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P.01081

PRIME MINISTER

Harland and Wolff

(E(NI)(83)16)

BACKGROUND

haga A
haga B
There has been extended Ministerial and official consideration of the affairs of Harland and Wolff over the past 18 months. E(NI)(82)2nd Meeting considered the company's strategy; E(NI)(82)8th Meeting considered favourable terms to secure an order from the Blue Star Line; the terms of the order were further discussed in correspondence between Ministers shortly before the Election; there have been extensive discussions between the departments concerned, leading up to the production of a substantial report by officials on the company's future.

hagc
2. The Secretary of State for Northern Ireland's memorandum (E(NI)(83)16), to which the report by officials is attached as Annex 3, reports considerable improvements in the company's planning and management. It recommends:

- i. that no final decisions about the company's future should be taken now; the new Corporate Plan should be considered in the autumn;
- ii. that a further marginal improvement should be conceded on the terms of the Blue Star Order; and
- iii. that funding of £42.2 million should be agreed for 1983-84, with a possible addition of a further £3.1 million.

3. Mr Prior says (paragraph 11) that he does "not think that closure is an option we can responsibly consider at this time". The Blue Star order for three or four ships is the only way of keeping the yard open. If the Sub-Committee wishes to avoid closure now, the revised terms for the order will have to be accepted, along with the proposed 1983-84 funding.

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MAIN ISSUES

Strategy

4. In March 1982 (E(NI)(82)2nd Meeting, Item 1), Ministers accepted that there was no commercial or economic justification for keeping the company open. The Sub-Committee, however, agreed that immediate closure was ruled out because of its effects on the Northern Irish economy and because of Harland and Wolff's symbolic importance to the Protestant community; instead the Government should permit and encourage reductions in operations and employment at Harland and Wolff and should seek improvements in efficiency.
5. Annex 3 to E(NI)(83)16 confirms the economic and financial case for closure. Closure would be substantially cheaper than continued support, both in terms of public expenditure and national output forgone; the quicker the closure, the greater the saving. Harland and Wolff's own 1983 Corporate Plan identifies scope for reducing costs and improving efficiency; but it seems to offer little realistic hope that Harland and Wolff can become viable in the foreseeable future. The Plan's underlying objective is to become cost-competitive in European - not world - terms; it envisages that Government support will be reduced, not made unnecessary; PA Management Consultants say that it will require "a very significant and imaginative level of support funding" for years ahead".
6. The main questions which the Sub-Committee will wish to consider are as follows:
- i. Do Ministers share Mr Prior's view that the Government should rule out closure now? Depending on the outcome of the Sub-Committee's discussion of British Shipbuilders, some Ministers may argue that it is no more unthinkable to close Harland and Wolff than to close some of BS's yards in areas of high unemployment - particularly Scott Lithgow, which is of about the same size as Harland and Wolff and is in an area with similar levels of unemployment. Mr Prior is likely to argue that there is a vital political difference between BS and Harland and Wolff, and in particular that closing the latter would wreck the Government's Northern Ireland Initiative.
- ii. If closure now is ruled out, should the Government consider strategy in the autumn, as Mr Prior proposes?

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iii. If so, is there any guidance which E(NI) wishes to give the Secretary of State now for him to take into account when putting proposals to the Sub-Committee in the autumn? For example:

- Can the objective of reducing Government support be made more precise? Is the target in the Corporate Plan (reducing support funding to below £10 million - but excluding capital expenditure and exceptional items) appropriate? If so, what should the target date be?
- Does the Sub-Committee wish to consider different possible strategies for Harland and Wolff? Should they include complete closure?
- Do Department of Trade and Industry Ministers have any initial comments on Harland and Wolff's "preferred product strategy" - a move away from large tankers and bulk carriers towards ships of generally medium size and sophistication? What will the Japanese and Korean opposition be like in this sector?

Blue Star Order

7. The prospective order is for three or four refrigerated cargo vessels. Two or three ships would be purchased by consortia of banks and other financial institutions; one by Investors in Industry. The ships would be leased to the Blue Star Line. The revised proposals which Mr Prior now puts before the Sub-Committee differ in two respects from those for which he obtained agreement in May:

i. The support required to obtain the order has risen slightly, to 46.4 per cent of the contract price (45.5 per cent on the terms proposed in May, 41.1 per cent in the original proposals last September).

ii. Over and above this assistance Harland and Wolff would contribute to Blue Star's leasing payments for four years to make up for the recent fall in charter rates; there would be recovery arrangements under which, if charter rates rise sufficiently over the rest of the fifteen year lease, Blue Star will repay sums whose net present value is equivalent to the lease support payments - ie if all goes well, this part of the deal involves no net public expenditure over time. (These lease support

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payments replace an earlier proposal that the Government should guarantee the lessors against non-payment of the lease).

The detailed financing arrangements for the third of the possible four ships are still being worked out; Mr Prior proposes to discuss them with the Chief Secretary, Treasury and the Secretary of State for Trade and Industry.

8. The Sub-Committee needs to take two decisions on the Blue Star order.

a. Are the revised terms acceptable? The support required is high; it seems particularly disturbing that Harland and Wolff can only get the order by contributing, via the lease support payments, to the running cost of the ships. On the other hand there is no other order in sight at present; the Blue Star order would provide the yard with work until the spring of 1985 (though all three or four ships would be out of the first, metal-cutting stage of the yard in the first half of next year). If Harland and Wolff is to be kept open, there seems to be no alternative to this order, on these terms.

b. Should the Government notify the terms to the European Commission? Ministers have previously decided against notification, on the grounds that the Commission might not approve the order and this would expose to Commission scrutiny some of our less direct means of support (such as soft credit) which we have never previously notified. Mr Prior sticks to that view. But is non-notification still the best policy when (assuming the Secretary of State for Trade and Industry's proposals for BS are accepted) the Government will be seeking Commission approval for an increased level of Intervention Fund support for British shipbuilders in the next few months? If the Commission get to hear of the Blue Star order, as is quite possible, they are likely to suspect that it involves a higher level of aid than the current Intervention Fund arrangements provide. If the Commission were subsequently to investigate the terms, what effect would this have on the chances of securing approval for the Government proposals for British Shipbuilders? The Sub-Committee may well continue to take the view that non-notification is the best option in view of the certain difficulties that will follow from notification; but you will wish to invite the views of the Foreign and Commonwealth Secretary on this question.

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Public Expenditure

9. Ministers have so far agreed to interim funding of £16.1 million for Harland and Wolff up to the end of July. The Secretary of State for Northern Ireland proposes that for the financial year as a whole the Government should make available £42.2 million if four ships are ordered for the Blue Star Line and an additional £3.1 million if only three ships are ordered (and stage payments by the purchasers are therefore lower).

10. I understand that Treasury Ministers accept that the figures of £42.2 million or £45.3 million properly reflect the financial consequences of keeping Harland and Wolff open and accepting the Blue Star order; and are content with Mr Prior's proposals. The money is to be found from elsewhere in the Northern Ireland programme.

HANDLING

11. The Secretary of State for Northern Ireland will wish to introduce his memorandum. The Chancellor of the Exchequer or the Chief Secretary, Treasury will want to comment in general, as may the Chancellor of the Duchy of Lancaster. The Secretary of State for Trade and Industry and the Secretary of State for Transport will want to make known their views in the light of their respective responsibilities for British Shipbuilders and shipping. The Secretary of State for Foreign and Commonwealth Affairs will want to comment on the European Community implications.

CONCLUSIONS

12. You will want the Sub-Committee to reach conclusions on the following questions:

- i. What view do Ministers take at this stage of the Government's strategy towards Harland and Wolff? Is closure now to be ruled out?
- ii. In the light of i. does the Sub-Committee accept the substantive proposals in the last paragraph of E(NI)(83)16, ie:
 - a. Should E(NI) consider the company's Corporate Plan in the autumn? If so, is there any guidance which Ministers wish to give the Secretary of State now?
 - b. Do Ministers agree to the revised terms of the Blue Star order? If so, should it be notified to the European Commission?

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c. Should public expenditure on Harland and Wolff in 1983-84 be up to £42.2 million if four ships are built for the Blue Star Line or, £45.3 million if only three ships are built?

Peg

P L GREGSON

27 July 1983

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DEPARTMENT OF TRADE AND INDUSTRY

Room 11.01 Ashdown House 123 Victoria Street SW1E 6RB

Telex 8813143
 Telegrams Advantage Dept SW1
 Telephone Direct Line 01-212 3301
 Switchboard 01-212 7676

22 July 1982

PS/Secretary of State for Trade & Industry

C Butler Esq
 Political Office
 10 Downing Street
 London SW1

Dear Mr Butler:

PS/NL Mr Rice
 PS/B Mr Russell FAW
 PS/See (on file)
 Mr Portillo
 Mr Cooper
 Mr Treidgold
 Mr Mallison
 Mr Jackson

NATIONALISATION COMPENSATION AND THE WARSHIPBUILDERS

Thank you for your letter of 28 June. I attach a confidential background briefing note dealing with the complaints of the warship builders about the compensation they received under the 1977 Act. The note explains the state of play before the European Commission for Human Rights, which has recently announced both to the applicants and to the Government its provisional finding that the terms of the 1977 nationalisation did not breach the European Convention for the Protection of Human Rights. It was very important for the United Kingdom to win this case before the Commission. The sovereignty of the United Kingdom Parliament was at issue. Moreover, other cases which it was important for the Government to win were before the Commission at the same time and many of the arguments were common. As well as the shipbuilding cases the Government was defending the leasehold reform legislation and another case relating to an aircraft company nationalised under the 1977 Act.

2 Though at the moment the Commission's view is only provisional, it is, we understand, most unlikely to be changed and is almost certain to be endorsed without serious argument by the Council of Ministers, though this may not take place until the middle of next year. There is just a possibility that the cases could be sent by the Commission to the Court established under the Convention. This would theoretically reopen all the arguments but, again, the Court could reasonably be expected to endorse the Commission's view.

3 The note also refers to the decision which must be taken before 29 July on whether HMS should make proposals to the Commission for a "friendly settlement". It might be thought odd that, having found for HMS, the Commission should have issued this invitation. But this is merely a procedural step required by the Convention and the Commission would think it extraordinary if at this late stage HMS were to reverse its public position.



EUROPEAN COMMISSION OF HUMAN RIGHTS

Complaints about Compensation for Nationalisation
under the
1977 Aircraft and Shipbuilding Industries Act

A Confidential Background Note
by the
Department of Trade and Industry

1. Shareholders of 8 of the 24 shipbuilding companies which vested under the 1977 Act have complained to the European Commission of Human Rights that the compensation they received was inadequate. (A list of the shipbuilding companies which were nationalised, the shareholders in those companies and the compensation paid is annexed to this note.)
2. The main complaints are:
 - a. that no market price could be fixed for unquoted companies (7 of the 8 were unquoted and only the preference shares were quoted for the other one);and
 - b. that, in any case, the "reference period" for the determination of compensation should have been related to vesting day in 1977 rather than taken to be the six months ended in February 1974 (when the decision to nationalise was announced) as provided in the Act.
3. The force of the second complaint was particularly felt by the former owners of the warship building companies. The fortunes of these companies improved between 1974 and 1977 and substantial dividends have been paid by them since then to British Shipbuilders.
4. Prolonged consideration was given as to whether the terms of compensation should be changed. The Cabinet decided in 1980 against this because of
 - a. the impossibility of arriving at a new settlement which could also take account, fairly, of the position of those who had sold shares on the footing of the 1977 Act;
 - b. the general objections to retrospective legislation;and
 - c. the cost (now estimated to be in excess of £600m) of meeting the claims of the former owners in full, including the aircraft company's former owners.



very greatly strengthens the position which the Government announced in August 1980. In accordance with the Government's stated policy in these matters, it is the intention that the Commission will be told that the Government will not be making any proposals for friendly settlements. The continued maintenance of a firm line should help to bring to an end a long standing difficult issue for the Government.

FRM/DTI
July 1983

INDUSTRY

Shipbuilding and Ship Repairing

Mr. Buck asked the Secretary of State for Industry whether he intends to introduce legislation to enable the nationalised shipbuilding and ship repairing companies to be offered back to private enterprise; and if he will make a statement.

Sir Keith Joseph: The Government have been considering whether to introduce private sector capital into shipbuilding and ship repair. This review was begun when there were some signs of recovery in the market and there was still a reasonable expectation that British Shipbuilders would be able to keep within its financial limits this year without the need for substantial corrective action. As the Minister of State told the House last week, these hopes have not been realised and the industry faces a period of continuing uncertainty about its future shape and viability. We have accordingly decided to defer proceeding at this stage. I know that this decision will be a disappointment to many, including all those who think that private enterprise offers a better hope for jobs and prosperity in the industry than public ownership. We intend to introduce private capital into the industry as soon as appropriate.

We recognise that some previous owners and many members of this House and of the public believe that the terms of compensation imposed by the 1977 Act were grossly unfair to some of the companies and we share this view. We have explored every possibility to right the injustice done by the previous Government, but to our very great regret we have concluded that amending legislation to establish new compensation terms retrospectively would be unjust to the many people who sold shares on the basis of the previous terms.

We had to recognise, moreover, that had we wanted as an alternative to offer the companies back to the former owners legislation would have been required. This would inevitably create a long period of uncertainty for the industry during the passage of legislation, the preparation of the detailed offer to the former owners and the consideration of the terms. Moreover we cannot return to the former owners that which was taken from them because the assets and liabilities of the companies concerned have changed. In the case of the aircraft industry the changes are quite clearly irreversible. We have therefore come to the most reluctant conclusion that there is no satisfactory way to alter the 1977 compensation terms.

Mat. Ind : Shipbuilding, Pt 5