



SECRETARY OF STATE
FOR
NORTHERN IRELAND

NORTHERN IRELAND OFFICE
GREAT GEORGE STREET,
LONDON SW1P 3AJ

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MUS 27/7

27 July 1982

Rt Hon Douglas Hurd CBE MP
Minister of State for
Foreign & Commonwealth Affairs
Foreign & Commonwealth Office
Downing Street
LONDON SW1

Dear Douglas

I have seen your reply of 14 July to Patrick Jenkin's of 7 July, and was pleased to note your agreement to Patrick's recommendations against notification to the European Commission of the use of Soft Credit for Shipbuilding, subject to the continuation of the present ground rules. I strongly support this line.

underneath

Patrick's letter also refers to third party guarantees issued by Harland & Wolff (H&W) and British Shipbuilders (BS) to support ship financing, and concludes that these too should not be notified. I should point out that in H&W's case, we are dealing with a Companies Act firm (not a statutory corporation like BS) which, with its record of losses, is not in a position to issue credible guarantees. The role of guarantor, therefore, necessarily falls on Government - though as Patrick says, such guarantees do not form part of H&W's normal sales effort. However as the precise function of such guarantees cannot be specified in advance, I suggest that when any proposals for their use are made, the question of notification to the Commission be examined on a case by case basis.

I am copying this letter to the recipients of yours.

Yours
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27 JUL 1982



Treasury Chambers, Parliament Street, SW1P 3AG

Rt Hon Patrick Jenkin, Esq MP
 Secretary of State for Industry
 Ashdown House
 123 Victoria Street
 LONDON
 SW1E 6RB

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MUS 30/7

29 July 1982

Dear Patrick

SOFT CREDIT FOR SHIPS

I have seen a copy of your letter to Douglas Hurd of ¹⁷7 July about the use of soft credit to obtain orders for British Shipbuilders and Harland and Wolff. I have also seen Douglas Hurd's letter of ¹⁴14 July and Jim Prior's letter of ²⁷27 July.

In general, I agree with your conclusion. I regard it as particularly important that we and other colleagues should continue to have the opportunity to consider collectively each case where soft credit is proposed.

I am copying this to the recipients of your letter.

John Wakeham

JOHN WAKEHAM

30 JUL 1982



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Foreign and Commonwealth Office

London SW1A 2AH

From The Minister of State

3 August 1982

Rt Hon Douglas Hurd CBE MP

Dear Tim,

Thank you for your letter of 27 July on third party guarantees issued by Harland and Wolff and British Shipbuilders to support ship financing.

It is helpful to have clear the distinction between the two enterprises. As you know, we consider ourselves on unsure ground with the Commission already on the general question of soft credit for ship building. In the case of Harland and Wolff, where the third party guarantee is in effect issued by the Government, then the position is fairly clear. A loan guaranteed by the Government would almost certainly be regarded by the Commission as a state aid, and would be notifiable. We would have difficulty in rebutting Commission criticism of this arrangement if it came to light.

This does not lead me to differ from the line agreed in Patrick Jenkin's letter to me of 7 July - but it means that the established ground rules and the principle of early consultation should be followed rigorously.

I am copying this letter to the recipients of yours.

Yours,
Douglas.

The Rt Hon James Prior MP
Secretary of State for Northern Ireland
Northern Ireland Office
Great George Street
LONDON SW1P 3AH

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Communications on this subject should
be addressed to
THE LEGAL SECRETARY
ATTORNEY GENERAL'S CHAMBERS

ATTORNEY GENERAL'S CHAMBERS,
LAW OFFICERS' DEPARTMENT,
ROYAL COURTS OF JUSTICE,
LONDON, W.C.2.

Our Ref: 400/82/210

11 August 1982

Private Secretary to the
Secretary of State for Northern Ireland
Great George Street
London SW1

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12/4

Dear Private Secretary

SOFT CREDIT FOR SHIPBUILDING

Since the Attorney General is on leave this month he has not seen your Secretary of State's letter of 27 July to the Minister of State at FCO or the latter's reply. I shall be drawing them to his attention upon his return. My purpose in writing now is to let you know that he may wish to write to colleagues about guarantees given by Government to the creditors of purchasers of ships from Harland and Wolff. This is a rather different case from that of soft credit and guarantees given by British Shipbuilders and was neither discussed at EQO in June nor covered in the Secretary of State for Industry's letter of 7 July. Accordingly, he may wish to point out the rather different considerations to be borne in mind.

I am copying this to the Private Secretaries to the recipients of the previous correspondence and also to James Braggins in the Treasury Solicitor's Department.

*Yours sincerely
A. M. Susman*

A M SUSMAN

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ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

6 September 1982

The Rt Hon James Prior MP
Secretary of State for Northern Ireland
Northern Ireland Office
Great George Street
London SW1

Dear Jim.
SOFT CREDIT FOR SHIPBUILDING

Having been away I have only now seen your letter of 27 July to Douglas Hurd and his reply of 3 August. My officials alerted yours last month that I might be writing.

I agree entirely with the second paragraph of Douglas' letter. If Government were to give a guarantee without notifying under Article 93 of the EEC Treaty and we were then "found out", we would be even more likely to lose before the European Court than in a case in which the soft credit or guarantee was given by the shipbuilders themselves; and we would not even have the respectability of the arguments set out in the eighth paragraph of Patrick Jenkin's letter of 7 July. *P 3*

Moreover, there might be a further possible consequence, and this is what I particularly want to draw attention to. If soft credit or guarantees given by the shipbuilders themselves were to fall foul of Article 92 and 93 it would be the government aid which enabled the giving of the credit or guarantee that would constitute the breach of Community law and not the credit or guarantee itself, and thus I would think that the validity of the credit or guarantee itself would not be affected; in other words, there might be egg on the Government's face and subsequently financial embarrassment.

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for the shipbuilders, but the commercial arrangements themselves would remain unaffected and fully enforceable. However, in the case of government guarantees relating to ships built by Harland and Wolff it is the guarantees themselves which constitute the aid. If a guarantee were to be given without notification and it were subsequently held to be notifiable or, a fortiori, if it were found to be incompatible with the common market, many difficult legal problems could result. It is impossible to predict at this stage what the implications for all concerned (Government, Harland and Wolff, customer, lending bank) might be, but the validity of the guarantee under our domestic law might be called into question, and this in turn might affect the contractual obligations between the lending bank and the customer and between the customer and H + W. This could prove exceptionally damaging to our international commercial standing.

I mention these points in order to reinforce Douglas Hurd's view that the established ground rules and the principle of early consultation should be followed rigorously and to urge great caution in deciding whether to notify a government guarantee.

I am copying this letter to the recipients of yours.

Yours truly,
Michael



SECRETARY OF STATE
FOR
NORTHERN IRELAND

The Rt Hon Sir Michael Havers QC MP
Attorney General
Royal Courts of Justice
LONDON WC2A 2LL

cc JV
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NORTHERN IRELAND OFFICE
GREAT GEORGE STREET,
LONDON SW1P 3AJ

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21 September 1982

Dear Attorney General

SOFT CREDIT FOR SHIPBUILDING

I am most grateful for the advice contained in your letter of 6 September. It is helpful to have a clear statement of the position.

I must emphasise that Government guarantees form no part of Harland and Wolff's sales effort. Even though they have been authorised for past contracts, it has been made clear to the company that every effort should be made to avoid any requirement for Government guarantees. Harland and Wolff themselves are loathe to contemplate guarantees, since they realise that the difficulties created for us are likely to cause serious delay in consideration of the terms.

Having said that, however, I have to face the fact that Harland and Wolff is finding it acutely difficult to win orders and, if we do not wish to see the company close, I cannot rule out the possibility that Government guarantees may in some future instance be essential to obtain an order which is critical to the yard's survival. I can assure you that, if a requirement should materialise in such circumstances, the established practice of early consultation will be followed.

I am copying this letter to recipients of yours.

Yours sincerely
James Prior

JP JAMES PRIOR

(signed on behalf of the
Secretary of State in his
absence)