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CABINET  
DEFENCE AND OVERSEAS POLICY COMMITTEE

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ARMS SUPPLIES TO IRAN AND IRAQ

Memorandum by the Secretary of State for  
Foreign and Commonwealth Affairs

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1. The situation on equipment sought by the two sides is set out in Annex A. The chief items wanted by Iran are the supply vessel Kharg and the £18 million worth of tank spares (Chieftain and Scorpion), for both of which payment has been made in full; and the £11 million worth of tank ammunition for which we have no immediate alternative outlet but for which payment has not been made. The most controversial items on the Iraqi list are the overhaul of captured Chieftain tanks, the tank spares (some for Soviet tanks) and the ammunition. An IMS team have visited Iraq. They consider 72 tanks could be made operational. There are other sensitive items but these are less difficult either because clearly contrary to our existing guidelines - eg 30 mm cannon and 155 mm artillery ammunition - or because not required for early delivery.

General

2. Hitherto we have maintained a certain balance by withholding arms and ammunition from both parties. This has in practice favoured Iraq, since

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there has been an absolute embargo on supplies to Iran since November 1979 whereas we have been approving non-lethal items for Iraq (eg radios and tank transporters). International law on neutrality requires us to be impartial, either by supplying nothing to either side or by offering similar treatment to each (see Annex B). We can satisfy these legal requirements by continuing to withhold arms and ammunition (defining this narrowly, if it suits us in particular cases), while being ready, subject to paragraphs 3 to 6 below, to supply non-lethal equipment to both. In public we should continue to say that we are not supplying arms or ammunition ("lethal supplies") to either side but that we are considering other applications on a case by case basis.

Iran

3. If we release any military items to Iran before our detainees are released, there will be strong public and parliamentary criticism in this country. We maintained the embargo for the Americans: we cannot simply drop it when our own people are detained without cause.
4. I believe, however, that it would not be effective, at least at this stage, to try to use the withholding of military supplies directly and specifically as a lever on Iran, since the elements in Iran opposed to release of the detainees are likely to welcome a confrontation. The best course is to profess our wish for a return to a normal relationship in the hope that our detainees may be released in the process. We should for the time being withhold military supplies and review the position in about a month if the detainees are still held.
5. If and when our detainees are released, we shall need to take into account Iraqi and Arab opinion as well as the obligations of neutrality. The simplest course would be to move to a similar position to that already adopted in the case of Iraq. This would mean, in practice, withholding licences for arms, ammunition and "lethal" spares, while permitting the release of certain non-lethal spares, eg tyres and automotive parts (see paragraph 9 below).
6. The Kharg is a harder case. The expense and trouble of keeping her argue strongly for release. Our neutrality obligations argue in the opposite sense (the 1907 Hague Convention). It may be possible to

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get round these, if the Iranians undertake not to use the vessel for offensive purposes (see Annex B). However, there are indications that the Iranians now wish to sell the ship and we should investigate keenly the prospects for this. Meanwhile, no decision on ultimate disposal is necessary.

## Iraq

7. In strict legal duty we should deny to Iraq military supplies which we deny to Iran. But the Iraqis may well regard the proposal for us to overhaul the captured Chieftains as a test case. If we refuse, we may lose future commercial as well as defence sales opportunities (eg the Hawk). On the other hand, it would be very controversial, while the war continues, if we were to repair tanks captured by Iraq from Iran. There would be publicity, however the arrangement was concealed. The Iranians would regard it as particularly provocative and any chance of getting our detainees out might vanish. It would be hard to reconcile such work with our neutrality obligations as defined in paragraph 2 above; and if we were to arrange to do the work indirectly, for example in Jordan, we could be open to public and parliamentary charges of deviousness, at any rate while the war lasted.

8. I therefore believe that we should not carry out work on these tanks in the present state of hostilities. But equally we should not refuse it, since this could play into the hands of our competitors for long-term business in Iraq. Instead we should explore the possibilities with the aim of prolonging discussion without either committing ourselves to do the work, or refusing it. In this we may be helped by IMS's need for time, perhaps three or four months, before they could submit a viable plan for the work.

9. Iraqi requests for other equipment should, I believe, be treated as follows. Arms and ammunition should be ruled out (eg 30 mm and 155 mm shells); items attracting a security risk should remain embargoed (Blowpipe); and other applications should be considered case by case on their merits. I think we should allow Lucas to supply non-lethal spares for the Iraqis' Soviet tanks - these would be electrical and other automotive parts - making clear to them that we might have to supply similar equipment to Iran. (Though to supply the Iraqis but not

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for the time being the Iranians is very much on the borderline in terms of our neutrality obligations.) And we should not in principle oppose negotiations for items with long delivery dates (eg the sanitized airborne surveillance equipment, Hawk trainer aircraft).

10. I am circulating this paper to the Secretary of State for Industry and to the Attorney-General, as well as to OD colleagues.

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FOREIGN AND COMMONWEALTH OFFICE  
26 January 1981

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## ARMS SALES TO IRAQ

1. Items in which the Iraqis have shown interest are:
  - (i) Scammell recovery vehicles (contract now signed and delivery will be made over the next six months);
  - (ii) spares for Soviet-built tanks;
  - (iii) 30 mm MG ammunition;
  - (iv) Hawk strike/trainer;
  - (v) naval base consultancy.

The above were annexed to Lord Carrington's minute of 13 November and covered by it: continuation of negotiations on (i), (iv) and (v) was agreed. (iii) was ruled out. (ii) is to be the subject of further official study.

- (vi) help to put Chieftain tanks on the road;
- (vii) 155 mm artillery and ammunition;
- (viii) low-level anti-aircraft radar;
- (ix) Blowpipe;
- (x) airborne early warning systems (Nimrod).

This group of items was the subject of FCO telno 495 to Baghdad. Ministers agreed that an expert should travel to Iraq secretly to look at (vi), which they have now done, (ix) is impossible. (viii) and (x) are starters - though there will be some objections to (x) on security grounds (although production of sanitized version, which is currently being considered, would remove those objections). (vii) is impossible now but could be a long-term possibility if the Germans could be squared.

- (xi) rapid-running road and portable track. This presents no problem: the Iraqis already have Bailey bridging from Britain which has apparently earned considerable praise;

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- (xii) night vision devices from Rank. (This is equipment which is becoming obsolete and there are unlikely to be any security and political objections to its supply.)
- (xiii) Giant viper. This is a mine clearing device which is unlikely to present difficulties.

ARMS SALES TO IRAN

2. The Iranians have formally asked us to allow export licences for:

- (i) the supply vessel Kharg;
- (ii) £18 million worth of Chieftain and Scorpion tank spares.

Both these items have been fully paid for by Iran.

3. In addition, we are contracted to supply the Iranians with £11 million of tank ammunition for which there is no immediate alternative outlet.

4. If the embargo resulting from the detention of the US hostages was lifted, the Iranians could well ask us for a wide range of items, including spares for and ammunition for their tanks and aircraft.

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## LEGAL OBLIGATIONS

1. The obligations of neutrality (as codified, for instance, in the Hague Conventions of 1907) require that we should either refrain from supplying, or allowing the supply of, war material to either belligerent or that, if we supply anything, we should treat each side impartially. This legal obligation to be impartial applies even when we are denying arms to one side (as is the case at present with Iran) for reasons unconnected with the war and also applies whether or not the items in question have been paid for. Failure to observe this would render us liable to be treated as a co-belligerent and expose our ships and property to attack or seizure. Our obligations in respect of the supply of ships to a belligerent are somewhat different, and were also codified in the Hague Conventions of 1907. They preclude the release of the Kharg to the Iranians unless the Iranian Government assures us that they do not intend to engage it in hostile operations. If we obtained such an assurance before releasing the vessel we could reasonably defend ourselves against charges of having breached our neutrality.

2. Our obligations are not affected by the fact that there may have been instances since the adoption of the Hague Conventions when the neutrality obligations which they enshrine have been disregarded. During the Second World War we received much war equipment from the United States before it formally declared itself to be a co-belligerent. The formal declaration, when it came, could therefore be considered to have been no more than declaratory of an already existing state of affairs. Before the declaration came the Axis Powers did not in fact take against the United States any of the measures which they would have been entitled to take. This precedent, however, is not much help in the present situation because there is no doubt that at some stage the US became a co-belligerent whereas we have no intention of doing so. In each case it is necessary in practice to assess what each of the original belligerents will judge to be in its best interests.

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LIKELY ATTITUDE OF THE BELLIGERENTS

3. It is unlikely in practice that either belligerent would choose to involve us in the war simply for supplying defence equipment to the other side; they would be more likely to retaliate politically, eg by denying us commercial opportunities or by mounting propaganda attacks. In Iran, British subjects and British staff might be at risk. We could seek to escape such retaliation through diplomatic action in justification of our policy - eg by offering an explanation for it sufficiently convincing, or by ensuring that we were in sufficiently good company, to deflect or deter the aggrieved party from retaliating against us, although such efforts are unlikely to be effective with either party if they decide on other grounds to take issue with us.