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H. STEEL, CMG OBE
LEGAL SECRETARY

LAW OFFICERS' DEPARTMENT
ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

Prime Minister
to note
EJP
11/2

11 February, 1985

Dear Charles,

NUM ASSETS: PROCEEDINGS IN LUXEMBOURG

In his letter to Len Appleyard of 28 January, Andrew Turnbull recorded that the Prime Minister wanted to see further reports of exactly what happened in Luxembourg in view of the differing accounts which we had received. The FCO have already given the information at their disposal and I agreed with Michael Llewellyn-Smith that I would send direct to you the results of the enquiries which Gerald Hosker, in Treasury Solicitor's Department, made of his contact with the sequestrators' solicitors. Unfortunately, our preoccupation with what was happening in Dublin has prevented us from giving this first priority but I now send you the enclosed copy of Gerald Hosker's letter to me of 8 February which gives the information which he has been able to glean from the sequestrators. Subject to your views, I would not think it necessary to ask him to press Mr. Staple to pursue the matter any further with the Receiver's solicitors.

I add that the Attorney-General's reading of the matter is that the Luxembourg Government undoubtedly put more pressure on Nobis Finance than they admitted to us and that it was the prompt and vigorous intervention by the FCO which largely did the trick.

I take this opportunity to report that I have had a message from Gerald Hosker this morning to the effect that the Dublin proceedings have been adjourned until tomorrow and will then be taken up with final speeches. Keeping my fingers crossed, therefore, I think that we may after all get through them without running into the problem that we feared at the beginning of last week.

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I am copying this letter and its enclosure to Len Appleyard (FCO), Michael Reidy (Energy) and Richard Hatfield (Cabinet Office). A copy without the enclosure goes to Gerald Hosker.

Jason
Henry Paul

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400/85/17.

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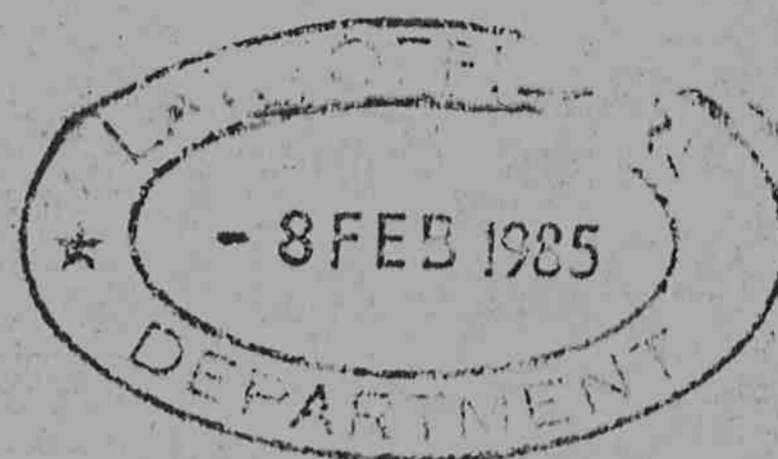
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Our reference A84/289/PT XII/GAH

8th February 1985

Your reference

H Steel Esq
Legal Secretary
Law Officers' Department
Royal Courts of Justice
Strand
London WC2



Dear Henry,

NUM : Sequestrators' Actions

I am writing to you in response to your earlier request for further information about the circumstances which led to the removal of the difficulties which had impeded the conclusion of a deal in Luxemburg between Nobis Finance and the NUM Receiver.

As you know, Mr Staple of Messrs Clifford-Turner acts for the Sequestrators and he tells me that, because of the differing views on the future role of the Sequestrators, relations between his clients and the Receiver are somewhat strained at the present time even though they have a common interest to ensure the success of the Dublin proceedings. It is, therefore, not convenient for further enquiries to be made about the course of the Luxemburg events but if pressed, Mr Staple would be willing, albeit reluctantly, to raise the matter with Mr G J B Hutchings of Messrs Lovell White & King, the Receiver's Solicitors.

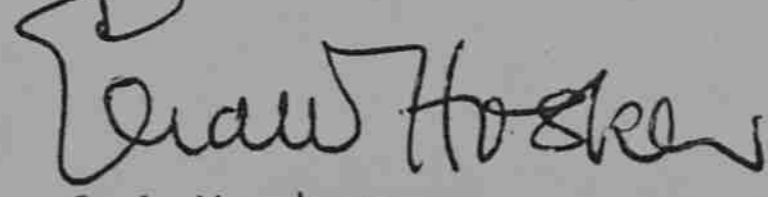
Certain facts about what happened in Luxemburg at the material time have emerged from earlier conversations between Mr Staple and Mr Hutchings. First, the intimation from the Ministry of Foreign Affairs that they did not favour the Receiver's proposed deal was conveyed to his fellow partner in Arthur Young McClelland Moores. He is a Luxemburg citizen and a member of the Legislature there. As the recipient of the message, only he will have known whether the threat to withdraw the banking licence from Nobis Finance was explicit or implicit.

Thereafter, Nobis Finance decided to transfer the NUM funds to Industrie Bank, Dusseldorf which is one of the three German proprietors of Nobis.

This step may have been precipitated by the attitude of the Luxemburg Ministry of Foreign Affairs but, whatever the reason may have been, it was apparently in breach of trust. Nobis Finance was, I understand, thus exposed to a risk of proceedings instituted by the NUM and, being aware of this, the Receiver went to Dusseldorf to argue that the solution to the problem lay in a transfer of the funds by Industrie Bank to the Receiver. His visit was successful and the result is that Nobis Finance is now protected by an indemnity, supported partly by an insurance policy and partly by a deposit of £4,500,000 which is to remain in the Receiver's hands in London for use in respect of any successful claims against Nobis Finance by third parties.

It is clear that the Ministry of Foreign Affairs in Luxemburg modified its policy towards Nobis Finance and its proposed deal with the Receiver and it is likely that this was in response to representations received from HMG through diplomatic channels. Equally, the Ministry may have taken account of the fact that the Receiver's negotiations were by then being conducted with a German bank in Dusseldorf and, in consequence, the reputation of Luxemburg's banking community was no longer involved quite so directly. This consideration may also have been in the minds of Industrie Bank: it could be the explanation why they did not remedy the breach of trust and simply return the NUM money to Nobis Finance.

It may be that although it is not authoritative in every respect, my description of the events in Luxemburg and Dusseldorf will be sufficient. If not, please let me know and I will ask Mr Staple to initiate further enquiries when he has a suitable opportunity.

Yours ever

G A Hosker