



PRIME MINISTER

WEST SIBERIAN PIPELINE/JOHN BROWN ENGINEERING

CONFIDENTIAL

Prime Minister

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I have asked that the Trade Secretary should make urgent contact with John Brown, following your talk with President Reagan yesterday and let you have a draft message to the President before the weekend.

2. Content will action proposed in para. 4, subject to the views of colleagues?

A.P.C. 24/6.

1 The President's decision to reject your request and instead to extend the embargo on the export of certain goods to the USSR to cover overseas subsidiaries of United States firms and foreign firms manufacturing under United States licences introduces a serious new problem. It constitutes an attempt by the United States to impose jurisdiction extra-territorially. We, and some other European countries, have consistently opposed such attempts in the past and we have ourselves taken powers in the Protection of Trading Interests Act 1980 (PTI Act) to enable us to do something to protect United Kingdom firms threatened in this way. The United States Administration is well aware of our views on the extra-territorial issue, and while the timing is unfortunate in view of their support in the Falklands crisis, we have in my opinion no option but to respond.

2 The effect upon John Brown Engineering (JBE) of the President's decision will depend upon how the USSR and other countries involved in the gas pipeline project react. JBE have made it clear that they would probably not deliver to the USSR the six turbines now in the United Kingdom unless they could be assured that they would not have their "export privileges" withdrawn by the United States Administration. Were the United States Administration to black list them, JBE's whole business, which is dependent on United States technology, would collapse. It seems inconceivable that an assurance not to black list would be given unless we can change the balance of political considerations as perceived by the United States. Failure to proceed with the pipeline project, the first deliveries for which are due on 2 July, is likely to lead to serious financial losses and redundancies not only for

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JBE but also among their United Kingdom suppliers, some of whom are now affected by the extended sanctions.

3 The Foreign Affairs Council yesterday adopted a strongly worded resolution in this matter - covering both the pipeline and United States steel issues. We should in my view build on this and mobilise collective action by the other European governments concerned especially the French (who are in a key position industrially), and the Germans.

4 I suggest the following course of action:-

a At the European Council next week we should press those countries in the lead in the pipeline project to review the options for effective action. A meeting of senior officials from the countries involved has already been arranged.

b Consideration should be given to the four Governments directly concerned in the pipeline project making joint representations to the United States Administration. The Japanese, who are in similar difficulties with another contract, might be invited to join in. I would not expect such representations to have any significant effect, though they might clarify the conditions which would have to be fulfilled for the embargo to be relaxed. They would, however, be a signal to the Americans.

c Consideration should be given by the companies involved to challenging the United States regulations in the United States Courts. JBE have reputable United States legal advice which suggests that the constitutional basis for the United States Regulation is shaky. This would be a matter for the firms concerned to decide. The outcome of litigation cannot be predicted, but such action would not be unusual in the United States of America, and might lead to a situation in which a compromise could be struck.

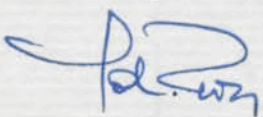


d If the companies decide to take joint legal action, the Governments involved might join the action as amici curiae. We have done this on past occasions in actions in the United States Courts involving United Kingdom companies alone and should indicate our willingness to consider this form of support.

e We should, independently, make an order (which would be subject to negative resolution in Parliament) applying Section 1(1) of the PTI Act to the United States Regulations. This would in effect state that the application on the United States Regulations in this case is extra-territorial and thus offensive. An order at this stage under Section 1(1) would be no more than declaratory but it would be a public and formal signal to the Americans and to the French in particular, who have shown past robustness in resisting this kind of action, that our concern was serious. Its effect would be enhanced as it would be the first occasion upon which this power had been used. A subsequent direction under Section 1(3) would be needed to require a particular company, such as JBE, not to comply with any requirement or prohibition of the United States Regulations, but is not in question at this stage. Whether we proceeded to that would depend whether overall it would be likely to bring advantages as matters develop.

5 I am copying this minute to the Foreign Secretary, the Chancellor of the Exchequer, the Secretaries of State for Defence and Industry and to Sir Robert Armstrong.

Department of Trade  
1 Victoria Street  
London, SW1H 0ET  
23 June 1982

  
LORD COCKFIELD

[Approved by the Secretary of State  
and signed in his absence.]



file

Soviet Union DSG

## 10 DOWNING STREET

From the Private Secretary

28 June 1982

Dear John,

WEST SIBERIAN PIPELINE: JOHN BROWN ENGINEERING

The Prime Minister has seen your Secretary of State's minutes of 23 and 24 June and Mr. Hurd's minute of 24 June on the above subject.

She agrees with the course of action suggested in paragraph 4 of Lord Cockfield's minute of 23 June, as amended by Mr. Hurd's minute of the same date. The Prime Minister was, however, inclined to doubt whether it was necessary to await the results of the meeting of senior officials before a firm decision was taken on representations to the United States Administration. I understand that the officials concerned will be meeting in the margins of the European Council on 28/29 June. I think the sense of the Prime Minister's comment is that she would not wish representations to the United States Government to be delayed beyond the early part of this week.

I am sending copies of this letter to Francis Richards (Foreign and Commonwealth Office), John Kerr (HM Treasury), David Omand (Ministry of Defence), Jonathan Spencer (Department of Industry) and David Wright (Cabinet Office).

Yours ever

John Gales.

John Rhodes, Esq.,  
Department of Trade.

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Prime Minister

Content will be  
approved?

Yes - but we must have to wait - not  
surely doubt  
with 25%  
of cost  
not

PRIME MINISTER

WEST SIBERIAN PIPELINE/JOHN BROWN ENGINEERING

1. In Francis Pym's absence, I am commenting on Arthur Cockfield's minute to you of 23 June.

2. The meeting of senior officials of the four European countries most affected by the American measures will take place in the margins of the European Council on 28-29 June. I suggest that the principal purposes of this meeting should be to establish the legal, political and economic implications of the American measures as a whole and to draw up options for political action by the four countries.

3. I agree that there may be a case for the four European countries, perhaps with Japan, to make representations to the United States Administration. But I think we should await the results of the meeting of senior officials next week before we make a firm decision on this.

4. I also agree that we should encourage John Brown and the other companies affected to examine the possibility of challenging American regulations in the United States courts. But we must recognise that any such process would take some time and would therefore not solve John Brown's immediate problems. If the companies concerned decided to proceed down this path, we should certainly consider the possibility of the governments concerned supporting them as amici curiae (I am not certain how feasible this will prove to be).

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5. Finally, I support the proposal to make an order under Section 1(1) of the Protection of Trading Interests Act 1980. A public and formal signal of this sort would be an entirely appropriate response to these measures. It would clearly be premature to consider a direction under Section 1(3) of the Act at this stage.

6. I am copying this minute to the Secretary of State for Trade, the Chancellor of the Exchequer, the Secretaries of State for Defence and Industry and to Sir Robert Armstrong.

*Douglas Hurd.*

Foreign and Commonwealth  
Office  
Whitehall

DOUGLAS HURD

24 June 1982

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Prime Minister

To note.

AM 25/6

PRIME MINISTER

JOHN BROWN AND THE SOVIET PIPELINE

I saw Sir John Mayhew-Sanders, the Chairman of John Brown, yesterday. He says that his company cannot defy the ban imposed by the American Government. To do so would almost certainly result in their being blacklisted by the American Administration. They are dependent - so far as their business as a whole is concerned - on GE technology and patents. Blacklisting by the American Administration would therefore put the whole of their business at risk. They could not - as the French are alleged to be prepared to do - defy the ban.

They had therefore no alternative but to conform with the American ban. If this ban were not lifted, they would have to default on the Soviet contract. Quite apart from the financial consequences of this - there are heavy penalties involved - this would destroy customer confidence in their turbine business. They would have little alternative in Sir John's view, to closing the turbine business down, with serious redundancies, amounting to several hundreds, on Clydebank. At this stage, Sir John is very anxious that this information should be treated as very confidential.

John Brown categorically deny that they had indicated to American officials that the decision by the American Administration would cause them no great distress. On the contrary, representatives of John Brown had made their views as set out above very clear in successive discussions with American officials.

I am copying this minute to the Foreign Secretary, the Chancellor of the Exchequer, the Secretaries of State for Defence and Industry, and to Sir Robert Armstrong.

Department of Trade  
1 Victoria Street  
London, SW1H 0ET  
24 June 1982

*Arthur Cockfield*  
LORD COCKFIELD

14 JUN 1982

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