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OD(81) 1st Meeting

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CABINET

DEFENCE AND OVERSEA POLICY COMMITTEE

MINUTES of a Meeting held at
10 Downing Street on THURSDAY
29 JANUARY 1981 at 9.30 am

PRESENT

The Rt Hon Margaret Thatcher MP
Prime Minister

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

The Rt Hon Lord Hailsham
Lord Chancellor

The Rt Hon Lord Carrington
Secretary of State for Foreign
and Commonwealth Affairs

The Rt Hon Sir Geoffrey Howe QC MC
Chancellor of the Exchequer

The Rt Hon Francis Pym MP
Chancellor of the Duchy of
Lancaster and Paymaster General

The Rt Hon Lord Soames
Lord President of the Council

The Rt Hon John Nott MP
Secretary of State for Defence

The Rt Hon Sir Ian Gilmour MP
Lord Privy Seal

The Rt Hon John Biffen MP
Secretary of State for Trade

THE FOLLOWING WERE ALSO PRESENT

The Rt Hon Leon Brittan, QC MP
Chief Secretary, Treasury

The Rt Hon Sir Michael Havers QC MP
Attorney General

The Rt Hon Michael Jopling MP
Parliamentary Secretary, Treasury
(Item 1)

The Hon Nicholas Ridley MP
Minister of State, Foreign and
Commonwealth Office
(Item 1)

Mr Norman Tebbit MP
Minister of State Department of Industry
(Item 2)

SECRETARIAT

Sir Robert Armstrong
Mr R L Wade-Gery
Mr R M Hastie-Smith

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1. FALKLAND ISLANDS

Previous Reference OD(80) 25th Meeting, Item 2

The Committee considered a memorandum by the Foreign and Commonwealth Secretary (OD(81) 2) reporting the Falkland Islanders' formal response to the suggestions put to them in November by the Minister of State, Foreign and Commonwealth Office (Mr Ridley); and proposing early negotiations with the Argentine Government, at which the Islanders would be represented.

THE FOREIGN AND COMMONWEALTH SECRETARY said that his memorandum was primarily a progress report. The only decision required was on the proposal for further negotiations with Argentina. The process of seeking the Islanders' views had not gone too badly; they had accepted the need for negotiations; their preferred outcome was a freeze on the dispute, which Argentina was unlikely to accept; but they had not ruled out (though they had not yet accepted) lease-back. There was no doubt that the Argentine Government were under strong pressure from public opinion and particularly from the armed forces. They could not maintain a moderate approach to the problem unless negotiations were soon restarted. Indeed, they might not be able to remain restrained even then; and in that event the cost to Britain of sustaining the Falkland Islands would become very large.

THE MINISTER OF STATE, FOREIGN AND COMMONWEALTH OFFICE (MR RIDLEY) said that the Islanders were slowly coming to see that lease-back would be an essential element in the negotiated settlement they required. They were in effect bargaining with the British Government over such issues as financial assistance and the right of entry to the United Kingdom. Given the Argentines' attitude, a round of negotiations on freezing the dispute would not succeed; but it was necessary as a holding operation.

In discussion the following points were made -

- a. Parliamentary opinion at Westminster had been much disturbed at the time of Mr Ridley's talks with the Islanders at the end of 1980. There would be further criticism if negotiations were now resumed with Argentina, but the position was not likely to become unmanageable.

b. As proposed in his minute to the Prime Minister of 12 January, the Home Secretary had on 28 January reaffirmed in the House of Commons, during a debate on the Government's Nationality Bill, that in the event of an emergency affecting the Falkland Islands the most sympathetic consideration would be given to the position of any Islanders in trouble who did not possess the right of abode in the United Kingdom. Although this undertaking clearly amounted in practice to a complete safeguard, it was unlikely entirely to satisfy the Islanders or their supporters. But there would be great difficulty in picking out the Falkland Islands for special treatment in the Nationality Bill. It had been suggested that there might be some advantage if the citizens of a dependency, such as the Falkland Islands, were in future to have a citizenship particular to that territory. The Home Secretary and Foreign and Commonwealth Secretary would be studying this possibility further, but it would not of itself satisfy the Islanders' wish to an absolute right of abode in the United Kingdom; and it might be unpopular in some other dependent territories.

c. The Committee had earlier questioned whether adequate investment arrangements existed for the Islanders' savings. It now appeared that the Falkland Islands Savings Bank paid only 5 per cent interest on local deposits, reinvested the money in British Government stock at much higher rates, and made no suitable arrangements for the investment or disposal of the large profits which must be resulting. The Minister of State, Foreign and Commonwealth Office, would be discussing this problem further with the Chief Secretary, Treasury. There seemed to be no reason why more adequate arrangements should not be made without delay.

THE PRIME MINISTER, summing up the discussion, said that the Foreign and Commonwealth Secretary's memorandum was noted and endorsed. The outstanding points on nationality and on local savings, which had been brought out in the discussion, should be urgently pursued.

The Committee -

1. Invited the Foreign and Commonwealth Secretary to arrange for early negotiations, at which the Falkland Islanders would be represented, to be undertaken with the Argentine Government on the basis proposed in OD(81) 2; and to report the outcome.
2. Invited the Home Secretary, in consultation with the Foreign and Commonwealth Secretary, to give further consideration to the case for creating a distinctive citizenship for a particular dependent territory, such as the Falkland Islands, and to report.
3. Invited the Foreign and Commonwealth Secretary, in consultation with the Chancellor of the Exchequer, to consider how the arrangements for the Falkland Islanders' savings deposits should be improved, and to report his conclusions.

2. ARMS SUPPLIES TO IRAN AND IRAQ

Previous Reference: OD(80) 25th Meeting, Item 1

The Committee considered a memorandum by the Secretary of State for Foreign and Commonwealth Affairs (OD(81) 3) which set out proposals for dealing with future defence sales to Iran and Iraq.

THE FOREIGN AND COMMONWEALTH SECRETARY said that it would cause a political and public uproar if any military items were sold or released to Iran before they released their British detainees. There were signs of progress in this matter. The Swedish Ambassador in Iran, who was at present looking after British interests, was due to see Ayatollah Beheshti, the leader of the Islamic Republican Party and head of the Supreme Court, on 3 February to press for their release within about a month. Iran was a country of great importance in terms of size, resources and strategic situation, and must not be allowed to become a satellite of the Soviet Union. For the time being, therefore, the posture should be one of quiet and patient pressure for the release of the detainees, in the hope that their release might provide the occasion for an improvement in relations with Iran. In that event it might be possible to resume some military supplies to Iran. If the detainees had not been released in about a month, however, the force of political and public opinion might oblige the Government to adopt a harder position. In regard to the Kharg the Iranian Government had now said informally, through lawyers acting for them in London, that they no longer needed the ship and would welcome another buyer for it. There would be advantage in giving a positive reply to this approach and offering to help identify a suitable buyer. In strictly legal terms it could be argued that Iraq should be denied any types of military supplies which were denied to Iran; but Iraq offered a major market for a considerable range of defence equipment. Britain could not afford to neglect the opportunities involved. A narrowly-defined range of lethal items such as ammunition should not be sold while the Iraq-Iran war lasted, but there would be no objection to the sale of such items as Hawk aircraft or tank transporters. A particular problem arose over a number of Chieftain tanks which the Iraqis had captured from Iran and wanted Britain to overhaul. It would be damaging to

refuse this request; but while the British detainees remained in Iran there would also be danger in agreeing to it, even in secret. Negotiations should therefore be spun out for the time being.

THE ATTORNEY GENERAL said that there was a general obligation under international law to be even-handed in the supply of military equipment to belligerent states. The Hague Convention applied to any equipment which might be used by the armed forces of such a state, not just to lethal items.

In discussion there was general agreement that the detention of the four British subjects was a bar to any immediate provision of defence equipment to Iran; but that it was important to take the earliest possible advantage, particularly in Iraq, of the commercial opportunities which now presented themselves. The following points were made -

- a. Since the continued detention of the four British subjects in Iran was such a key issue, every possible effort should be made to secure their early release.
- b. Although it could be argued that there was a moral obligation to prevent the Kharg deteriorating following the refusal of an export licence, it was Her Majesty's Governments policy never to accept liability in such circumstances. The ship now belonged to Iran. An Iranian crew has been put on board and subsequently withdrawn. Without Iranian permission the British authorities had no right even to go on board, except for reasons of public safety. But the ship was known to be deteriorating fast, and without maintenance might soon be virtually worthless.
- c. From the point of view of international law there were particular difficulties about the release of a warship to a country which was at war; and there was a danger of the supplier country being sued before the International Court for compensation for any damage inflicted by the military activities of such a

vessel. If the Kharg were to be released to Iran while the Iran-Iraq war continued, therefore, the Iranians would need to undertake that it would not be used in hostile operations.

d. The general obligation under international law to be even-handed in the supply of military equipment to belligerent states, unlike the obligation relating to warships, could not be enforced by reference to the International Court. Britain's competitors were showing no sign of being inhibited by any requirement for even-handedness.

e. Iraq represented one of the largest potential markets for defence equipment in the Middle East. Their interests went wider than the list at Annex A of OD(81) 2. But if British offers had too many conditions attached to them, Britain's competitors would get the orders both now and in the immediate future. More generally, Britain's reputation and prospects as a supplier of defence equipment would suffer if export licences were too often withheld for political reasons.

THE PRIME MINISTER, summing up the discussion, said that the broad strategy proposed by the Foreign and Commonwealth Secretary was agreed. For the time being, items of defence equipment should not be released to Iran unless and until the British detainees were freed. In relation to the Kharg, a positive tone should be adopted in replying to the Iranians' enquiry about possible sale to a third party; their permission should be sought for the British authorities to board and inspect the ship in that context; and they should be invited to resume occupation of it themselves, in its present location. Meanwhile, given the new circumstances, no steps need for the time being be taken to maintain the Kharg. Every opportunity should be taken to exploit Iraq's potentialities as a promising market for the sale of defence equipment; and to this end "lethal items" should be interpreted in the narrowest possible sense, and the obligations of neutrality as flexibly as possible.

The Committee -

Invited the Foreign and Commonwealth Secretary -

i. to arrange in consultation with the Secretary of State for Defence that for the present no military items should be released to Iran unless the British detainees there were freed;

ii. to arrange, in consultation with the Secretaries of State for Industry and Defence for a reply in positive terms to be sent to the Iranians' latest approach on the future of the Kharg; this reply should offer to help them in finding another country to buy the ship, should seek permission for a British inspection of it in that context and should invite them to resume possession of the ship in British waters;

iii. to arrange, in consultation with the Secretary of State for Defence for the sale of non-lethal items of defence equipment to Iraq, and to negotiate, short of signing contracts, for the overhaul of the captured Chieftain tanks and on lethal items with long delivery dates as proposed in paragraphs 7-9 of OD(81) 3.

Cabinet Office

30 January 1981