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AIR COMBAT MANOEUVERING INSTALLATION

IN THE NORTH SEA.

AEROSPACEApril 1989

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
27/4/89 25-5-89 6/6/89	PA 27/4 TOM						
PREM 19/2582							

dti

the department for Enterprise

CCP 5
2

The Hon. Alan Clark MP
Minister for Trade

The Rt Hon Margaret Thatcher MP
Prime Minister
10 Downing Street
London

Department of
Trade and Industry

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Fax 01-222 2629

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Our ref W08AMQ

Your ref

Date

6 June 1989

Ria Minister

008
7/6

Ann Minister

fiap

AIR COMBAT MANOEUVERING INSTALLATION (ACMI) IN THE NORTH SEA

Further to my letter of 25 May, I can confirm that the undertaking on civil liability has been signed by British Aerospace, in a form which is satisfactory to the Attorney General and to the Minister of State for Employment. On the question of access for BAe to RAF Marham and Coningsby, negotiations between the company and MOD are well advanced and I understand no difficulties are foreseen with BAe shortly commencing work.

As you will see from the attached letter, the British Aerospace Board have decided to proceed with the project.

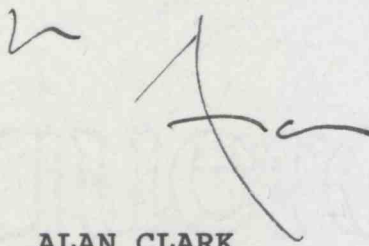
There remains only the matter of the US export licences. The US authorities have granted waivers to allow the initial shipments of hardware. I understand that the US Defence Secretary intends to write to George Younger seeking further assurances from HMG in respect of the main shipments in July. I am not yet certain of the nature of the assurance sought, but am confident that matters will be resolved satisfactorily.

The Rt Hon Margaret Thatcher MP

June 1989

I take this opportunity to thank colleagues and their officials for the alacrity with which they have tackled the situation. This undoubtedly enabled BAe to take the decision to proceed with the project within the desired timescale.

I am copying this letter to members of OD and Sir Robin Butler.

A handwritten signature in black ink, appearing to be 'Alan Clark', is written above the printed name. The signature is stylized with a large, sweeping 'A' and a horizontal line.

ALAN CLARK

BRITISH AEROSPACE



BRITISH AEROSPACE
PUBLIC LIMITED COMPANY

11, STRAND
LONDON WC2N 5JT
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R H EVANS CBE
CHAIRMAN DEFENCE COMPANIES

3944

FAX: 01-389 3971

The Hon Alan Clark MP
Minister for Trade
Department of Trade & Industry
1 Victoria Street
LONDON
SW1H 0ET



2 June 1989

Dear Mr Clark

Further to our telephone conversation and your letter of 25 May 1989 concerning the proposed joint venture between British Aerospace and your officials, particularly Mr. [Name] and Mr. Castello, for all the assistance in [Name] in securing the necessary agreements to allow us to proceed with this project.

I am sure we would have failed to meet the required deadline without the help and understanding of all those concerned and it shows what can be achieved if there is a will.

Since your letter, further progress has been made in completing the outstanding issues and I set out below the situation on these:

- 1) Deeds have been exchanged with Crown Estate and the consideration has been handed over.
- 2) We have provided your Department with the undertaking on the use of radio equipment and this will become effective when the technical Annex is finalised. We are providing our proposal for this to your Department today, 2 June 1989.

cont'd ...

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The Hon Alan Clark MP
Minister for Trade
Department of Trade & Industry
1 Victoria Street
LONDON
SW1H 0ET



2 June 1989

Dear Minister,

Further to our telephone conversation and your letter of 25 May 1989 concerning the ACMI project, I am writing to thank both you and your officials, particularly Derek Marsh and Anne Cantello, for all the assistance we have had in securing the necessary agreements to allow us to proceed with this project.

I am sure we would have failed to meet the required deadlines without the help and understanding of all those concerned and it shows what can be achieved if there is a will.

Since your letter further progress has been made on completing the outstanding issues and I set out below the situation on these:

- 1) Deeds have been exchanged with Crown Estates and the consideration has been handed over.
- 2) We have provided your Department with the undertaking on the use of radio equipment and this will become effective when the technical Annex is finalised. We are providing our proposal for this to your Department today, 2 June 1989.

cont'd ...

- 2 -

- 3) We have given the undertaking relating to civil law and I can confirm that the requisite offers will be made to these personnel working on the ACMI off-shore sites, the associated insurance arrangements have also been made.
- 4) We expect to reach a Heads of Agreement with MoD on access to RAF Marham and Coningsby shortly. This will allow construction to commence pending finalisation of the detailed lease and services arrangements.

On the subject of the Cubic export licence, we understand that US Defence Secretary Cheney is writing to George Younger. This will, I believe, be generally supportive but will seek further assurances on security. These are likely to relate to operational aspects of the range and will need positive answers from MoD even though they are not committed to use the range at this stage.

In the meantime waivers have been granted to allow initial hardware shipment by Cubic but for the main shipments in July the security assurances will almost certainly have to be cleared.

The project has now been considered by the Military Aircraft Limited Board and in view of the major progress that has been made in resolving the outstanding issues we have agreed to proceed with the installation of the range.

I should add that the Company fully appreciates the extensive work that has been put in by a number of other Government Departments over the last few weeks. I shall keep you advised of any significant changes and once again thank you for your continued assistance.

*Sincerely,
Dick Evans*
Dick Evans



the department for Enterprise

CCPC

The Hon. Alan Clark MP
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The Rt Hon Margaret Thatcher MP
Prime Minister

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Our ref WO6BCJ

Your ref

Date 25 May 1989

CDP 25/5

Annie Minnie /

AIR COMBAT MANOEUVERING INSTALLATION (ACMI) IN THE NORTH SEA

attached
At the OD meetings of 28 April and 9 May it was agreed that Departments should complete the necessary work as quickly as possible to enable British Aerospace to meet the conditions set out in my letter to them of 3 May, thereby allowing them to take a decision to proceed with this project, by the end of this month.

The BAe board are to meet tonight to decide on whether to proceed. I have today written to them setting out the position. I attach a copy of my letter, from which you will see that the Government has done all that it could (and for which BAe asked) to enable the company to meet its schedules.

Apart from the undertaking on civil liability there remains one outstanding point. The US Government has not yet agreed to issue export licences in respect of certain US technology which BAe needs for the project. MOD has provided the Americans with an assurance that the technology would be properly safeguarded; the



the department for Enterprise

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The Rt Hon Margaret Thatcher MP

May 1989

Embassy in Washington are in touch with the US Administration. This is a matter between BAe and the US authorities but if the Americans continue to cause difficulties, this may have to be subject to political intervention.

I am copying this letter to members of OD and Sir Robin Butler.

A handwritten signature in black ink, appearing to be 'Alan Clark', is positioned above the printed name.

ALAN CLARK

gb

THE UNIVERSITY OF CHICAGO PRESS





the department for Enterprise

The Hon. Alan Clark MP
Minister for Trade

R H Evans Esq CBE
Chairman, Defence Companies
British Aerospace plc
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Our ref WO6BCH
Your ref
Date 25 May 1989

I understand that late on 25 May the Board of BAe (Military Aircraft) Ltd are to consider the way forward on the ACMI project.

In my letter of 3 May I listed a number of concerns which would have to be satisfactorily resolved before your company could be given access to the RAF Stations at Marham and Coningsby to undertake work connected with ACMI. The current position is that the relevant consents have been issued by the Department of Transport; BAe plc have given certain undertakings relating to the cables and fishermen and the Ministry of Agriculture Fisheries and Food has issued a licence; the Order in Council extending the UK health and safety at work regime to workers on the ACMI is due to come into force on 28 May; BAe plc have provided an indemnity to the Government against claims from oil and gas licensees. As regards licences from the Crown Estate Commissioners, I understand that deeds will be exchanged and consideration given to the Commissioners this afternoon. An early consent to BTI is also being issued. You are also to provide my Department with assurances about the use of radio equipment; I understand a text has been agreed between our officials.

You will know that the other outstanding matter is the question of the civil law governing employees on the ACMI site. This has presented considerable difficulty, but I understand that your company are now able to give an undertaking that all personnel on the ACMI, whether BAe plc or your sub-contractors' employees, or



the department for Enterprise

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R H Evans Esq CBE

May 1989

self-employed, will be compensated for death or injury, damage to property, without proof of negligence. I understand that you propose to back this to some extent by insurance cover. We await your proposal on this point for our consideration.

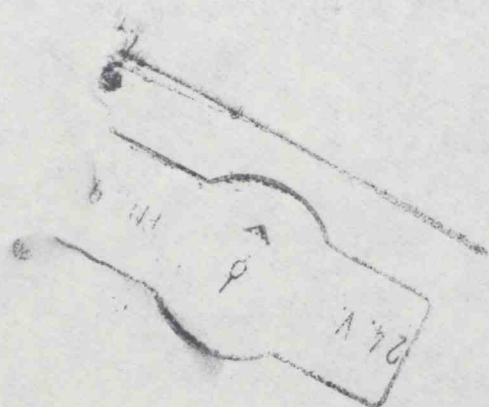
I understand that you are still negotiating with the Ministry of Defence over the financial and contractual arrangements for access to the RAF stations and for any other assistance which your company may seek from the MoD.

Therefore, on receipt by us from you of the assurances about the use of radio equipment, and the undertaking referred to in paragraph 3 above, both of which are subject to our approval, all the matters referred to in (a) to (f) of my letter of 3 May have been satisfactorily met.

A handwritten signature in dark ink, appearing to be 'Alan Clark', is written above the printed name.

ALAN CLARK

A large, stylized handwritten signature in dark ink, possibly 'Alan Clark', is written to the right of the printed name.





the department for Enterprise

CCPS

The Hon. Alan Clark MP
Minister for Trade

The Rt Hon John Cope MP
Minister of State
Department of Employment
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Our ref WO4BHF
Your ref
Date 7 May 1989

CA

John

FILE ON BUP

Thank you for your letter of 4 May about the application of the UK Health and Safety at Work regime to the ACMI in the North Sea.

Paragraph (d) of my letter of 3 May to BAe states that before installation at sea commences the Government wishes to apply the UK Health and Safety at Work regime and that this would require an Order-in-Council. The fourth paragraph makes clear that BAe will not be given access to RAF stations until there is satisfactory agreement with the appropriate parent companies on the matters referred to, and that must include Health and Safety at Work. I am sure that the MoD would not give such access until you had confirmed that the Order-in-Council was in place.

I see no harm, however, and indeed some value, in your officials making clear to BAe what steps they are taking to expedite the making of the Order-in-Council and at the same time reinforcing the point on access. I would myself like to know what timetable you are proposing.

I am copying this letter to members of OD, Sir Robin Butler and Charles Powell.

2

Alan Clark

ALAN CLARK

Adelphi: Air Combat Management.

Apr 89.



the department for Enterprise

The Hon. Alan Clark MP
Minister for Trade

R H Evans Esq CBE
British Aerospace plc
11 The Strand
London
WC2N 5JT

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Our ref WO4BGX

Your ref

Date 9 May 1989

Dear Mr. Evans

Will request if required

Thank you for your letter of 4 May about BAe's ACMI venture. My reply takes account both of this, and of the useful discussion I had on Monday with you and Sir Raymond Lygo.

As I made clear, although my Department will lead in dealing with BAe on this subject, it is your company's responsibility to deal directly with other Government Departments to secure all the agreements, consents and licences etc, referred to in my letter of 3 May. This is clearly set out in paragraph 1 of my earlier letter.

The DTI does not "sponsor" companies or commercial ventures. Their success depends on the companies themselves doing all that is necessary to bring them to fruition. Nor is there any embargo on talking directly to other Departments, and I encourage you to do this as soon as possible to seek clarification of what is required. I fully recognise the need to make progress at a fast speed between now and 28 May.

For our part, we shall be in touch with you to discuss arrangements for radiocommunications and for your agreement that relations among persons on the ACMI site will be governed by UK civil law. Mr Marsh of Air Division on 01-215 6199 should be your first point of contact for liaison in general with the DTI, but Mr Stanley of Solicitors Department on 01-215 3470 will liaise with your lawyers on the two specific matters to which I have referred.



the department for Enterprise

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R H Evans Esq CBE

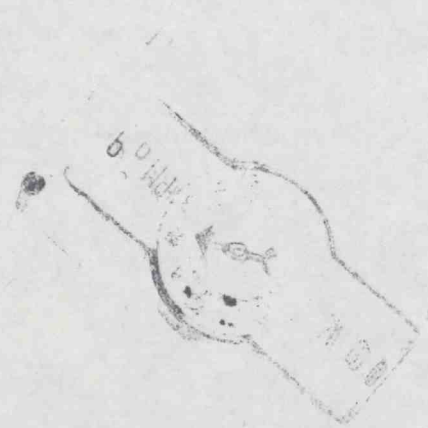
May 1989

I shall be keeping a close eye on developments, and would be happy to discuss the progress of your venture at any time. I do not at the moment foresee any need to Chair an interdepartmental review of progress along the lines you suggest. But I have asked Mr Marsh to convene, and chair, an interdepartmental committee at official level, to which I hope you will be able to attach a delegate. This committee will meet ad hoc and, I would assume, frequently.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'A Clark', with a long, sweeping horizontal stroke at the end.

ALAN CLARK





THE MINISTER OF STATE

cc/c
DEPARTMENT OF ENERGY
THAMES HOUSE SOUTH
MILLBANK
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Direct Line 01-211 238 2159
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The Hon Alan Clark MP
Minister for Trade
Department of Trade and Industry
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CD 75
8 May 1989

See AR

AIR COMBAT MANOEUVRING INSTALLATION IN THE NORTH SEA

Following your letter of 3 May to Mr Evans at British Aerospace, I have seen reports of the company's reaction (John Colston's letter of 4 May to Charles Powell, and Glyn Williams' letter of 5 May, also to Charles Powell).

Item (e) in your letter to Mr Evans concerns an indemnity which is required from British Aerospace to protect the Government against claims by oil and gas licensees whose operations might be interfered with by the ACMI. A draft indemnity (copy enclosed) was sent by my officials to yours on 5 May.

I am copying this letter to Sir Robin Butler, Charles Powell, John Weston, Michael Saunders and the Private Secretaries of those who attended OD on 28 April.

L
AS.
[Signature]

PETER MORRISON

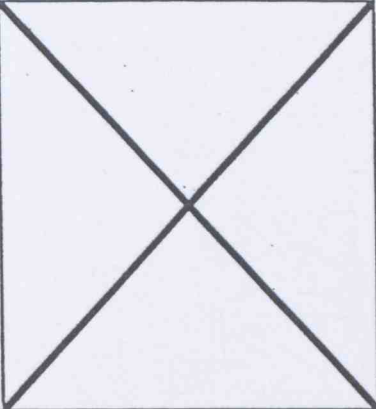
British Aerospace PLC hereby undertakes as follows -

- (i) that it will indemnify the Crown, any Minister of the Crown or government department against all actions, suits, proceedings, claims, demands, costs and expenses whatsoever which may be taken or made against, or be incurred or become payable by, the Crown, such Minister or government department (as the case may be) on account of the fact that rights of any person under or derived from any licence granted under the Petroleum (Production) Act 1934 as applied by the Continental Shelf Act 1964 are in any way diminished or adversely affected by the installation, operation, maintenance, removal or abandonment of any works connected with the provision of air combat manoeuvring facilities in the territorial sea adjacent to the United Kingdom or any area designated under section 1(7) of the Continental Shelf Act 1964;
- (ii) it will not assign or otherwise dispose of any interest in any such works except to a person who has given a like undertaking.

AEROSPACE : Air Combat Installation

April 89.



DEPARTMENT/SERIES <i>PR6m 19</i> PIECE/ITEM <i>2582</i> (one piece/item number)	Date and sign
Extract details: <i>CHARLES POWER TO PRIME MINISTER</i> <i>DATED 9 MAY 1989</i>	
CLOSED UNDER FOI EXEMPTION	
RETAINED UNDER SECTION 3(4) OF THE PUBLIC RECORDS ACT 1958	
TEMPORARILY RETAINED	 <i>30/11/2016</i>
MISSING AT TRANSFER	
NUMBER NOT USED	
MISSING (TNA USE ONLY)	
DOCUMENT PUT IN PLACE (TNA USE ONLY)	

Instructions for completion of Dummy Card

Use black or blue pen to complete form.

Use the card for one piece or for each extract removed from a different place within a piece.

Enter the department and series,
eg. HO 405, J 82.

Enter the piece and item references, .
eg. 28, 1079, 84/1, 107/3

Enter extract details if it is an extract rather than a whole piece.

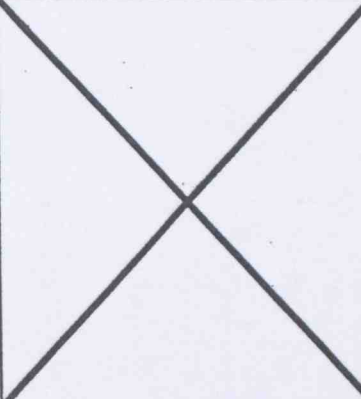
This should be an indication of what the extract is,

eg. Folio 28, Indictment 840079, E107, Letter dated 22/11/1995.

Do not enter details of why the extract is sensitive.

If closed under the FOI Act, enter the FOI exemption numbers applying to the closure, eg. 27(1), 40(2).

Sign and date next to the reason why the record is not available to the public ie. Closed under FOI exemption; Retained under section 3(4) of the Public Records Act 1958; Temporarily retained; Missing at transfer or Number not used.

DEPARTMENT/SERIES <i>PRM 19</i> PIECE/ITEM <i>2582</i> (one piece/item number)	Date and sign
Extract details: <i>ROBIN BUTLER TO PRIME MINISTER</i> <i>DATED 8 MAY 1989</i>	
CLOSED UNDER FOI EXEMPTION	
RETAINED UNDER SECTION 3(4) OF THE PUBLIC RECORDS ACT 1958	
TEMPORARILY RETAINED	 <i>30/11/2016</i>
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the department for Enterprise

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The Hon. Alan Clark MP
Minister for Trade

Charles Powell Esq
Private Secretary
to the Prime Minister
10 Downing Street
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Department of
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Our ref
Your ref
Date 5 May 1989

Dear Charles

AIR COMBAT MANOEUVRING INSTALLATION IN THE NORTH SEA

.... You have received a separate copy of Mr Evans' letter of 4 May (received today) to Mr Clark, and I now attach this for the benefit of those to whom I am copying this letter.

You will wish to know that Sir Raymond Lygo telephoned Sir Brian Hayes yesterday to discuss Mr Clark's letter of 3 May to Mr Evans. Sir Raymond expressed exasperation at its terms, and in particular the long string of conditions which were set out in it. If the Government was trying to say 'no', it should do so directly and not in this roundabout way. Sir Brian assured Sir Raymond that he should read the letter as indicating that BAe was free to proceed, at its own risk, subject to meeting the conditions set out in Mr Clark's letter. Sir Raymond expressed doubt as to whether this would be possible in time for construction to take place without missing this summer's favourable weather. It would certainly be necessary for him to take the matter up with the departments concerned at a high level in order to ensure that they gave sufficient priority to BAe's requests. Sir Brian said that if BAe wished to proceed with the project, they should start work without delay on getting the

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various licences and consents. Sir Raymond said that he was advised that it was possible to extend BAe's deadline by a few days, but their ship had to leave for the Netherlands on 28 May at the latest if it was to be possible to start construction this year.

I am copying this letter to the Private Secretaries of those Ministers who attended the OD meeting on 28 April, and to Trevor Woolley.

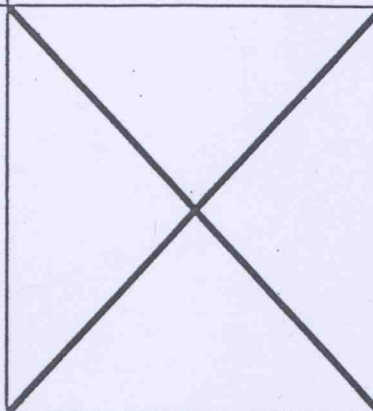
Yours Sincerely

Glyn Williams

G WILLIAMS
Private Secretary

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DEPARTMENT/SERIES <i>prem 19</i> PIECE/ITEM <i>2582</i> (one piece/item number)	Date and sign
Extract details: <i>CO POWELL TO PRIME MINISTER</i> <i>8 MAY 1989</i>	
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Sign and date next to the reason why the record is not available to the public ie. Closed under FOI exemption; Retained under section 3(4) of the Public Records Act 1958; Temporarily retained; Missing at transfer or Number not used.

BRITISH AEROSPACE



25/5
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3944

R H EVANS, CBE
CHAIRMAN DEFENCE COMPANIES

4 May 1989

The Hon Alan Clark MP
Minister for Trade
Department of Trade and Industry
1-19 Victoria Street
LONDON
SW1H 0ET

Dear Minister,

Thank you for your letter of 3 May 1989 confirming Governmental approval of the Company's North Sea ACMI venture, subject though it is to the conditions which you have identified, some of which we were not previously aware of. I am also pleased to note that after so many months of delay and frustration the DTI, the 'Enterprise Department', will sponsor and take the lead in dealing with this venture.

British Aerospace would also like to confirm to you that it is currently our intention to proceed with this project, but only if we are able to secure the appropriate approvals to which you refer. It is necessary that the required approvals should be available to British Aerospace no later than 28 May 1989.

Given that the detailed staff work has already been undertaken by the interested Departments I would expect that the date of the 28 May is achievable. However, it is our opinion that this deadline cannot be met without your Department's determined assistance and leadership in accordance with the following actions:

- a) The appointment of a senior Departmental representative of the DTI to take responsibility for cutting through the differing Departmental bureaucrasies.

cont'd ...

- b) The immediate release of what currently appears to us to be an embargo on any other Department discussing with the Company's Project staff the outstanding issues.
- c) The completion of agreed definitive positions with the interested Departments concerning the points 'a-f' raised in your letter.
- d) Your agreement to Chair an inter-Departmental review prior to 28 May 1989 involving all relevant Departments and British Aerospace - the aim of which must be to confirm final clearance of all the above reference points 'a-f'.

I realise that completion of the above actions in the timescale stated will represent a major challenge to your Officials, but I believe that this is just the sort of challenge that both you and the Prime Minister herself would support in pursuit of the Government's enterprise culture.

I look forward to receiving your earliest confirmation of agreement to the above arrangements so that British Aerospace can achieve the go-ahead for the project as planned by the end of this month.

Because of the Cabinet Office's interest, I am forwarding a copy of this letter to Charles Powell.

Yours sincerely

Dick Aung

Chairman - Defence Companies

CONFIDENTIAL

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2



MINISTRY OF DEFENCE

MAIN BUILDING WHITEHALL LONDON SW1A 2HB

Telephone 01-218 2111/3

MO 26/5V

Rie Ammir
4th May 1989
CDD 575
mf

Dear Charles,

AN AIR COMBAT MANOEUVRING INSTALLATION IN THE NORTH SEA

Sir Raymond Lygo called on the Defence Secretary this afternoon to discuss a constituency matter. In the course of the meeting Sir Raymond raised British Aerospace's Air Combat Manoeuvring Installation (ACMI) project. In view of the further discussion of this project planned for OD on 9th May, I thought that I should let you have a short note of what he had to say.

Sir Raymond produced a copy of the letter sent yesterday by the Minister for Trade to Mr Evans at BAe. He said that he regarded the letter as at best unhelpful and at worst obstructive. He doubted whether it would provide a firm basis for a decision by the Board to proceed with the project. At best, the consents and undertakings which the Government required would delay the beginning of construction work and lead to additional costs being incurred by the Company. Sir Raymond confirmed however that British Aerospace had no illusions about the prospects for use of the range by the Royal Air Force; British Aerospace hoped that the RAF would make use of the installation but would not take decisions on the assumption that such a requirement would materialise. The Defence Secretary said that the letter had been designed to be helpful, and to provide a clear statement of the Government's position against which the Company could make an informed commercial decision. Sir Raymond indicated that he would continue to lobby Government at the highest levels to elicit what he would regard as a more constructive approach.

I am sending copies of this letter to the Private Secretaries of those Ministers who attended the OD meeting on 28th April, and to Trevor Woolley (Cabinet Office).

Yours sincerely,

John Colston.

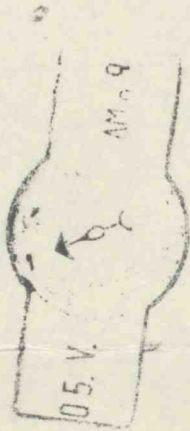
(J P COLSTON)
Private Secretary

Charles Powell Esq
No 10 Downing Street

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Aerspace : New install in N Sea,
May 89.

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LONDON W1P 8PL



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AM-9

Charles Powell (PM)



B.C.R.

Department of Employment
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Minister of State
The Rt Hon John Cope MP

C 00375

Hon Alan Clark MP
Minister for Trade
Department of Trade and Industry
1-19 Victoria Street
LONDON
SW1H 0ET

4 May 1989

Dear Alan

slap

AIR COMBAT MANOEUVERING INSTALLATION IN THE NORTH SEA

I understand that your letter of 3 May to Mr R H Evans of B.Ae was sent without the alteration I had requested and I realise the reasons for this.

Nevertheless I am writing to emphasise the importance we attach to the decision of OD that work on the Installations in the North Sea should not start until after the UK Health and Safety at Work regime has been applied by Order in Council. We are doing all we can to expedite this with the assistance of the Lord President but the timing is governed by a meeting of the Privy Council. I would be grateful for your confirmation that B.Ae understand the position and that they will not be given access to RAF Stations until the position is resolved.

I am copying this letter to Sir Robin Butler, Charles Powell, John Weston, Michael Saunders and the Private Secretaries of those who attended OD on 28 April.



Employment Department · Training Agency
Health and Safety Executive · ACAS

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(119) (119) (119) (119) (119)
AEROSPACE: Air combat Manoeuvres 9

Apr. 1989

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cc lcy ✓

THE LEGAL SECRETARIAT TO THE LAW OFFICERS
ATTORNEY GENERAL'S CHAMBERS,
ROYAL COURTS OF JUSTICE,
LONDON, W.C.2

CONFIDENTIAL

P J Weston Esq
Cabinet Office
70 Whitehall
London
SW1A 2AS

EOD
2/5

3 May 1989

AIR COMBAT MANEUVERING INSTALLATION (ACMI)

I refer to your letter of 3 May *at May* to Michael Saunders, who is away from the Office.

The Attorney General has seen the draft letter enclosed with yours. He is quite content that the draft reflects accurately the legal position. He has suggested two small amendments: in paragraph 3(c)(iv) the words "or damage to" should be inserted after "for loss of" and in paragraph 3(d) the word "contingent" should be inserted before "preparation". I have passed these amendments to Glyn Williams in Mr Clark's office.

Although it does not affect the drafting of the letter, the Attorney wished me to mention one matter which will require further thought. Paragraph 3(f) mentions that BAe will be required to make contractual provision for the application of UK civil law to persons on the ACMI site. This reflects



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what was agreed at the OD meeting (although at present inaccurately conveyed by the minutes, as you say); the Attorney wishes me to point out, however, that it does not and cannot put workers on the site in the same position as they would be if they were working in the United Kingdom. There are aspects of civil jurisdiction to which they will not be subject, and the criminal law will also not be applicable. Further thought will be required as to the possibility of introducing legislation to filling the gaps; further work will also be necessary on the extent to which the civil law can be applied by agreement.

I am copying this letter to the addressees of yours.

W *Leech*

det *W*

E S WILMSHURST



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AIR COMBAT
MANEUVERING
FACILITY

dti

the department for Enterprise

cc. Members of OD
Mr Saunders

cc/PC

The Hon. Alan Clark MP
Minister for Trade

R H Evans Esq CBE
Chairman, Defence Companies
British Aerospace plc
11 Strand
London WC2N 5JT

Department of
Trade and Industry

1-19 Victoria Street
London SW1H 0ET

Switchboard
01-215 7877

Telex 8811074/5 DTHQ G
Fax 01-222 2629

CD

3/5

Direct line 01-215 5144
Our ref W08AJS
Your ref
Date 3 May 1989

Dear Mr. Evans,

You wrote to the Secretary of State for Defence, with a copy to my Secretary of State, on 26 April about an Air Combat Manoeuvring Installation (ACMI) project. I am replying on Mr Younger's behalf. You will wish to note that henceforward this Department will be taking the lead in dealing with your Company on this subject, though you will continue to deal with other Departments individually on aspects of particular concern to them.

The ACMI project is a private commercial venture. The Government have a number of specific concerns arising from the project which need to be satisfied; I return to these below. Provided these concerns are satisfied, the Government regard the decision whether to bring the project to fruition as a commercial one for your Company. However, you should be aware when you take that decision of the Ministry of Defence's views on their prospective usage of the ACMI if completed. They have not, of course, undertaken any commitment to use the facility; they do not regard it as essential to their plans; and on the basis of the information available to them they consider it unlikely that they would wish to make significant use of it.

The Government's concerns are as follows:-

(a) Specific statutory consents must be obtained from the Department of Transport. I understand that your Company and British Telecom International have made the necessary

R H Evans Esq CBE

May 1989

applications; these are being considered, and decisions on whether the consents will be given, and if so what conditions should be attached to them, will be conveyed as soon as possible.

(b) A licence from the Crown Estate Commissioners, who are not a Government Department, will also be required. Payment and other conditions for this licence will be matters for negotiation, and will reflect the ACMI's potential interference with mineral extraction (other than coal, oil or gas).

(c) The ACMI potentially causes interference with fishing. The government wish fishing interests to be safeguarded by your company and its partners undertaking:

- (i) to lay their cables to a specified depth;
- (ii) to survey their cables at a frequency acceptable to the Ministry of Agriculture, Fisheries and Food;
- (iii) to re-lay any cables which work their way close to the surface to their original depth;
- (iv) to settle expeditiously any claims made by fishermen for loss of or damage to gear.

(d) Before installation at sea commences the Government wish to apply the UK health and safety at work regime for the protection of workers during installation, maintenance and subsequent removal of the ACMI. This would require an Order in Council, which is now in the early stages of contingent preparation.

(e) The site of the ACMI is an area of oil and gas exploration and exploitation; some of the blocks in the area have already been licensed and the remainder are currently under offer. The government would not wish to be faced with claims from oil or gas licensees for compensation because their activities were made more difficult, or impossible, through the presence of the ACMI. The Government will therefore require an indemnity from your Company to give them full protection against any such claim.

(f) No general statutory powers exist to apply the body of United Kingdom criminal and civil law to an installation of this kind in the area of the United Kingdom continental shelf where the ACMI and its appurtenances will be sited. This has certain consequences. Workers engaged on construction and maintenance on the site will lack the protection which, on land, would be afforded by the civil law. The Government will therefore require your Company to provide by agreement that relations among persons on the ACMI site will be governed by UK civil law. The government will also require your Company to provide the Department of Trade and Industry with satisfactory assurances about use of radio equipment on the ACMI.

R H Evans Esq CBE

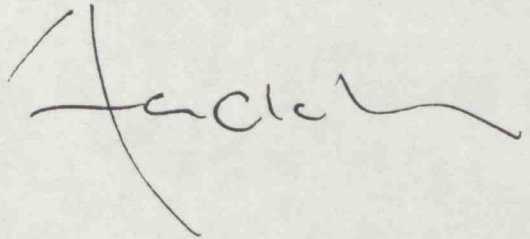
May 1989

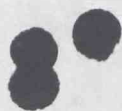
The Government will require satisfactory agreements to be reached with the appropriate parent companies on the above matters, including the formal giving of the consents and licence at (a) and (b) above, before your Company is given access to the RAF Stations at Marham and Coningsby to undertake work connected with the ACMI. Satisfactory financial and contractual arrangements would need to be negotiated for access and for any other assistance which your Company may seek from the Ministry of Defence.

I should be grateful if you would acknowledge this letter and also let me know, as soon as you are able, whether your Company intends to proceed with the project and, if so, in what timescale.

Yours sincerely

ALAN CLARK





A.C.M.I. in N. Sea

Aerospace April 1989.



Mr. Powell

Lee PC

CABINET OFFICE

70 Whitehall London SW1A 2AS Telephone 01-222 270 0360

CONFIDENTIAL

3 May 1989

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Dem Midnet,

AN AIR COMBAT MANOEUVERING INSTALLATION IN THE
NORTH SEA (ACMI)

circulating in Priv. Off

Ministers agreed at OD on 28 April that the Cabinet Office should co-ordinate the preparation of a letter to BAe conveying the Government's position. The enclosed text was agreed at a meeting of officials from interested Departments yesterday. As the minutes of OD record, it was the Prime Minister's wish that the draft be seen by the Attorney General before despatch. It is designed to make clear to BAe that if they proceed with the ACMI venture the Government's permission for BAe to undertake work at RAF stations will depend on prior satisfaction on a number of points relating to the formal consents required and other undertakings. (On the question of obligations under civil law, the draft makes clear that what is required is strictly speaking not an indemnity from BAe, as the minutes have it, but an agreement that relations among persons on the ACMI site should be governed by United Kingdom civil law.)

3. Since the OD meeting doubt has been cast on whether a licence is required from MAFF. This is because evidence has emerged that the ACMI towers will not be trans-shipped to the UK before erection. MAFF say that in these circumstances a licence would be required from them only if a British vessel were used to carry the towers to their site; if a foreign vessel were used a licence would not be necessary. In view of this doubt MAFF have proposed that

M L Saunders Esq
Legal Secretary to the Law Officers
Royal Courts of Justice
Strand WC2

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the letter should simply specify the undertakings that they would wish to obtain. Paragraph 3(c) of the letter has been drafted accordingly. It would follow that the condition concerning removal of the ACMI when no longer in use should be attached to the Department of Transport's consent.

4. It also emerged from yesterday's meeting of officials that continued co-ordination will be required, presumably from DTI, to ensure that the Departments concerned act consistently in the drafting of the various consents and undertakings (for example, on such basic matters as the naming of the companies who are to give the undertakings).

5. The letter is drafted as a reply to a letter from British Aerospace to the Defence Secretary dated 26 April, a copy of which is also enclosed. Since the board of BAe's military aircraft company plan to discuss the project when they meet tomorrow, it would be most helpful if the Attorney General were able to approve the enclosed draft in the course of today, or failing this overnight. This would enable DTI, who now lead on this subject, to deliver the letter to BAe's London office before the board meeting. I understand that DTI envisage the letter being signed by one of their Ministers.

6. I am sending copies of this to Charles Powell (No 10); to the Private Secretaries of those who attended OD on 28 April; and to Sir Robin Butler.

gms
over
John

P J WESTON

CONFIDENTIAL until despatched, then UNCLASSIFIED

Draft letter from a DTI Minister to

R H Evans Esq CBE
Chairman, Defence Companies
British Aerospace plc
11 Strand
London WC2N 5JT

You wrote to the Secretary of State for Defence, with a copy to my Secretary of State, on 26 April about an Air Combat Manoeuvring Installation (ACMI) project. I am replying on Mr Younger's behalf. You will wish to note that henceforward this Department will be taking the lead in dealing with your Company on this subject, though you will continue to deal with other Departments individually on aspects of particular concern to them.

2. The ACMI project is a private commercial venture. The Government have a number of specific concerns arising from the project which need to be satisfied; I return to these below. Provided these concerns are satisfied, the Government regard the decision whether to bring the project to fruition as a commercial one for your Company. However, you should be aware when you take that decision of the Ministry of Defence's views on their prospective usage of the ACMI if completed. They have not, of course, undertaken any commitment to use the facility; they do not regard it as essential to their plans; and on the basis of the information available to them they consider it unlikely that they would wish to make significant use of it.

3. The Government's concerns are as follows:-

(a) Specific statutory consents must be obtained from the Department of Transport. I understand that your Company and British Telecom International have made the necessary applications; these are being considered, and decisions on

whether the consents will be given, and if so what conditions should be attached to them, will be conveyed as soon as possible.

(b) A licence from the Crown Estate Commissioners, who are not a Government Department, will also be required. Payment and other conditions for this licence will be matters for negotiation, and will reflect the ACMI's potential interference with mineral extraction (other than coal, oil or gas).

(c) The ACMI potentially causes interference with fishing. The Government wish fishing interests to be safeguarded by your Company and its partners undertaking:

- (i) to lay their cables to a specified depth;
- (ii) to survey their cables at a frequency acceptable to the Ministry of Agriculture, Fisheries and Food;
- (iii) to re-lay any cables which work their way close to the surface to their original depth;
- (iv) to settle expeditiously any claims made by fishermen for loss of gear.

(d) Before installation at sea commences the Government wish to apply the UK health and safety at work regime for the protection of workers during installation, maintenance and subsequent removal of the ACMI. This would require an Order in Council, which is now in the early stages of preparation.

(e) The site of the ACMI is an area of oil and gas exploration and exploitation; some of the blocks in the area have already been licensed and the remainder are currently under offer. The Government would not wish to be faced with claims from oil or gas licensees for compensation because their activities were made more difficult, or impossible, through the presence of the

ACMI. The Government will therefore require an indemnity from your Company to give them full protection against any such claim.

(f) No general statutory powers exist to apply the body of United Kingdom criminal and civil law to an installation of this kind in the area of the United Kingdom continental shelf where the ACMI and its appurtenances will be sited. This has certain consequences. Workers engaged on construction and maintenance on the site will lack the protection which, on land, would be afforded by the civil law. The Government will therefore require your Company to provide by agreement that relations among persons on the ACMI site will be governed by UK civil law. The Government will also require your Company to provide the Department of Trade and Industry with satisfactory assurances about use of radio equipment on the ACMI.

4. The Government will require satisfactory agreements to be reached with the appropriate parent companies on the above matters, including the formal giving of the consents and licence at (a) and (b) above, before your Company is given access to the RAF Stations at Marham and Coningsby to undertake work connected with the ACMI. Satisfactory financial and contractual arrangements would need to be negotiated for such access and for any other assistance which your Company may seek from the Ministry of Defence.

5. I should be grateful if you would acknowledge this letter and also let me know, as soon as you are able, whether your Company intends to proceed with the project and, if so, in what timescale.

BRITISH AEROSPACE



R H EVANS C.B.E.
Chairman - Defence Companies

BRITISH AEROSPACE
PUBLIC LIMITED COMPANY
11 STRAND
LONDON WC2N 5JT
Telephone: 01-930 1020
Facsimile: 01-839 4774
Telex: 919221

Direct Line: 01-389 - 3944

26th April, 1989

26/5

The Rt. Hon George Younger TD, MP,
Secretary of State for Defence,
Ministry of Defence,
Main Building,
WHITEHALL
London SW1A 2HB

Sec (As) advance copies ¹¹ 6

PS / 2nd PUS

SO / ACAS

ACAS (C)

Head of RP (Air)

RS 26/5

Dear Secretary of State,

Thank you for your letter of 13th April, indicating that the Government is nearing the point where a decision on British Aerospace's proposals for the North Sea instrumented air combat training facility will be forthcoming.

I trust you will forgive my writing to you again to press for your advice, but the Military Aircraft Company Board now faces the decision of whether to suspend activity on this project for a period of time. As you know, this becomes necessary due to the need to commit to the offshore installation during the fair weather window this summer.

To meet the window, we need to receive a statement of approval from H.M. Government prior to the Board Meeting of the Military Aircraft Company Limited on the 4th May, 1989. If this approval is not forthcoming, for whatever reason, we will then be forced to suspend major activities which will lead to British Aerospace incurring substantial cost penalties as previously advised to you in my letter of 28th March, 1989.

I would greatly appreciate any assistance that you could lend in expediting this matter for us and am taking the liberty of also copying this letter to Lord Young.

Yours sincerely
Dick Evans



P.M.



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Department of Employment
Caxton House, Tothill Street, London SW1H 9NF

Telephone 01-273 5804/5
Telex 915564 Fax 01-273 5821

Minister of State
The Rt Hon John Cope MP

cc
✓
CD
3/5

P J Weston Esq.,
Cabinet Office
70 Whitehall
London
SW1A 2AS

3 May 1989

Dear Mr. Weston,

**AN AIR COMBAT MANOEUVERING INSTALLATION IN THE
NORTH SEA (ACMI)**

My Minister, Mr Cope, has seen a copy of your letter of 3 May to Mr Saunders.

will request it
required

He has made an amendment to the draft letter to Mr Evans which I should be grateful if you would take on board.

Our concern about the health and safety regime is outlined in para 3(d) of the draft. Mr Cope has asked that reference to this point is again made in para 4. Given the rising profile of health and safety matters he believes it important that this matter is emphasised.

I am copying this letter to recipients of yours.

Yours sincerely,

STEVE BAINBRIDGE

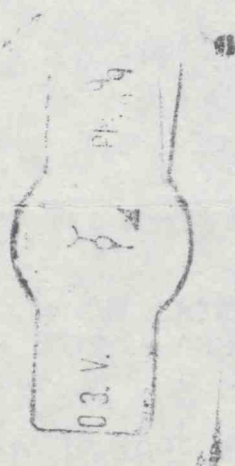
Private Secretary



Aerospace

Air Combat in N Sea

April 1989



cc: [signature]

PRIME MINISTER

AN AIR COMBAT MANOEUVERING INSTALLATION
IN THE NORTH SEA

OD is to take this curious subject tomorrow. The Cabinet Office have done a full brief. In the end it comes down to a choice between:

- telling BAe that the project is just not viable and urging them to cut their losses and terminate it, refusing to allow them to use shore facilities at RAF stations;
- giving all the necessary Government consents to enable the project to go ahead, without setting any conditions, while making clear that there is no guarantee that the RAF will use it (indeed the presumption should be that they will not);
- giving the necessary consents, but insisting that we must have a health and safety Order in Council in place first, which will mean a delay of several months and extra costs.

But the question which needs to be settled first is what if anything the RAF have said to BAe. The paper - paragraph 4 - says that the three air forces "welcomed" the project, although MOD made clear that they had no money for it. We need to know precisely what the RAF said and whether they have been leading BAe on, in the hope of bouncing the Government into paying for it. MOD swear blind that they did not. I have talked to Ray Lygo. He sees it as a purely commercial venture. He does not claim there was ever any commitment from

MOD. But he does say that air forces all round Europe, as well as the Americans, agreed to consider renting the facility if rates were competitive, and he remains hopeful that they will. He just wants to get on with the project and try to make money. What he wants least of all is further delay because that loses him money.

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C. D. POWELL
27 APRIL 1989

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PRIME MINISTER

c Sir Robin Butler

AN AIR COMBAT MANOEUVERING INSTALLATION IN THE NORTH SEA
OD Meeting at 9.30 am on Friday 28 April 1989
OD(89)6

CONCLUSION

Subject to discussion the Committee might be guided:

- a. to invite the Defence Secretary to inform British Aerospace (BAe) that
 - i) the Ministry of Defence (MOD) consider it unlikely that they will wish to make significant use of the air combat manoeuvring installation (ACMI) at charging rates related to its capital cost;
 - ii) it is for BAe to decide whether to proceed with the project, subject to obtaining the required consents;
 - iii) if they do so the Government wish work at sea to be deferred until an Order in Council providing for health and safety during construction is in place; and
 - iv) unless and until they accept the latter condition, permission to instal terminals at RAF stations will not be forthcoming; and to report BAe's reactions to the Committee;

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b. to agree that the Department of Transport (DTp) the Ministry of Agriculture, Fisheries and Food (MAFF) and the Crown Estate Commissioners (CEC) should continue to process the applications for legal consents in connection with the ACMI according to normal criteria, with the Committee being informed by the appropriate Minister before any consent is formally given;

c. to invite the Employment Secretary to prepare, as a matter of urgency, an appropriate Order in Council as at a.iii) above;

d. to agree that the making of the Order in Council and the question of primary legislation should be considered further by the Committee in the light of the Defence Secretary's report at a. above.

BACKGROUND

2. The Note by the Secretary of the Cabinet (OD(89)6) summarises the main elements of the problem and invites the Committee to take a view on five specific questions; these are spelled out in paragraph 13 of the Note by Officials, appended to the Secretary of the Cabinet's paper, which sets out the facts and arguments at greater length.

3. The ACMI is a private speculative venture undertaken by BAe without any commitment by MOD to make use of it, though its success depends entirely on the facility being used by British, Dutch and US air forces. BAe have committed themselves heavily to it, they say to the tune of £40M so far. They are seeking the necessary Government approvals by early May, to enable them to commence sailing the towers to the offshore site in mid-June. Approvals are required from

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DTP, MAFF and the CEC. They can only be given or withheld on specific grounds, and, apart from a residual concern on the part of MAFF about interference with fishing, which might be allayed by deeper burying of cables, there appears to be no major obstacle to the approvals being given.

4. There are however three other concerns. First, the project is costly (£64M), and MOD, whose attitude has hardened in recent weeks, now consider it unlikely that they would wish to make significant use of the facility on the basis of charging rates related to its capital cost. Secondly, the ACMI is planned to be sited in an area of oil and gas exploration, and its network of towers and cables could interfere with the operations of licensees. Such interference, if serious, could not only result in loss of tax revenue but also lay the Government open to legal claims from the licensees, though such claims are not considered likely. Finally, there is no legal regime in existence to apply to the ACMI health and safety rules governing construction and maintenance, to regulate the ACMI's radio transmissions, or to apply UK criminal and civil jurisdiction to it.

5. The Defence Secretary is expected to argue that BAe should be told that MOD are unlikely to make use of the ACMI, but should then be left to take a commercial decision whether to proceed to completion. The Chancellor of the Exchequer may propose that BAe should be told that the project is unviable and advised to terminate it. The Minister of Agriculture may express opposition to the project because of the effect on fishing. The Minister of State, Department of Employment is likely to argue that installation at sea should not proceed until a health and safety Order in Council is in place.

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ATTENDANCE

6. With the exception of the Trade and Industry Secretary, who will be represented by the Minister for Trade, all members of the Committee will be present. The Minister of Agriculture, Fisheries and Food, the Attorney General and the Ministers of State in the Home Office (Mr Patten), Department of Employment, Department of Transport and Department of Energy have been invited to attend.

HANDLING

7. You may wish to introduce the discussion, drawing on the material in paragraphs 2-4 above; alternatively the Secretary of the Cabinet could do so. Discussion should then cover the following aspects:

a. The need for the ACMI

Whatever happens MOD plan to continue to use the existing facility in Sardinia to much the same extent as now. They will therefore only need the North Sea ACMI if they increase the amount of that type of training. The ACMI cannot be a substitute for low flying in the UK or Germany because the aircraft would fly at a height of several thousand feet. Although the cost of the ACMI to the user has never been tested in contractual negotiation, if operated at a profit it would almost certainly be dearer than the one in Sardinia, not least because of the North Sea's inferior weather. (Bad weather would restrict flying for safety reasons, and the Air Staff anticipate only 70% availability.) MOD have made no financial provision to use the ACMI. Against this background, does the Defence Secretary confirm his officials' assessment that MOD would be unlikely to wish to make significant use of the facility? If he should reply that his demand for the ACMI would depend on price, has he worked out a price

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figure above which the ACMI would not be cost-effective from MOD's point of view? Has he any indication of how firmly the Dutch and Americans plan to use the ACMI? Do they too plan to continue to use the facility in Sardinia, and regard the ACMI as a supplementary facility? And can he offer any explanation of why BAe should have committed themselves so deeply when MOD's likely usage was so uncertain? (Defence Secretary)

b. Government consents

Are DTp prepared to issue their consent? (Minister of State, Department of Transport) Are there any problems with the CEC? (Chancellor of the Exchequer) Is the difficulty over fishing likely to be resolved satisfactorily so as to enable the MAFF consent to be given? (Minister of Agriculture, Fisheries and Food)

c. Oil and gas

How serious would be the interference with exploration and extraction? Can we quantify the potential loss of production (Minister of State, Department of Energy) and hence of revenue (Chancellor of the Exchequer)? Have the actual and potential licensees been told of the problem, and how have they reacted? (Minister of State, Department of Energy) If they were adversely affected would they seek redress from BAe in the first instance, or would their first recourse be to seek Government compensation? (Attorney General) Does the Minister of State, Department of Energy confirm his officials' view that legal claims against the Government are unlikely? Is there a case for the Government seeking an indemnity from BAe against such claims? Is it a weakness in the law that no specific legal consent is needed from DEN to prevent interference with oil and gas activities? (Minister of State, Department of Energy)

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d. The legal regime

DTP officials seem confident that there is no need for a safety zone to be established around the ACMI in order to ensure safety of navigation. Is this confidence well founded, bearing in mind TORREY CANYON and the recent EXXON VALDEZ calamity in Alaska? (Minister of State, Department of Transport) (His letter to you of 25 April establishes that there is no problem over civil air traffic control). For the rest, three gaps in the legal regime have been identified:

i. Since the ACMI would normally be unmanned, the dangers to health and safety would arise mainly during installation. The workforce is estimated to be half British and half Dutch. If Ministers wish to insist that a health and safety Order in Council should be in place before installation commences, BAe's timetable must be postponed, with work spilling over into the autumn or perhaps being postponed until summer 1990. Against this background, what advantages would the Order in Council bring? Could the Health and Safety Executive find resources to police it? Could voluntary agreement with BAe and their partners produce the desired effect? Would Ministers be justified in taking a risk and allowing work to go ahead? Or is it essential for the Order in Council to be in place first? (Minister of State, Department of Employment)

ii. Is it essential that UK criminal and civil jurisdiction should be applied to the ACMI, or merely desirable? Could this if necessary wait for a year or two until a convenient opportunity for legislation arises? Which Department should

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sponsor primary legislation? (No Department wishes to do so; of the three candidates, perhaps MOD would be the least inappropriate in the circumstances.) When would a legislative opportunity arise? Is the Defence Secretary confident that unwelcome questions about seabed installations could be dealt with? (Attorney General, Minister of State, Home Office, Defence Secretary)

iii. Any statute to apply UK jurisdiction could also deal with the regulation of the ACMI's radio transmissions. Failing this, could the latter be covered in the Broadcasting Bill? Or would a voluntary regime suffice? (Minister for Trade, Minister of State, Home Office).

The Foreign Secretary should be asked whether he is content in relation to the law of the sea.

e. Implications for BAe

By pressing ahead so rapidly (ignoring MOD's suggestion a year ago that they should defer the programme by a year) BAe have taken a gamble and now run into timetable difficulties. (In recent days they have abruptly transferred the ACMI project manager to other duties.) BAe's pre-tax profit in 1988 was £236M. Loss of £40M (or even £64M) would therefore not be catastrophic, but the impact would be significant. How serious would this be for the company? Is there a case for helping them out of their self-made difficulty? (Minister for Trade)

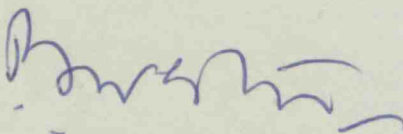
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f. The Government's locus

Should the project be frustrated it will be important for the Government to avoid being blamed or held legally liable. Apart from the formal consents, which have to be given or withheld on their merits, the Government evidently has no legal powers which would enable it to stop work if it so wished. The only available sanction is the ultimate one of refusing to allow BAe to build the terminals at the two RAF stations, Marham and Coningsby. (You have asked whether the welcome previously given to the project by the RAF could give rise to proceedings by BAe for damages for constructive consent. MOD's Legal Adviser and Treasury Solicitor's Department are reasonably confident that any such proceedings would fail.) Against this background, if Ministers wish to put a stop to or delay the project, should they rely on persuasion or on the threat of sanctions? Apart from the constructive consent point, if Ministers wished to delay the project by persuasion would BAe have a valid claim to compensation for the resulting increase in cost? (Attorney General)

g. Follow-up action with BAe

No Department is anxious to take the lead on this, but a choice will have to be made. MOD and DTI are the obvious candidates; the former seem the more appropriate.



P J Weston

26 April 1989



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DEFENCE
SECRETARY
NOTE

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PRIME MINISTER

What attitude has
MoD taken over the 2 years
or so that they

seem to have known about it?
not

R. Minister

Res comes to OD
on Friday.

CDD
26/4

AN AIR COMBAT MANOEUVRING INSTALLATION IN THE NORTH SEA

It may be helpful to colleagues if I set out my views on this matter before our discussion in OD on 28th April.

2. The availability of air combat manoeuvring facilities at the existing installation at Decimomannu, Sardinia, falls short of what the Royal Air Force and Royal Navy would ideally like to have. However, there is no funded requirement for the use of additional facilities if they became available; nor, unless remarkably good value were offered, would I be able to accord such a requirement a high priority within the defence programme. For these reasons, it has been made clear to British Aerospace that there can be no commitment to United Kingdom use of the facility, if it were built. Sir Raymond Lygo has indicated to me that the company believe that they can nevertheless make a commercial success of the project. Although he suggested otherwise, this may be predicated on an assumption that the MOD would make use of the facility, once built. This is not ruled out, if the price were right; but on the basis of the known capital costs of the project it is hard to see how a charge could be set that would both give British Aerospace an acceptable return on their investment and persuade the MOD to make significant use of the facility.

3. If British Aerospace remain determined to go ahead notwithstanding the assessment that there will be no significant UK use of the facility (which I believe should be made clear to the

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company) - and if colleagues take the view that there is no reason to stand in the way of the company's commercial judgement - I am, for my part, willing to make available (on repayment) the facilities at RAF stations and the control mechanisms necessary for British Aerospace to bring the project to fruition. But this must be on the clear understanding that the MOD will make no more use of the facility than we find cost-effective.

4. If, on the other hand, our conclusion is that it would be better if the project did not proceed, I am sure that we should seek to explain frankly to British Aerospace the reasons for our view. I would very much hope that we would not find it necessary to seek to deny the company access to RAF stations, since although we have given them no commitment on this point we have equally not given them any reason to believe that there is a serious risk that access might be refused.

5. I am copying this minute to the members of OD, to other colleagues who will be present at the meeting and to Sir Robin Butler.

G.Y.

Ministry of Defence

26 April 1989



25 JUL 1964 PM 9



COMMUNICATIONS

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SPORT



01-212 3434
01 276 5040

Your ref:

Eric Aronson

CD
26/4.

Dear Prime Minister,

25 April 1989

IN THE NORTH S
attached.

The official group did not examine this aspect of the problem. It appears that British Aerospace had consulted the National Air Traffic Services and satisfied itself that there would be no objection to the proposals, but I thought it right to secure an explicit commitment from the Civil Aviation Authority. It is clearly important to be sure that civil air traffic across the North Sea can adequately be accommodated during the expected life of the ACMI, without the air traffic control authorities having to encroach on the military airspace which the ACMI will be monitoring.

I have been assured that all the foreseeable plans of the National Air Traffic Services take into account the existence of the ACMI. Obviously pre-emption by the military through fixed installations of this kind reduces the civil airspace that could otherwise be available. There is, however, an advantage in that military training assisted by the ACMI will be undertaken with a much higher degree of supervision than before. I therefore have no objection to the proposal.

I am copying this to OD colleagues and Sir Robin Butler.

Yours ever

Michael.

MICHAEL PORTILLO

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PRIME MINISTER

AN AIR COMBAT MANOEUVERING INSTALLATION IN THE NORTH SEA

You may like to see tonight the attached paper which is to be taken at OD on Friday 28 April.

British Aerospace have decided, off their own bat, to build a facility out in the middle of the North Sea which could be used for training fighter pilots. They have already spent £40 million of their own money and the total is likely to be £64 million. They have gone ahead without any indication from the RAF, the USAF or any other Air Force that they will be prepared to use the facility. To be operational, it will need ground terminals at two or three RAF stations in the UK.

Installation of this contraption is due to go ahead during the summer. It poses some awkward questions:

Do we want it there at all? If no one is going to use it, it will simply be an eye-sore. More likely, BAe will start to exert very heavy pressure on the MoD to make use of it, to justify their investment. Are we going to be bounced into something we don't really want?

The installation can only go ahead with various legal consents from Government Departments. We cannot unreasonably withhold these and there are no obvious grounds for refusing them.

But because the installation will be outside our territorial waters, there is no legal regime to cover health and safety or to regulate its radio transmissions or to apply our criminal or civil law. Ought we to take the necessary legislative steps, at least on health and safety, before installation goes ahead?

There may also be a possible interference with civil air traffic control.

The whole thing is distinctly odd. We cannot dictate to BAe how they spend their money and they may regard it as a good long term investment. But we should leave them in no doubt that the MoD will not be compelled to make use of the facility just to help BAe out of a hole which they have dug for themselves.

C.D.P.

CHARLES POWELL

23 April 1989



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