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3rd June 1985

Dear Norman

Thank you for your letter of 21st May. I fully share your view that the misunderstanding to which you refer, which arose in connection with a contract for Rapier missiles, was a regrettable affair.

I have, of course, already received from my officials a detailed account of the facts of the case. These are, I believe, also known to your own officials, but the summary of the situation in the first paragraph of your letter omits several important points. To set the record straight, the Prospectus for the BAe sale includes a clear statement of our intention to extend the use of competition in defence procurement wherever practicable and reasonable, and another recording BAe's acceptance of this policy. The ways in which MOD operate our competition policy have been spelled out in detail to BAe's senior management on a number of occasions over the last 18 months. One of the main procedures is to consider, as a matter of course, going to competition for all later batches of production work - like the Rapier missile order in question.

Therefore the MOD letter, which made it clear that competition for this order was only a course 'in contemplation' and that no decision had been taken, should have come as no surprise to its

The Rt Hon Norman Tebbit MP

recipients. In correspondence several months earlier at middle management level the Company had acknowledged that the contract was being held up specifically by consideration of competitive tender.

My officials saw no discrepancy between this situation and the terms in which the Company chose to describe their future prospects in relation to Rapier in the Prospectus. To put the matter in perspective, the order in question was worth £20 million - about 10% of our annual level of spend on the Rapier programme as a whole and 2.5% of BAe's turnover on guided weapons business. The Company's failure to ask any questions about the application of competition to the Rapier programme during the extended consideration of the Prospectus which preceded its publication only confirmed the natural presumption that this was something the Company had taken into account in their judgement of the future of the project.

Against this background my officials reached the view, after careful consideration, that the letter you refer to was not a material fact in terms of Sir Brian Hayes' letter. This was a reasonable judgement in the circumstances. I do not think the same could be said for the contrary view which the Company has taken which, on the most charitable explanation, seems to reflect a serious communication gap between the staff handling the Rapier programme and those dealing with the offer for sale, and a failure of the latter to comprehend the obvious implications of a clearly expressed MOD policy which they claim to welcome in the Prospectus.

MOD withdrew from considering competition for this order purely as a means, at the last moment, of avoiding any risk of aborting the share issue with all the implications this would have had for HMG, not as an admission that we were at fault. All in all this was an unhappy episode that I would wish to put behind us, but as you say we need to consider how to prevent any recurrence in the future.

The main problem I see here is not the procedures for meeting the disclosure requirement but the practical consequences for both

our Departments of drawing the criterion for disclosure as widely as you are now doing. We must plainly meet the law's demands, but equally some test of reasonableness must surely be applicable. The future privatisation programme as you know includes some of our other largest suppliers with whom we do several hundreds of millions of pounds worth of business each year. If every possible course of action which we might need to consider in relation to any project with them, however remote the chance that some effect (however minimal) on the sale could ensue is to be disclosed to DTI and perhaps subjected to an extended moratorium it is difficult to see how our business with these firms can be conducted on a reasonable footing. Your Department too might find difficulty in dealing with the flood of cases that would follow.

I suggest that there is an urgent need for our officials and the Treasury Solicitor to get together to discuss these issues and to see whether a practical way forward can be found. I have asked my people to set this in train.

I am sending copies of this letter to the Prime Minister, to the Chancellor of the Exchequer, and to Sir Robert Armstrong.

Yours ever

Michael

Michael Heseltine

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