



Foreign and Commonwealth Office

London SW1A 2AH

14 January 1983

Prime Minister

It looks as though Franks has got the facts wrong - as that Salvesen do not know the facts.

A.S.C. 14/1

When the Franks report is published - I suppose we will ask Salvesen about the relevant parts extending to 1982.

Dear John,

Falkland Islands Dependencies: Whaling Stations

You asked for further information about the contract for dismantling and removing whaling stations from South Georgia.

The Scottish firm of Christian Salvesen Ltd is lessee under Crown lease of three disused whaling stations in South Georgia. In September 1979, the firm concluded a contract with Constantino Davidoff, giving an option to buy all buildings, installations and boats, whether afloat, sunk or stranded, at the whaling stations. One whale catcher was excluded from the contract. The contract originally specified that, if the options were exercised, the goods were to be removed by 31 March 1982. This was subsequently extended to 31 December 1982 and finally to 31 March 1983.

*see overleaf. 1
AR 4/1*

After the removal of the Argentines from the Falkland Islands and Dependencies, the question arose of whether the contract was still in force. Davidoff or his agents were clearly in breach of the contract, which states that he should 'collect and take away the goods . . . without interfering with navigation to and from wharves used by the government of the Falkland Islands and/or by the British Antarctic Survey team stationed in South Georgia and without causing any nuisance or annoyance to third parties or any breach by seller of any of the covenants in his leases of the whaling stations . . .'. One of the covenants prohibits the killing of animals without permission: Davidoff's men were witnessed killing reindeer without permission.

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In a letter of 38 June 1982 to the Civil Commissioner, Mr G H Elliot, Director of Christian Salvesen Ltd, nonetheless stated that the contract with Davidoff was still in force and the company had no right to cancel it unilaterally. Despite the breach of the terms of the contract, Davidoff's actions in themselves do not make the contract automatically invalid. The FCO's Legal Advisers agree with the latter point, but in their judgement it would be open to Salvesen to take action unilaterally to cancel on the grounds that the terms of the contract had been breached. But such action could provoke a dispute with Davidoff which might be time-consuming and costly. And in any event the contract will expire on 31 March 1983 (this fact was checked and confirmed on 14 January by Christian Salvesen Ltd).

Her Majesty's Government have no standing in relation to the contract itself and there is no action which the Government of the Falkland Islands could take directly to annul or otherwise cancel it. But the Falkland Islands Government do of course have the right to refuse Davidoff or any of his employees permission to land on South Georgia. Accordingly, Mr Fearn wrote to Mr Elliot on 23 July 1982 saying in part 'We naturally accept that it is for your company to determine the extent of your legal liability to Mr Davidoff. I should, however, make it clear that we consider it most unlikely that permission would be granted from the British authorities for Mr Davidoff to land on South Georgia, even if he applied in the proper way'. At a meeting in the FCO on 18 August 1982 Mr Elliot accepted our refusal to allow Mr Davidoff to return. He proposed either to transfer the contract to a Mr Sharp, who has links with Davidoff, or allow the contract to expire. He acknowledged that any involvement by Mr Sharp could still leave Davidoff as the ultimate beneficiary. He was, therefore, inclined to let the contract expire in March of this year. He saw no problem in this and confirmed that he wished to do nothing which might embarrass HMG. He has recently repeated this.

At the same meeting, Mr Elliot expressed indifference to any action by Davidoff to sue or seek the return of money paid to Christian Salvesen. There would be little chance of success of any action pursued against HMG by Davidoff or by Salvesen if the contract were frustrated because Davidoff or others were refused entry to South Georgia. He also said that, once Davidoff's contract had expired (on 31 March 1983) his company might then look for someone entirely different to take over, although it was not very likely that there would be much interest in it.

/In summary



- In summary therefore there are four possibilities:
- a) to let the contract quietly run out on 31 March 1983 (favoured by Salvesens),
 - b) to take the initiative to tell Davidoff that he will not in any circumstances be allowed to go again to South Georgia, with the risk that this may provoke him into legal or conceivably other action;
 - c) Davidoff approaches the British Interests Section in Buenos Aires for permission to go again to South Georgia. This would of course be refused.
 - d) Davidoff tries to get to South Georgia by some means without permission. This seems highly unlikely. Any ship that he was on would be spotted and monitored and if he succeeded in landing, be subsequently removed.

In any of these scenarios, Davidoff would not proceed with the fulfilment of his contract. But in the light of our contacts with Salvesen, scenario (a) seems the most likely course and also the right one.

Mr Pym has not seen this letter before its issue; I am submitting it to him in parallel.

I am copying this letter to Richard Mottram (MOD) and to Richard Hatfield (Cabinet Office).

Yours ever
J E Holmes

(J E Holmes)
Private Secretary

A J Coles Esq
10 Downing Street



Foreign and Commonwealth Office

London SW1A 2AH

Prime Minister

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28/2

25 February 1983

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Dear John,

Falkland Islands Dependencies: Whaling Stations

In your letter of 2 February, you recorded the Prime Minister's wish to be kept informed of developments. In particular, you asked for a further letter when we had had the discussions with a director of Salvesens foreseen in my letter of 1 February.

Mr Elliott, Chairman of Christian Salvesen Ltd, called on John Ure on 23 February. He was thanked for Salvesens' cooperation in supplying information about the contract and asked how things stood. Mr Elliott confirmed that Davidoff's contract runs out on 31 March 1983 but that Davidoff was looking for new associates through whom he could arrange an extension of the contract and who would execute it on his behalf.

Mr Ure reminded Mr Elliott that Davidoff had knowingly flouted the immigration and other regulations applying on South Georgia and had rendered himself totally unacceptable to the British authorities by so doing. On the most charitable interpretation he had been an instrument in precipitating the recent conflict and his participation in any future operations to remove the whaling stations would therefore be quite unacceptable. We were sure Salvesens would appreciate this, and we hoped that they would let the contract expire next month as envisaged.

Mr Elliott confirmed that this was his intention. He said that Salvesens had no obligations to Davidoff but he did not want to terminate the contract prematurely or in any way which put the company in the wrong. Mr Ure said that this would clearly not be necessary, and indeed there was no question of our asking Salvesens to do this. Mr Elliott said we should have no worries: Salvesens would certainly not agree to any new arrangement without consulting us, and they understood our point.

Mr Elliott went on to say that ten British companies had contacted Salvesens to express an interest in the removal of the whaling stations. He thought that most of them had an exaggerated idea of the value of the scrap metal which was there, but he hoped that - after due inspection - one of them would enter into a contract as a successor, not as a partner, to Davidoff.

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Argentina: Pdelalun M32



There has been one further development of which the Prime Minister will wish to be aware. In my letter of 1 February, I referred to an exchange of telex messages between Salvesens and Davidoff. I noted that Davidoff's message to Salvesens had also included a message he claimed to have sent to the FCO. That message reached us last week, via the Swiss. Davidoff did not explicitly ask whether he could return to South Georgia, but sought advice in general terms about the further execution of his contract. We have now had a further telex from Davidoff asking for reply by 1 March. We intend instructing our Embassy in Berne to ask the Swiss to convey to Davidoff a reply on 28 February in the following terms:

'The Foreign and Commonwealth Office acknowledge receipt of Sr Davidoff's message through the Swiss authorities. The British Government is not a party to Sr Davidoff's contract with Christian Salvesen Ltd and has no standing in relation to it. It would not therefore be appropriate for the Foreign and Commonwealth Office to offer any advice on Sr Davidoff's contractual position.

However, the Foreign and Commonwealth Office would draw Sr Davidoff's attention to a reply by the Minister of State for Foreign and Commonwealth Affairs on 27 July 1982 to a Parliamentary Question. Referring to the contract between Christian Salvesen Ltd and Sr Davidoff, Mr Onslow said, 'the Government have made it clear to Salvesens that it would be most unlikely that permission would be granted for Mr Davidoff to land in South Georgia in the foreseeable future'.

Yours ever

J E Holmes

(J E Holmes)
Private Secretary

A J Coles Esq
10 Downing Street



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10 DOWNING STREET

From the Private Secretary

1 March 1983

FALKLAND ISLAND DEPENDENCIES:
WHALING STATIONS

Thank you for your letter of 25 February. The Prime Minister has noted the recent exchanges between the Foreign and Commonwealth Office and Salvesens, as well as the recent exchange of messages between yourselves and Davidoff.

A. J. COLES

J.E. Holmes, Esq.,
Foreign and Commonwealth Office.

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10 DOWNING STREET

From the Private Secretary

2 February, 1983.

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Falkland Islands Dependencies: Whaling Stations

The Prime Minister was grateful for your letter of 1 February describing the latest situation with regard to Salvesens' contract with Davidoff. Mrs. Thatcher has asked to be kept informed of developments. I should be grateful if you could let me have a further letter when you have had the discussions which you envisage with a director of Salvesens.

I am sending copies of this letter to Richard Mottram (Ministry of Defence), Henry Steel (Attorney General's Office), and Richard Hatfield (Cabinet Office).

E. J. HOLMES

J.E. Holmes, Esq.,
Foreign and Commonwealth Office.

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Foreign and Commonwealth Office

London SW1A 2AH

1 February, 1983

Prime Minister

To note.

Please keep me in touch with latest developments

Dear John,

A.F.C. 1/2

Falkland Island Dependencies: Whaling Stations

In your letter of 24 January you said that the Prime Minister wished to know whether Salvesens consulted us before they assigned the contract to Davidoff.

I can confirm that in the period leading up to the conclusion of the contract there were a number of exchanges between Salvesens, the FCO and the then Governor of the Falkland Islands. Mr Davidoff also contacted the Embassy in Buenos Aires.

While there were misgivings about the political implications of the contract, legal advice was that there was no lawful way of preventing Salvesens concluding an agreement if they were determined to do so. Accordingly, Salvesens were not obstructed in their pursuit of a contract. Ministers were consulted at the time and approved. There is no letter from the FCO to Salvesens acquiescing in the arrangement, but on 27 November 1979 the then Governor wrote to a director of Salvesens, restating his reservations about the arrangement, but confirming that the matter had to be one for the company's own commercial judgement, subject to a number of detailed provisos about the execution of the contract.

The Prime Minister will also wish to know of the latest developments on the contract. On 24 January this year, Christian Salvesen received a telex message from Davidoff. The thrust of this was that he required an extension of his contract as he had been unable to complete removal of the materials 'for reasons beyond our [presumably his and Salvesens] control'. (The message included also a message which Davidoff claimed to have sent to the FCO, in which he implies direct contact with a member of Falkland Islands Department. No such message was received by us. Salvesens have been assured that there has been no such contact although a Mr Colin Sharp, who has described himself in the past as Davidoff's London agent, did call on the Department in December to enquire about the likelihood of Davidoff pursuing his contract and was referred to a Parliamentary Answer making clear that it would be most unlikely that permission would be granted for Davidoff to land in South Georgia in the foreseeable future).

Salvesens have replied to Davidoff in the following terms:

'As explained to Sharp last July, British Government

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/has



has stated publicly that it is most unlikely that permission would be granted for you to land in South Georgia in foreseeable future. Subsequent political events give us no hope of persuading government to admit you, and in these circumstances we cannot extend period of contract while you remain a party. If you can find acceptable British concern to take over your interests in contract we would be willing to enter into negotiations with you and them to agree transfer and extension of contract on appropriate terms. If this is not possible, regret contract will expire on 31 March 1983 and you will then have lost your rights under it'.

Salvesens did not seek, nor did we offer, advice on the form of their reply. They wish to avoid giving Davidoff grounds for seeking the return of his deposit or for taking other legal action against Salvesens. Their reply appears to offer the company the best possibility of appearing reasonable, while ensuring that the contract is allowed to expire on 31 March 1983, when Salvesens would be free to seek other partners.

Salvesens are keen to know the attitude of the Government, and have emphasised their wish to do nothing to cause embarrassment. We propose to invite a director of the company to call on the FCO shortly to discuss possible options. This seems preferable to putting anything substantive in writing at this stage. At such a meeting, we would propose to say that their response to Davidoff was helpful, but to emphasise again that the involvement by Davidoff in any future operation would be unacceptable to us and that we hope that the contract will be allowed to expire and a British partner found to carry out the removal of scrap in a way which would avoid political controversy. It would be helpful also to find out what chance they see of Davidoff finding an acceptable partner and negotiating terms in the time available.

I am copying this letter to Richard Mottram (Ministry of Defence), Henry Steel (Attorney-General's Office) and Richard Hatfield (Cabinet Office).

Yours ever

John Holmes

(J E Holmes)
Private Secretary

A J Coles Esq
Private Secretary
10 Downing Street

Argentina Relations #4 32

1 FEB 1983



1 FEB 1983





10 DOWNING STREET

From the Private Secretary

24 January 1983

FALKLAND ISLAND DEPENDENCIES:
WHALING STATIONS

The Prime Minister was grateful for your letter of 19 January on the above subject and your further letter of 20 January specifically related to the Davidoff Contract.

Mrs. Thatcher has one further question: did Salveson consult us before they assigned the contract to Davidoff originally?

I am copying this letter to Richard Mottram (Ministry of Defence), Henry Steel (Attorney General's office) and Richard Hatfield (Cabinet Office).

A. J. COLES

John Holmes, Esq.,
Foreign and Commonwealth Office

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Foreign and Commonwealth Office

London SW1A 2AH

Handwritten: Davidson
Did Salvesen
commit us before we
signed the contract?
Davidoff?

Prime Minister

20 January 1983

To note.

A.S.C. 27

Dear John,

The Davidoff Contract

I understand that at the meeting of OD(EM) on 19 January, two questions were asked about the contract between Christian Salvesen and Davidoff (I have written separately about the date of expiry of the contract):

- a) would we be justified in refusing Davidoff permission to visit South Georgia on the grounds that he acted in violation of his contract on his last visit?
- b) is there anything we can do to prevent Salvesens entering into a further contract after March 1983 with some other undesirable party?

We are confident that existing immigration legislation enables us to refuse Davidoff permission to visit South Georgia. His previous failure to comply with immigration requirements and his general conduct of the operation give us perfectly adequate grounds. We would not rely on any breach of his contract, in which we have no standing.

If Salvesen wish to enter into a new contract, they are legally free to do so with any party they wish. There is no legal action the Government can take which would have the effect of making the contract void or cancelling its provisions. Under immigration legislation, however, we could effectively frustrate any contract by preventing any person we consider undesirable from landing on South Georgia. This would clearly apply to any Argentine national. It might be more difficult if the contract were to be fulfilled by persons who were not otherwise undesirable immigrants. Each case would need to be considered on its merits. But Salvesens have in any case recently affirmed their intention to do nothing to embarrass the Government. The best way to proceed in our view is by discussion and persuasion, if necessary, with Salvesens. We

/propose

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propose, therefore, to have an early meeting with representatives of the company to discuss their future plans. We will describe to them at that meeting the political implications of possible future actions.

I am copying this to Richard Mottram (MOD), Richard Hatfield (Cabinet Office) and Henry Steel (Attorney General's office).

Yours ever

J E Holmes

(J E Holmes.)
Private Secretary

A J Coles Esq
10 Downing Street

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Argentina: Defense of Falklands Pt 12



22 1 JAN 1982

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Foreign and Commonwealth Office

Prime Minister

London SW1A 2AH

To note.

A.J.C. $\frac{26}{1}$

19 January 1983

Dear John,

Falkland Island Dependencies:
Whaling Stations

Thank you for your letter of 17 January about an apparent contradiction between the information provided by Salvesens on the expiry date of the Davidoff contract and the comments contained in the Franks Report. I can confirm that the information in my letter of 14 January, which focussed on the present state of the contract, is accurate - the contract expires on 31 March 1983.

We have consulted Christian Salvesen again on the point. They agree that the Franks Report is correct in stating that 'Salvesen reported to the Foreign and Commonwealth Office and to the Governor on 16 March that Davidoff had notified them of the visit and that they had granted his request for an extension of the contract to 31 March 1984'.

However, the telex message of 16 March to the FCO was incomplete in that it did not refer to one of the conditions of the extension, which was the deposit of £30,000 with Salvesens by 31 March 1982. As soon as Davidoff told Salvesens of his intention to use the extension option, the company reminded him of the requirement to transfer the further deposit by 31 March 1982.

Davidoff subsequently told Salvesens on 26 March that he had given instructions that £30,000 be deposited with a Notary Public in Argentina. On 29 March, Salvesens instructed him to transfer the money to their account with the Royal Bank of Scotland in Edinburgh, and on 7 April, Davidoff replied that he was unable to do so because of financial measures taken by Argentina. Accordingly, on 8 April, Salvesens told Davidoff that the deadline for acceptance of their offer of an extension had expired, and it was not possible to extend the contract beyond the existing expiry date, which was and remains 31 March 1983.

We are considering a number of other questions about the Davidoff contract which arose at this morning's OD(EM) meeting. In the meantime we wanted to clarify the position on the date of expiry.

/I am

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I am copying this letter to Richard Mottram (Ministry of Defence) and Richard Hatfield (Cabinet Office).

Yours ever

John Holmes

(J E Holmes)
Private Secretary

A J Coles Esq
10 Downing Street

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20 JAN 1988





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10 DOWNING STREET

From the Private Secretary

17 January, 1983

FALKLAND ISLANDS DEPENDENCIES: WHALING STATIONS

Thank you for your letter of 14 January, the contents of which the Prime Minister has noted.

As I told you on the telephone, there appears to be some conflict between the information provided by Salvesen's and the comments on the contract contained in the Franks Report. When the Franks Report is published, can you kindly ask Salvesen's to comment on the relevant paragraphs which refer to the extension of Davidoff's contract until 1984.

I am copying this letter to Richard Mottram (Ministry of Defence) and Richard Hatfield (Cabinet Office).

A. J. COLES

J.E. Holmes, Esq.,
Foreign and Commonwealth Office

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