



cc/ Mr Walker
Mr Bergin
Mr Wolfson

Prime Minister

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The banks are taking a very tough line, and Mr Baker is suggesting a bigger guarantee than £100m, and possibly some cash support for R and D. Touche Ross will be sending in a report over the weekend.

PRIME MINISTER

FUTURE OF ICL

MINISTERIAL REMIT

At the meetings held by you on 9 March it was agreed that the receivership option for ICL had to be ruled out and that the Government should provide a loan guarantee in the sum of £100million. In association with the Attorney General and Lord Cockfield, I was directed to prepare a draft statement of the terms on which such an identified term loan facility could be extended to the Bank and the conditions to be imposed upon ICL by the banks precedent to the offer of the guarantee.

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A copy of these terms and conditions, as endorsed by you is attached. With one change of substance directed by Treasury Ministers, they formed the basis of preliminary discussion with the banks on 11 March conducted by Sir Peter Carey for the Department of Industry, supported by Lord Benson and Mr Ibbs. The change required by the Treasury was to paragraph 1(b) of the conditions relative to the clearing banks and was put to the latter in the following terms:

The Government proposes to take security pari passu with the named banks and with a floating charge.

DISCUSSION WITH THE BANKS

The banks attending the discussion were the three clearers, (Midland, Barclays and NatWest), and City Corp. Sir Peter Carey first referred to the terms, drawn up on the advice of the Attorney General, in which he had spoken to the Chairman of ICL on 10 March in order (successfully) to persuade the Board not to contemplate receivership of the Company on that day, on the assurance that the Government would inform the Company of its final decision on 16 March. Although this imposed a tight timetable the banks agreed to Sir Peter's suggestion that the meeting should be regarded as exploratory in that, if there was any disagreement, both sides would withdraw to reconsider their respective positions and would meet again to continue discussion as soon as possible.

It was agreed at the outset that the facilities available to ICL from the banks at present, including uncommitted lines,



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should be taken as £103.5 million, although Midland, NatWest and City Corp pointed out that facilities totalling £33.5m within that total were regarded by them as uncommitted funds. No figure for the loan guarantee was revealed during the initial part of the discussion.

The main points to emerge from the discussion were:

- a the conditions relative to the banks caused them serious difficulty on two main counts. The first was the Government's wish to stand pari passu. They regarded this as totally unacceptable when they were bearing all the initial risk of extending their lines. The second was the practical problems they foresaw if Government were to announce a limited guarantee, especially one with a security on it. The immediate reaction of the unsecured creditors would be to withdraw as quickly as possible. The banks argued that this condition could mean that the guarantee could be drawn down very quickly (say within two weeks) and that receivership might then be precipitated.
- b the banks questioned the estimates of cash flow on which the Government had drawn up its offer. Though their nominated accountants (Peats) had been investigating the company for several weeks they were not in a position themselves to state the position with any certainty. But, in the view of the banks, the Company was sinking rapidly because orders were being deferred. Any guarantee by the Government would therefore have to be in an amount sufficient to cover the current cash outflow and, in their view, to offer prospects of recovery even under a satisfactory partnership (and the banks were sceptical of the prospects of such a partnership being negotiated). Their initial conclusion was that the sum might need to be of the order of £200m.
- c a guarantee was no substitute for the essential need to inject substantial sums of money into the Company having regard to the fact that, even with essential improvements in management, it must take some 2-3 years to bring the Company round to a profitable condition. They doubted whether any of the prospective partners would be able or willing to provide all the money necessary, unsupported.
- d in the light of the Budget proposals affecting the



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banks, they were totally unable to finance the Company out of trouble from their own resources. The essential basis of any joint package, which inevitably must increase the risk of the banks, was a realistic and substantial bridge which must include a substantial security for a realistic time.

COMPANY'S VIEWS

This morning (Thursday) Sir Peter Carey and Mr Ibbs held a meeting with the Chairman and senior management of the company in order to establish their view of the financial situation and immediate prospects and to ascertain progress in the partnership discussions. The main points made by the company were as follows:-

- a Borrowing: the worldwide overdraft was currently some £115million and a similar figure was now forecast for the half-year point at the end of March. This was the same level as ICL's assessment of secure and committed borrowing facilities but ICL was in fact making use of uncommitted facilities too, which gave theoretical headroom. However, any withdrawal of uncommitted facilities would cause obvious embarrassment. Some overseas bankers were now pressing hard and the UK bankers had indicated they would not be willing to replace lost overseas lines at present. If confidence held they should be able to hold the borrowing within their facilities into April, but thereafter the overdraft would grow, reaching £175m in August at peak, and although it was now expected to drop again to £120m by the year end in September the period between April and then looked most dangerous in the absence of any further support.
- b Orders: the effect of loss of confidence was showing in the order achievement for February, which was about level with the previous year on a worldwide basis but showed a large shortfall on budget in the UK (£5million instead of £20million). Major customers were delaying commitments because of doubts about the company's future. However, their forecasts of profit and cash flow were still based on equipment deliveries of



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£420million during the year, which was already a 12½% reduction on marketing predictions. Software and services revenue was expected to be some £300 million on top of the hardware element.

- c Costs: there were no obvious areas in which costs were now expected to be higher than budgeted, but they were having to pass up the chance of securing certain longer term savings (especially through redundancies) because of the impact it would have both on morale and confidence and on the profit and loss account. They estimated that the rationalisation necessary within a partnership might cost as much as £50-60million in redundancies; the offsetting benefit, from harmonised product lines, joint overseas marketing etc could also be considerable but would be longer term.

The next ICL Board meeting is to be on Wednesday next (18 March). At the Department's request, at today's meeting with ICL the company agreed to an urgent accountancy investigation by Touche Ross (who have been acting for the Department) over this weekend, working from the basis of the report by Peat Marwick which was prepared for ICL's bankers. This should give us a better feel, by Monday, for the validity of the company's figures and should enable us to determine the risk of either a more rapid cash outflow or a far higher peak.

DoI have promised to send this as soon as it is ready - hopefully on Sunday.

DL

POSITION OF BANKS

After the banks withdrew Lord Benson undertook to establish informally what terms might form the basis for a second round of negotiations with the banks. However, he has now reported that at a meeting this afternoon (Thursday) they proved to be intransigent over terms. They would certainly not accept that the Government should have pari passu status and they would not agree to extend their current level of lending to ICL (some £14million) beyond a total of £50million, short of a total guarantee by Government. In other words, they would not meet the condition that the Government guarantee should be drawn on only after both secured and unsecured existing bank facilities had been taken up.

i.e. ICL have only borrowed £14m from the cleared so far, against facilities of

£103.5m. ICL's

total borrowing on overdraft is currently

£100m, most of which is mostly unsecured from the non-cleared.

DL



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OPTIONS

At this stage, therefore, the options facing us are:

a Receivership: Since the potential cost of any viable alternative is now likely to be greater than we had thought, the arguments for an immediate receivership are that much stronger. The arguments against receivership - which, in ICL's situation means almost immediate liquidation - have been fully rehearsed. The strongest remains that Government computing would be put at immediate and serious risk primarily because of disruption of essential maintenance. Even if receivership could be "controlled" in some way in order to safeguard Government users it would be both uncertain in the success of its operation and very expensive. There is now a strong further argument against a course of action which would lead to immediate receivership - namely, the intensive negotiations with CDC and Univac. These involve their top management teams, and are progressing. The negotiations with Univac are regarded by the Company as having a "better than evens" chance of success. A third prospect, NCR, has approached ICL on the basis of a total outright bid and, following encouraging preliminary negotiations at top level in the USA, a top NCR team is coming to the UK for detailed negotiations in the week beginning 16 March, their President is coming to the UK on 25 March, followed by their Chairman on 3 April. I saw today Mr Scholey of Warburgs, who is leading this negotiation on behalf of the Company. He thinks NCR is the most likely prospect; he has not spoken to CDC or Univac directly, but will speak to the latter when their investigations are resumed early next week. He also said that in his opinion the opportunity of partnership was attractive to the three companies.

b Provision of Support : We would maintain the course we agreed on Monday, offering a Section 8 loan guarantee but with the terms modified to cede pari passu status in favour of "next in line" security. However, the sum of the guarantee needed is now bound to be higher than £100million in the light of the lower level of facilities which the banks are now willing to offer ICL and - depending on what Touche Ross report to us - to



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take account of faster cash outflows in recent weeks.

If we take this course I am sure we must make the provision adequate for the purpose and, if Touche Ross identify it, be ready also to help overcome any dangerous loss of impetus in development spending by a limited measure of direct assistance to R & D under existing schemes. Proposals currently before us from ICL would involve extra expenditure of some £25 million during 1981/82.

Receivership remains a very expensive course to central Government (conversion of computer programmes etc £150-200m; ECGD £100-200m; maintenance of equipment open-ended but probably higher than conversion; cost to rest of public sector - eg Health Service - at least £150-200m), very damaging for Government operations and would give rise to very strong positive criticism. I am therefore still inclined to favour (b).

There are, however, certain aspects of this option which cause me serious concern and on which I should be grateful for my colleagues' views. I see real difficulties in meeting a public announcement of a guarantee limited in time in such a way that it would engender confidence in the company among creditors and customers, without at the same time at least implying that we were in fact standing behind the company totally. I understand that even if our guarantee is limited in both money and time it could be said, by analogy with Section 332 of the Companies Act, that the very offer of the guarantee carried with the moral responsibility to pay the creditors in full in the event of a subsequent collapse during the guarantee's term. This is a point on which the Attorney General's advice would be most helpful.

I believe we should also consider whether we might offer a guarantee which ends once the partnership deal is signed. Mr Scholey is of the opinion that it might be possible to determine a partner by Easter and announce then the companies' intention to merge, even though the details might take a further 4-6 months. We might envisage playing a direct role in bringing a partnership to fruition at the earliest possible stage.



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I am sending copies of this minute to the Chancellor of the Exchequer, the Lord President, the Secretaries of State for Trade and Employment, the Attorney General, Sir Robert Armstrong and Mr Ibbs.

L.R.

ber
KB

12 March 1981

cc A. Duguid



DEPARTMENT OF INDUSTRY
ASHDOWN HOUSE
123 VICTORIA STREET
LONDON SW1E 6RB

TELEPHONE DIRECT LINE 01-212 -6401
SWITCHBOARD 01-212 7676

FROM THE office of the
MINISTER OF STATE
FOR INDUSTRY AND
INFORMATION TECHNOLOGY

Kenneth Baker MP

Tim Lankester Esq
Private Secretary to
The Prime Minister
10 Downing Street
SW1

CF
Mr link up
with
Mr M1

13 March 1981

Dear Tim

FUTURE OF ICL

I enclose a copy of the terms and conditions precedent to guarantee by HMG to the clearing banks in respect of ICL under Section 8 of the Industry Act 1972. This should have been attached to Mr Baker's minute of 12 March to the Prime Minister, and I apologise for the omission. Copies of this go to the Private Secretaries to the recipients of Mr Baker's minute.

Your sincerely
Liz Riley

LIZ RILEY
ASST PRIVATE SECRETARY

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10 MAR 1981



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DRAFT CONDITIONS PRECEDENT TO GUARANTEE BY HMG TO THE
CLEARING BANKS IN RESPECT OF ICL UNDER SECTION 8 OF THE
INDUSTRY ACT 1972

NOTES

1 The objectives are that:

(a) the Guarantee should be given to the four clearing banks, with ICL as a party to the Guarantee, in such a form that the banks in lending under the Guarantee ensure compliance by the company with the conditions set out below; HMG would have right of recourse under the Guarantee to ICL.

(b) The Government should take security next in line to the named clearers and other current named creditors - preferably with a fixed and floating charge, but if necessary with a floating charge only. The Government guaranteed facility should be drawn on only after both secured and unsecured existing clearing banks facilities have been taken up.

2 The terms of the Guarantee should be for one year in the sum of £100 million to be invoked if the four clearing banks have to make advances over and above their existing commitments (ie £105 million).

The decision to appoint a Receiver, if the position deteriorates during the term of the Guarantee, would require unanimous agreement of HMG and the four clearing banks.



3 The position of HMG in relation to Section 332 requires it to be satisfied that ICL is in no imminent danger of being insolvent or, if it is, there is a reasonable prospect of recovery taking into account the Guarantee.

The conditions which HMG should impose are:

- (1) The Company will seek to renegotiate with its employees the terms of the current Security of Employment Agreement (15 March 1977) in order that payments in respect of future redundancies should be restricted to statutory entitlement under the Employment Protection Consolidation Act 1978. Any more favourable legal rights existing prior to renegotiation would have to be respected.
- (2) The Company must use its best endeavours to bring negotiations with a prospective partner to a successful conclusion as quickly as possible. The arrangements must be acceptable to HMG.
- (3) The clearing banks, jointly with HMG, will monitor and report regularly on these negotiations and on the pattern of the Company's trading activities (where appropriate making use of nominated accountants).
- (4) Mr David Scholey, Warburg, will be appointed by the Board of ICL to take the lead in all partnership



negotiations on behalf of the Company. The Company will act in agreement with HMG and the banks at all stages of these negotiations and on all matters affecting the interests of the Government as user of computers.

- (5) The Company will consult fully with the banks and HMG and take account of their views on the management structure of the Company.



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Qa 05290

To: MR LANKESTER

From: J R IBBS

Future of ICL

1. As you know I have kept in close contact with the Department of Industry on the ICL situation. Mr Baker's minute to the Prime Minister is a good summary of events up until last night. However, because further developments are still occurring, including the Touche Ross investigation over the weekend, I propose to defer any comments on the various options until the meeting arranged for Monday afternoon.
2. I am sending a copy of this minute to Sir Robert Armstrong.

13 March 1981

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