

CONFIDENTIAL

Ref. A01649

PRIME MINISTER

BNOC: Private Sector Participation

(E(80) 22)

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

BACKGROUND

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

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

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

CONFIDENTIAL

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

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

5. The essential questions for the Committee are these:

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

CONFIDENTIAL

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

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

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

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

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

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

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

CONFIDENTIAL

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

HANDLING

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

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

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

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

CONCLUSIONS

9. Depending on discussion these will be:-

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

CONFIDENTIAL

And:

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

RA

(Robert Armstrong)

10th March, 1980