gone wrong and to prevent it from happening again. What his personal position then is - whether he should resign or not - is a matter of political judgment in all the circumstances, of whether he retains the confidence of the Prime Minister and his other colleagues in the Government, of his backbench colleagues in his Parliamentary party, and of the House of Commons as expressed in a vote on a motion of censure, if it comes to that.

AEROSPACE : Weddand : PLS .



[Faint, illegible text, likely bleed-through from the reverse side of the page.]

D D

DEFENCE COMMITTEE: THIRD REPORT

Draft Government Response

Draft of 19 September 1986

The Third Report from the Defence Committee ("The Defence Implications of the Future of Westland plc": HC518, Session 1985-86) was published on 24 July 1986. The Government welcomes this report on a matter of considerable public concern, and notes with interest the discussion of the various issues raised and the Committee's views on a number of points. These are the subject of more detailed comments in the following paragraphs.

THE DEVELOPMENT OF THE MILITARY HELICOPTER

Future Developments (paragraphs 30-32)

2. The Government shares the Committee's view of the growing importance of helicopters in the land battle. Their inherent flexibility and mobility when allied to improving anti-armour weapons is likely to secure them a growing role in anti-armour operations, and the advent of systems to allow more comprehensive use at night and in bad weather will enhance their utility in all roles. Like any system, however, helicopters have their limitations and due regard will continue to need to be given both to the threats to their operations (which may be expected to grow in the battle area, not least in response to their own effectiveness) and to competing systems in each role for their relative cost effectiveness.

Helicopters in service with British forces (paragraphs 33-40)

3. The Government agrees generally with the Committee's analysis, but considers that the "sacrifice of quantity"

referred to in paragraph 36 should not be exaggerated. The current holding is 867 helicopters (excluding the 60 or so referred to in the Committee's report as awaiting disposal or beyond economic repair) as against 940 in 1975.

4. The Government notes the Committee's reference (paragraph 37) to replacement of current helicopter types. The EH101 is, as the Committee says, planned to replace the ASW Sea King (in this case, Sea King V/VI). It is, however, the Sea King IV which is already replacing the Wessex 5 in the Commando role.

Future British Requirements (paragraphs 41-75)

5. The Government notes the Committee's support for the idea of equipping EH101 with the Sea Eagle anti-ship missile (paragraph 46) and will bear this in mind in future consideration of the possibility. It remains to be seen, however, whether such an enhancement of capability is feasible and can be afforded.

6. As regards support helicopters, the Government agrees that the options for the future are much as the Committee have described them in paragraph 71, though for the sake of completeness it could have been added that additional medium lift capacity could be obtained by purchasing additional Chinooks instead of additional EH101s (paragraph 71(c)). It follows from the Committee's analysis of the options that the statement in paragraph 68 that there is no doubt that a new support helicopter will be needed in substantial numbers in the early 1990s goes too far at this stage, though plainly there is a strong possibility that such a requirement will be identified as a result of the studies currently being undertaken. The possibility of acquiring more medium lift capacity, which the Committee believes should remain open (paragraph 55), is being actively addressed in these studies.

7. The Government accepts the Committee's view that the Services's requirement for support helicopters, and the way in which any such requirement might be met, should be resolved quickly (paragraph 67). The Government welcomes the Committee's recognition of the desirability of reappraising the military requirement for support helicopters from first principles before procurement decisions are taken (paragraph 68).

8. The Government notes the Committee's preliminary view that there is a very good case for maintaining a fully airmobile brigade (paragraph 70), following the mechanisation of the present 6th Air Mobile Brigade which together with the addition of a new armoured regiment will begin in 1988. The Government will take account of the Committee's view in its further consideration of the possibility of retaining an airmobile capability.

9. The Government notes the Committee's view that there is a strong case for giving the Army, as users of support helicopters, full responsibility for them (paragraph 75). Nevertheless, account has to be taken of the breadth of helicopter tasks undertaken outside the Central Region and of the implications of transfer not only for command and control, but for training, manning and support arrangements. Nevertheless, the Government is bearing the Committee's views in mind in their current examination.

International Helicopter Production (paragraphs 76-90)

10. The Government accepts the analysis of the international helicopter market set out in the Committee's report; and it is specifically in acknowledgement of the high level of capital investment required for the design and development of advanced new helicopter types (paragraph 77) that the Government has for many years been looking towards collaborative solutions to its helicopter requirements whenever these are practicable. In the

innovative arrangements established for the EH101 project the United Kingdom and Italian Governments, together with Westland and Agusta, have also recognised the benefits that may be derived from maximising the market potential of a single basic design with military, commercial and utility variants.

11. The Government has confirmed its continued adherence to the 1978 Four Nation Declaration of Principles, and our partner nations also maintain their support.

The Recession in the Helicopter Industry and Westland's Situation (paragraphs 91-98)

12. The Government notes and generally accepts the Committee's analysis of the effects of over capacity in the world helicopter industry and the decline in opportunities in the civil and military markets.

European Collaboration in Helicopter Production (paragraphs 99-118)

13. Whilst the Committee is correct in pointing out that the collaborative projects launched in pursuance of the Declaration of Principles have not taken the precise form originally envisaged (paragraph 104), they do nevertheless offer the prospect of a substantial improvement in rationalisation within Europe. The EH101 would be the European transport/ASW helicopter in the 13 tonne class, and NH90 could still continue if the United Kingdom were to decide not to continue its participation due to lack of a requirement. Although for historical reasons it has not proved possible to arrive at a single anti-tank helicopter project, it must be remembered that the United Kingdom, France, Germany and Italy currently each operate different helicopters in this role.

14. It should also be remembered that NH90 and A-129 MKII have attracted the support of nations who were not signatories to the 1978 Declaration - respectively the Netherlands, and the Netherlands and Spain. In addition, collaborative arrangements have been established with Europe for the development and production of a range of engines capable of powering all four of the collaborative helicopters.

15. Following the acquisition by UTC of a stake in Westland, the Government has considered the status of the various collaborative helicopter projects in which the United Kingdom is participating. The current position is as follows.

EH101

16. The EH101 programme remains a high priority project for the United Kingdom, and the Government is continuing to provide for its share of the cost of the helicopter development and introduction into service. The Italian Government and Agusta have indicated to us that their position has not changed.

Light Attack Helicopter

17. It is intended that a Memorandum of Understanding (MOU) for a Feasibility Study to be undertaken on a Light Attack Helicopter based on the Agusta A-129 will be signed shortly by the Ministries of Defence of Italy, Netherlands, Spain and the United Kingdom. The association between UTC and Westland has not hindered the negotiations which have led to this satisfactory conclusion.

18. Following agreement by the Secretary of State for Defence and his Italian counterpart, the French and German Governments have been notified of the intention to proceed with this collaborative project; and that we remain ready to discuss the possibility of harmonisation of the work on the A-129 with that

of France and Germany on the PAH2/MAP/HAC3G if they so wish. This readiness to continue discussions on harmonisation has been noted by our allies.

NH90

19. The NH90 Feasibility Study is continuing and the participating companies are due to report to the five Governments during the autumn. United Kingdom future participation in this project will depend on the results of this study and of the extensive work being carried out within the Ministry of Defence on the future requirement for support helicopters. The next stage in the NH90 programme would be a Project Definition Study.

20. Whilst there are clearly a number of factors to take into account in determining how the United Kingdom should best work towards the replacement of the Wessex and Puma helicopters, the relationship between UTC and Westland has not so far been a problem in respect of the NH90 studies. The Government reiterates its view that future participation by the United Kingdom in the NH90 programme should not be precluded by that relationship. In that context the Government notes the Committee's arguments in paragraphs 116-118, including the references to the potential relationship between the Super Puma and NH90.

Control (paragraphs 119-152)

21. The Government notes the Committee's statement that "it is the responsibility of Government to satisfy itself that the ownership of shares in defence contractors of national importance has no implications for national security" (paragraph 144). It is important to distinguish between the influence that a foreign shareholder might bring to bear on commercial operation of a UK defence contractor on the one hand,

and the protection of classified information or technology, in the interests of national security, on the other. The Committee can be assured that, whenever a foreign company becomes involved with a contractor to the Ministry of Defence, the Government takes the necessary steps to ensure that classified information is protected. Indeed, in the particular example of the Libyan involvement in Fiat, and therefore in Westland (after the company's reconstruction), the protection of classified matters has been positively confirmed.

22. On the subject of commercial control, as noted by the Committee, action may be taken in certain circumstances under the Fair Trading Act 1973 to refer the acquisition by a foreign company of material influence over the policy of a defence contractor for investigation by the Monopolies and Mergers Commission if the Secretary of State considers that the acquisition raises public interest issues. In the event of an adverse public interest finding by the Commission, powers are available to the Secretary of State to prevent or reverse the acquisition or to impose conditions. Moreover, powers under the Industry Act 1975 are available if the Government considers that commercial involvement by foreign parties is in itself against the national interest. The Secretary of State's powers under the Companies Act 1985 to investigate the ownership of shares may also be used where there is good reason to do so. All these powers are currently exercised by the Secretary of State for Trade and Industry.

23. It is noted that the Committee wishes to examine this aspect when taking evidence on the next Statement on the Defence Estimates.

The Defence Industrial Base (paragraphs 153-175)

24. The Government notes the Committee's discussion of the defence industrial base and Westland's importance to it. The

defence industrial base is a major national asset whose health and future are of great importance. The pursuit of value for money in defence procurement, to which the Committee refer in paragraph 156 of their report, takes full account of the longer-term considerations which bear on the continued existence of companies or capabilities within the defence industrial base. The considerations were set out in the Open Government Document "Value for Money in Defence Equipment Procurement" (OGD 83/01) published by the Ministry of Defence in 1983. While the various considerations, short and longer term, will not always point in the same direction when selecting a procurement source, it is the Government's view that only by bearing them all in mind can long-term value for money be secured. In this respect, as the Committee noted (paragraph 163), the benefits of collaboration have to be fully taken into account, though this may involve difficult decisions.

25. As regards the importance of Westland to the defence industrial base, the Government notes the Committee's conclusion (paragraph 175) that the Board of Westland had the right and responsibility to make and defend its decision whether to associate with UTC-Sikorsky or the European consortium. This was and remains the view of the Government.

26. The Government attaches at least as much importance as the Committee to the quality of the working relationships between the Ministry of Defence and the Department of Trade and Industry. It repeats the assurances given to the Committee in evidence that these relationships, both formal and informal, are excellent. For example, the Department of Trade and Industry is represented at meetings of the Ministry of Defence's Equipment Policy Committee and Defence Research Committee, and both Departments are represented at senior level on the Board of Management of the British National Space Centre. Among the many less formal links Ministers of both Departments meet from time to time to discuss industrial issues of mutual interest, as do

officials. Nevertheless, both Departments are always on the look-out for ways of strengthening the links and making consultation more effective. The Government does not believe, however, that the quality of these relationships would be enhanced by imposing on them the formal structure of a Ministerial Aerospace Board.

Copy Copyright

File



10 DOWNING STREET

Robert,

Reference Committee : Westland P.C.C.

I suspect that the
PM will think that the draft of the
response to the Committee's Ferroll Response
attached to your minute of 19 September
raises points of both detail and principle
which are best left to lie. I have
therefore been through the draft and
have marked on the text attached some
passages, which I think could be

Omitted.

What do you think? Could
we please have an urgent word.

Nigel

The Govt stands by those who

It stands firmly by the account which it has given and rejects firmly those observations which seek to cast doubt on that account.

DEFENCE COMMITTEE: FOURTH REPORT

Draft Government Response

Draft of 19 September 1986

The Fourth Report from the Defence Committee ("Westland plc: the Government's decision-making": HC 519, Session 1985-86) is concerned with the ways in which decisions about Westland plc were made by the Government. Full accounts of these matters have already been given by Ministers in statements in Parliament, speeches in debates and Answers to Parliamentary Questions, and by the Head of the Home Civil Service in his evidence to the Committee. The Government does not propose to rehearse yet again the sequence of events and decisions covered by the report. The Government has, however, some comments to make on some of the Committee's judgments and conclusions.

~~2. In considering the record of events, and the Committee's comments upon it, it is necessary to emphasise the significance for the events described of a phenomenon upon which the Committee themselves remark. It was consistent with the policy of the Government that the possibility of a European option for the reconstruction of Westland plc should be explored, and, as the Committee recognise, there was good reason to suppose that, because of the involvement of other European governments with the relevant industries in their own countries, such a possibility could not be brought into being without some involvement of the British Government. But it was the Government's policy that the choice between options should be left to the commercial judgment of the company and its shareholders, and it was not consistent with that policy that a member of the Government should positively and publicly promote one option in preference to another. From about the middle of December 1985 one Secretary of State was pursuing a course which~~

~~was increasingly out of line with the policy on which the Government as a whole was agreed. One of the difficulties at the time was to judge when exploring and bringing into being the possibility of a European option merged into the promotion of a European option in preference to the other option available. But there was during this period an increasingly sharply defined, and increasingly publicly apparent, difference of view within the Government which (once the policy of Government was authoritatively stated) put an increasing strain on collective responsibility, and from which sprang many of the tensions which coloured subsequent thoughts and actions.~~

3. The Committee ^{made a number of comments} ~~commented~~ ^{critically} on the inquiry into the circumstances in which the existence and part of the gist of the Solicitor General's letter of 6 January 1986 to the then Secretary of State for Defence came to be disclosed; ~~on a number of grounds:~~

a. that the fact that the disclosure had been authorised by the then Secretary of State for Trade and Industry must have been known before the inquiry began to a number of people (paragraph 196);

b. that in undertaking the inquiry the Head of the Home Civil Service was inquiring into the conduct of someone whose direct Civil Service superior he was (paragraph 215);

c. that the inquiry did not result in disciplinary proceedings against any of the officials involved (paragraph 213).

4. The Attorney General has made clear in answer to Parliamentary Question (HC Official Report, 24 July 1986, Written Answers) that, at the time when he advised that an inquiry should be instituted, he did not know by whom the

disclosure had been made nor that it had been authorised. He also made clear that, although he had reason to believe when, some days after the inquiry was instituted, he agreed to an offer of immunity to the person concerned that the disclosure had been made by that official acting in complete good faith, he was not aware of the full circumstances.

5. The Head of the Home Civil Service had reason, before he began his investigations, to think that the disclosure had been made by an official who believed that due authority had been given for the disclosure. He did not, however, know at that time what that authority consisted of nor how it was conveyed or expressed. The view was taken - and the subsequent events suggest that it was reasonable for that view to be taken - that the formal inquiry should discover as fully as possible the circumstances in which the disclosure came to be made, and the accounts of those concerned of their parts in the affair, before findings were arrived at and reported.

6. The officials, ^{all of whom cooperated fully with the inquiry} questioned in the inquiry were in the Department of Trade and Industry and the Prime Minister's office. The Head of the Home Civil Service is not the direct superior of officials in the Department of Trade and Industry. Nor is he the direct superior of those in the Prime Minister's office, save in the purely formal sense that the Prime Minister's office is treated for "pay and rations" purposes as part of the Cabinet Office (Management and Personnel Office), ~~in exactly the same way as it has always been treated as part of the department of which the Head of the Home Civil Service has from time to time been the permanent head.~~ He does not supervise the day-to-day work of members of the Prime Minister's office; they are answerable for that directly to the Prime Minister (in the case of the Private Secretaries through the Principal Private Secretary), though if any of them wished to consult a Permanent Secretary on some personal problem arising from the exercise of his duties, the official to whom he would

normally turn would be the Secretary of the Cabinet and Head of the Home Civil Service, as the Prime Minister's senior official adviser and the permanent head of the Department of which the Prime Minister's office is a part.

Still
§5

7. The Head of the Home Civil Service did not, by virtue of the "dual role" under which the post of Head of the Home Civil Service is combined with that of Secretary of the Cabinet, face any problem that his predecessors as Head of the Home Civil Service would not have faced in a similar situation. The Government made observations on the question of the dual role in its response to the Seventh Report of the Treasury and Civil Service Committee (Cmnd 9841, paras 36 to 42), and sees no reason to take a different view of the matter in the light of the Fourth Report of the Defence Committee.

8. The Government has already made clear to the House of Commons, in the Prime Minister's answers to questions on 24 July and in the speech by the Minister of State, Privy Council Office on 25 July, that it does not agree with the Committee's suggestion that the Head of the Home Civil Service failed to give a clear example and a lead in these matters. On the contrary, as the Minister of State said, his part in the matter demonstrated the exercise of leadership with great responsibility and integrity. *As the Prime Minister said*

[Go to bottom of page 6]

9. The Committee say (paragraph 173) that they do not believe that the authority of the Secretary of State was sufficient, or would be regarded by senior officials in key positions as sufficient, to make public parts of a document:

- which was classified;

- which did not originate in the Secretary of State's own department;

- which contained the advice of a Law Officer;
- which was to be disclosed without the knowledge or permission of the Law Officer.

10. The authority of a Secretary of State would be sufficient for the disclosure of a classified document originating in his Department, if classification was the only objection to disclosure. There is no written rule which forbids the disclosure by a Minister on his sole authority of a document not originating in his own department; but considerations of courtesy and of the maintenance of good relations between one Minister and his Department and another would suggest that in such circumstances the consent of the originating department (and if necessary its Minister) should be sought before disclosure. That was not done in this case.

11. As the Committee make clear, however, there is a rule that it is not permissible, save with the prior authority of the Law Officers, to disclose to anybody outside the United Kingdom Government service what advice the Law Officers have given in a particular question or whether they have given, or have been or may be asked to give, such advice. In this case the prior authority of the Law Officer concerned was not sought or given. The then Secretary of State for Trade and Industry did not instruct his officials to seek that authority, or make his own authority conditional upon the Solicitor General's agreement; and none of the officials concerned sought to look behind the Secretary of State's authority, in the sense that, though some of them had reservations on the point, none of them sought to discover whether the Solicitor General's authority had been obtained, or suggest that it should be, before the disclosure was made.

12. The Prime Minister, the then Secretary of State for Trade and Industry and the Head of the Home Civil Service have all expressed their regret that the Solicitor General's letter was disclosed in the way it was disclosed. But it remains the Government's view that in the circumstances it was entirely reasonable for those responsible to decide, having regard to all the circumstances, that disciplinary proceedings were not called for.

13. As the Committee note, the then Secretary of State for Trade and Industry made clear to the House of Commons on 27 January (Official Report, 27 January 1986, Col 671) that officials in his Department acted at all times in accordance with his wishes and instructions, that what they did was with his full authority, that they were not to be blamed, and that he accepted full responsibility for the fact and form of the disclosure. The Prime Minister told the House of Commons on 23 January and 27 January (Official Report, 23 January 1986, col 450, and 27 January 1986, col 655) that, when officials in her office were consulted, they were told that the then Secretary of State had authorised the disclosure; and that, though they did not seek her agreement and did not believe that they were being asked to give her authority, they considered - and were right to consider - that she would agree with the then Secretary of State for Trade and Industry that the fact that the then Secretary of State for Defence's letter of 3 January was thought by the Solicitor General to contain material inaccuracies should become public knowledge as soon as possible, and before Sir John Cuckney's press conference on the afternoon of 6 January, and they accepted, in view of the urgency of the matter, the means by which it was proposed the disclosure should be made. The Government is satisfied that those concerned acted in good faith, believing that Ministerial authority had been given for what was done. As the Prime Minister said in the House of Commons on 24 July, the Government has total confidence in the officials referred to in the Committee's Report.

14. The Defence Committee's Fourth Report reverts, in its final paragraphs, to the matter of accountability.

15. The basic principles on this matter are clear:

- Each Minister is responsible to Parliament for the conduct of his Department, ^{factus} ~~and for all the actions carried out by his Department in pursuit of Government policies or in the discharge of responsibilities laid upon him by Parliament.~~

- Ministers are accountable to Parliament, ~~in the sense that it is their responsibility to explain in Parliament the exercise of their powers and duties and the policies and actions of their departments.~~

- Civil servants are ^{responsible} ~~accountable~~ to their Ministers for their actions and conduct.

16. As the Government's response to the Seventh Report of the Treasury and Civil Service Committee suggested, ^{these principles have} ~~this has~~ implications for the relationship of Select Committees to Ministers and civil servants. Select Committees exercise their formal powers to inquire into the policies and actions of Departments by virtue of the accountability of Ministers to Parliament, ~~as the conventions and practices which they follow demonstrate.~~ Civil servants who appear before them do so as representatives of, and subject to the instructions of, the Minister. The civil servant is accountable to his Minister for the evidence he gives to a Select Committee on his Minister's behalf. A Select Committee is given by Standing Orders the right to send for any person whom it chooses; but it does not, and ~~should not attempt to,~~ oblige a civil servant to answer a question or to disclose information which his Minister has instructed him not to answer or disclose, or which it is contrary to his duty of confidentiality to answer or disclose.

In the Government's view

If in giving evidence to a Select Committee a civil servant refuses to answer a question on the ground that his Minister has instructed him to do so, the Committee's recourse must in the end be to the Minister. As the ^{Select Committee or} Procedure Committee stated in its First Report of 1977-78:

"it would not, however, be appropriate for the House to seek directly or through its Committees to enforce its right to secure information from the Executive at a level below that of the Ministerial head of the department concerned, since such a practice would tend to undermine rather than strengthen the accountability of Ministers to the House".

~~17. Similarly, if a Select Committee is not satisfied with the manner in which or the extent to which the Minister's accountability has been discharged, the Committee should not insist upon calling on a civil servant to remedy the deficiency, and thus in effect to exercise an accountability to Parliament separate from and overriding his accountability to his Minister. The Select Committee's remedy against the Minister lies in other means - in the last resort, if it remains dissatisfied, in its ability to report its dissatisfaction to the House.~~

18. The individual civil servant is accountable through his senior officers to his Minister, and if he has done amiss, it is to his Minister that he and his seniors are ultimately answerable. There are established means available - eg internal inquiry, disciplinary proceedings - whereby the Head of a Department can bring an individual civil servant to account, and can penalise him if penalties are called for, with safeguards and rights of appeal as appropriate.

19. [The Select Committee is an apt instrument for inquiring into the policies and actions of a Minister and the Department for which he is responsible, but] the Government does not believe

a Select Committee

that it is a suitable instrument for inquiring into or passing judgment upon the actions or conduct of an individual civil servant. As a witness ^{the civil servant} he could be constrained in his answers by his ^(or her) instructions from or his accountability to his Minister or by his duty of confidentiality, and therefore unable to speak freely in his own defence. The fact that a Select Committee's proceedings are privileged does not absolve him from that duty, or ^{from} the risks of breaking it. ~~Particularly if politically controversial matters are involved, there is a risk that the process of questioning may be distorted by the temptation to look for opportunities of making political capital out of the inquiry.~~ A Select Committee inquiry into the actions and conduct of an individual civil servant, conducted in public and protected by privilege, would give the civil servant concerned no safeguards and rights, though his reputation and even his career might be at risk. For these reasons the Government considers that Select Committees should not seek to extend their inquiries to cover the conduct of individual civil servants, and proposes to make it a standing instruction to civil servants giving evidence to Select Committees not to answer questions which are or appear to be directed to the conduct of themselves or of other named individual civil servants.

~~20. The accountability of Ministers to Parliament means just that: that the Minister has a duty to give an account to Parliament of what is done by him in his capacity as a Minister or by his department. This does not mean that a Minister is bound to endorse the actions of his officials, whatever they may be, if he did not know of them and would have disapproved of them had he known of them. Nor does the fact that he is accountable mean that he has necessarily to accept a personal sanction. There is not and never has been a convention that a Minister is bound to resign in the event of any instance of wrongful action or misconduct of his department. If something has gone wrong in his department, he remains constitutionally responsible to Parliament, and he is accountable to Parliament~~

in the sense that it is his duty to give Parliament an account of what has gone wrong, and of what has been done or will be done to deal with and put right (so far as possible) what has gone wrong and to prevent it from happening again. What his personal position then is - whether he should resign or not - is a matter of political judgment in all the circumstances, of whether he retains the confidence of the Prime Minister and his other colleagues in the Government, of his backbench colleagues in his Parliamentary party, and of the House of Commons as expressed in a vote on a motion of censure, if it comes to that.]

CONFIDENTIAL



PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

12 August 1986

NSPM

Dear Michael,

DEFENCE SELECT COMMITTEE'S REPORT ON WESTLAND PLC

Part 5

The Lord Privy Seal has seen Sir Robert Armstrong's minute of 29 July and the subsequent correspondence.

As I mentioned on the telephone, he believes that a debate on this Report and the Government's response to it will very likely be necessary, and that if this is the case the Government should offer time for the debate in the overspill. Questions relating to the amount of time to be given and to who should speak for the Government can be sorted out nearer the time.

As far as the response itself is concerned, the Lord Privy Seal agrees that pressure to re-open the events of January can be better withstood by making it clear that the Government stands by the account already given than by seeming to re-open the issue.

Insofar as the response deals with civil servants and accountability, it would clearly have to be considered in the context of the response to the Treasury and Civil Service Committee's report. Further comments on the substance of the response to the Defence Committee's report would await the circulation of the draft response.

I am copying this letter to the private secretaries to the Prime Minister, Lord President and Chief Whip.

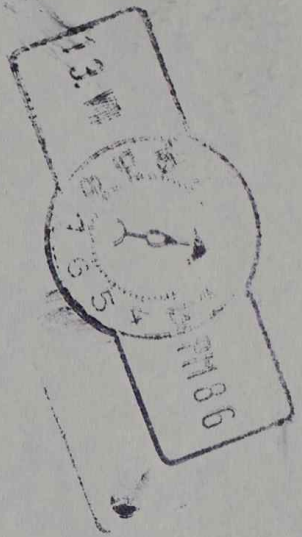
Yours,

Alison

ALISON SMITH
Private Secretary

Michael Stark Esq
Private Secretary to the
Secretary to the Cabinet

WESTLAND CPE 6





JU248
Secretary of State for Trade and Industry

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
Telephone (Direct dialling) 01-215 5422
GTN 215)
(Switchboard) 01-215 7877

// August 1986

CONFIDENTIAL

J F Howe Esq
Private Secretary to the
Secretary of State for Defence
Main Building
Whitehall
London SW1

EOD
EDP to see of v

Dear John,

Thank you for your letter of 31 July.

at 11:00 PM

My Secretary of State has noted what you say about the context of the Ministry of Defence's letter of 13 December. He has just asked me to repeat the point he made in his letter of 17 July to Mr Younger, that the letter will have reinforced the understanding of the Ministry's intentions Westland had from the 15 August letter, and which Mr Channon believes on a natural interpretation of the words used they were entitled to have. Mr Channon also notes that, so far as we are aware, Westland were not subsequently told MoD's intentions had changed and that the number of Sea Kings purchased for the Royal Navy was likely to be substantially smaller than the number mentioned in the two letters.

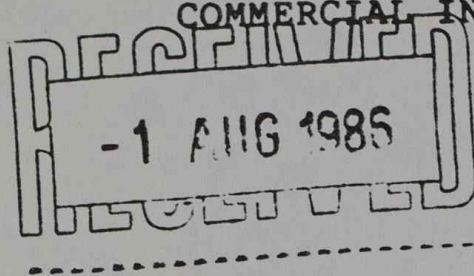
I am copying this letter and yours to the Private Secretary to the Prime Minister and other members of E(A), and to the Private Secretary to Sir Robert Armstrong.

*Yours ever,
Michael*

MICHAEL GILBERTSON
Private Secretary

1786
BOARD OF TRADE
BICENTENARY

CONFIDENTIAL
COMMERCIAL IN CONFIDENCE



MINISTRY OF DEFENCE
MAIN BUILDING WHITEHALL LONDON SW1
Telephone 01-820 7000

MO 26/16/1L

31st July 1986

Dear John

WESTLAND

I have circulated separately a short note of yesterday's meeting between Mr Channon and Mr Younger.

My note does not record the point, but mention was made at the meeting, in the context of a discussion about what Westlands had been led to believe about further Sea King orders and what MOD should now say to the firm, of a letter from MOD to the Directors of Westland dated 13th December 1985 which said that we intended further orders for 14 further Sea King helicopters.

We have looked back at the papers. Our letter of 13th December 1985 makes it clear that the "intended further orders" are those "referred to in the Ministry's letter of 15th August 1985", and in the latter letter - from John Bourn to Hugh Stewart, copied to Alastair Macdonald at your end - we said that "we intend to purchase up to 14 more Sea Kings for the Royal Navy". It was also made clear in the preamble to this letter that the statements in it were based simply on official thinking and were prior to and could take no account of any consideration that Ministers might give to the company's position.

The words "up to" were not used in the 13th December letter because the point of this letter was to show, by means of a graph, the workload at Westland if certain possible events actually came to pass - principally extra sub-contract work for Aerospatiale and Agusta if the European Consortium's proposals were accepted by the company. There was no suggestion to

John Mogg Esq
Department of Trade and Industry

COMMERCIAL IN CONFIDENCE
CONFIDENTIAL

CONFIDENTIAL
COMMERCIAL IN CONFIDENCE



Westland that the firmness or size of the intended orders for Sea King helicopters had increased between August and December. Nor, to their credit, have Westland ever suggested this to us.

I am sorry to go into this detail; the point is simply that our statement must be seen in its context.

Yours sincerely,
John Howe

(J F HOWE)
Private Secretary

AGROSPACE Westland P16

THE PRIVATE SECRETARY



1 DEA
2 CF

Government Chief Whip
12 Downing Street, London SW1

CONFIDENTIAL

Ref.A086/2184

Sir Robert Armstrong

ent Pt 5
APL

In his minute to you of 31 July, Mr Wicks mentioned that I was finding out the publication date of the Select Committee on Trade and Industry's Report on Westland plc. I have now spoken to the Chairman and to the Clerk of the Committee and it is clear that their report will not be available until November at the earliest.

I told them that if the Government decided to hold a debate on the Defence Select Committee's Report in the spill-over, it was highly unlikely that time would be provided for a further debate on their report in the New Year. This was noted, but they could not see any way of advancing the publication date of their report. In other words, the Committee were not prepared to meet during the recess. Their first meeting is scheduled for 22 October.

The business managers will no doubt wish to take these factors into account when advising on the handling of the two reports in the House of Commons.

I am sending copies of this minute to the Private Secretaries to the Prime Minister, the Lord President and the Lord Privy Seal.

(M MacLean)
7 August 1986

Aerospace Westland Pt 6





DEPARTMENT OF HEALTH AND SOCIAL SECURITY
Alexander Fleming House, Elephant & Castle, London SE1 6BY
Telephone 01-407 5522 ext 6981
From the Permanent Secretary
Sir Kenneth Stowe GCB CVO

Prime Minister²

The Rt. Hon. Margaret Thatcher, MP,
No. 10 Downing Street,
LONDON SW1

1 August, 1986

Dear Prime Minister.

When the Permanent Secretaries met on Wednesday morning with Robert Armstrong in the the Chair, I told him, at my colleagues' request, that we were deeply offended by the criticism of him, as Head of the Civil Service, in the Defence Committee's report on Westland; that the criticism was in our view wholly unwarranted; and that he enjoyed the full confidence of all his colleagues.

I know that Robert has your confidence. I thought you would wish to know that he has ours - and that we have told him so.

Yours sincerely,

Ken Stowe



10 DOWNING STREET

LONDON SW1A 2AA

THE PRIME MINISTER

6th August 1986

Dear Ken,

Thank you so much
for your letter on behalf of
all Permanent Secretaries expressing
your total confidence in Robert and
your strong feelings about the words of
the Select Committee. As you know
you are talking to the converted - it
was needed converting! Robert is one of

DA

the finest public service we have
ever had. It is due to people like
you that the highest traditions of
the Civil Service are maintained.

Thank you so for everything you
do. Every good wish

Yours sincerely

Raymond Shalton

PART FIVE ends:-

SS/MOD to CDP 31.7.86

PART SIX begins:-

Sir K Stowe to PM 1.8.86

