26 - National Insurance Bill. Memorandum by the Secretary of State for Social Services

27 - National Insurance Bill. Memorandum by the Lord President of the Council

28 - Nationalised Industry Prices. Memorandum by the Chancellor of the Exchequer

29 - National Insurance Contributions after April 1975. Memorandum by the Secretary of State for Social Services

30 - Repeal of the Industrial Relations Act: Safeguards for Union Members. Memorandum by the Secretary of State for Employment

31 - Overhaul of Chilean Aeroengines by Rolls-Royce (1971) Ltd. Memorandum by the Secretary of State for Industry

32 - Policy towards Chile. Memorandum by the Secretary of State for Foreign and Commonwealth Affairs

33 - Statutory Pay Controls: Use of my Consent Powers. Memorandum by the Secretary of State for Employment

34 - Recognition for Extra Effort by Department of Health and Social Security Staff involved in Uprating of Pensions and Other Social Security Benefits. Memorandum by the Secretary of State for Social Services

35 - Members' Outside Financial Interests. Memorandum by the Lord President of the Council

36 - Policy towards Chile. Note by the Secretary of the Cabinet

37 - Health and Safety at Work etc. Bill. Position of the Alkali Inspectorate. Memorandum by the Secretary of State for Employment

38 - EEC Energy Policy. Note by the Secretary of State for Energy

39 - Supply of Westland Wasp Helicopter to South Africa. Memorandum by the Attorney General

40 - Delivery of a Wasp Helicopter to South Africa. Note by the Secretary of the Cabinet

41 - Political Activities of Special Advisers to Ministers. Memorandum by the Prime Minister

42 - Salaries and Allowances of Members of Parliament. Memorandum by the Lord President of the Council
C(74) 43 - Third Interim Report of the Top Salaries Review Body. Memorandum by the Lord President of the Council

44 - Overhaul of Chilean Aero-Engines. Memorandum by the Attorney General

45 - Building Societies. Memorandum by the Chancellor of the Exchequer and the Secretary of State for the Environment

46 - Concorde. Note by the Attorney General

47 - Legislating for the £10 Christmas Bonus. Memorandum by the Secretary of State for Social Services

48 - Concorde. Memorandum by the Lord Chancellor

49 - Democracy in the National Health Service. Note by the Secretary of State for Social Services

50 - Special Advisers to Ministers: Political Activities. Memorandum by the Lord President of the Council
CABINET

NATIONAL INSURANCE BILL

Memorandum by the Secretary of State for Social Services

1. As announced in the Business Statement on 4 April, proceedings on the National Insurance Bill (intended to be all stages) are to be the business in the Commons on Wednesday 10 April. The Bill, as well as providing for the increases in national insurance benefits and contributions, contains a clause (Clause 5) giving effect to our commitment to link long-term benefit increases subsequent to the achievement of the £10-£16 level to increases in average earnings; and it provides that the increase due as a result of next year's review must come into operation not later than the week beginning with the last Monday in July - that is 12 months after the operative date of this year's increases. Clause 5 does this by amending in our predecessors' Social Security Act 1973 the section - section 39 - which provides for the annual upratings to become effective in the second half of November; but it substitutes the end of July only for 1975, and says nothing about subsequent years. This is in accordance with the decision of the Cabinet on 28 March (CC(74) 7th Conclusions, Minute 4).

2. As my colleagues are aware it seems likely that the Opposition, in accordance with the commitment in their Election Manifesto, will put down for Wednesday an amendment or new clause substituting six-monthly upratings from April 1975 for our annual ones; and that the Liberals are likely to support them in this. (For technical reasons it would not be easy to legislate for six-monthly upratings before April 1975). The Chief Whip does not think that, if such an amendment or new clause were moved, it could be successfully resisted. We shall not be likely to see the actual terms of what they wish to put down until next Wednesday, given that all stages are to be on that day; and there is I am advised doubt as to whether anything designed to secure six-monthly upratings would be within the scope of the money resolution.

3. If the amendment or new clause is ruled out of order, that is the end of the matter, though there would no doubt be a difficult debate on Clause 5 stand part. There is also, I suppose, some risk of a subsequent defeat on the point in the Lords but in that event, we would need to deal with that problem on its merits later.
4. Assuming, however, that the Opposition somehow contrive an amendment or new clause which is in order, the question which arises - and on which I have been in touch with the Chancellor of the Exchequer and the Chief Whip following the Cabinet's decision on 4 April - is what should then be our course. It seems to us that it would, in those circumstances, be inevitable to make the best of a bad job, while attaching the maximum possible odium to the Opposition. As my colleagues are aware from our discussions on 28 March, there are strong arguments both of principle and of operational convenience for moving the annual uprating back from July to the autumn; and these arguments would apply also, if we were to move over to two upratings a year, to one of them. If, therefore, it became the inevitable thing to accept the principle of six-monthly upratings, I think we should seize the opportunity of the change to the Bill which would be needed for this purpose to provide that the annual uprating in July 1975 should be replaced by a commitment to six-monthly upratings in April and October each year starting from April 1975. I would oppose six-monthly upratings with the arguments in paragraphs 5 and 6 below, but, if we were nonetheless likely to be defeated, I would propose to undertake to put down in the Lords appropriate amendments to section 39 of the Social Security Act 1973 in place of those effected by Clause 5 of the Bill and of the Opposition's amendment or new clause (which would almost certainly be technically defective in any event).

FINANCIAL IMPLICATIONS

5. The odium to be pinned on the Opposition to which I refer in paragraph 4 is the extra cost of six-monthly upratings. This would - as is shown in more detail in Annex I - be £250 million in 1975-76, on the assumption of a 20 per cent a year rise in earnings from this summer; and involve substantial extra sums, depending on the future rate of the rise in earnings, thereafter. Additional contributions would be needed; and other important purposes, such as disability and child endowment provision, might be hindered. I think we should make the maximum impact we can with these facts. I should also add that six-monthly upratings must inevitably mean that the one due to become operative in April of each year, which would have to be settled by early December, would have to be divorced from the Budget.

OPERATIONAL ASPECTS

6. The operational aspects of six-monthly upratings are set out in Annex II. This would involve a permanent addition to the Department's staff which is unlikely to be less than 2,500 to 3,000 - possibly more when a detailed assessment has been made, including an assessment of the extra work which the Department may have to undertake in implementing other policy developments. There will be recruiting and accommodation difficulties, and to make possible an uprating taking effect next April, recruitment and other preparations would have to start at once, and overriding priority will need to be given to this. Even so, there could be constraints next year on the possibility of accommodating other policy changes which had significant administrative content.
CONCLUSION

7. I invite my colleagues to agree that if, but only if, the course of events in the proceedings on the National Insurance Bill on 10 April makes this inevitable I should announce our intention to amend the Bill in the Lords so as to provide for six-monthly upratings in April and October each year beginning in April 1975.

B A C

Department of Health and Social Security

8 April 1974
COST OF SIX-MONTHLY UPRATINGS

1. Uprating of benefits every six months instead of every year would result in higher expenditure because the rates of benefit would be higher in the second half of the twelve-monthly period between normal annual upratings.

1975-76

2. On the assumption that earnings rise at the rate of about 20 per cent a year from the summer of 1974, six-monthly upratings would cause extra expenditure from the National Insurance Funds in 1975-76 of about £250 million. This is equivalent to about an extra 0.5 per cent increase on the joint rate of contribution payable under the Social Security Act 1973, to be split between employee and employer (say 0.2 per cent from the employee and 0.3 per cent from the employer). There would also be an extra £40 million expenditure on the non-contributory benefits financed from the Consolidated Fund.

1976-77 and later years

3. The extra expenditure for 1976-77 and later years would depend on the rate of the rise in earnings. If, for example, earnings rose at a long-term rate of 12 per cent, benefit expenditure in any year would be 3 per cent higher as a result of six-monthly upratings (ie about £200 million in 1976-77 terms, but increasing each year).
TIMETABLING CONSTRAINTS

1. These are:

   1. The length of the programme needed to give effect to changes in rates which for a straightforward uprating, is:
      
      (a) The preparatory period prior to Announcement which is needed to calculate and obtain agreement to all the subsidiary rates (which can only be done once the main rates have been fixed). - 2 weeks
      
      (b) The time needed from Announcement to the start of the operational period which is needed for overt preparations (eg the issue of instructions to local offices) and for the introduction of legislation - 2 weeks
      
      (c) The operational period during which the new rates appropriate to each beneficiary are calculated and new or revised instruments of payment are issued - 13 weeks

2. The desirability, from Inland Revenue standpoint, that changes in taxable benefits should where possible coincide with the beginning of the tax year.

3. The advisability of spacing the two upratings evenly to avoid pressure for further increases if the period between A-days were longer in one part of the year than the other.

2. On this basis a typical timetable would be:

<table>
<thead>
<tr>
<th></th>
<th>Uprating (1)</th>
<th>Uprating (2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main rates fixed by</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Announcement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Operation starts</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A-DAY</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

3. The above timetable applies to a straightforward uprating. If there were any special tasks - such as changes in supplementary benefit disregards - a longer operational period would be needed with a correspondingly earlier announcement. This could best be accommodated in the Autumn uprating.

/ This is on the assumption that legislation would have provided for the upratings to be carried out by the affirmative resolution procedure.
ADDITIONAL STAFF AND OTHER RESOURCE REQUIREMENTS INCLUDING THEIR NECESSARY BUILD-UP

4. Much of the work of uprating benefits and of other special reassessments, eg to take account of rent, rates changes etc, is at present carried out by casual staff and by overtime. It would be unwise, however, to rely on the employment of casuals on a large scale for a second uprating because students - who are traditionally used in late summer to do straightforward supplementary benefit upratings - would not be available in the Spring and overtime could not be a substitute in view of the amount which would be required. It would be necessary, therefore, to convert most of the manpower requirement into permanent posts. The additional staff needed would be subject to more detailed assessment be unlikely to be less than 2500-3000:-

<table>
<thead>
<tr>
<th>LOCAL OFFICES</th>
<th>Supp Ben</th>
<th>CB</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

An additional 130,000 hours by casual staff and/or overtime would be needed*

(new) 40

TOTAL (say) 2600

5. It takes some time to recruit and train additional staff in these numbers and a lead-time of about nine months would be needed to bring the Department to a state of readiness for twice yearly upratings. For example for an uprating in the Spring of 1975 authority for the additional posts and for the start of recruitment would be needed by about the end of May this year.

6. The accommodation of the additional staff required would present problems in local offices many of which are at present already seriously under-accommodated. Superimposing further increases of the order envisaged in para five would make it essential that, if and when plans and requirements are put to DOE, Ministerial assurances are given that our needs would receive overriding priority both as to resources and finance to obtain the additional space, particularly in the offices already in sub-standard accommodation.

* If converted to permanent posts this would amount to 400 staff. However, the much shorter CB operation would mean that it would be difficult to keep them fully employed throughout the year and as much of the work is the routine over-stamping of order books this is probably best left on a casual basis. The Blackpool proposals mean there will be no over-stamping of WP and AA order books. This will be to some extent offset by the need to uprate IVB and MA order books but there may ultimately be some net saving in this requirement.
7. Twice-yearly upratings would increase the Department's paper usage and urgent printing requirements for order books, forms, leaflets and envelopes. In the present conditions of world paper shortage and pressure in the printing industry this would increase the already severe strain on HMSO and over-riding priority on the available resources would be needed to enable this Department to meet a twice-yearly commitment.

INTERACTION WITH INCOME TAX

8. As it is desirable for Inland Revenue to apply tax to the new rate of retirement pension etc from the beginning of the tax year, it would seem sensible to ensure that pension rates were increased from the pay day nearest to 6 April.
CABINET

NATIONAL INSURANCE BILL

Memorandum by the Lord President of the Council

1. I was asked to look into the scope which the Opposition might have for raising during the passage of the National Insurance Bill the possibility of a proposal for six-monthly upratings, and the steps open to the Government to prevent this.

2. Questions of the selection of amendments and the range of debate finally rest with the Speaker and the House authorities, in accordance with the procedures of the House. What is said hereafter, therefore, must be read as subject to that overriding consideration.

3. The likeliest potential ground for any ruling that an amendment, or extended reference, relating to a proposal for six-monthly uprating was out of order would be that it raised the question of public expenditure outside the scope of the relevant Money Resolution. This Resolution has already been tabled. Briefly, the argument would run that the administrative procedures for more frequent rerating cost public money, and the expenditure of this money is not covered by the terms of paragraphs 4 or 5 of the Resolution. I understand that Parliamentary Counsel's view is that this argument is likely to hold in relation to paragraph 5, but would probably not hold in relation to paragraph 4 of the Money Resolution.

4. A further potential loophole is that a Member might simply table an amendment to section 5(3)(a) of the Bill proposing that the date of payment of the uprated allowances should be brought forward from July 1975 to, say, May 1975. It seems likely that such an amendment would provide the opportunity, if desired, for the debate of the general principle of six-monthly upratings.

5. Finally, there is the possibility that the Speaker would allow discussion of this issue in the debate on Clause 5 stand part, particularly if he thought the Government had been unduly hasty in the Parliamentary handling of the Bill.
6. The first two of these loopholes could possibly be closed by the withdrawal and replacement, suitably amended, of the Money Resolution. But this would highlight the differences between the two Money Resolutions, and since a Money Resolution is debatable, the opposition that might otherwise focus on an amendment relating directly or indirectly to six-monthly reviews could then focus on the Money Resolution. Furthermore, there would still be the risk that the issue would be raised on Clause 5 stand part.

7. On balance, therefore, there seems little that we can do to avoid the possibility of the issue of six-monthly reviews being raised in one way or another on the Bill. If we do try to narrow the range of possibilities, we may simply increase the likelihood of attention being directed to the issue.

E S

Privy Council Office

8 April 1974
9 April 1974

CABINET

NATIONALISED INDUSTRY PRICES

Memorandum by the Chancellor of the Exchequer

1. The Prime Minister has asked for a review of the proposed phasing of price increases by the nationalised industries. This paper summarises the present position and the annex shows for each industry the date from which charges will take effect, the dates when consumers will first make payments at the new rates, and the effects on the Retail Price Index.

2. Coal - An increase in the price of industrial coal from 1 April was announced before the Budget. In my Budget Statement I said there would be no summer discount for domestic coal; that the price of domestic coal would rise by 20 per cent on 1 November; and that there would be a further increase on industrial coal in the autumn to yield £100 million. It was expected at the time that this would reduce support to the coal industry to about £50 million in 1974-75; the latest indications are that this will be more like £120 million unless prices are increased still further.

3. Electricity - In England and Wales, the announced increases will begin to affect domestic consumers on bills rendered after 1 August, which will increase by about 29 per cent, rising to 32 per cent on bills rendered after 1 November. These will leave an estimated deficit of £165 million. No decision has yet been taken about the effect of any autumn coal price increase on electricity prices. In Scotland, as announced, single stage increases of 26 per cent (North) and 29 per cent (South) are to be introduced from 1 July, leaving a deficit of £20 million.

4. Gas - My Budget speech said that we have asked the British Gas Corporation not to put forward any price increase (by implication, for the rest of this year; domestic gas prices rose by 7½ per cent on 1 January 1974). It was then expected that the industry would break even this year, but the deficit is now forecast at up to £90 million (of which however a net £60 million is attributable to changes in depreciation practices, not all of which may be admissible).
5. **Steel** - Increases of 25 per cent generally, and 15 per cent on tinplate, were implemented on 28 March. My Budget speech said that the Corporation intend to keep the new prices stable for the rest of 1974.

6. **Post Office** - My Budget speech referred to increases in the summer. It is now proposed, subject to Price Commission approval, to increase postal charges from 10 June, by increases of 3p and 1p on the stamps for second and first class mail respectively, to bring in extra revenue in 1974-75 of £65 million. On the telecommunications side, proposed increases averaging 19 per cent - on call charges from 3 June, and on quarterly rentals from 1 July, 1 August and 1 September - would raise an extra £144 million in 1974-75. Taken together these increases are estimated to reduce the Post Office deficit in 1974-75 to £60 million. Postponement of the increases would add to this by £23 million a month.

7. **Railways** - Subject to Price Commission approval, the increases proposed by British Rail would raise passenger fares by 12½ per cent and freight charges by 15 per cent in mid-June. My Budget speech referred to the summer and it is general public knowledge that increases of this size are expected in June. The yield in 1974-75 is estimated to be about £65 million; but the deficit would still be some £215 million. To postpone the increases to later in the summer would add to the deficit on passenger and freight services by £7-£8 million a month.

**CONCLUSIONS**

8. I draw my colleagues' attention to the following main points:

i. Apart from postal and telecommunications charges, all the increases due to take place before the autumn have either been implemented or have a date on them which is publicly known.

ii. It already appears that we will have to pay subsidies of £600 million or more compared with the forecast of £500 million in my Budget Statement.

iii. Any rephasing would increase the bill still further.

iv. The effects of the electricity and telecommunications increases will be spread by the processes of billing.

D H

Treasury Chambers

9 April 1974
Direct effects on domestic consumers

<table>
<thead>
<tr>
<th>Industry</th>
<th>Charges implemented</th>
<th>Total Direct RPI effect (%)</th>
<th>First payments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electricity</td>
<td>May (England &amp; Wales)</td>
<td>(0.69 May to July)</td>
<td>August-October</td>
</tr>
<tr>
<td></td>
<td>July (Scotland)</td>
<td></td>
<td>October-December</td>
</tr>
<tr>
<td>Posts</td>
<td>10 June</td>
<td>0.07 June</td>
<td>June</td>
</tr>
<tr>
<td>Telephones</td>
<td>3 June (call charges)</td>
<td>(0.15 June-October)</td>
<td>July-October</td>
</tr>
<tr>
<td></td>
<td>July-September (rentals)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rail</td>
<td>mid June</td>
<td>0.08 June</td>
<td>June</td>
</tr>
<tr>
<td>Coal</td>
<td>November</td>
<td>0.25 November</td>
<td>November</td>
</tr>
</tbody>
</table>

Indirect effects of industrial increases on domestic consumers

<table>
<thead>
<tr>
<th>Industry</th>
<th>Month</th>
<th>Effects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Steel</td>
<td>March</td>
<td>0.32</td>
</tr>
<tr>
<td>Coal</td>
<td>April</td>
<td>0.40</td>
</tr>
<tr>
<td></td>
<td>October</td>
<td>0.10</td>
</tr>
<tr>
<td>Electricity</td>
<td>May</td>
<td>0.28</td>
</tr>
<tr>
<td></td>
<td>November</td>
<td>0.08</td>
</tr>
</tbody>
</table>

Notes:
1. The effects of the industrial increases on consumers are uncertain as to timing and amount but are likely to spread into 1975. As announced in the Budget debate the total RPI effect (direct and indirect) will on present plans be about 2% by the end of the year of which the direct effects will be about 1% - see overleaf for cumulative effects.
2. RPI effects are scored as the consumer becomes liable but the processes of metering and billing mean that the bills are not actually paid until later - the exact time depending on when the particular consumer normally receives his quarterly bill.
## Monthly and cumulative direct effects on RPI

<table>
<thead>
<tr>
<th>Month</th>
<th>Industry</th>
<th>%</th>
<th>Cumulative</th>
</tr>
</thead>
<tbody>
<tr>
<td>May</td>
<td>Electricity</td>
<td>0.14</td>
<td>0.14 May</td>
</tr>
<tr>
<td>June</td>
<td>Electricity</td>
<td>0.28</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Posts</td>
<td>0.07</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Rail</td>
<td>0.08</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Telephones</td>
<td>0.01</td>
<td>0.58 June</td>
</tr>
<tr>
<td>July</td>
<td>Electricity</td>
<td>0.27</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Telephones</td>
<td>0.03</td>
<td>0.88 July</td>
</tr>
<tr>
<td>August</td>
<td>Telephones</td>
<td>0.04</td>
<td>0.92 August</td>
</tr>
<tr>
<td>September</td>
<td>Telephones</td>
<td>0.03</td>
<td>0.95 September</td>
</tr>
<tr>
<td>October</td>
<td>Telephones</td>
<td>0.03</td>
<td>0.98 October</td>
</tr>
<tr>
<td>November</td>
<td>Coal</td>
<td>0.26</td>
<td>1.24 November</td>
</tr>
</tbody>
</table>
CABINET

NATIONAL INSURANCE CONTRIBUTIONS AFTER APRIL 1975

Memorandum by the Secretary of State for Social Services

1. The conclusion reached in C(74) 24 was in favour of dropping the reserve scheme, provided that some method could be found of avoiding unacceptable contribution increases for the lower paid in April 1975. I have examined this problem with the Paymaster General and with his agreement propose the following solution.

2. The uniform percentage contribution for men and women employees would be 5\(\frac{1}{2}\) per cent from April 1975. This is the same as the standard rate which will be charged on earnings over £9 from August for our forthcoming uprating. (The flat rate contribution will stop in April 1975).

3. The attached table shows the comparison between the employees' contributions which would be payable on this arrangement from August 1974 and April 1975 respectively. It will be seen that all men, and all women who are not contracted out, would be paying less except at the highest earnings levels (over about £60 per week). Women who have been contracted out would pay the same rates as other employees, but they would have increases because at present they pay lower contributions than others on two counts: because they are women, and because they are contracted out.

4. This level of employees' contributions would imply an increase in employers' contributions of about 1\(\frac{1}{2}\) per cent over the levels set in the 1973 Act (raising their total to 8\(\frac{1}{2}\) per cent). Employers would be paying £100 to £150 million a year more than if the contribution burden were divided between employees and employers in precisely the proportions of the 1973 Act. The exact amounts of the employers' contributions will depend on further actuarial work. Legislation to make these changes will be needed before the Summer Recess. I shall be discussing this further with the Lord President of the Council, as agreed by Cabinet on 4 April (CC(74) 8th Conclusions, Minute 5). (I understand that the contribution changes could not be effected by way of amendment to the National Insurance Bill, now before Parliament).
5. I ask my colleagues to endorse the arrangements set out above and to authorise me to refer to them in the debate tomorrow.

B A C

Department of Health and Social Security

9 April 1974
### Table

**Proposed post-April 1975 contributions (5.50%) compared with pre-April 1975 contributions for employees**

<table>
<thead>
<tr>
<th>Earnings</th>
<th>Contracted out at present</th>
<th>Contracted in at present</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>£</td>
<td>£</td>
</tr>
<tr>
<td>MEN</td>
<td></td>
<td></td>
</tr>
<tr>
<td>£20</td>
<td>1.11 (−0.01)</td>
<td>1.11 (−0.27)</td>
</tr>
<tr>
<td>£30</td>
<td>1.66 (−0.01)</td>
<td>1.66 (−0.27)</td>
</tr>
<tr>
<td>£40</td>
<td>2.21 (−0.01)</td>
<td>2.21 (−0.27)</td>
</tr>
<tr>
<td>£54</td>
<td>2.98 (−0.01)</td>
<td>2.98 (−0.27)</td>
</tr>
<tr>
<td>£56*</td>
<td>3.63 (+0.23)</td>
<td>3.63 (−0.03)</td>
</tr>
<tr>
<td>WOMEN</td>
<td></td>
<td></td>
</tr>
<tr>
<td>£20</td>
<td>(+0.16)</td>
<td></td>
</tr>
<tr>
<td>£30</td>
<td>(+0.16)</td>
<td></td>
</tr>
<tr>
<td>£40</td>
<td>(+0.16)</td>
<td></td>
</tr>
<tr>
<td>£54</td>
<td>(+0.16)</td>
<td></td>
</tr>
<tr>
<td>£66*</td>
<td>(+0.40)</td>
<td></td>
</tr>
</tbody>
</table>

**Notes**

1. The first figure shown in each case is the total contribution. The figure in brackets shows how much this is up or down on the contributions which will be payable from August 1974.

2. The amounts of contribution shown include the National Health Service Contribution. The new NHS contribution for employees, at 0.47% of earnings, is higher than the present flat rate contribution on earnings over £40 (by 10p at the ceiling) but lower on earnings under £40 (by 8p on earnings of £20).

* 22p of the contribution increases on earnings of £66 is due to the raising of the contributions ceiling from £52.
24 April 1974

CABINET

REPEAL OF THE INDUSTRIAL RELATIONS ACT:
SAFEGUARDS FOR UNION MEMBERS

Memorandum by the Secretary of State for Employment

1. I seek my colleagues' agreement to drop from the Bill the Clause providing machinery for appeals to a special tribunal by union members against unreasonable expulsion or exclusion from a union, and to defer this matter until the Second Bill.

2. The consultative document on the Bill said that consideration was being given to providing, either in that Bill, or in a later one, safeguards against arbitrary exclusion or expulsion from union membership. Though the issue was always more appropriate to the Second Bill, Cabinet favoured, and I favoured, inclusion in the present Bill because of the danger that if no provisions were made, the Opposition would succeed in writing in their own (CC(74) 10th Conclusions).

3. It is now clear that the Trades Union Congress (TUC) feel very deeply on this issue and with good reason and the way we have framed the provision has done little to allay their fears. If we were to persist it is clear that we would be left with a damaging breach with them.

4. The TUC argue that such a provision is unnecessary. They opposed it when Donovan made a similar recommendation. They point out that union members can, in any case, have recourse to the High Court if they believe there has been a breach of natural justice. Moreover, the TUC claim that since Donovan they have done a great deal to improve union disciplinary procedures. They argue strongly that it would be better to be saddled with an Opposition amendment which could be put right in the Second Bill, rather than have the Government commit itself by putting forward its own provision. They are certainly ready to consider further with us what action might be needed if the matter can be deferred until the Second Bill.
5. There is much force in these arguments. We should be chary of a provision which could mean awards of compensation against unions, where we could run into enforcement difficulties if the TUC are fundamentally opposed to the whole concept.

6. I therefore recommend that we drop the relevant Clause from the Bill. During the passage of the Bill, I would propose to draw on the arguments deployed by the TUC and to take the line that the right course is to consider with them what further action might be needed, including provision in the Second Bill, to supplement existing safeguards for union members.

M F

Department of Employment

24 April 1974
CABINET

OVERHAUL OF CHILEAN AEROENGINES BY
ROLLS-ROYCE (1971) LTD

Memorandum by the Secretary of State for Industry

1. I was asked to circulate a paper on the overhaul by Rolls-Royce (1971) Ltd (RR(71)) of Avon aeroengines for the Chilean Air Force Hunters (CC(74) 9th Conclusions, Minute 5).

THE PRESENT CASE

2. This overhaul work for Chile, which has an annual turnover of about £400,000, is carried out at RR(71)'s East Kilbride factory, and provides about 5 per cent of that factory's turnover and 0.1 per cent of the company's overall turnover. RR(71) also now sell about £10,000 worth a year of spares for these engines to the Chileans. If as I am recommending these contracts are ended it is unlikely that there would be any redundancies; in time there might perhaps be some small reduction in overall employment though this is far from certain. The Export Credits Guarantee Department are at risk for some £4 million if the Chileans should fail to pay the balance of the original purchase price of the Hunters.

3. RR(71) is at present contractually committed to accept Avons from Chile for overhaul, though the contract provides that this obligation can be terminated after the company has given three months' notice. The company is contractually committed to supply spare parts, and there is no break clause. At present, the company hold eight engines from Chile for overhaul, but work in them has been stopped since the end of March, when they were blacked by the workers at East Kilbride. It appears that two more engines are on their way to East Kilbride from Chile. RR(71) need export licences to return overhauled engines (which are Chilean property throughout) to Chile. At present they have only six licences, applications for two more are pending and can be stopped.

4. If RR(71) ceased to overhaul these engines, the Chileans would perhaps be able eventually to make other arrangements, though this would take some time and could mean that some at least of the planes would be unable to fly in the interim.
5. The Hunter is the front line Chilean strike aircraft and more immediately relevant to their border dispute with Peru. Nonetheless, the Hunters could undoubtedly be used in a counter insurgency role and indeed attacked the Presidential Palace in the coup, which led to the overthrow of President Allende's Government.

BROADER CONSIDERATIONS

6. The arguments for and against the continuation of these contracts, as compared with the warships though superficially similar are significantly different in these important respects:

1. The size of the contracts are far smaller.
2. The repercussive effects on British interests of cancelling them will accordingly be less.
3. The employment consequences in the United Kingdom are not a large enough factor to be considered.
4. The repair work is at present being stopped by industrial action officially supported and the end of such action is not in sight.
5. Engines for aircraft that were actually used in the coup at the Presidential Palace and can be used internally against forces seeking to restore democracy will be rightly seen as offering much more direct military help to the Junta.
6. There are no Chilean forces now controlling these engines, comparable to the Chilean sailors aboard the warships.
7. The sale of the warships revealed the widespread anxiety in the Labour Party which would be likely to be renewed and extended if these overhauls and the supply of spares continued.
8. The Scottish Trades Union Congress at its Rothesay Conference condemned all sales and have endorsed the present action of the workers.

RECOMMENDATION

7. I therefore recommend to my colleagues that:-
   i. I should be authorised to tell RR(71) that they should notify the Chilean Government that they are not able to continue either the engine overhauls or to supply further spares.
   ii. The engines with RR(71) or in transit should be returned unoverhauled.
   iii. If necessary this decision should be enforced by refusing, cancelling or modifying export licences.

A W B

Department of Industry

26 April 1974
CABINET

POLICY TOWARDS CHILE

Memorandum by the Secretary of State for Foreign and Commonwealth Affairs

1. In summing up the discussion on policy towards Chile at the Defence and Oversea Policy Committee held on 21 March the Prime Minister asked me to make an assessment of the attitude of the United States Government to the situation in Chile, and in particular whether they foresaw and favoured a return to democratically elected government.

2. I thought it prudent to wait until the Latin American Foreign Ministers had had their meeting with Dr Kissinger in Washington on 17-18 April. Had there been any impending changes in United States and Latin American policy towards Chile they would have been brought out at this meeting. In fact there were none.

3. I attach as Annex A a brief assessment which has been prepared in conjunction with HM Embassy at Washington.

LJC

Foreign and Commonwealth Office

29 April 1974
ANNEX A

POLICY TOWARDS CHILE: UNITED STATES ATTITUDES

1. The United States Government's attitude towards the Chilean Government appears to be determined chiefly by the desire:

(a) not to push the regime further to the right, thus reducing the chances of an eventual return to constitutional rule;

(b) notwithstanding Chile's internal policies, to include her in the "good partner" policy for the Americas launched by Dr Kissinger last October, which was given further impetus by the meeting of hemispheric foreign ministers, including the Chilean, in Washington on 17/18 April. On that occasion Dr Kissinger observed "The United States will not seek to impose its political preferences and . . . will not intervene in the domestic affairs of its Western hemisphere neighbours".

2. The State Department consider that the Chilean military regard themselves as having been unwillingly forced by events into intervening in politics and are determined to push through their plans for economic reconstruction before turning the Government back to the politicians. Pinochet has spoken of a 5-year minimum period as being necessary for this. However, the Junta have set up a constitutional drafting commission whose first report provides for a constitutional framework similar to the previous one (ie under Frei and Allende) except that the Congress would be strengthened vis-à-vis the executive. The report also provides for a run-off election between Presidential candidates on the French model.

3. The State Department believe that the sooner the economy is put right the sooner are democratic forms likely to be restored. American economic assistance and military aid will therefore continue. The State Department are at present drawing up plans for fiscal year 1975 and will be proposing to Congress two further loans for Chile designed to replace those disbursed during the Allende administration. PL480 assistance (subsidised foodstuffs) will also continue.

4. The United States Government have made representations to the Junta about refugees and human rights both through the US Embassy in Santiago and via the Red Cross, the UN High Commissioner for Refugees and voluntary agencies. These have been deliberately pitched in a low key since the Junta are, in the State Department's view, proud and touchy and quite capable of reacting to criticism with still tougher internal policies.
internal policies. They have detected some responsiveness on the Junta's part. Pinochet and his colleagues recently accepted representations from various visitors, including US Congressmen, to an extent the State Department would not have expected even three months ago. The State Department expect the current political trials to provoke more adverse publicity. However they doubt if the Chileans, who say they are basing themselves on legislation in force since 1925 (used also by Frei and Allende) and tend by nature to be legalistic, would be prepared to modify sentences for the sake of their international image. We share this doubt.

5. Congressional interest in Chile has been remarkably small. Senator Kennedy's views are not widely shared, even by fellow Democrats. Liberal circles in the United States naturally deplore all coups, such as that in Chile, but concern for human rights has in practice been largely directed elsewhere: eg towards Greece. Press comment, though reasonably extensive, has apportioned criticism fairly evenly between the Junta's excesses and the unwisdom of policies pursued by the Allende administration before its overthrow.

6. Another important consideration for the United States in determining their policy towards Chile is linked with the wider security problem in Latin America. The Americans would be greatly concerned by any outbreaks of hostilities between Chile and Peru or Bolivia and probably see keeping Chile within the present political and security framework (of the Organization of American States) as the best guarantee against conflict.

7. The Americans are likely to try to minimise the latent risk of hostilities between Chile and Peru. To this end we believe they will consider taking steps to maintain a military balance between the two countries. In this connection, Peru has recently taken delivery of Soviet armour and has a larger air force than Chile. Chile, on the other hand, is stronger at sea. In this connection, the State Department have commented to our Embassy that the Department had been relieved to learn of HMG's recent decision not to cancel defence supplies for Chile already in the pipeline.
CABINET

STATUTORY PAY CONTROLS: USE OF MY CONSENT POWERS

Memorandum by the Secretary of State for Employment

1. Our announced policy is to move smoothly from statutory pay controls to voluntary methods, using my limited powers of consent to ease the most exceptional difficulties, while getting those who have made settlements to stick to them and others to settle at much the same level as hitherto. The Trades Union Congress (TUC) have issued guidance to member unions which accords with this approach.

2. Depending on the passage of the prices legislation, we may have the power to abolish the statutory controls at any time from mid-June onwards. I have had a number of informal discussions with Len Murray and with individual union leaders, but it will be some time yet before we get to the point of deciding with the TUC and others concerned on the voluntary arrangements to replace the statutory controls. Given the present prospect that, at the end of the year, prices will stand 15 per cent higher than a year before and earnings, as the thresholds are triggered, at 19 to 20 per cent, we must try to avoid a further upsurge through an explosion of settlements to remedy grievances at the end of the statutory controls.

3. Many of these difficult pay problems are now being put forward for the limited use of my consent powers and the Ministerial Sub-Committee on Pay Negotiations has been considering how best to handle them in order to ease the way to the voluntary arrangements. In some cases we have found solutions without consents. There are just four small cases so far where we have decided to proceed with consents, though none has yet had to be formally announced. But there are some big cases of real difficulty where consents might be repercussive, particularly where they involve negotiating on top of Stage 3 settlements already made. The Sub-Committee thinks that we should be ready to give consents for Government scientists and to the railways and London underground (and we may have to consider extending this to London buses); but they are divided on the question of whether to grant consents for further increases for teachers, nurses and postmen. Annex 1 states what is proposed and the cost in each of these big cases (including the possible cost of implementing the Pay Board's report on London Weighting this summer).
4. Teachers, nurses and postmen have undoubtedly fallen behind in the earnings race in recent years, but we are agreed that we cannot contemplate authorising a general pay review. This would be too costly and too repercussive. Nonetheless, there are widespread feelings of grievance among these groups and the risk of trouble if we do nothing to meet their case. This is not a matter of just waiting until the controls are abolished because we shall not want a free-for-all then and our aim must be to get these people to keep to their normal operative dates, unless any arrangements for special cases form part of the voluntary agreement with the TUC. We are therefore looking for something which might help relieve the intensity of resentment by allowing these people to start to negotiate and which, with the London Weighting report in prospect at the end of June to help in an area of acute difficulty, might carry them through to their settlements next year. It is with this in mind that proposals for selective action have been advanced for these three groups - at a public expenditure cost of around £40 million if something were done for all three. Action for one or more of these groups could also help combat the impression that might be given by consents for the railways that we are using this power only for those who can injure the economy.

5. There are, however, two schools of thought on this approach. One takes the view that consents for these selective increases, while adding an unwelcome £40 million to public expenditure, would buy little. All three groups will benefit in full from threshold payments (likely to give 80p a week from end-May, rising to £1,60 a week from end-June), and the most hard-pressed of them will no doubt get an increase in London Weighting soon after the Pay Board reports in June. Selective increases 3-6 weeks ahead of these wider improvements (and affecting in the case of teachers only 10 per cent of the teaching force) would do little to allay discontent and might increase it among those who do not benefit. The main effect, it is argued, would be to add to the difficulty of holding pay increases generally at broadly Stage 3 levels for the rest of the pay round and avoiding reopening of Stage 3 settlements. Many union leaders would privately prefer a minimum of consents because "special cases" add to their difficulties with their own members; and there is a risk of enfilading the position the TUC have publicly adopted in their recent circular to member unions. The Government expect to have to give consents for railwaymen, the London underground and Civil Service scientists, in addition to the four minor cases. If three major consents are added to that list it will be hard to convince many other groups that they are not equally special - examples in the public sector (and affecting public expenditure) include the police, Post Office clerical and executive staff and the electrical power engineers, but the list could soon lengthen. Avoiding these consents need not preclude a sympathetic announcement about the Briggs Report on Nursing.

6. The contrary view is that it will assist a smooth transition if we deal with some of the hardest cases in a controlled way now; that we cannot afford to operate the Conservative controls less flexibly than they were prepared to do with their relativities machinery; that positive action
clearly designed to ease the manifesto rigidities of the present system will help secure industrial peace at a lower cost than inaction; and that the selective proposals for teachers, nurses and postmen afford a constructive approach, taking account of social justice as well as industrial power, which will help us in urging others to hold back.

7. I share the latter view in general, but from private soundings of union leaders I do not think that we can justify consents in all three cases. Unhappily, I fear that the action in view for postal workers would raise particularly acute problems for other union leaders who are trying to avoid pressing their claims as "special cases". The other two cases should not cause any great difficulties of this nature if the action was presented as an implication of carrying through our social policies on teaching and nursing, rather than as a straight pay increase. But the action proposed for teachers is so limited and liable to be taken by them as divisive that the use of my consent power for this instead of a general review might do more harm than good. Only the action proposed for nurses seems to escape these objections.

8. I therefore invite my colleagues to agree that I should be prepared to issue consents as necessary in the cases listed in Annex 1 except for teachers and postal workers. It is desirable that the Secretary of State for Social Services should first announce the policy advances which produce the pay improvements for nurses, so that I may then explain to the House the way we are proceeding on the lines of Annex 2, perhaps adapted as an answer to a written Question. This would be helpful as a basis for dissuading others from pressing their claims for consents and for avoiding isolation of the Government scientists' case, on which we may have to announce a decision early next week.

M F

Department of Employment
29 April 1974
LIST OF PROPOSED MAJOR CONSENT CASES

BRITISH RAILWAYS

Two issues - restructuring and annual pay claim - are separately under arbitration. When the awards are issued, probably in latter part of May, current differences between the three unions will probably disappear behind a common resolve to secure implementation with an early resort to industrial action if there is any delay.

The main reason for a consent is that it is the only way to settle the long-standing dispute and avoid further expensive industrial disruption. A decision to give a consent for an exceptional increase would be presented on the grounds of Government policy to develop public transport, especially the railways, the crucial role of the railways in inter-city, urban commuting and bulk commodity transport and growing shortage of staff due to unattractive working conditions, and the long-standing commitment in the 1972 pay agreement to restructure pay.

COST. This would lie between £32m and £90m in the first full year (depending on the outcome of the arbitrations) and between £13m and £37m this year. The entire cost would fall on public expenditure.

LONDON TRANSPORT UNDERGROUND

A consent for British Railways would also have to cover London underground workers (same job, same unions, sharing of track and facilities).

As in BR, there are two issues - pay restructuring under a 9-point plan and annual pay claim. ASLEF alone refuse to accept a Stage 3 increase and have gone to arbitration. LT have agreed the 9-point plan with all three unions. A consent is needed for implementation of any significant part of the plan above Stage 3.

The case for a consent rests on Government policy to develop urban public transport, increasing shortages of staff in LT which are even greater than in other services, and the vital role of the Underground to the economy of London.

A consent would raise expectations among London busmen and LT are preparing a special deal for them like the 9-point plan. It would be extremely difficult to distinguish railmen from busmen in London and further consideration is being given to the practicalities of preventing any consent that might have to extend to London busmen from repercussing nationally.
COST. About £6m (22%) - excluding London busmen. Since GLC have undertaken to hold fares steady in 1975 any deficit resulting from the pay increases would fall on rates.

TEACHERS

The proposal would be to extend the existing system of selective pay additions to improve the staffing of schools in stress, particularly those in downtown areas of cities (notably London) where turnover, especially of experienced teachers, is unduly high.

Numbers of schools of exceptional difficulty and in education priority areas (EPAs) designated under the previous Labour Government are reaching a position of crisis. They are both understaffed and have difficulty in attracting and retaining experienced and mature teachers. They serve substantial numbers of children who are socially deprived. These difficulties are compounded by the special problems of immigrant children and the raising of the school leaving age, the problems of which cannot be resolved in a year. The unique feature is that most children who fail to realise their full potential are irreversibly affected. The proposal would be presented as an advance in social policy in areas under stress.

The improvement would not repercuss on other teachers. It might create some pressures from other workers in EPAs but these could be resisted. By itself it might not repercuss among other employees generally, but if other groups such as nurses and postal workers also get selective improvements the chance of others reopening their settlements is bound to be increased.

COST. £10 million (1%) falling entirely on rate support grant. It will benefit about 45,000 (10%) teachers, 8-9,000 of them in London. (A complete pay review for all teachers to bring them into line with average non manual salary increases since 1965 might cost nearly £220 million).

NURSES

The proposal would be to make selective improvements in pay which would help in (a) remedying the acute shortage of nurse teaching staff, (b) attracting the additional 13,000 staff ultimately needed to replace the reduction in work contribution by the learner in the hospital and (c) maintaining the morale and image of the nursing profession, particularly among existing qualified staff in wards and departments who will be closely involved with the clinical training of the new style students.
It would be possible to link the announcement of these improvements to acceptance by the Government of the recommendations of the Briggs Report on Nursing and this present item as part of an advance in nursing policy. About 40% of nurses would benefit through increases for qualified staff up to ward sister, introduction of a second level of ward sister and regarding of tutorial staff.

These improvements should not repercuss within nursing, but the related professions (physiotherapists etc) would also have to benefit by equivalent improvements. By themselves the improvements might not repercuss among other employees generally, but the chances of this are increased if teachers and postal workers also get selective improvements.

**COST.** £18 million (3%), which would fall on public expenditure. (A general pay review for all nurses might cost about £75 million).

**POSTAL WORKERS**

The proposed selective improvements would affect in any year only a minority of postal workers (mainly members of the Union of Post Office Workers). They would be an increased payment to ease introduction of new mechanisation procedures, extra inducements for bank holiday work, House of Commons staff and on-call allowances, and extra annual leave related to length of service and negotiated before the standstill for junior staff.

All five improvements, which reflect increases delayed by the standstill, are designed to alleviate conditions that are producing a cumulative worsening effect on Post Office services; and, particularly in the case of allowances, to improve rates that have fallen well behind similar allowances elsewhere.

The improvements will do nothing to help the clerical/executive staff who are now taking industrial action to achieve, at least, parity with the Civil Service. Their case is not so strong and would have to be resisted and they would probably not object to increases to postmen and telephonists; but it would raise their expectations. Junior clerks would benefit from the leave improvements.

The improvements do not make up a coherent package with a justification like teachers and nurses, and are more likely to repercuss on other groups (eg electrical power engineers and gas staff) who have selected anomalies they want rectified. If teachers, nurses and postal workers all get some selective improvement, there is a greater danger of repercussions. Equally, postal workers would react strongly if only teachers and nurses secure an improvement.

**COST.** Estimated to be within £10m (to be compared with £110m for a complete pay review for all staff and £60m for a less extensive review).
CIVIL SERVICE AND NATIONAL HEALTH SERVICE SCIENTISTS

Virtually all non-industrial civil servants - except scientists - have received awards based on pay research. The 16,000 scientists failed to secure an award because they have been in dispute with the CSD over the method for determining their pay. A reference to the Pay Board provided a means of resolving the dispute; both sides are committed to accepting the Board's recommendations.

The situation is exceptional in that the scientists have a Pay Board report recommending criteria for the determination of their pay on the same basis as the rest of the Civil Service. They are shown to be substantially worse off than their working colleagues employed by the same employer.

The increases would necessarily also affect 30,000 scientists in the NHS, Atomic Energy Authority, Research Councils and other fringe bodies which are automatic followers. Private sector employers of scientists may well criticise the rises. Other less well paid public sector employers might cite this case to support their claims.

COST. About £11m (10%) covering all those affected.

LONDON WEIGHTING

The cost of improving London Weighting generally could be considerable, since 750,000 people in the public sector and 250,000 in the private are paid allowances.

COST. An increase of £100 pa in London weighting costs £100m (0.25% of the national wages bill). We cannot predict the findings of the Pay Board's report due at the end of June, but the resultant increases might lie between £100 and £200 pa, thus adding, between 0.25% and 0.5% to the national wages bill. Three quarters of the cost of any improvement would fall to public expenditure.
POSSIBLE ANNOUNCEMENT IN THE HOUSE

1. We want to see a smooth transition from statutory controls to voluntary methods, using my limited powers of consent to ease the most exceptional difficulties. As I have said before, we want those who have made settlements on the basis of the present arrangements to stick to them and others to settle at much the same level as those before them. In this we have received the full co-operation of the TUC, who have honoured their pledge not to press any special case beyond the miners and who have issued guidance to member unions which is fully in accord with the Government's approach.

2. It is borne in on me daily how many difficulties are created by the present controls, but I have no power to issue a consent save where the circumstances are truly exceptional. Nonetheless, I am anxious to do my utmost to relieve grievances and inefficiencies wherever this can be justified in accordance with the legislation; and I have made it my task to consider very carefully the many representations made to my Department in order to ensure that every case is dealt with fairly.

3. Most cases inevitably have to be rejected, but I have found myself justified, after due consultation with the Pay Board, in intervening in the case of Glasgow firemen and Hull freezer trawlers where the harsh anomalies created were exceptional, and I have one or two other cases of this nature also under consideration. A food distributor to the Shetlands and English China Clays.

4. The Government have also decided that their social policy in carrying through the new pattern of education and training for nurses in line with the Briggs report requires immediate implementation of certain of those improvements which have pay implications. Here again I believe that the circumstances are truly exceptional and, if the outcome of the negotiations related to the implementation of the Briggs report leads to improvements in nurses' pay and conditions out of line with the current controls, I shall consider with the Pay Board permitting their implementation through the consent procedure.

5. Many other cases have been brought to my attention. Most of them I know feel that they too have good grounds for special treatment. I understand their difficulties and I sympathise with them, but I have not been able to accept that they are truly exceptional and therefore allow me to use the consent powers provided by current legislation. I hope that they will recognize, despite their disappointment, that I have tried to be fair in selecting cases for consent and accept that the selection made has been based on the most impartial assessment. I shall of course consider any new cases that are put to me in exactly the same way.
C(74) 34 COPY NO

30 April 1974

CABINET

RECOGNITION FOR EXTRA EFFORT BY DEPARTMENT OF HEALTH AND SOCIAL SECURITY STAFF INVOLVED IN UPRATING OF PENSIONS AND OTHER SOCIAL SECURITY BENEFITS

Memorandum by the Secretary of State for Social Services

1. My colleagues will remember that, at the meeting of the Cabinet on 25 April, I reported orally my extreme concern at the impasse that I have reached with the Staff Side of my Department on account of the urgent work involved in the pensions up-rating operation (CC(74) 12th Conclusions, Minute 3). I was invited to hold further discussions with the other Ministers most closely concerned and to make a further report.

2. The difficulties with my staff reflect the situation that has developed over a long period and is related partly to the distasteful nature of much of the work connected with the administration of means tested benefits, and partly with the extent to which, under successive Governments, the introduction of new benefits or changes in the rates of existing benefits have put an amount of complex additional work on the staff of local offices which they were not well equipped to carry. This led to a ban on overtime in the autumn of 1972 because the staff at grass roots were convinced that their numbers were inadequate, and gave special intensity and bitterness in this Department to the industrial action over pay in the spring of 1973. Executive Committees are now more militant in their attitudes than in the past and association representatives are under instructions not to accept additions of especially burdensome work unless extra staff can be recruited and trained.

3. In this situation, a very tight timetable for pensions uprating, (13 weeks instead of 18) at a time of year including the Easter and Spring Bank Holidays and the start of the summer leave season, has evoked a particularly unfavourable response. At the beginning of April the Staff Side put to me a four-point package on which they asked for satisfaction before their members could be expected to do the amount of overtime work needed for the uprating. Three of these points
related to matters (staff numbers, accommodation and career prospects) on which I could offer something but, particularly on the last, not enough to lead the staff to feel that their difficulties were being recognised. The remaining item, a request for a once only cash bonus over and above the normal overtime rates, seemed to present overwhelming difficulties of repercussions elsewhere. It was for that reason that I sought the alternative of a small amount of extra leave or time off for those who had to work substantial overtime in connection with the uprating. The Ministerial Sub-Committee on Pay, however, rejected this proposal at their meeting on 24 April, and I thus had too little to offer to the Staff Side when I met them on 25 April to carry them with me. That was the situation that I reported to the Cabinet later that morning, together with the fact that the overtime ban, which had started on 22 April, was receiving very general support in most parts of the country, and especially strong support in Scotland and on Merseyside.

4. The position has now worsened significantly. The Society of Civil Servants, representing the Executive grades, have decided to maintain the ban on overtime work connected with the uprating that had already been introduced on 22 April, but the Civil and Public Services Association, representing 70 per cent of the staff in local offices are going further than this and have decided:

a. to ban all overtime work;

b. to refuse to co-operate with any casual staff recruited to help with the uprating exercise;

c. to ban work on the uprating exercise even in normal hours.

The last of these is obviously especially serious and, if persisted in, can only lead to a sharp confrontation between staff and management with the possibility of disciplinary action being necessary. Such a ban, if generally observed and persisted in, would make the whole up-rating operation impossible until a settlement had been reached. Clerical staff at Newcastle Central Office are already taking the line that pensioners' 13 week order books should not be issued at the new higher rates, - a situation which could only be remedied sooner or later at the cost of still more extra work by over-stamping them in local offices.

5. Two other features exacerbate the situation:

i. The Civil Service Department have run into difficulty with the National Staff Side over settling and announcing a new agreement on overtime rates, backdated to 1 January, which would offer a very worthwhile improvement.
Both the Society of Civil Servants and the Civil and Public Services Association have their Annual Conferences in the week after next, and, if this dispute remains unsettled then, they may well tie themselves to militant resolutions which will shackle their freedom of action over the ensuing year.

In these circumstances, I have had further discussions with the Secretary of State for Employment and the Minister of State for the Civil Service Department. They both see continuing difficulties about any grant of leave or time off because of the repercussive effects, and because of the political difficulties of making an award of this kind the object of a special consent. I understand these difficulties, although I do not accept that they are overriding in a situation in which a central part of the Government's social policy is being put at risk. The Secretary of State for Employment has suggested that we should examine as an alternative the possibility of getting National Staff Side agreement for the use of a part of the flexibility margin under the Pay Code to be used to help the staff of my Department. If this could be done, it would be a way of meeting the request for a cash bonus, but there are considerable difficulties about it, not least because to put such a proposition formally to the National Staff Side would in effect commit us to a cash payment even if they refused to find it from the flexibility margin. I therefore think that we ought not to go down this road but to reconsider the possibility of a leave bonus on the lines already discussed in the Ministerial Sub-Committee on pay.

This is a situation of acute difficulty. I am most concerned that, if we cannot resolve it within the next ten days, we shall move to a position where the uprating may be put at risk indefinitely and the relations between Ministers and their departmental staffs may be soured for a long time to come.

I invite my colleagues:

i. To take note of the situation.

ii. To agree that every effort must be put into reaching some agreement during the week beginning 6 May, preferably by the offer of a leave bonus, coupled, if possible, with announcement of the new national overtime agreement.

B A C

Department of Health and Social Security
30 April 1974
MEMBERS' OUTSIDE FINANCIAL INTERESTS

Memorandum by the Lord President of the Council

1. Since the General Election I have continued with the Opposition and Liberal Chief Whips the confidential inter-party discussions begun under the previous Administration about the declaration and registration publicly of Members' outside financial interests. Agreement has now been reached on the basis of the draft House of Commons resolutions set out in the Annex.

2. These draft resolutions provide for -
   a. a clarification (resolution (1)) of the present convention with regard to the oral declaration in debate etc. of a Member's personal financial interests; and
   b. the establishment of a written register of Members' outside financial interests (resolution (2)).

3. A major difficulty has been the problem of defining what constitutes a registrable "financial (or pecuniary) interest" in a way that is clear and yet fair as between Members with different types of "financial interests". If registrable "interests" are confined to those that can be precisely defined, the range of interests covered will be narrow and will exclude other types of "interests" which could be equally relevant to a Member's activities in the House. To meet this difficulty resolution (2)(b) makes the register open-ended, i.e. any type of "financial interest" can be registered if the Member himself thinks it relevant, but resolution (2)(a) gives guidance on the general scope of the register by specifying the range of interests which it is expected that a Member should register. I believe it must and should be left to the individual Member to judge whether any particular financial interest of any kind is relevant to a matter before the House and whether it should be registered.
4. I would propose that the register should be kept by the House authorities and should be available to the public.

5. Similar arrangements may need to be considered for the Lords.

6. The resolutions provide for a voluntary register. There will undoubtedly be strong pressure from some of our own supporters for a compulsory register. This would, equally, be firmly resisted by most of the Conservative Party and some members of other Parties. I believe that a formally compulsory register is open to some objection because of the problems of definition and fairness referred to above. Enforcement and penalties would also raise problems. And the effectiveness of a voluntary register should not be underrated, because there would obviously be strong pressures on Members to register their interests and it will be in their own interests to do so. My own view is that a voluntary, open-ended and loosely defined register on the lines agreed would avoid these problems; would be fair as between Members with varying types of financial interests; and would not involve unacceptable intrusions into Members' privacy. It would also provide for Members as comprehensive a defence as possible against imputations of concealed financial motivation.

7. If a compulsory register were preferred, the most practicable way of proceeding would, I believe, be to embody the terms of resolution (2) with the amendments shown in the Annex, in either a resolution of the House or in its Standing Orders and leave it to the House to determine for itself in this matter, as it does in respect of privilege, whether a Member has offended and if so what consequences should follow. On this basis, I do not believe it would be either practicable or necessary to reopen the search for a comprehensive and acceptable definition of "financial interest"; we should have to leave the judgment of "interest" and "relevance" to the House itself.

8. It is desirable to bring this to a conclusion as quickly as possible. I think we must leave it to the House to decide, by a free vote, the nature of the scheme to be adopted. The immediate question for decision, therefore, is whether, though willing to accept whatever conclusion the House may reach, we should initially propose the voluntary scheme on which agreement has been reached or - particularly if our own supporters strongly desire this - a compulsory scheme. If the Cabinet prefers the agreed voluntary scheme then the next step would be for the Conservative Opposition to put the proposed resolutions to their 1922 Committee and for us to put them to the Parliamentary Labour Party. It is desirable that each should consider the proposals at the same time. I would propose that the draft resolutions should be put before the Parliamentary Labour Party and the 1922 Committee at meetings on Thursday 9 May. If the agreement for a voluntary register is then accepted, I would table the resolutions immediately afterwards. If the Cabinet prefers the compulsory scheme, we should need to consult the Parliamentary Labour Party and to inform the Opposition Parties of what was proposed. Subject to the outcome of the consultations, I should then table the amended resolution.
9. I invite my colleagues to consider the proposed resolutions for establishing a register of Members' interests and to decide whether Parliament should be asked to settle the matter on the basis of the agreed resolutions with a voluntary register or on the basis of amended resolutions and a compulsory register.

E S

Privy Council Office

30 April 1974
ANNEX

DRAFT RESOLUTIONS

(1) A Member shall declare in debate and in dealings with Ministers and Government Departments any personal pecuniary interest or any benefit which he considers that the House might regard as relevant.

(2) A register of Members' pecuniary interests outside this House shall be established, in which a Member -

(a) Would be expected to *record the holding of any paid appointment or employment, including any directorship or controlling financial interest, consultancy or other regular professional, business or public relations activity, including the names of any public relations clients for whom he acts personally; or any form of paid sponsorship; and

(b) May *also record any other personal pecuniary interest or any benefit which he considers that the House might regard as relevant.

*NOTE If a "compulsory" register were preferred, the word "shall" should be substituted for "Would be expected to" in (2)(a) and for "May" in (2)(b).
CABINET

POLICY TOWARDS CHILE

Note by the Secretary of the Cabinet

As instructed by the Prime Minister I circulate herewith a note by officials on existing commitments to supply or overhaul arms and equipment, and to provide training, for the Chilean Armed Forces, together with extracts from statements in Parliament.

Signed JOHN HUNT

Cabinet Office

1 May 1974
ASSISTANCE TO THE CHILEAN ARMED FORCES

Note by Officials

I Commercial and Governmental Commitments or Obligations in Respect of Overhaul, Supply and Training

1. The following paragraphs state the position as it is known to officials. It is possible that some negotiations have taken place or are in progress between Chilean authorities and firms in the United Kingdom, which would not come to the notice of Government Departments unless contracts were made and applications for licences (where necessary) were made. It is thought unlikely however that these unknown projects would amount to very much. These notes are not concerned to deal with money that may be at risk if steps are taken to interfere with contractual obligations, e.g., ECGD loans, or possible claims by firms (including sub-contractors) who might consider that they had a case against the Government.

WARSHIP SPARES

2. Commercial obligations. The contracts with the Chilean Government oblige the shipbuilders to provide, in addition to the vessels themselves, the necessary on-board spares and the first outfit of gun ammunition for the frigates and the torpedoes for the submarines.

3. HMG's specific responsibilities with regard to the supply of warship spares for the frigates and submarines are embodied in various government-to-government Memoranda of Understanding, two signed in 1969 and one 1971. These are:

a. To recommend the on-board spares and gun ammunition and torpedoes required.

b. To supply these as sub-contractor to the shipbuilder, as ordered by him.

c. To recommend the extent of base spares required by the Chileans and to provide these to the Chilean Navy.

d. To advise on a replenishment system and to supply replenishment spares for so long as similar ships are in service with the Royal Navy (twenty to twenty-five years).

e. To appoint two stores officers to supervise the stores supply to the ships until the ships leave the UK.

4. The current supply position is as follows:

1st Frigate (Condell)

On board spares - complete
Ammunition - two thirds supplied
2nd Frigate (Lynch)
On board spares - almost complete
Ammunition - expected to be supplied July/August 74.

1st Submarine (O'Brien)
On board spares - nearly complete,
Ammunition - expected to be supplied August 74.

2nd Submarine (Hyatt)
On board spares - expected to start supply July 74
Ammunition - expected to start supply end of 1974

Base Spares
5. Recommendations have been made for a full list of base spares totalling approximately £10M. The Chileans have ordered only engine spares worth £1M. For financial reasons they intend to phase the remainder in order of importance over the next three or four years.

Air Defence Missiles
6. Twelve practice and four drill Seacat missiles have been delivered for the Frigates. The Chileans are currently in negotiation with the manufacturers (Short Brothers) for 58 live missiles. There is an implicit contract to supply these since under the basic building contract the special Seacat system was included. (The French Exocet surface-to-surface missiles are the responsibility of the French to supply).

Other Ministry of Defence Commitments
7. The Memoranda of Understanding for the warships places obligations upon HMG, in addition to those concerning spares, for:

a. general oversight of the contracts to ensure building to Royal Navy standards - this obligation for which we receive an agency fee of £1.3M (£500,000 already paid) will have been discharged when the ships are handed over to the Chileans;
b. trials and operational work-up of the vessels and their equipment - which will have been completed when the ships leave the UK;
c. continued provision of information on design changes;
d. training of the crews of the vessels. This is charged for through tuition fees.
e. Although not covered in the Memoranda of Understanding it would be the normal practice to accept specialist trainees from time to time on courses at RN establishments, as replacements for the initial complement of crew.
Training currently in hand for crews of the Leanders and some Dockyard personnel involves 29 Chileans and is expected to be completed in July 1974. No submarine personnel are currently under training but a small commitment is expected to arise during the next twelve months.

Dockyard Assistance in Chile

8. A Memorandum of Understanding provides for MOD to give advice on dockyard improvements required in Chile in connection with the warships being supplied. This involves periodic visits by UK personnel to Chile and training of Chilean dockyard personnel in the UK, as well as exchange of information.

Destroyer Refits

9. The refit of two destroyers by Swan Hunter was arranged on a firm-to-government basis with minimal Ministry of Defence involvement. Ministry of Defence has, however, been asked to render assistance in the supply of certain items of equipment and services such as target-towing aircraft for trials, degaussing and storage of ammunition during the refit.

AIRCRAFT SPARES

Hunter Airframe Spares

10. HMG has no specific responsibility in connection with aircraft spares which are ordered direct by the Chileans from Hawker Siddeley or sub-contractors. The orders for spares under the original contracts for the supply of Hunter aircraft have been completed.

Manufacturer's obligations. There is an undertaking by the manufacturer in the aircraft contract "to ensure the availability of all spare parts of his own design and manufacture for the aircraft the subject of the contract for ten years from signature of the contract and to use his best endeavours to obtain similar undertakings" from sub-contractors. (This formula covers spare parts for guns and avionics as well as for airframes).

Outstanding Orders to the value of £200,000 have been made on HSA Ltd. and sub-contractors covering airframe, test, ground, avionic and electronic equipment. A letter of credit has been opened by the Chileans in London to cover the cost of these orders. Quotations have also been made for the supply of further items valued at £340,000 but firm orders have not yet been placed.

Aero Engine Spares

11. RR(71) have a contract, with no break clause, to supply engine spares for Chilean Hunters. The annual turnover is about £10,000. Currently, a firm order for engine spares worth £5,000 for routine line maintenance items is held and covered by a letter of credit. Delivery is due in early 1975.

Avon engine overhauls

12. RR(71) have a contract, terminable at 3 months notice, to overhaul Avon engines for Chilean Air Force Hunters. The annual turnover is about £400,000. 8 engines are at present with RR(71) for overhaul and export licences have been issued for 6 of these. No work on these overhauls has been done since the end of March because of industrial action.
13. Chile made inquiries last year about the supply of equipment to enable them to undertake engine overhauls in Chile. They have not pursued this inquiry. If equipment were supplied it might cost about £3M and would take perhaps 2 years to bring into operation. It would only be effective if the Chileans were able to obtain engine spares from RR(71).

14. Cannon and rocket ammunition is not procured from this country. An order has been received by the Ministry of Defence for 400 x 1,000 lb bombs valued at some £350,000. The export has not yet been approved. An export licence for ejection release cartridges (for discarding fuel tanks) has recently been issued.

15. The United Kingdom has not been a supplier of equipment for the Chilean Army and no orders are in hand or foreseen.
II Answers to Parliamentary Questions on Arms for Chile

Foreign and Commonwealth Secretary - 27 March

"... Existing contracts are being urgently reviewed, but we shall not grant new export licences for arms. ..."

Foreign and Commonwealth Secretary - 10 April

"Her Majesty's Government have now completed the review of defence sales to Chile. As the House is aware, no new export licences for arms will be granted under the present Government's policy towards the regime. But the ships already acquired under existing contracts will be delivered and spares and equipment relating to those contracts will be allowed."

Defence Secretary - 30 April

"Details of foreign government's purchases of defence equipment are regarded as confidential by our customers and publicity, if any, is a matter for them. Notwithstanding current interest in Chile, whose major contracts have already become known, it would be damaging to our future sales prospects world-wide if we were to depart from the principle of confidentiality."
HEALTH AND SAFETY AT WORK ETC. BILL
POSITION OF THE ALKALI INSPECTORATE

Memorandum by the Secretary of State for Employment

1. The inclusion of the Alkali Inspectorate in the new organisation to be set up under the Health and Safety at Work etc. Bill was discussed at Home Affairs Committee on 3 May. I was unable to attend; but understand that the Committee accepted a proposal by the Secretary of State for the Environment that the clauses in the Bill affecting the inclusion of the Alkali Inspectorate should be deleted, and that instead there should be a power by order to apply the Bill’s provisions at some future date to the field covered by the Alkali Act and Inspectorate.

2. This proposal goes considerably beyond what I understood to be the suggestion put to me by the Secretary of State for the Environment, namely, that those parts of the Bill which affect the work of the Alkali Inspectorate should not be activated until the Working Party on Air Pollution which he proposes to set up has reported.

3. I feel strongly that either course would be a serious mistake:

   a. My Bill is now in Standing Committee. It follows on this matter the recommendations of the Robens Report (1972), the Consultative Proposals (1973) and the Bill introduced by the previous Government. A change of the kind proposed, made on the grounds that another Inquiry is to be set up, would be difficult to defend.

   b. It is true that a Conservative backbench amendment has been put down to delete Alkali Act matters from the Bill. This reflects pressure from certain elements within the CBI (but not all) who have made it plain that they are worried at the prospect of the stronger powers of the Bill being available to control harmful emissions from heavy industry. This known attitude does not commend itself to the TUC, to our supporters in the House, or to the public, who want action now; and who would regard the change as weakening the comprehensiveness and enabling powers of a Bill brought forward by the previous Government.
c. To insert in the Bill a power by order to extend its application to the matters covered by the Alkali Inspectorate would in my view serve only to emphasise that we are undecided and that we have no concrete alternative policies to offer (since the proposed Inquiry by a Working Party, and subsequent consideration of its Report, are likely to take some considerable time). We should be openly depriving ourselves of a means of meeting public demands for stronger controls over unhealthy emissions to the air from industry. And we should be leaving the Alkali Inspectorate isolated, and, together with those with whom they deal, in a protracted state of uncertainty about the future. It seems unreasonable to ask Parliament to proceed with legislation on this basis.

4. Presentational considerations apart, the arrangements proposed by the Secretary of State for the Environment would in my view produce a thoroughly unsatisfactory position. It is a fundamental purpose of the new legislation that the new organisation should have responsibility for ensuring that the health and safety of the public is not injured by the direct effects of industrial activity. All air emissions (including the particular ones dealt with by the Alkali Inspectorate) which are prejudicial to health will in any case be covered by the Bill. The new organisation will require expertise in this field, and if the Alkali Inspectorate do not join it, it will have to build up its own. The present unsatisfactory division of functions between the Factories Inspectorate and the Alkali Inspectorate will thus be further complicated.

5. As a compromise to meet the concern of the Secretary of State for the Environment I suggest the following:-

The Alkali Inspectorate, and responsibility for the Alkali Act, should be transferred to the new Health and Safety Commission. The Alkali Inspectorate should remain an identifiable group within the new organisation, and the Commission should be responsible to the Secretary of State for the Environment for their work. We should, however, say that a general study of arrangements concerning air pollution will be carried out, and that this might in due course indicate the desirability of some adjustments in the Commission's responsibilities.

6. This course would avoid the appearance of indecision, and would enable the Alkali Inspectorate to play its part in establishing an effective new organisation; whilst at the same time keeping longer-term options open.

M F

Department of Employment
7 May 1974
CABINET

EEC ENERGY POLICY

Note by the Secretary of State for Energy

1. The Ministerial Committee on Energy recently considered the attached paper on the attitude we should adopt towards the formation of a common energy policy within the European Economic Community (EEC). The paper recommends a future course of action which, while not obstructing reasonable progress by the Community towards a common energy policy, should prejudice neither our negotiating objectives nor our North Sea interests.

2. The Committee approved the proposals but invited me, in view of the importance of the issues involved, to report them to the Cabinet.

EGV

Department of Energy

7 May 1974
The Summit meetings of October 1972 in Paris and December 1973 in Copenhagen agreed general expressions of intent to work towards a Community energy policy. Very little practical progress has been made.

The UK has probably little to gain from any likely Community policy since we could be self-supporting, or near self-supporting, in energy by the 1980s; in any case some of the main questions - oil supplies, and the monetary and economic problems arising from high oil prices - must be pursued in a wider grouping with USA and Japan, and collaboration in the nuclear field can be arranged on a bilateral basis if we want it. The advantages of an EEC policy are as yet unproven; but there is the potential disadvantage that it might somehow limit our freedom of action on North Sea oil and gas.

However, we shall incur ill-will and mistrust if we block all progress towards a Community energy policy and this could reflect on progress in the wider re-negotiation objectives. We are already tarred with the same brush as France because action during the recent crisis gave rise to the view that HMG were following a nationalistic line (in fact, the limited extra quantities of crude oil we got were not at the expense of other member countries, and we went no further than others in cutting exports of products). Apart from France and the Netherlands, the other member countries lack major oil companies and feel, without understanding the situation clearly, that the multinationals including Shell and BP give them a raw deal, on both prices and supply.

This paper therefore explores ways in which we can co-operate without disadvantage, and possibly with some limited advantage, to our own interests.

The Commission has recently tabled a new strategy paper in the EEC committee of energy officials; it is summarised with brief comments at Annex. The paper will be discussed in the committee on 6 May before the Commission submit it to the Council of Ministers, perhaps at the meeting in June.
6 In most aspects, other than oil, the Commission's views are unlikely to cause us major difficulties. On oil, however, they have long believed that Europe can benefit from a controlled oil market, and that the Commission should exercise that control.

7 In our view, some surveillance of oil imports and exports, of companies' forward plans, of oil prices and of profits would be useful; but we should not give big new powers to the Commission to do this, firstly because we doubt their competence and secondly because we do not want to cede powers over our oil supplies and pricing policy to an international body.

UK LINE

8 Our energy policy towards Europe should be guided by these objectives:

(a) to preserve the national advantages of our strong future energy position. (Measures to protect our essential North Sea oil and gas interests, and the extent to which we can achieve this within the terms of the Treaty of Rome, are being dealt with in separate papers).

(b) to continue support of the wider Energy Co-ordinating Group set up at the Washington Conference (EEC countries, less France, plus US, Canada, Japan and Norway), dealing with the major aspects of world oil supply policy, relations with oil producers, and arrangements for sharing oil supplies in emergency.

(c) to co-operate in evolving appropriate European policies which, however, should be administered nationally unless there are real advantages in creating new powers for the Commission or for a new agency.

9 In practice, this will mean that we should not refuse to participate in work directed towards:

(a) national surveillance of oil imports, exports and prices in accordance with general principles agreed by the Community, and with limited central collection of information by the Commission (other member States will want this);

(b) collaborating to increase coal and nuclear supplies (including supplies of nuclear fuel);

(c) studies of other Community energy objectives, for example schemes for a closer alignment of energy prices, for conservation, for energy R & D, and for encouraging the development of alternative sources of oil;

(d) study of the prospects for developing Community economic, trade and financial relations with oil producers.

10 But we should seek to reject:

(a) Community and Commission control over oil policy and over the activities of the oil companies; while it will be necessary to concede a bigger role for the national oil companies in Germany, Italy etc, we do not want to see the position of Shell or BP weakened;
(b) the creation of a new European energy agency, unless and until the case for one has been clearly demonstrated (the Commission have proposed a new agency under their control, and the French have proposed an independent agency).

We shall come under pressure to study joint Community action in any new oil crisis, covering oil stocks, conservation and equitable sharing of the oil which Europe now imports from the Middle East and Africa. We can argue that this should be subsumed in a wider and more effective scheme including America; but, if such a scheme fails to materialise, European arrangements might be in our interest, provided we can avoid an implied commitment of North Sea supplies when these start to flow.

RECOMMENDATION

11 UK representatives should be guided by the views in paragraphs 8 to 10 above in the forthcoming discussions of Community policy, with due regard for the need to protect our North Sea oil and gas interests, and should also have in mind the Government's overall intention to re-negotiate the terms of entry to EEC.

E.V.

Department of Energy
30 April 1974
COMMISSION PAPER 'TOWARDS A NEW ENERGY POLICY STRATEGY FOR THE COMMUNITY'

OUTLINE AND PRELIMINARY COMMENTS

The Commission paper outlines a coherent Community energy strategy and objectives for the medium and long terms (i.e., for 1985 and 2000). The overall analysis of 1985 objectives is supported by more detailed proposals for supply policies governing each source of energy.

MEDIUM AND LONG TERM OBJECTIVES

(i) for 2000

The strategic objective for 2000 is an energy economy in which nuclear energy and natural gas would account for 50% and 30% respectively of total Community energy requirements with dependence on oil and coal consequently limited to only 20% of total Community requirements.

(ii) for 1985

The following table summarises Community medium-term energy objectives in comparison with earlier proposals:

<table>
<thead>
<tr>
<th>Fuel Type</th>
<th>In 1973</th>
<th>In 1985 (as estimated at beginning of 1973)</th>
<th>In 1985 (as now proposed)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Solid fuels</td>
<td>24.4</td>
<td>10.5</td>
<td>17</td>
</tr>
<tr>
<td>Oil</td>
<td>58.5</td>
<td>61.4</td>
<td>38.5</td>
</tr>
<tr>
<td>Natural gas</td>
<td>12.7</td>
<td>16.1</td>
<td>25</td>
</tr>
<tr>
<td>Hydro-electric</td>
<td>2.9</td>
<td>2.4</td>
<td>2</td>
</tr>
<tr>
<td>Nuclear energy</td>
<td>1.5</td>
<td>9.6</td>
<td>17.5</td>
</tr>
</tbody>
</table>

The Commission conclude that energy 'independence' cannot be achieved in the medium term but that the proportion of imported energy in total consumption could be reduced from the current level of 60% to 40%, with "high risk" supplies reduced to a maximum of 25% of the total 1985 energy balance sheet (compared with the earlier estimate of 50%).

COMMENT

In its concern with security of supply, to the neglect of all but perfunctory consideration of prices, plant-building capacity, and the economic cost of the attainment of the Commission targets, there is a large element of wishful thinking in the 1985 objectives. The Commission paper is notably optimistic on supplies of both nuclear energy and natural gas. However, the fundamental aims are obviously right, and targets can be reviewed periodically in the light of developments.
INDIVIDUAL FUELS

(i) Nuclear Energy

The proposed target for 1985 of 200 Gigawatts is some 50% higher than the previous estimate used in Community discussions. Even allowing for some acceleration - and the French have recently increased their target - we regard the objective of 200 Gigawatts as unrealistic. This does not take account of industrial capacity which at present is insufficient to make this possible; nor does it take account of constraints (the necessary time taken in planning, overcoming environmental and political objections, overcoming design defects should appear and, in the case of the UK, in choosing a suitable reactor system). Costs have not been calculated (but the Commission has promised to incorporate a new chapter on this).

Another doubt is on the availability of uranium ore to meet the enlarged programme. There is doubtless sufficient ore in the ground, but are the supply countries likely to adopt a similar attitude to the 1980s as the Arabs in the 1970s in relation to oil?

(ii) Electricity

The Commission suggest that the construction of new oil-fired base load plant should not be authorised unless exceptional reasons are available and that the use of natural gas in power stations should be strictly limited. The Commission have followed up these suggestions by specific proposals for directives on these two points.

While the Commission's thinking accords broadly with the Government's present policy on the fuelling of power stations and might be acceptable as general guidance for the present, the acceptance of these as long-term obligations would prevent the Government adopting a more flexible policy on the use of these fuels should this be desirable in the light of the future availability of North Sea gas and oil.

(iii) Coal

The Commission propose that up to 1985 coal production should be maintained at least at its present level of 250m metric tons/annum with imports increased to 30 to 60m tons/annum. There should be rationalisation of productive capacity supported where necessary by Community financing, improved manpower policies, a free-market price policy, and more Community-financed R & D related to productivity. Consumption should be supported by guaranteed long-term contracts, construction of more coal-fired power stations and more R & D on new uses. Security of imports should be improved by long-term contracts and Community investment in third country production and stockpiling should be encouraged.

This is an ambitious programme though broadly in line with our own aims and most of it is expressed in general enough terms to be unobjectionable. Community financing might be useful for us, but we shall need to watch that, if we do accept Community financing, we do not incur export obligations which we might prefer to avoid.

(iv) Natural Gas

The Commission propose as an objective that by 1985 natural gas should provide one quarter of the Community's total energy requirements.
instead of the 16% shown in their earlier forecast. They aim to:

1. increase the supply of natural gas by:
   (a) administrative/fiscal measures and Community aid projects to encourage Continental Shelf exploration;
   (b) free trade within the Community for gas;
   (c) joint action to promote imports from third countries;

2. enlarge and integrate the gas-transport system within the Community by:
   (a) regulations for gas pipelines;
   (b) study of increased investment in gas-transport;

3. achieve optimum economic use of gas by:
   (a) regulations strictly limiting use in new power stations and reducing use in existing stations;
   (b) wider use of interruptible contracts for large-scale industrial users;
   (c) a Community system of harmonised prices and tariffs for consumers.

The proposal at 1(b) does no more than state what is already in the Treaty; but, if given undue prominence as a new policy, it might threaten our control over new supplies of gas from the UK Continental Shelf.

(v) Oil

This section of the Commission paper is markedly different from the remainder. In other sections the Commission is mainly concerned with broad strategic considerations. On oil, the Commission renews earlier, detailed proposals for an "orderly Community oil market", that is for an oil market in which the oil companies would comply with certain rules of behaviour laid down by the public authorities (a phrase which may imply Commission control), who would supervise their application and could intervene where necessary.

A major weakness of this section of the paper, little of which we could accept as it now stands, is its neglect of the interface between the Community and the world energy scene and the failure to acknowledge the limitations imposed on the Community by the international nature of the oil market.

The Commission paper contains detailed proposals on:

(i) a common supply policy.
(ii) a common Community price system.
(iii) co-ordination of oil company investment programmes.
(iv) Community support for research and exploration.
On supply policy, the Commission proposals envisage the elaboration between companies and Community authorities of a community 'supply plan'. This is unrealistic, since supply depends very largely on factors outside Community control. Each member state will in any case be supervising supply to their own markets.

This is not to say that the Community should not do what it can, with other international organisations, to ensure security of supply, particularly in times of shortage. However, the earlier Commission proposals referred to in the paper, would not resolve Community supply difficulties. An OECD-wide scheme offers the best prospects.

The Commission calls for the provision of a mass of detailed statistics. While we are prepared to provide summaries of information including short-term forecasts the detailed proposals need study and justification.

On price policy, the Commission proposals also need further examination. Crude prices to various Community members will not be identical and product prices within member states will inevitably reflect these differences. Current selling prices also, of course, reflect widely differing national taxation policies. We can however agree that the Community should work towards 'price transparency' - i.e. the collection and publication of oil product prices as a step towards harmonisation.

The idea of Community support for research and development is admirable in principle if realistic programmes are adopted: we would need to watch carefully proposals relating to North Sea exploration.

CONCLUSIONS

In its final conclusions, the Commission reiterates the need to reinforce the objectives with Community action in for example R & D and oil exploration. It mentions the possibility of a legally and financially autonomous energy agency (but unlike the current French proposal, this agency would be under the control of the Commission.

30 April 1974
CABINET

SUPPLY OF WESTLAND WASP HELICOPTER TO SOUTH AFRICA

Memorandum by the Attorney General

1. The question upon which I am in this Opinion advising is, put in its simplest form: would the revocation of a licence for the export to South Africa of a single Westland Wasp helicopter ("Wasp") be consistent with our legal obligations, whether under domestic or international law?

2. Accordingly this Opinion will not be concerned with -
   a. our general residual obligations under the Simonstown agreements ("Simonstown"); or
   b. the political consequences of the action which it may be decided to take; or
   c. the wider question whether a policy of expanding what broadly falls under the head of "internationalism" can be consistent with an erosion of respect for the rule of international law.

3. The answer to the specific question upon which I am advising is that in my opinion the revocation of the export licence, whilst probably a lawful exercise of domestic powers, would conflict with our international legal obligations. Accordingly I cannot advise in favour of revocation.

4. Despite what I have said in paragraph 2 a. above, it is necessary to look at the specific question against the general background of Simonstown. I hope in due course to be in a position to comply with the request made to me at the meeting on 28 March 1974, to advise upon the extent of our residual legal obligations under Simonstown to supply arms and equipment and to carry out repairs to the order of the Government of South Africa. For the reasons appearing below I am not yet in a position to do so.

5. The Simonstown obligations are recorded in an exchange of letters in 1955. The extent of those obligations has been the subject of persistent controversy.
6. The Labour Governments of 1964-1970 took a narrow view of the Simonstown obligations. The Conservative Government of 1970-1974 plainly wished to increase its exports to South Africa of arms and equipment. It is worthy of note that no breach of international law would have been committed by the export of arms and equipment in excess of the legal obligations of Simonstown. Apparently, however, the Conservative Government wished to be in a position to contend that any such exports fell within the Simonstown obligations. Accordingly, having invited the South African Government to place orders, it instructed its Law Officers to advise on the extent of the remaining Simonstown obligations with the apparent object of supplying only such items as its Law Officers advised that there was a legal obligation to supply.

7. The Conservative Law Officers gave their advice, and in February, 1971, it was (contrary to usual practice) published as a White Paper (Cmd. 4589). The House of Commons debated the subject on 3 March, 1971.

8. The Conservative Law Officers' Opinion took a relatively narrow view of our legal obligations. Nevertheless the Shadow Law Officers (Sir F. Elwyn Jones and myself) considered that it overstated our legal obligations. The view of the Shadow Law Officers was expressed in the speech of the Shadow Attorney General during the debate: Hansard, vol. 812, columns 1775-1785. Having reconsidered the conclusions reached in that speech, I adhere to the view which we then held that those conclusions correctly stated the legal position.

9. The correctness of the conclusions reached in 1971 does not, however, answer the question put to me in 1974. If it had done so, my advice in this Opinion would necessarily have been that Simonstown does not oblige us to supply the remaining Wasp. There are, however, two principles of international law which may affect that conclusion. These are -

a. That the way in which the parties to an agreement in fact perform their obligations under it may (particularly if there are differing possible views as to the meaning or extent of those obligations) be used to throw light upon the true meaning of the obligations; and

b. that in given circumstances the conduct of a party to an agreement may be relied upon to estop that party from asserting that its obligations differ from those which would be consistent with that conduct.

10. The possible effect of these two principles upon the conclusions reached by the Shadow Law Officers in 1971 needs to be examined before advice can be given as to the legal position in 1974. Accordingly, in order to comply with the request of the Committee made at its meeting on 28 March, 1974, it became necessary to obtain from the Foreign and
Commonwealth Office full instructions as to all relevant events since February, 1971. Those instructions were requested by my Department on 29 March, 1974. They have not yet been received. Without them I cannot safely advise upon the full extent of the legal obligations which exist today and arise out of Simonstown.

11. Meanwhile, I have been asked to advise specifically about the Wasp. This is the seventh and last of a batch of Wasps ordered by the South African Government from British manufacturers (Westland) in 1971. My advice is urgently requested.

12. Following the return of the Conservative Government in 1970 the South African Government, in response to a suggestion of the Conservative administration, expressed its wish to purchase certain supplies including Wasps. Following the publication of Cmd. 4589, but before the debate of 3 March, 1971, the Foreign and Commonwealth Secretary informed the South African Government that "the way was now clear" for South Africa to place its order for Wasps. The plain meaning of this statement (reinforced by the factors to which I have drawn attention in paragraph 5 above) was that the British Government was interpreting Simonstown and the extent of the obligations arising thereunder in accord with its Law Officers' Opinion.

13. Until 10 May, 1974, my Department had no detailed information about the events which followed. On that date a telex was received summarising the contents of an agreement apparently made in October, 1971, between the South African Government and Westland. This agreement provided for the supply to South Africa of 7 Wasps, together with equipment and spares at a price of some £1.9 million. The obligation to provide spares was to expire in October, 1981.

14. Export licences were granted by the British Government and later renewed. Six of the 7 Wasps have been supplied and substantially paid for. The remaining Wasp is due for delivery on 15 June, 1974, and for payment thereafter. An export licence has been granted and is held by the South African Embassy. The agreement protects Westland from liability for failure to deliver if caused (inter alia) by Act of State or Government order or measure.

15. If the export licence for the Wasp is revoked and in consequence it is not supplied, it will be open to the Government of South Africa to contend that both Governments have construed Simonstown and the extent of the obligations arising under it as including the supply of the 7 Wasps; that both parties have acted upon that construction; and accordingly that the contract of October, 1971, particularly in view of the Law Officers' Opinion, can be used to throw light upon the true meaning and effect of Simonstown.
16. It will also be open to the Government of South Africa to contend that it was induced to enter into the contract by the undertakings of the Conservative Foreign and Commonwealth Secretary, particularly read in the light of the Conservative Law Officers' Opinion, and that the doctrine of estoppel applies so as to preclude the British Government from taking action to prevent the full performance of the contract of October, 1971.

17. Finally, it will be open to the Government of South Africa to contend that, apart altogether from Simonstown, the agreement of October, 1971, can stand alone as an enforceable contract, in respect of which the British Government had so acted as to preclude itself from taking any action to frustrate the performance of the obligations under it.

18. In my opinion these contentions would be well founded in international law. Accordingly it would be a breach of international law for the British Government to revoke the subsisting export licence with the object of preventing Westland from performing its contractual obligation to supply the single remaining helicopter.

19. It might further be contended that a revocation of the export licence would be null and void in United Kingdom law, on the basis that statutes are to be construed, where possible, in such manner as to avoid a construction which enables a breach of international obligations to take place. That contention could be made in the United Kingdom courts. In my opinion there is some chance that that contention would, in the circumstances of this case, succeed, but it probably would not.

20. Accordingly the principle danger involved in revocation of the licence is that the United Kingdom would be held to have been guilty of a clear breach of international law. There is some danger, though not so great, that the United Kingdom would be held in our own courts to have purported to revoke the licence in circumstances in which such revocation was not authorised by the statute and accordingly was null and void.

21. For these reasons I cannot advise that the licence be revoked or that any steps be taken to prevent the single remaining Wasp from being delivered to the South African Government.

SCS

Law Officers' Department

13 May 1974
DELIVERY OF A WASP HELICOPTER TO SOUTH AFRICA

Note by the Secretary of the Cabinet

I circulate herewith a paper by officials, prepared on the Prime Minister's instructions, giving the factual background to the sale of helicopters to South Africa, with reference to the question whether the delivery of the remaining helicopter should be permitted.

Signed JOHN HUNT

Cabinet Office
13 May 1974
SUPPLY OF WESTLAND WASP HELICOPTERS TO THE
SOUTH AFRICAN GOVERNMENT

The Issue

1. In 1971 the South African Government ordered 7 Westland Wasp helicopters. Six have been delivered. The seventh, which was due for delivery earlier this year, has been held up by production delays and is now unlikely to be completed until 15 June. An export licence, issued in January 1974, is at present with the South African Embassy. It is valid for one year, unless revoked. The helicopter becomes South African property when the relevant documents are handed over to the South Africans by the manufacturers on completion. At present the helicopter remains the property of Westlands. It seems most unlikely that the South Africans would take delivery of the helicopter before it was completed, although this would not of course be impossible unless the contract specifically prohibited it. The mechanics of the hand-over are that the relevant documents are passed by Westlands to the South Africans and that the helicopter, packed at that stage in crates, then becomes the responsibility of the South Africans.

Background including statements in Parliament and elsewhere

(a) Up to 1970

2. Between 1962 and 1966 the South African Government converted 2 former Royal Navy destroyers which had been purchased in 1950 and 1952 to carry Westland Wasp helicopters. Six Wasp helicopters were supplied for these vessels before 1964.

3. The South Africans purchased 3 anti-submarine frigates from the United Kingdom between 1962 and 1964. At that time the frigates were not capable of carrying Westland Wasp helicopters. The frigates were, however, subsequently converted with the co-operation of the Admiralty to carry Wasp helicopters. The first conversion was completed in 1969.

4. On 17 November 1964 the Prime Minister announced in the House of Commons that the Government had decided to impose an embargo on the export of arms to South Africa. Outstanding commitments by the Ministry of Defence would be fulfilled but no new contracts could be accepted for the supply of military equipment. Licences for the export of sporting weapons and ammunition would be revoked and shipment stopped forthwith. (Hansard Col 199-200, 17 November 1964). In subsequent exchanges the Prime Minister confirmed that the statement did not amount to the unilateral denunciation of the Simonstown Agreement, which would be broken only by mutual agreement.

5. A Foreign Office letter of 9 March 1965 to the South African Government (who had sought clarification of the Government's attitude to the supply, inter alia, of "replacement of Westland Wasp helicopter which may be written off strength as a result of accidents or wear and tear or augmentation in numbers to meet South African naval requirements") stated that Her Majesty's Government would be prepared to supply additional Wasp helicopters to meet South African naval requirements. The letter explained that in reaching their decision the Government had taken account of the fact that these aircraft were integral parts of a complete anti-submarine weapons system supplied to South Africa under the Simonstown Agreement.
6. A contract for 4 helicopters was signed in November 1965 and they were delivered during 1966. In the course of a debate in the House of Commons on 3 March 1971, Mr Healey said of these 4 helicopters that "there is no doubt whatever that the 4 helicopters delivered by the Labour Government were requested as part of the Simonstown Agreement to equip the frigates supplied by Her Majesty's Government under that Agreement" (Hansard Col 1771, 3 March 1971).

7. In December 1967 the Government announced that their policy as stated on 17 November 1964 remained unchanged. In December 1969 the South African Ambassador was informed by the Foreign and Commonwealth Office that Her Majesty's Government would refuse the supply of further helicopters.

8. In a subsequent communication Her Majesty's Government informed the South African Government that they were unable to agree to licence the supply of further Wasp helicopters to South Africa and that any assurances contained in the letter of 9 March 1965 had been met by the supply thereafter of 4 additional Wasp helicopters.

(b) After 1970

9. In a speech at the 1970 Annual Conference of the Labour Party, Mr Wilson said, on 29 September, "If the Conservatives, for whatever reason - be it an unwillingness to reverse the instant, ideological government of Sir Alec Douglas-Home, be it the pressures of the Monday Club, the Powellites - if they decide to spurn the Commonwealth, indeed to risk its very existence, by a decision to sell arms to South Africa, when whatever contracts they may sign will be repudiated by an incoming Labour Government at the next election. Any shipments arising from them will be embargoed."

10. The text of the Labour Party International Committee Resolution of 12 January 1971, which was sent to each Head of Delegation attending the Commonwealth Prime Ministers' Conference in Singapore, reads as follows:

"The Labour Party urges Mr Heath not to flout the views of the vast majority of the Commonwealth countries on the question of Britain's resumption of arms sales to South Africa.

The Party reaffirms its commitment to a multiracial Commonwealth as a force for world peace.

The Party believes that the legal advice given to the last Labour Government was correct; there remains no legal obligation for Britain to sell arms to South Africa under the Simonstown Agreement.

Such arms sales would defy the authority of the United Nations, weaken the Commonwealth, and align Britain with the white racist regimes of Southern Africa.

The Labour Party reaffirms, therefore, that the next Labour Government will repudiate any arms agreement made with South Africa."

11. On 26 January 1971 Mr Heath said in the House of Commons of Her Majesty's legal obligations under the Simonstown Agreement that they extended to "licensing the purchase of Westland Wasp helicopters to equip 3 anti-submarine frigates that were purchased under the Agreement and were, with our agreement and assistance, converted to carry helicopters." (Hansard Col 324 26 January 1971).

12. The Conservative Government accepted the opinion of the Law Officers of the Crown published as a White Paper in February 1971 (Cmnd 4589), that they were under legal obligations arising from the Simonstown Agreement to permit the supply of the initial complement of Westland Wasp helicopters for the 3...
British built frigates supplied earlier to the South African Navy and of replacements of the initial equipment and stores and base reserves of these vessels and of any other equipment necessary to keep them "efficient for the purposes of carrying out the objects of the Agreement." Contracts for the supply of 7 Westland Wasps were signed later in 1971 and delivery of all but one, for which an export licence was issued by the previous Administration, was completed before the change of Government. (The legal advice is summarised later in this paper).

13. On 22 February 1971 the then Foreign and Commonwealth Secretary informed the House of Commons that in response to an enquiry Her Majesty's Government had informed the South African Government that if orders were placed for Wasp helicopters they would, according to their legal obligations, issue export licences at the appropriate time. (Hansard Col 34 of 22 February 1971). In the course of subsequent exchanges Mr Healey said "...the last Government, while maintaining that the Simonstown Agreement was useful, though not essential, also maintained on legal advice that there was no legal obligation to supply these helicopters." (Hansard Col 36 22 February). Mr Healey later said (Hansard Col 37) that "... the way in which this decision is received by the Commonwealth will depend very much on whether Her Majesty's Government sees this ... as the first in a series of deliveries going far beyond our legal obligations, even as defined by the Attorney General or as strictly obliged by the Legal situation."

14. Subsequently Mr Wilson said (Hansard Col 41) "Is the right hon. Gentleman aware, one, that we do not accept the advice by the Law Officers in the White Paper, contrary as it is to the advice we have on this question by no less eminent legal advisers?" Later he said "... there is no justification in law, morality or the interests of this country for supplying arms beyond what was in the White Paper, even if we were to accept what was in the White Paper."

15. During a debate in the House of Commons on 3 March 1971, Mr Wilson said (Hansard Col 1719) "The first (part of this motion) refers to the Government's announcement of their intentions to supply Westland Wasp helicopters to the South African Government - helicopters which they claim on the basis of the opinion of their own Law Officers, they are legally required to supply under the terms of the Simonstown Agreement. We do not accept this argument." Mr Wilson went on to say "I now turn to the decision announced by the Foreign and Commonwealth Secretary on 22 February to supply an unstated number of the Wasp helicopters which were referred to in the Law Officers' White Paper. I have made it clear that we do not agree about the obligation which the Law Officers have claimed to detect. With regard to these allegedly outstanding helicopters, we did not supply them, we would not have supplied them. I repeat - on the advice which we had and the policy which we followed, we would have adhered to the decision which we took on coming into office in October 1964, which was in fulfilment of the decision of the Security Council of the United Nations." (Hansard Col 1721 3 March 1971). Later Mr Wilson said "I oppose and deplore the shipment of those helicopters; I hope that I have made that clear. I oppose all arms shipments to South Africa. I support, as I insisted on supporting by our action the day after we took office, the Security Council resolution of 1963. I support it in the terms in which it was moved, disregarding the unilateral interpretation which right hon. Members opposite sought to place upon it at that time." (Hansard Col 1731 3 March 1971).

Legal Statements

16. The question arises whether there is an obligation under the Simonstown Agreement (i.e., the agreement for the defence of the sea routes round South Africa) to permit the export of this remaining helicopter. There are opposing views on the extent of the legal obligation to permit the export of helicopters.
The opinion of the Law Officers of the previous government, as set out in the White Paper published in 1971, contains the following conclusions which are relevant:

"40. Our conclusions on the question whether Her Majesty's Government remains under any obligation to permit the supply of the initial equipment of the three anti-submarine frigates may be summarised as follows:

1. and 2. ***********

3. Her Majesty's Government have acknowledged and confirmed (by the letter of 9th March, 1965) that their obligation to permit the supply of the anti-submarine frigates and their equipment extended to the supply of the Wasp helicopters, as integral parts of the complete anti-submarine weapons system.

4. The supply of the four additional Wasp helicopters in 1966 did not discharge these obligations.

5. Her Majesty's Government thus remains under a continuing obligation to permit the export from the United Kingdom of a sufficient number of helicopters to equip the three anti-submarine frigates supplied under the Sea Routes Agreement with their initial complement of Wasp helicopters (together with reserves) if these are requested by the South African Government."

(Paragraph 39 of the Opinion stated that -

"If the establishment standards of the Royal Navy were applied, a total of eleven helicopters would be required to provide the initial equipment (together with the reserves) for these frigates.)"

"51. We conclude, therefore, that the Sea Routes Agreement should be interpreted as implying an obligation on the part of Her Majesty's Government, if so requested by the South African Government, to permit the supply of replacements of the initial equipment and stores and base reserves for the vessels supplied from the United Kingdom, and of any other equipment, which is necessary to keep these vessels efficient for the purpose of carrying out the objects of the Agreement. This would include replacement of such a number of helicopters as are necessary to arm and provide a reasonable establishment of reserves for the frigates."

"52. ...... Assuming that the South African Government makes a request in good faith for the supply of a Wasp helicopter to make good a deficiency in the complement of an anti-submarine frigate, there is an obligation on Her Majesty's Government to permit the export of the helicopter if this is necessary to keep the vessel efficient for the purpose of carrying out the objects of the Agreement."

17. Sir Elwyn Jones' speech in the debate in Parliament in 1971 on the White Paper contains the following passage which is taken to summarise his conclusions about the extent of the obligation to supply helicopters:

"...the United Kingdom's legal liability under this agreement could be limited to permitting the provision of licences for a complement of four Wasps for three frigates, for the replacement
of WASPS lost in accidents or through mechanical defect in the light of the circumstances of each case as it is put, that is to say, where blame could reasonably be attributed to the manufacturer, and not otherwise, but not for replacements required by normal wear and tear, and not for Royal Navy establishment standards in so far as they exceeded either the South African claim or the complement of four that was supplied.

"My conclusion from this is that the liability resting upon the United Kingdom is stated, if I may say so with respect, far too widely in paragraph 39 of the Attorney-General's Opinion, in that it first overstates the initial complement; secondly, wrongly allocates to the two ex-Royal Navy destroyers the four helicopters which were plainly supplied in pursuance of the Simonstown undertaking to equip frigates, and, finally, wrongly accepts an open-ended obligation of replacement. In my opinion, the legal obligations on the United Kingdom arising under the Simonstown Agreement are at the highest shadowy, and a strong case can be made out that they have long since been fulfilled by this country."

(The South African claim referred to was the request for supply of helicopters in 1967 which sought four helicopters in addition to six already supplied, of which two had been written off).

Parliamentary Interest

18. Since the election there have been 2 parliamentary questions about the Westland WASP helicopters. In a written answer on 11 April the Parliamentary Under Secretary of State at the Foreign and Commonwealth Office (Miss Lestor) said that no decision had been taken on the remaining helicopter and that the matter was being examined in the context of Her Majesty's general review of all aspects of policy towards South Africa and of other relevant factors. (Hansard Col 328 11 April 1974). On 2 May 1974, in another written answer Miss Lestor stated that 6 Westland WASP helicopters had been delivered. An export licence for the seventh had been granted before the change of Government. There was nothing to add to what she had said on 11 April regarding the delivery of the seventh helicopter.

19. An early day motion was put down on 9 May by Mr Neil Kinnock and 40 other MPs in the following terms:

"That this House is gravely concerned at the information that consideration is still being given to the export of a Westland WASP helicopter to the Republic of South Africa, recognises the importance of such aircraft to the South African Government's methods of subordinating opposition to the system of apartheid; and calls upon Her Majesty's Government to revoke the export licence for the helicopter granted by the Conservative administration."
CABINET

POLITICAL ACTIVITIES OF SPECIAL ADVISERS TO MINISTERS

Memorandum by the Prime Minister

1. On 2 May last my Private Secretary, on my instructions, circulated a memorandum of guidance on arrangements for the appointment of special advisers to Ministers. This memorandum, which had been prepared after discussion in a group of senior Ministers, included the following paragraph on the political activities of special advisers:

"The rules governing the political activities of civil servants are set out in Estacode Ka 45-56. They will normally apply to special advisers without exception. In particular, an adviser must not allow himself to be adopted as a Parliamentary candidate without first resigning his appointment as an adviser, or having arrangements made to be remunerated from non-public funds. Special advisers may not offer themselves for election to or serve as members of local authorities whilst they are remunerated from public funds."

2. Most of the special advisers appointed since the Election are being paid from public funds. It clearly helps to establish their status in Departments, their access to officials and their value to Ministers if they are so paid. But - and this is the point that we had in mind in reaching our conclusions on political activities of special advisers - they are in a privileged position in relation to Ministers, in which they are attracting and will continue to attract some Parliamentary and political attention. We considered it essential that it should be beyond question that their primary and overriding loyalty and duty is to their Ministers and the Government, and therefore desirable to minimise the risks of conflict of interest and confusion of loyalties, and the risks of public criticism of their position which could be politically damaging.

PARLIAMENTARY CANDIDATES

3. In relation to special advisers who are Parliamentary candidates, we took the view that they required a degree of freedom to dispose of their time, as well as freedom to speak in public, which was not consistent with their being or continuing to be paid from public funds.
LOCAL COUNCILLORS

4. In relation to special advisers who are elected members of local authorities we considered that there were clear and definite possibilities of conflicts of interest, particularly for special advisers to Ministers with responsibilities in the field of relations between central and local Government. There must be no ground for doubting that the primary and overriding loyalty of a special adviser paid from public funds is to his Minister. We therefore concluded that special advisers paid from public funds could not serve as members of local authorities.

5. Two members of the Cabinet have special advisers who are at present paid from public funds, on the basis of arrangements made before the memorandum of guidance was issued, and who are members of local authorities. These Ministers think that the rule is unduly restrictive, and have represented to me that it is not necessary to insist on them either resigning from their authorities or being paid from other than public funds. They argue that special advisers are in a different position in this respect from civil servants who continue in office on a change of Government. They draw attention to the difficulty of requiring their special advisers to resign from their local authorities or of finding other sources from public funds for their remuneration as special advisers.

6. I understand these difficulties, and I recognise that there is a balance of considerations here, which I must now ask the Cabinet to resolve.

7. In considering this matter the Cabinet will wish to have in mind the case of a special adviser appointed by the last Government to a Department which does not have close official contacts with local authorities and paid from public funds, who was a member of a county council. This case was the object of questions to the last Prime Minister; I attach a copy of the relevant extract from Hansard (Official Report, 11 February 1971, volume 811, no 82, columns 784-786). Following that exchange in the House, the adviser in question was required to give up his membership of the county council.

H W

10 Downing Street

14 May 1974
CIVIL SERVANTS (PARTY POLITICAL ACTIVITY)

Q1. Mr. Sheldon asked the Prime Minister what action he is taking to ensure that those appointed to the Civil Service by his own authority do not engage in party political activity.

The Prime Minister (Mr. Edward Heath): There are well-known rules governing the political activities of civil servants which all are expected to observe.

Mr. Sheldon: While not wishing to limit the useful role played by outsiders coming into the Civil Service, may I ask the right hon. Gentleman whether he is aware that the full-time paid employment in the Civil Service of someone who has played a leading part in party politics in a prominent local authority is a departure from existing practice? Should not this departure be at least notified to the House?

The Prime Minister: Under past Administrations people of known political views and activities have been brought into the Government. The rule is very clear, and it is that civil servants of the grade of executive officer and above may take part in local political activities with the permission of their department. As far as I know, this rule has been observed in every case. If people are taking part in local government or local activities, it is with the permission of their department.

Mr. Harold Wilson: Is the Prime Minister aware that the rules clearly laid down by Lord Attlee's Government have been followed ever since and have been very strictly applied? Is he further aware that in the case of an appointment to No. 10 Downing Street on 1st January, 1969, an incoming temporary civil servant, who was a member of a local authority, not only was required to resign his seat on a local authority immediately, by my direction, but was not even allowed to attend the following evening to tender his resignation in person? Obviously there is a very big difference in the way in which this matter is being handled as between the Labour and Conservative Governments.

The Prime Minister: Obviously I should have to search the records in order to answer that question. But the point of principle remains—that anyone below executive officer grade can continue his activities without permission, and that anyone of executive officer grade or above may, under the present rules, ask for permission to continue his activities, and it would rest with the head of the Government to decide whether it was appropriate for him to do so. That policy has been pursued.

Mr. Wilson: The rules have been applied very strictly by all Governments from Lord Attlee's day onwards. If it is a fact, as the right hon. Gentleman says, that he is using the discretion of giving or refusing approval in the way that he is doing, it is a very considerable deterioration in the standards which have been applied by every previous Government.

The Prime Minister: These matters are decided by the head of the department and not by me as head of the Government. As far as I know, no case has been referred to me as head of the Government. The decisions have been taken in the normal way by the Departments concerned in any cases which have arisen.

Mr. Wilson: Is the Prime Minister aware that I should be extremely happy if he looked up all the papers in that case? I will give him all the information he needs. Perhaps he will say whether anyone who has been at No. 10, in the Cabinet Office or the Treasury, in a senior administrative position, has not been required immediately to resign any local government appointment he held?

The Prime Minister: I do not think that there is any difference at all. I know nothing of the case to which the right hon. Gentleman refers. But it would appear that the person concerned must either have asked for permission to continue and have been refused or must have decided not to go on with his activities. Anyone engaged in local government activities or local political activities is fully entitled to ask the department for permission, and it must be the department which decides whether he can continue.
CABINET

SA Salaries and Allowances of P Members of Parliament

Memorandum by the Lord President of the Council

1. Concern about the erosion of the value of Parliamentary salaries and allowances has been growing among many Members for several months. Pressure on the Government to act, particularly in the field of allowances, has increased to the point where I consider we should review this matter as soon as possible.

2. The current emoluments payable to Members of Parliament (MPs) are set out in the annex. These rates were introduced from 1 January 1972 (with the exception of the mileage allowance which was fixed in November 1970) following the special review undertaken by the Top Salaries Review Body (TSRB) under the chairmanship of Lord Boyle who submitted the report to the Government in November 1971. On the subject of future reviews, the Review Body said the following (paragraph 123):

"We have commented earlier on the relative infrequency of reviews of the remuneration of Members of Parliament and Ministers in the past and the difficulties to which this has given rise. It has been most strongly represented to us that reviews should be more frequent or that some means should be found of ensuring automatic adjustment from time to time. For our part we consider that there should be a major comprehensive review at intervals of four years i.e. corresponding roughly to once in the lifetime of each Parliament of normal length. However, we should not wish to exclude the possibility of an intermediate adjustment between major reviews."

3. I do not think that a general reference to the TSRB would be wise in the present sensitive conditions. Although the House had no doubt expected earlier that a general reference would have followed an Election at the end of a Parliament of normal length, a full review of emoluments is probably not now expected. A recent informal meeting of Labour Members chaired by Mr Michael English recommended that allowances should be reviewed but salaries remain unchanged. I think that the right course.
4. I therefore recommend that the TSRB be requested to conduct a limited review of Members' allowances, leaving over the question of Members' and Ministers' salaries until perhaps later this year or early next year. That would be consistent with the TSRB's recommendations about "intermediate adjustments between major reviews", although it would be limited to allowances only. It would be desirable to time the reference to come after, or simultaneously with, the Government's announcement on the recent TSRB Report. But I think it essential that I should announce the reference before the Whitsun Recess.

5. I think it preferable that the TSRB should conduct this limited review rather than that the Government should do so. Although the bases of some of the current Members' allowances are controversial, I propose that only their amounts should be reviewed on this occasion and that any wider questions about them should be left over to the next general review. Lord Boyle has told me informally that such a limited review would be acceptable to his Review Body.

6. Presentation both to Members and the general public will need careful thought. The reference of allowances is unlikely to be controversial. But we shall need to explain why we are not referring pay or even allowing Members interim Stage 2 and Stage 3 adjustments. Whilst we could point to the need to encourage pay restraint during the transition to a voluntary policy, this need is likely to be a continuing one. We could say that it is not yet four years since the last review, but that would imply that there could be no further review for a further 1½ years. The general expectation that this will be a short Parliament could not easily be referred to. I invite my colleagues' views on this aspect.

7. Any change in the House of Commons allowances is likely to increase the pressure which already exists for an increase in the Peers' daily expenses allowance which was fixed at £8.50 from 1 January 1972. This allowance is related to the Civil Service subsistence allowance which has been increased twice since January 1972. However the Peers' allowance was not referred to the TSRB on the last occasion (although it was considered by the previous Lawrence Committee). I think it preferable not to do so this time. I would propose instead to discuss with the Lord Privy Seal whether and what changes would be appropriate for Peers so that we can consider MPs' and Peers' allowances together when we have the TSRB recommendations on MPs' allowances.

8. The proposals in this paper have been discussed with officials in the Treasury and the Department of Employment.

E S

Privy Council Office

14 May 1974
### ANNEX

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount/Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary</td>
<td>£4,500</td>
</tr>
<tr>
<td>Secretarial Allowance</td>
<td>Reimbursement of actual expenditure up to £1,000 pa</td>
</tr>
<tr>
<td>Additional Costs Allowance</td>
<td>Reimbursement of actual expenditure up to £750 pa</td>
</tr>
<tr>
<td>(i.e., subsistence allowance either for visits to the constituency or at Westminster)</td>
<td></td>
</tr>
<tr>
<td>Motor mileage</td>
<td>5p a mile for journeys between home, Westminster and the constituency</td>
</tr>
<tr>
<td>London Allowance (payable to Members with London constituencies instead of the additional costs allowance)</td>
<td>£175 pa</td>
</tr>
<tr>
<td>Free travel vouchers for Members' wives or husbands</td>
<td>10 a year</td>
</tr>
<tr>
<td>Severance payments</td>
<td>3 months' salary</td>
</tr>
</tbody>
</table>
At the Ministerial meeting held on 26 April to discuss the third interim report of the Top Salaries Review Body (TSRB) the payment of consequential increases arising from the 1972 TSRB report and increments for members of Nationalised Industry Boards, it was agreed that we should agree to the last two items and accept the main recommendations in the TSRB third interim report. However, we felt that I should ask the Chairman of the Review Body if he would see objection to the recommendation regarding threshold agreements being rejected.

2. Those of us at the Ministerial meeting were concerned that the Trade Unions would be unfavourably disposed towards a threshold agreement for the higher paid, and that if we were seen to be agreeing with this recommendation, it could make our task of setting up a voluntary incomes policy that much more difficult.

3. I have discussed this question with Lord Boyle. He explained that the Review Body had thought it right to recommend that all the provisions permitted by the Pay Code should be payable. He also told me that, while he could not speak for the other members and he hoped they would not over-react, there would undoubtedly be dissatisfaction if, for the first time, one of their recommendations were rejected. The other Review Bodies would also be concerned.

4. The argument for rejecting the threshold provision is undoubtedly a strong one; however, on balance, I recommend that the TSRB's proposals should be implemented in full.

ES

Privy Council Office

14 May 1974
CABINET

OVERHAUL OF CHILEAN AERO-ENGINES

Memorandum by the Attorney General

1. The Legal Questions

If the Government adopts the proposals made by the Secretary of State for Industry in paragraph 7 of his memorandum C(74) 31, the main legal questions which will arise will be whether the Government will by so doing, lay itself open either -

a. to an action for damages by Chile in our own courts for inducing a breach or (possibly) preventing the performance of the contract between RR (1971) and the Chilean Air Force; or

b. a claim by Chile that we are in breach of obligations owed to them in international law.

2. In order to advise on the first of these questions, it is necessary to consider the contractual obligations between RR (1971) and the Chilean Air Force and also the effect upon these obligations of the exercise of export licensing powers.

3. The contractual position between RR(1971) and the Chilean Air Force

I am informed that an agreement between RR (1971) and the Chilean Air Force, dated 3 September, 1969, governs the repair and overhaul of aero-engines and the supply of spares and that this is the only contractual document which has to be considered. The legal effect of this agreement is not wholly clear, but as far as I am able to judge on the information at present available to me, the position would appear to be as follows:-

Overhaul

a. RR(1971) have a contractual obligation to overhaul six engines at present with them.
b. It seems probable that RR(1971) are also under a contractual obligation to overhaul such further engines as the Chilean Air Force may send to them for that purpose from time to time.

c. I understand that RR(1971) take the view that they are entitled to determine their obligations in respect of the overhaul of engines by giving three months' notice to the Chileans. I think that that is almost certainly the correct view. On that assumption, I consider that if such notice were given by RR(1971) it would only relieve RR(1971) of the obligation to overhaul any engines sent after the expiry of the three months' notice and that it would not affect their obligation to overhaul engines with them at the date of the giving of the notice or received by them during the three months' notice period.

Supply of Spares

d. It seems probable that RR(1971) are contractually committed to provide spares and other supplies for the engines from time to time ordered by the Chilean Air Force. I understand that RR(1971) accept that they have no express right to determine this obligation and again this seems to me to be almost certainly right. It is, however, possible that a term is to be implied into the contract enabling either party to give reasonable notice of termination. However, if this is so, I doubt very much whether less than a year's notice would be considered reasonable in relation to a contract of this nature.

e. Under the terms of the agreement RR(1971) is relieved of any liability for delay in the manufacture or delivery of supplies due (inter alia) to Government action or labour disputes.

4. The effect of the exercise of the power to license exports on these contractual obligations of RR(1971) and their performance

The position would appear to me to be as follows:-

a. Export licences are required for the return of the overhauled engines to Chile. Such licences have been granted in respect of six engines which are with RR at present.

b. These licences could be revoked and further licences issued in respect of these engines and any other engines received from Chile which only permitted their return in an unoverhauled state. This would not prevent RR(1971) from overhauling the engines, but since it would prevent the return of the overhauled engines to Chile, it might well have the effect...
of frustrating their obligation to do so. There is, in my view, a bare possibility that the courts might regard Governmental action in the circumstances of this case which frustrates the obligations of RR(1971) as being unlawful and thus hold either that the Government is liable in damages or, possibly, that the revocation of the licences is null and void.

c. The export of spares to Chile is at present authorised under an open general export licence of 22 December, 1971, which permits (inter alia) the export of specialised parts and components of aircraft engines to everywhere except 21 specified countries.

d. This licence could be revoked and re-issued with Chile specified as one of the countries to which these exports are not permitted. If this were done, RR(1971) would be under no liability in damages to the Chileans for the ensuing delay in delivering the spares, since this would be due to Government action and as explained above, RR(1971) are expressly relieved under the contract from liability for delay in these circumstances. There is again, in my view, a bare possibility of the Government's action in these circumstances being regarded by the courts as unlawful with the same consequences as I have mentioned in b. above.

5. The Question of obligations in International Law

I am informed that the part played by Her Majesty's Government in the initial arrangements to supply Hunter aircraft (which were powered by Rolls Royce Avon engines) was as follows. At a meeting between the United Kingdom Minister for Defence Equipment and the Chilean Ambassador on 19 June, 1969, the United Kingdom Minister appears to have assured the Chilean Ambassador that Her Majesty's Government would do everything possible to arrange for the Royal Air Force to release the Hunters which the Chileans wished to have refurbished and then to purchase. On 30 July, 1969, a Ministry of Defence official wrote to the Chilean Ambassador; in his letter he referred to the arrangements for the release of aircraft from the Royal Air Force, and concluded by mentioning that Hawker Siddeley proposed to make a new offer to the Chilean Air Force on these lines and that he hoped that it would be acceptable to the Chilean Government.

6. A further letter was sent by a Ministry of Defence official to the Chilean Air Attache dated 3 September, 1969. This letter recalled that the Minister for Defence Equipment gave assurances to the Chilean Ambassador in July, 1969, to the effect that a phased release of RAF Hunter aircraft had been agreed to meet their requirements. It went on to say that the detailed programme of releases had been conveyed to Hawker Siddeley Aviation, and that it was understood that the Company,
on the basis of the undertaking that the Ministry of Defence had given them as regards the release of aircraft, would be able to meet the Chilean delivery requirements subject to the immediate placing of a contract.

7. Neither the record of the meeting between the United Kingdom Minister and the Chilean Ambassador, nor the subsequent letters from officials, makes any mention of overhaul or the supply of spares. But we have from time to time granted export licences in respect of this after-sales service.

8. The documents referred to above reveal no evidence of any express contractual undertaking by previous Governments relevant to overhaul and the supply of spares.

9. The fact that export licences have been granted for the export of overhauled engines and spares would not, in my opinion, in the absence of an express agreement or of other special circumstances, be sufficient in itself to sustain a contention that there was an implied agreement that licences for the export of these articles were guaranteed. In the circumstances, therefore, it is very unlikely that the Chileans would be able to establish that there was any kind of implied agreement between the United Kingdom and Chile whereby we undertook to permit overhaul or the supply of spares for the aero engines concerned.

10. There remains the question whether, because of assurances and the conduct of previous Governments, the United Kingdom is now estopped under international law from preventing the overhaul of the engines, and the supply of spares. The documents referred to above show that in 1969 Her Majesty's Government not only approved the supply of the aircraft to Chile, but was actively encouraging the sale. Prima facie, the Chileans could argue that in the case of sophisticated equipment such as Hunter aircraft this necessarily implied that we would allow the subsequent overhaul of the engines and the supply of spare parts which, as both Governments must have known, would be essential if the Chileans were to enjoy the normal use and life of the aircraft.

11. On the other hand, we gave no specific assurances in 1969 about the future overhaul or supply of spares. The Chileans would therefore need, if they sought to rely on the events of 1969, to be able to demonstrate that a necessary implication of our words and conduct was that we would permit service and spares to be supplied in the United Kingdom. It may be that the Chileans could argue that the only source of supply was in this country; the strength of such an argument would depend upon the facts concerning the availability of service and spares outside the United Kingdom and the matter in the contemplation of the Government representatives when the exchanges took place. These facts are not in my possession. Nothing however, in the documents so far submitted to me shows that the representatives of the United Kingdom and of Chile proceeded on the basis that the United Kingdom was the only source of supply.
12. The significant events since 1969, in the context of estoppel, have been that the aircraft engines have been overhauled here from time to time and that spares have been supplied. The Chileans could argue that the grant of the licences reinforces assurances given in 1969 and the reasonableness of the assumption that we would continue to put no obstacle in their way. Against this it can reasonably be maintained that the grant of licences, even over an extended period involves no representation as to the future, and that we are entitled to treat each application on its merits. Moreover, it can be argued that since we grant export licences to the British company concerned this involves no representation by us to the Government of Chile. In addition, even if the Company was acting as agent of the Chilean Government, it is clear on the face of each licence that it is issued subject to the condition that it may be modified or revoked at any time without reason given.

13. Conclusions

i. The contract with RR(1971)

RR(1971) have commitments under their contract from which they cannot immediately escape without the agreement of the Chileans. If the Government attempted to persuade them to do so it would be laying itself open to the risk of an action for damages for inducing a breach of contract. There would be no objection, however, to inviting RR(1971) to exercise such rights as they may have to bring the contract to an end.

ii. The Government could, by exercising its export control powers, prevent RR(1971) from performing its contractual obligations in relation to the supply of spares and probably make it very much less likely that they will continue with the overhaul of the engines. There is a bare possibility that this might lay the Government open to proceedings in our own courts.

iii. International claims by Chile

It is very unlikely that the Chilean Government could establish that there is any kind of implied agreement between the United Kingdom and Chile whereby we undertook to permit overhauls or the supply of spares.

iv. We cannot rule out the possibility that the Chilean Government could sustain a case against us on the ground of estoppel, arising from past statements and conduct of the United Kingdom Government on which they have relied to their detriment. But, on the facts so far known to me, they would have considerable difficulty in trying to do so, and it seems unlikely that they would succeed.
PRESENT POSITION

1. As our colleagues will know, we offered in negotiation with the representatives of the Building Societies Association (BSA):

   - to arrange for short-term loan facilities for building societies of up to £100 million at a rate of 10\(\frac{\text{a}}{2}\) per cent. The Bank of England are providing these funds at the Minimum Lending Rate and the Government will meet the difference between this and 10\(\frac{\text{a}}{2}\) per cent.

   - to arrange for further short-term loan facilities of up to £400 million at an average rate of £100 million a month.

   It was subsequently decided that these should be made available on similar terms from public funds.

   The BSA decided at its meeting on 19 April to accept the offer of loans of up to £100 million from the Bank and not to recommend any increase in the ordinary investment rate and the mortgage rate. Subsequently the BSA decided on 8 May to accept a further "tranche" of loans up to £100 million and again not to increase rates. They intend to review the position in relation to future loans month by month.

2. We hope that all or a substantial part of the loans will be repaid within the financial year, and in fact building societies may well not need to take up all of the loans if their receipts continue to improve as well as they have done in the last month.

3. The threat of a mortgage rate increase because of the shortfall in receipts has therefore now receded. But there is still a risk that societies will in the coming months increase their mortgage rates to keep their accounts in balance. The recent increase in personal tax rates has
increased the liability of building societies to pay tax on behalf of investors. This reduces a society's operating margin, which can adversely affect its reserves. The BSA representatives thought that a growing number of societies would in consequence feel it necessary to increase their mortgage rate by up to \( \frac{1}{2} \) per cent. A handful of smaller societies have already done so, and there is the possibility that larger societies will take the same line. If so, societies generally might follow suit. We must watch this situation very carefully.

HIGH POWERED COMMITTEE

4. The Cabinet also invited us to circulate proposals on the establishment of a high-powered committee on longer-term questions of private sector housing finance (CC(74) 8th Conclusions, Minute 4; and CC(74) 9th Conclusions, Minute 3).

5. The conclusions of the committee must command the respect if not the support of the building society movement because in practice the bulk of funds for house purchase - at least in the short-run - must continue to be channelled through building societies. Provided that the Building Societies Association can be persuaded that this is a matter of participation rather than direction - and this should be possible - we would judge that the announcement of the committee should not prejudice our attempt to prevent a general increase in the mortgage rate. It is of the highest importance to avoid affecting the confidence of investors and facing the building societies with an outflow of funds. We shall therefore have to take particular care over this when we announce the committee; and an announcement by a statement in the House of Commons may provide the best opportunity for reassuring investors.

6. We suggest that the committee should be an independent one with the following terms of reference:

"How best to ensure a stable and adequate flow of funds for private house purchase'."

The Committee should consider the proposal for a National Housing Finance Corporation and the proposed remit would cover this as well as the basis on which mortgages are advanced (eg index-linked mortgages or equity mortgages).

7. We propose that the Chairman should, if he is available, be Mr Charles Villiers, who is Chief Executive of the Guinness Peat Group and was Chairman of the Industrial Reconstruction Corporation in 1968-71.
8. It is important that the committee should comprise a wide and authoritative cross-section of experience and opinion. We suggest that it should include an economist; a housing expert; a building society representative; a local authority representative; an insurance company representative; someone with housebuilding experience; and someone with relevant experience in Whitehall. The names we would agree with our colleagues directly concerned.

9. It is improbable that the committee could produce a comprehensive and authoritative report on a subject with potentially far-reaching economic and social implications in less than six months. We therefore propose that the intention to establish a committee should be announced as soon as a Chairman has been found, with the intention that it should begin work by June or July.

Treasury Chambers
15 May 1974
CABINET
CONCORDE

Note by the Attorney General

I attach the Opinion of the Law Officers on the consequences of unilateral withdrawal from the Concorde project by the United Kingdom. I also append a memorandum, prepared at the request of the Ministerial Committee on the Concorde Project, on the question of damages.

S C S

Law Officers' Department

21 May 1974
The Anglo-French Agreement of 1962 relating to Concorde ("the Treaty") imposes upon each of the two nations an obligation to develop and produce a civil supersonic transport aircraft. That obligation can be more specifically defined as an obligation (a) to share equally the expenditure incurred by the two Governments on development and production; (b) from time to time jointly to authorise development and production in accordance with the procedures established under the Treaty for authorising successive phases of the project; and (c) to make every effort to ensure that the programme for the project, as jointly agreed from time to time, is carried out.

The position which has now been reached under the Treaty is that the production of 16 aircraft has been authorised, and is under way but not completed. France has now proposed the authorisation of the production of three further aircraft and a small amount of further development work to permit the aircraft to carry more fuel and thus to have a longer range. In determining whether the U.K. is legally entitled unilaterally to cease to implement the project now, it is necessary to consider the following two questions:
(1) Is the U.K. under any obligation under the Treaty to authorise the production of further aircraft?

(2) Is the U.K. obliged to continue to ensure the production of the 16 aircraft which have already been authorised, in particular by continuing to support it with Government finance?

3. Before giving our Opinion on these two questions we make the following preliminary observations:

(a) We are satisfied that we now have sufficient information, including that which derives from recent Anglo-French discussions at Ministerial level, to express reasonably firm views on the questions referred to above. But our advice must necessarily be based on such facts and other assessments as are at present available to us. It may need to be reviewed if further material considerations come to light in the course of any future negotiations with France or of discussions with other interested parties. In particular, France has not yet given any clear indication of how it regards the legal position. Any views which France may express on this subject could be material in assessing the strength of the U.K.'s legal position.

(b) An event has recently occurred which may sensibly affect the weight which the Government should attach to legal considerations in reaching a
decision on this matter. In January of this year, France withdrew its acceptance of the compulsory jurisdiction of the International Court of Justice and denounced the General Act for the Pacific Settlement of International Disputes of 1928. In the absence of any provision in the Treaty for compulsory arbitration or adjudication, it would appear that France cannot now take the U.K. to the International Court or to arbitration without the U.K.'s consent. If, however, a legal dispute were to arise and France proposed that it should be settled by international adjudication or arbitration, this proposal would require our careful consideration.

In considering this proposal we should need to bear in mind that our traditional policy has been to encourage the use of adjudication or arbitration as a means of settling international disputes, and also that, as explained in paragraph 14 of this Opinion, there could be a particular reason for agreeing to such a proposal in the circumstances of this case.

But, if we were to agree in principle to the dispute being resolved in this way, no adjudication or arbitration could in fact take place until both parties had agreed on the form of the tribunal and on the questions to be referred to it. It appears to us, therefore, to be now less likely than it was when the Law Officers advised on this matter in the
past that legal questions arising under the Treaty will become the subject of international legal proceedings. Even if there are to be no legal proceedings, however, our legal position would remain material; but the significant question would then be whether the U.K. has a position which can reasonably be defended in negotiations with France and in public debate.

We turn now to the two questions set out above —

(1) Is the U.K. under any obligation under the Treaty to authorise the production of further aircraft?

The Treaty

4. The Treaty provides in general terms for the development and production of a civil supersonic transport aircraft. Neither the terms of the Treaty nor the more detailed contemporaneous arrangements between the parties give any indication, specific or capable of estimation, of the number of aircraft which are to be produced. It can, however, be reasonably inferred from the terms of the Treaty, from statements made at the time it was entered into, from the practice of the parties and from exchanges between them during the course of the project (including in particular the Benn-Charnant exchange of correspondence in 1958), that the fundamental objective of the Treaty was
the development and production of a marketable aircraft. By "marketable" we mean that there should be a reasonable expectation that the aircraft will be sold in sufficient numbers and at a price and within a time-scale which will enable the manufacturers to make an overall profit on production and, so far as may be practicable, will provide some benefit to the two Governments in respect of their investment in the development of the aircraft.

5. The Treaty does not set out in detail the steps to be taken in the implementation of the project but leaves these to be fixed by agreement between the two countries on the basis of recommendations made by the Joint Standing Committee of Officials (now the Concorde Directing Committee) which was set up under Article 5 of the Treaty. Plainly, the intention was that the number of aircraft to be produced should be determined from time to time by agreement between the two countries and should be so determined by reference to the fundamental purpose of the Treaty, namely the production of a marketable civil supersonic transport aircraft. It follows, in our opinion, that the basic criterion to be applied in determining whether the U.K. is obliged to authorise further aircraft to be constructed is whether there is a reasonable prospect that such aircraft would be marketable, either on their own or as part of a staged programme of production.
The Marketability of Concorde

6. When the last authorisations of production of aircraft were given in April 1972, 74 options dating from 1964-68 were held by 16 airlines, and it was confidently expected that the competitive threat posed by BOAC and Air France placing orders would persuade other airlines to follow suit. There was therefore still reason to believe that there would be a substantial number of sales. These expectations have not been realised. On the contrary, since the BOAC and Air France orders were announced in June 1972, no other airline has yet placed an order, and during the course of last year all but two of these option-holders gave up their options, and the others (Japan Airlines and Air India) agreed to the negotiations being postponed. Also, the preliminary purchase agreement with China and the letter of intent signed by Iranair have not been converted into orders and the former has in fact been allowed to lapse. The position would now therefore appear to be as follows:

(a) It is now accepted by both countries that there is no reasonable expectation that aircraft within the Treaty's contemplation will be sold at anything but a loss on production.

(b) In its recent report the Concorde Directing Committee reached (inter alia) the following conclusions:
"It remains probable that no orders will be received before Air France and British Airways put the aircraft into service. In addition, however, Air France and British Airways services alone cannot now be expected to generate the competitive pressure necessary to lead to further sales.

"No credible evidence has been produced as to how any portion of the theoretical demand could be translated into firm sales within the foreseeable future.

"In these circumstances, great uncertainty surrounds the prospects for sales beyond those already made to British Airways and Air France whatever version is offered to airlines."

Moreover, the manufacturers, who have always been the most optimistic of the parties concerned with the aircraft, now concede that the market for the existing version of the aircraft is very small. These assessments were not disputed by France at the recent Ministerial meeting.

(c) There is no reason to suppose that the modifications which France has proposed would substantially improve the commercial prospects of the aircraft.
7. On present assessments, therefore, Concorde is not a marketable aircraft. Moreover, it is necessary to have regard to the expense of maintaining the programme and to the fact that it is not practicable to suspend production for a substantial period and thereafter to resume it. In view of all these factors there would not appear to be sufficient chance that the position will be altered by future events, and in particular by the putting of the British and French airlines' aircraft into service, to justify deferring a final assessment of marketability until these events have occurred.

Conclusion

8. The project has now reached the stage at which in our opinion, it is appropriate to make a firm assessment of the commercial prospects of the aircraft. It is apparent on the evidence before us that neither the present version or Concorde nor the modified version proposed by France is marketable. We do not consider therefore that the U.K. is obliged by the Treaty to authorise the production of any further aircraft.

(2) Is the U.K. obliged to ensure the production of the 16 aircraft already authorised, in particular by continuing to support it with Government finance?
9. The production of the 16 aircraft was duly authorised by the two countries in accordance with the procedures established under the Treaty. It follows that it is now part of the programme which under Article 6 of the Treaty the U.K. is obliged to make every effort to ensure will be carried out. In these circumstances, the U.K. will, in our view, be entitled to withdraw its support from the production of these aircraft only if it can establish that it is entitled to do so under the doctrine of international law relating to fundamental change of circumstances.

The Doctrine of Fundamental Change of Circumstances

10. The doctrine of fundamental change is an accepted part of customary international law. Its principles have been embodied in Article 62 of the Vienna Convention on the Law of Treaties which may in many respects be considered as a codification of existing customary law on this subject. The relevant part of Article 62 is as follows:

"A fundamental change of circumstances which has occurred with regard to those existing at the time of the conclusion of a treaty, and which was not foreseen by the parties, may not be invoked as a ground for terminating or withdrawing from the treaty unless:
"(a) the existence of those circumstances constituted an essential basis of the consent of the parties to be bound by the treaty; and

"(b) the effect of the change is radically to transform the extent of obligations still to be performed under the treaty."

Although the Vienna Convention has been signed by the U.K. (but not by France), it is not yet in force and it applies only to treaties concluded after its entry into force. Therefore the U.K. case must rest on customary international law rather than on the terms of the Convention.

**Fundamental change and the 16 aircraft**

11. The production of these aircraft was authorised in four batches between December 1967 and April 1972. Throughout this period substantial sales of the aircraft were being predicted and there still remained reasonable grounds for believing that the aircraft could prove to be marketable. The purpose of authorising the production of these aircraft appears to have been both to maintain the momentum of the programme and to build up a stock of aircraft under construction to meet orders which were expected but had not yet been received. Even the most pessimistic forecast at that time predicted sales substantially in excess of 16.
It was clearly not envisaged that even before the completion of 16 it would become apparent that all reasonable prospect of marketability of Concorde had disappeared. Rather was it expected that in response to market demand and the requirements of the production programme further authorisations would be given in due course. The giving of authority for the production of these 16 aircraft was thus regarded not as a step which could be justified in isolation from the programme as a whole, but rather as a stage in the process of implementing the fundamental purpose of the Treaty to produce a marketable supersonic aircraft.

12. In the light, however, of the recent events described in paragraph 6 above, it has become apparent that the aircraft cannot reasonably be expected to be marketable, that accordingly the fundamental purpose of the Treaty can no longer be achieved, and that in consequence there is no obligation to authorise further production beyond the already authorised 16. It is in the light of this conclusion that it is necessary to reconsider the justification for continuing to support the production of the authorised 16. It is plain that the fundamental underlying basis on which the 16 were authorised has disappeared and that the context in which they would now be completed would be radically different from that in which they were authorised. The production of 16 and no more could not conceivably make commercial sense. But the production of more than 16, on the facts as we understand them, would make even less commercial sense.
Conclusion

13. It is never easy to predict with confidence how an international tribunal is likely to apply the principles of international law relating to fundamental change. Nonetheless, in the unusual circumstances of this case, it is our opinion that the U.K. could contend with a reasonable prospect of success that a fundamental change has occurred entitling it to cease to implement the Treaty now and thus to discontinue its support for the production of the 16 aircraft. Certain preliminary steps would however need to be taken before this right of cessation could be exercised. These are discussed below.

What steps ought to be taken before the U.K. could withdraw on grounds of fundamental change?

14. In order to comply with the requirements of international law, the U.K. would, before seeking to withdraw from implementation of the Treaty on grounds of fundamental change, be required to give notice to France of its legal grounds for withdrawal and to allow France a reasonable time to make representations. If France disputed our claim, the question of referring the matter to some form of adjudication or arbitration could arise. As we have explained above, France could not now oblige the U.K. to go to the International Court. But it would be in accordance with the view the U.K. have hitherto
adopted as to the legal obligations of a State seeking to withdraw from a Treaty on grounds of fundamental change that the U.K. should offer in these circumstances to submit the issue of withdrawal to impartial adjudication and should not withdraw without making such an offer.

15. At what point in the course of negotiations with France and any ensuing legal proceedings it would be appropriate for the U.K. to permit the rundown of the existing production programme and the form which such rundown would take, would need to be carefully considered at that stage, if it arose, and if possible agreed with France. The risk involved in taking such action before the matter is finally resolved would be that if the dispute were to go to adjudication or arbitration and the U.K. lost, the fact that the U.K. had withdrawn its support from the production programme in such a way as to make it impossible or very difficult for France to continue with the project might aggravate any damages which in that event were awarded against the U.K.. The impracticability of suspending production for a substantial period and then resuming, to which reference has been made in paragraph 7 above, is also relevant in this context.

When should the U.K.'s legal position be put to France?
16. The timing and manner of the presentation of our legal position to France must obviously depend on the decisions to be reached by the Government and on the form of any further negotiations with France. These matters could have an important bearing on both liability and damages and, accordingly, we consider it to be essential that we should, together with the Secretary of State for Industry, work out the best strategy for negotiation. In the meantime, we must emphasize that if the Government wish to withdraw unilaterally from the Treaty any prolonged delay in giving notice to France of our grounds for doing so could prejudice our legal case. The same may be true, though to a lesser extent, of our case for arguing that we are not obliged to authorize further production.

S.C.S.

P.K.A.

25 April, 1974
THE QUESTION OF DAMAGES

Memorandum by the Attorney-General

1. The Committee asked me to advise on the amount of the damages for which the U.K. might be liable to France if we were held by a tribunal to be in breach of our obligations under the Treaty.

2. In this memorandum I am assuming that no breach of our obligations would arise from the mere fact of refusal to authorize the production of additional aircraft in excess of the sixteen already authorized.

3. The Committee will, however, recall the Law Officers' Opinion that the U.K. could contend with a reasonable prospect of success that it was entitled to cease to implement the Treaty now and thus, without incurring liability, to discontinue its support for
the production of the sixteen aircraft. For the purposes of this memorandum I am assuming that this view is wrong and accordingly that a tribunal were to hold that we ought to have continued to support production of the sixteen aircraft until completion of them.

4. At the present stage there are so many factors relevant to the question of damages which are unknown as to make any estimate speculative. Major points of uncertainty are, for example:

(a) What course the French would be likely to take in response to unilateral discontinuance of support by the U.I.; e.g. whether they would discontinue the project or proceed; and, if the latter, how many aircraft they would complete and how far they would seek to, or could, rely on British facilities.

(b) When the arbitration would take place and what the circumstances would then be as regards such matters as sales of the aircraft produced and production costs.

(c) What the actual financial consequences for the French of the courses they might take would be; for instance, we do not know the contractual arrangements with the French manufacturers governing cancellation or
whether redundancy or similar sums would be payable under French law. Our present estimates of French cancellation charges are therefore arrived at simply by equating them with the charges which the U.K. would incur in cancelling the project.

5. Perhaps more important, the grounds upon which the U.K. was found by the tribunal to be liable to continue with the project would be an essential starting point for a tribunal assessing damages. It is impossible to predict this with any certainty. It might be said that no fundamental change of circumstances had occurred such as to justify our action; or that there had been a fundamental change, but not such as to justify our action; or that we had failed to give due notice or to have adequate consultation before the discontinuance.

6. In these circumstances it is not possible to do more at the present than to indicate —

(a) the general principles as to the measure of damages which a tribunal would be likely to apply;

(b) a number of broad bases, stemming from that principle, on which a tribunal might assess damages, and
(c) a range of possible figures for each basis. But it must be recognised that there is necessarily a substantial margin of error in these figures.

7. The general principle as to the measure of damages under international law in respect of a breach of a treaty obligation is that the injured party must be put, so far as reasonably possible, in the same position as if the treaty had not been broken. The injured party, for its part, must take all reasonable steps to mitigate its losses.

8. Following these general principles there are, dependent on the facts, at least four possible bases on which a tribunal might assess damages in the circumstances assumed:

(1) Nominal damages.

(2) If the French discontinued the project themselves, the cost to them of the discontinuance (i.e., cancellation charges, redundancy payments, etc.).

(3) If the French continued with the project, the net extra cost to them of producing the sixteen aircraft.

(4) The cost to the French of the project so far plus cancellation costs.
9. As to basis (1), it is possible that the tribunal might consider that there is no real prospect of making a profit on the aircraft, so that the effect of our discontinuance would not be to deprive the French of anything of value, but on the contrary would allow them to avoid incurring the substantial losses involved in the pointless act of completing the sixteen, and that therefore the damages should be nominal. This would in effect amount to a finding that the U.K. was only technically liable. This possibility is on the whole remote, since in such circumstances it is unlikely that we should be found liable at all.

10. It also seems very improbable that a tribunal would assess damages on basis (4), since the maximum damages required to put the French in the position in which they would have been if a breach had not occurred would be those assessed under basis (3). Basis (4) seems to me to be inconsistent with any finding other than one of fraud from the very outset of the Treaty obligations. There does not seem to me to be any likelihood of such a contention being advanced, still less sustained.

11. Accordingly, basis (2) and basis (3) are those to which serious consideration needs to be given and a broad estimate is made below for each of them. These estimates are at January 1974 prices; they are calculated on the assumption that -

(a) the costs to the French of a given course of action are approximately the same as those to the U.K., and
(b) that the estimates of U.K. costs in MC(74) 14 are correct.

12. Under basis (2), given that the tribunal awarded little more than the bare minimum of termination costs incurred by the French, the amount would be approximately £100 million.

13. Under basis (3) if the French completed all sixteen aircraft, the net amount would be £150 million. This figure assumes that the U.K. would be given credit for the selling price of all saleable aircraft completed and that the selling price is as now contemplated.

14. The following might bring the figure awarded above the smaller or above the larger of these two amounts:

(a) General damages for loss of prestige might be awarded under basis (2). In the circumstances the amount awarded under this head would probably not significantly exceed £10 million.

(b) If the French continued with the project, under basis (3) some credit for the U.K. might be allowed for prestige, goodwill or other benefit accruing to the French solely, which under the Treaty would have been shared between the two governments.
15. If the French decided to continue with the project, the action of the U.K. Government in helping or hindering French execution of the project would be likely to affect the damages awarded.

16. As between basis (2) and basis (3), I think that on the whole basis (3) is the more likely to be the award. This is because the French will not wish to weaken their case on liability by following our lead in discontinuing support for the aircraft. If they were to do so, they might find it harder to contend that there had been no fundamental change of circumstances sufficient to justify our discontinuing. They would have to show that discontinuance of support for the sixteen aircraft by ourselves made all the difference between saleability and non-saleability of the five aircraft not yet allocated. In view of the history of options, this would clearly be a difficult task.

17. The most reliable estimate which I can give, therefore, lies between a minimum of nil damages and a maximum of about £150 million, with a possible intermediate figure of £100 million. The procedures available would permit of the assessment of damages after liability had been established. Damages could also be a negotiated figure. In the future discussions it would be useful to seek out the likely intentions of the French in the event of the U.K. discontinuing.

Law Officers' Department

17th May, 1974.
21 May 1974

CABINET

LEGISLATING FOR THE £10 CHRISTMAS BONUS

Memorandum by the Secretary of State for Social Services

1. At their meeting on 17 May the Social Services Committee were unable to reach a decision on the question whether the Bill needed to adjust the rates of national insurance contribution from April 1975 should include provision for repeating before Christmas the £10 bonus payment made to pensioners in 1972 and 1973. For contribution purposes, this Bill needs to be introduced shortly after the Spring Recess; but the Chancellor of the Exchequer wishes to leave open for some months yet whether there should be a Christmas bonus this year, in relation to Budget strategy. Moreover, the point was made at the Social Services Committee meeting that there would be more kudos in announcing a bonus later in the year than there would be if such an announcement were made at an early date. It was left open to me to bring the matter before the Cabinet.

2. I am sure that in political terms we have no choice but to provide a Christmas bonus - taking into account the expectation built up by what was said by our supporters on the authority of Transport House in the Election campaign. Indeed, the Cabinet last month included this provision in the top priority list for legislation (CC(74) 8th Conclusions, Minute 5). Nor, in view of the criticisms we made in Opposition, can we confine this year's payment to people over pension age - we must include, irrespective of age, people drawing invalidity pension, attendance allowance, unemployability supplement or widow's benefit. This was agreed by the Social Services Committee.

3. I think that, apart from these political considerations, there are three other factors which tell strongly against delaying the legislation:—

i. It is clear that, especially in the present mood of the staff of my Department and to a lesser extent that of the Post Office, we shall have a difficult task in getting them to agree to undertake a further bonus payment this year even to the categories covered in 1972 and 1973, let alone extensions to further categories which would involve substantial additional work. Prior consultations with the staff of both Departments are therefore essential; and I shall need to
initiate these at the earliest propitious moment. But, once they have been started, the risks of leakage, with all the attendant embarrassments arising from public pressure, and the possible appearance of concessions under pressure, are very real. By coming forward with our legislative proposals next month we can minimise these risks.

ii. To fit in with the Christmas rush the Post Office would want to carry out their part of the bonus operation in the week beginning 18 November. This means Royal Assent by the beginning of November in any event. But, since it was made clear at Social Services Committee that there was virtually no prospect of any Bill receiving Royal Assent by the Summer Recess - even if it only contains the contribution changes - to plan on the basis of two separate Bills getting on the Statute Book by early November seems to me quite unrealistic.

iii. The inclusion of the bonus provisions in the Bill would sweeten the contribution increases which it will be imposing.

4. I therefore seek the agreement of my colleagues to including provision for the Christmas bonus in the National Insurance Bill to be introduced before the Summer Recess. If continuation of the present staff troubles makes it unpropitious to raise this issue with them before the present Bill is introduced I will consult my colleagues further.

B A C

Department of Health and Social Security

21 May 1974
CABINET

CONCORDE

Memorandum by the Lord Chancellor

1. The Cabinet at their meeting on 21 March (CC(74) 5th Conclusions, Minute 5) agreed that a Committee of Ministers should be formed to examine all the issues relevant to the future of the Concorde aircraft project and supervise discussions with the French Government. These have been interrupted by the calling of the French Presidential Election; but the new Government can be expected to be ready to resume discussions with us early in June. Before that happens, we should establish our own view of the project and define our objectives.

2. These negotiations will take place against the background that the production of 16 aircraft is already well advanced, with three-quarters of the work in the United Kingdom completed. Of these aircraft, two are being used in the development programme and are not saleable without refurbishment; four are on order for Air France (AF) and five for British Airways (BA); for the remaining five there are as yet no orders. The first three aircraft are likely to be delivered to AF and BA by about the end of 1975, and delivery of the rest will be completed within about a year thereafter. The French Government have refused to consider the option of cancellation and have proposed the manufacture of a further three aircraft, modified to achieve a marginal improvement in range - making 19 in all. We have suggested to them that the implications should also be examined of completing eight (the minimum operating fleet for each airline) and 11 aircraft (the number for which orders exist). But the financial benefits of manufacturing fewer than 16 aircraft are relatively modest, and are likely to be outweighed by the political disadvantages. The immediate choice therefore is whether to go on with the existing programme of 16 aircraft or get out altogether.

3. The Committee has accordingly examined the latest estimates of cost for continuing the project, received reports from officials on the implications of cancelling it, and considered representations received from trades unions and other organisations. These are summarised in the appendices to this memorandum. The main factors to emerge are:-
a. About 21,700 people in the United Kingdom are employed on Concorde, of whom about 13,400 are likely to be made redundant if the project were to be cancelled. Officials recommend that in such an event there should be a special redundancy scheme, at a cost of about £20 million. The adverse effects of employment and industry generally should be containable, though there would be a serious problem at Bristol, for which special measures are recommended (Appendix B).

b. Officials consider that the cancellation of Concorde would not have a significant effect on the future of the aircraft industry (Appendix C). The industry itself, however, would regard it as a serious blow to our technology and credibility as a reliable partner.

c. A decision to cancel Concorde would be vigorously opposed by the unions, which believe that it would be a grave error, especially the Confederation of Shipbuilding and Engineering Unions. The Economic Committee of the Trades Union Congress supports this view (Appendix D).

d. BA's best estimate - which they accept is subject to a wide margin of error - is that their five Concordes would cause them to incur operating losses totalling £100 million over 10 years (Appendix E).

The Committee's discussions have further established:

e. The effect on the balance of payments of a 16 aircraft programme is difficult to quantify, but is not likely to be so large as to be a crucial factor either way.

f. Once production has ceased it would be extremely difficult to restart, but it might be possible to extend the production programme - at a cost - if there were a prospect of further airline orders coming forward after the aircraft entered service. Some orders would be required for production before the end of 1976.

g. Concorde's noise may still prove critical to its chances: it remains uncertain whether it will be given permission to land at New York, Tokyo or Sydney, or to overfly countries supersonically on its routes to Japan and Australia.

4. The Law Officers have concluded (C(74) 46) that we are under no obligation to authorise more than 16 aircraft, and would have a good prospect of success in defending a decision to discontinue support for production now on the grounds of a fundamental change of circumstances. The test of such a change is the aircraft's "marketability": they argue that Concorde is unmarketable because it can only be manufactured and flown at a loss and there are acknowledged to be no commercial prospects for further sales. The response of the former option holders tends to support this. On the other hand, the French are likely to argue that marketability can only be tested when the aircraft enters service, and to stop the programme before
then is unwarranted. If the issue of liability to continue with the project were taken to arbitration and decided against us, the most reliable estimate of the amount of damages that we might have to pay lies between nil and about £150 million, with a possible intermediate figure of £100 million. Damages could also be a negotiated figure.

5. The new French President has publicly committed himself to continuing the project. The next French Government can therefore be expected to resist cancellation; and a unilateral decision by the United Kingdom to withdraw would provoke a major dispute which would have repercussions in other areas of Anglo-French relations, sour the renegotiation of our membership of the European Economic Community, and imperil the prospect of future collaborative projects.

6. The latest estimates of cost are set out at Appendix A. Assuming that, contrary to the Law Officers' view of our prospects, we were held liable and had to pay damages to the French, the relative costs of withdrawing or going ahead would be affected by the level of these damages. The cost of completing the 16 aircraft programme is about £360 million, if 14 aircraft are sold. If no damages had to be paid the cost of withdrawal now is about £120 million. At the upper end of the estimated range of damages, the cost of cancellation could be as much as £270 million. To continue the programme beyond 16 aircraft would add further heavy costs.

CONCLUSION

7. The view of the Committee is that the realistic choice lies between continuing with the programme to complete 16 aircraft and stopping entirely. The balance of opinion in the Committee would prefer the project to be cancelled; but if the French Government refuse to acquiesce in this, however reluctantly, the Committee considers that the right course would be to complete 16 aircraft. Accordingly they recommend that we should take an early opportunity of exploring the new French Government's views about the project and their attitude to the question of cancellation. In the light of those discussions we should then make our decision. I invite the Cabinet to endorse these conclusions.

E J

Lord Chancellor's Office

21 May 1974
APPENDIX A

COSTS

Estimated net Exchequer expenditure from July 1974

<table>
<thead>
<tr>
<th></th>
<th>Cancellation</th>
<th>16 aircraft (14 in service)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Contractual costs:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>development</td>
<td>30</td>
<td>110</td>
</tr>
<tr>
<td>production</td>
<td>35</td>
<td>224</td>
</tr>
<tr>
<td>capital assistance</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td>sales subsidies</td>
<td>-</td>
<td>6</td>
</tr>
<tr>
<td><strong>gross</strong></td>
<td>67</td>
<td>340</td>
</tr>
<tr>
<td>receipts from sales</td>
<td>-</td>
<td>209</td>
</tr>
<tr>
<td><strong>net</strong></td>
<td>67</td>
<td>131</td>
</tr>
<tr>
<td><strong>Other expenditure:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>statutory redundancy payments etc</td>
<td>13</td>
<td>7</td>
</tr>
<tr>
<td>special redundancy scheme</td>
<td>19</td>
<td>14</td>
</tr>
<tr>
<td>Exchequer cost of lower tax and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>NI yield</td>
<td>17</td>
<td>9</td>
</tr>
<tr>
<td>British Airway's investment</td>
<td>-</td>
<td>90</td>
</tr>
<tr>
<td>British Airway's operating loss</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(net of depreciation) over 10 years</td>
<td></td>
<td></td>
</tr>
<tr>
<td>to 1986</td>
<td>-</td>
<td>110</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>116</td>
<td>361</td>
</tr>
<tr>
<td><strong>Compensation</strong></td>
<td>0-150</td>
<td>-</td>
</tr>
</tbody>
</table>

Notes:
All figures are £m, at January 1974 prices. Interest on capital is excluded.
The Social and Regional Consequences of Cancelling Concorde

An interdepartmental group of officials examined the social, general industrial and regional implications of cancelling Concorde.

The group concluded that if a decision were made to cancel Concorde in the summer of 1974, about 13,400 of the 21,700 people employed on the project would be made redundant, at Bristol (8,000), Weybridge (2,500) and Hurn (400), with a further 2,500 spread throughout the country. In addition, 900 consequential redundancies would occur in the Bristol area among supply and service industries.

At both Weybridge and Hurn the prospects of other employment were good; but at Bristol special measures were justified to reinforce the employment and training services available. These should not take the form of granting assisted area status to Bristol, because of the repercussions this step would have in South Wales and elsewhere. The group saw no scope for moving other aircraft or defence work to Bristol to provide employment at the Filton works, but recommended that if a decision were taken to cancel Concorde, urgent discussions should be held with the British Aircraft Corporation (BAC), Rolls Royce and the local authorities to ensure that the land and buildings were released to new enterprises as quickly as possible. Consideration should be given to making finance for new buildings available through the local authorities and to the use of Section 8 of the Industry Act 1972. For a limited period industrial development certificates should be issued in Bristol more freely than hitherto.

The group recommended that substantial redundancy payments on top of the statutory entitlement, at a cost to the Exchequer of about £16 to £22 million, should be made to all BAC and Rolls Royce workers made redundant by the cancellation of the Concorde project as part of the terminal payments under the contract. They also suggested that for a period of 6 months after a decision to cancel Concorde the Department of Employment's employment transfer scheme should be applied to Bristol as though it were an assisted area (at a cost to the Exchequer of about £800,000), and that the Manpower Services Commission should be asked to consider the introduction there of any special training programme that might be desirable.
The Effect on the Aircraft Industry of Cancelling Concorde

An interdepartmental group of officials examined the effect which a decision to cancel Concorde would have on the size and shape of the United Kingdom aircraft industry.

The aircraft industry employs about 190,000 people in 3 broadly equal sectors - airframes, where the British Aircraft Corporation (BAC) and Hawker Siddeley Aviation (HSA) account for 85 per cent of the sector; aero-engines, almost entirely Rolls Royce (RR71); and equipment, in 15 major and many smaller firms.

The group assessed that the immediate effect of cancellation of Concorde in 1974 would be:

a. Airframes. The loss of 10,000 out of 63,000 jobs, almost entirely in the commercial division of BAC. The rest of the industry would however be unaffected.

b. Aeroengines. Loss of 3,100 jobs out of 59,000 in RR71.

c. Equipment. Loss of 3,200 out of 70,000 jobs; the lost jobs would be dispersed through a large number of firms, which would individually be little affected.

d. A balance of 5,400 jobs would be lost amongst subcontractors and other firms.

The group concluded that the Concorde programme thus represented only a small part of the load on the aircraft industry, most of whose work would be unaffected by its cancellation. The longer term future of the industry was more uncertain, but depended less on the Concorde programme than on the success of other current projects, the possibility of finding new civil projects, and the outcome of the defence review. The industry seemed bound to contract, but should continue to operate effectively at least for the next 10 years. Further study was needed of how this contraction should be handled. Meanwhile the group recommended that work should be put in hand on merging the main airframe interests (reducing the number of design teams), on studies to reduce overheads, mainly through the use of fewer sites, and on obtaining more sub-contract work to make use of surplus productive capacity.
Following the Secretary of State for Industry's statement in Parliament on 18 March, representations have been received from:

- The Lord Mayor of Bristol and delegation of local interests
- The Economic Committee of the Trades Union Congress (TUC)
- The Economic Planning Council for the South West Region
- The Confederation of Shipbuilding and Engineering Unions (CSEU)
- The British Aircraft Corporation
- The Society of British Aerospace Companies

and a number of local industrialists, trade union leaders, and the Bishop. Most support continuing with the project: only 2 - the Anti-Concorde Project and the Federation of Heathrow Anti-Noise Groups want cancellation.

The TUC have strongly urged the need to carry on at least until the aircraft enters service and the damaging effects of cancellation on employment and the aircraft industry, and have stressed the uncertainties to which British Airways' (BA's) forecasts of operating losses must be subject. The CSEU argue strenuously the technological achievement that Concorde represents, challenges BA's assessment, and warns that the CSEU "will not passively allow the cancellation or rundown of this important project". The Economic Planning Council draws attention to the grave adverse consequences for the region of releasing a large number of skilled workers, either from cancellation or from closing the programme at 16 aircraft.
Other general arguments advanced in favour of Concorde are -

i. supersonic passenger aircraft will come, even if we pull out now; but we shall have sacrificed our lead;

ii. the waste of skilled resources implied by cancellation, and serious damage to our engineering reputation, which would affect many of our exports;

iii. the launching of new technology is always expensive, but the return comes over a long period;

iv. our reliability as a partner in collaborative ventures, upon which we must increasingly rely for future aircraft projects, would be severely damaged by a unilateral withdrawal.
British Airways (BA) have said that they do not disagree with the British Aircraft Corporation's claim that Concorde operations by themselves, and given all favourable assumptions, could prove profitable. In evaluating the effect on their finances of operating Concorde they assumed as their basic case that they and Air France (AF) would be the sole operators, and that favourable assumptions about routes, fares and the reaction of their competitors would all be met. On this basis they estimate that they would break even on Concorde operations alone (with a load factor of 55 per cent), but that some Concorde passengers would be drawn from their own subsonic operations, and the effect of this would be to worsen their overall results in a typical year by about £9 million. On more pessimistic assumptions, eg if Concorde were unable to offer a competitive service on long-haul routes and if the projected levels of new business failed to materialise, these results might be worsened by up to £40 million in a typical year; BA's best judgement between these extremes is a deterioration of about £25 million in a typical year.

If 16 aircraft are constructed, 5 will be available for other airlines to operate in direct competition with BA. On that basis, on favourable assumptions BA's Concorde operations are estimated to lose £6 million in a typical year and on less favourable assumptions, £29 million; their best estimate is a deterioration of £27 million. This amount, adjusted to exclude any allowance for depreciation of capital investment and reduced to 1974 prices, produces the total loss of £110 million over 10 years quoted in Appendix A.

AF's most recent estimate of Concorde operations without supersonic competition predicts an operating loss of £16 million in a typical year. BA estimate, on the basis of information made known in confidence to them by AF, that the results of AF's own subsonic operations would also be worsened by about £16 million per annum.
<table>
<thead>
<tr>
<th></th>
<th>BA Results</th>
<th>AF Results</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>11 produced</td>
<td>16 produced</td>
</tr>
<tr>
<td>Concorde operations</td>
<td>break-even</td>
<td>-6</td>
</tr>
<tr>
<td>Subsonic operations</td>
<td>-9</td>
<td>-9</td>
</tr>
<tr>
<td>Total</td>
<td>-9</td>
<td>-15</td>
</tr>
<tr>
<td>Pessimistic assumptions</td>
<td>-40</td>
<td>-38</td>
</tr>
<tr>
<td>Best guess</td>
<td>-25</td>
<td>-27</td>
</tr>
</tbody>
</table>
I circulate herewith for the information of my colleagues a document on Democracy in the National Health Service. It has been approved by Social Services Committee. I intend to publish it as a basis for consultations, although it also announces certain firm decisions about Community Health Councils (paragraph 23). I am arranging for publication on the earliest possible date, which will probably be at the end of next week.
DEMONCACY IN THE NATIONAL HEALTH SERVICE

MEMBERSHIP OF HEALTH AUTHORITIES

Introduction

1. The Government announced in the Queen's Speech its intention to review the working of the reorganised National Health Service. The Secretary of State for Social Services has made it clear that the Government consider the system of management which started to operate in the reorganised Service on 1 April 1974 to be undemocratic and out of tune with the needs of local communities.

2. It would have been quite impracticable for the Government which took office on 5 March to defer the date of operation of the reorganisation. Arrangements were far advanced, delay would have caused severe disruption which would have put at risk the health of individual patients and the public to whom our first responsibility lies. The Government is also acutely aware of the uncertainties and stresses which staff in the National Health Service are inevitably facing at the present time, and has no wish to add to them. The Government is therefore not proposing any fundamental structural changes in the reorganised Service now, though it will keep its working under review and propose whatever changes seem desirable in the light of experience.

3. In the short term, however, within existing legislation and without disturbing appointments already made, changes can and should be made to make the Service more responsive to the views of the people it serves. The Government also believes that changes are needed to take greater account of the contribution which all those who work in the Service can make to its management. This Paper explains why the Government is not satisfied with the present arrangements in England, and sets out its proposals for changes. The position in Scotland and Wales will be dealt with separately.

The democratic process and the National Health Service

4. The Labour Government published Green Papers, one in 1968 (also covering Wales) and another in 1970, aimed at stimulating discussion on the reorganisation of the National Health Service in England. The Conservative Government published a Consultative Document in 1971 and a White Paper in 1972; separate papers were published for Wales. These led to the National Health Service Reorganisation Act 1973 which covered both England and Wales. Many features of this Act were controversial and strongly criticised during its passage through Parliament; criticism concentrated...
on the bureaucratic, appointive and undemocratic nature of the reorganisation. The Local Government Act 1972 for England and Wales, which has had a major influence on the structure of the reorganised health service, was also controversial and did not follow the recommendations of the Royal Commission on Local Government accepted by the previous Labour Government. There has been already, therefore, very extensive consultation on many of the central issues. It is against this background of public and Parliamentary debate that the proposals in this Paper should be assessed.

5. The National Health Service Reorganisation Act 1973 deliberately separates responsibility for managing the health service from responsibility for representing the views of the public as the consumer. This representative function is given to new Community Health Councils (CHCs), one for each health district. Members of CHCs are at present debarred by the Act from serving as members of Area Health Authorities (AHAs) or Regional Health Authorities (RHAs) and have no executive powers. The health districts in some cases cover very large areas. The boundaries have been defined administratively by central government within the context of health care. The boundaries of the local government district authorities, which are responsible for housing and environmental health, have in turn been drawn up in the light of local government considerations. The health districts and local government districts in consequence bear in many cases no relation to each other, which presents some administrative problems and makes any direct democratic representation on Community Health Councils difficult to achieve. The Government do not accept that it is possible or desirable to make such a clear-cut distinction between management of public services and representation of consumer interests and views. Our whole national democratic process as it has evolved over the years is a complex interweave of management and representation. While there are at times considerable advantages in the clear definition of responsibility and even the separation of functions, to embark on total separation is to challenge in a fundamental way the essence of democratic control.

6. The Government's objective is to develop a structure for the National Health Service which will allow real devolution to those operating the service locally without detailed intervention from Whitehall or from the region. This is only acceptable if there is a strong democratic element in the local administration to reinforce the national democratic control already provided by the Secretary of State's responsibility to Parliament. The same principles apply to the region. In marrying national with local democracy, and national responsibilities with local devolution, we need to consider several inter-related matters - the role of CHCs; the constitution of AHAs and RHAs and the role of their members; and the mechanisms through which the Secretary of State's national responsibilities can best be discharged without
unnecessary involvement in local and regional affairs or in matters which are primarily
the concern of the health professions themselves.

7. This paper contains proposals on all the subjects mentioned in paragraph 6 except
those relating to the Secretary of State's national responsibilities. The setting
of standards and redressing inequalities of care and provision in the health and social
services are fundamental responsibilities of central Government. The Secretary of
State needs to be kept informed about the state of the services and the quality of care
and to ensure that appropriate action is taken to remedy deficiencies. There are many
different means for doing this. A major method is the selective allocation of scarce
national resources. Methods also need to be further developed for providing those
working in the field with any necessary advice for improving the services in the
public interest. This is relevant not only to the NHS, but also to related services
including those which are provided by local authorities. Proposals on these subjects
will be announced separately as soon as possible for consultation with the interests
concerned.

Role of Community Health Councils

8. The structure and role of the Community Health Councils is of vital importance.
The previous Government extensively revised their original proposals for CHCs, so as
to make them more representative of community interests. The relevant London
borough, county and district councils, together with the local voluntary organisations
(selected by the Regional Health Authority after consultation with the appropriate
local authorities), now directly appoint five-sixths of the membership of each Council.
The Councils are also more independent of the Area Health Authority than originally
proposed; and there is provision in the Act for the establishment of a national body
to advise and assist the Councils. The CHCs have been given powers to obtain
information about the health services in their district and to enter and inspect
hospitals and other health premises, and they must be consulted before decisions are
taken on any substantial development or variation in services. The District Manage­
ment Team (DMT) - a small group of senior health service officers and practising
doctors which is responsible to the Area Health Authority (AHA) for the management of
most health services in the district - is expected to establish close working relation­
ships with the CHC but there is no formal link. Each CHC has a direct relationship
with the chairman and members of the AHA who are required to meet the CHC at least
once a year. The CHC will make an annual report on its activities to the Regional
Health Authority (RHA) which the CHC itself will publish, and on which the AHA must
publish its comments including an account of steps taken on advice or proposals put
to it by the Council. In addition, the meetings of CHCs, AHAs and RHAs will be open
to the public and the press in the same way as meetings of local authorities.

9. These are innovations intended to provide a new means of representing public opinion on the health services to the authorities responsible for managing them, and more public reporting by the press. The task now is to develop the CHCs into a powerful forum where consumer views can influence the NHS and where local participation in the running of the NHS can become a reality. It will be important to establish a constructive dialogue between the CHC and the DMT of its district. It is particularly important that CHCs should be consulted about developments in the services in their district at a formative stage when their views can influence decisions. Both CHCs and DMTs are new concepts and need time to establish their own working methods and mutual relations, which should evolve in the light of experience. The Government does not wish to impose a rigid pattern nor to rule out local experimentation and variation; it will however take a particular interest in the ways in which CHCs are consulted on developments, and will consider in the light of experience whether more detailed guidance on this is needed.

10. The Government has already reached certain decisions which will strengthen the role of CHCs. These, together with proposals for a National Council to advise and assist CHCs, are set out in paragraphs 23-24.

Constitution of AHAs

11. The 1973 Act provides for consultation and collaboration between AHAs and local authorities. They provide services which are closely related but separately administered. Given this separation of functions, the new arrangements for joint planning and consultation through statutory Joint Consultative Committees (JCCs), supported by groups of officers, are certainly needed. But there are fewer elected local authority members serving as members of AHAs than were envisaged in 1970, and the Government consider this to be a serious weakness in the present arrangements. In particular, outside the metropolitan districts and the London boroughs, there are no arrangements for ensuring the appointment to AHAs of members of the district authorities responsible for housing and environmental health. At present most AHAs have 4 members directly appointed by the county, metropolitan district or London borough councils; a few have from 5 to 8. The Government wishes a third of the members of each AHA to be members of local authorities, the proportion proposed in the 1970 Green Paper. Proposals for increasing the number of local authority members and for providing a direct link with the membership of the CHCs are in paragraph 18.
12. The Government also believes that it is essential that the National Health Service should take more account of the contribution which all those who work in the service can make to its management. In addition to the development of procedures for effective staff consultation, it would like to see members of AHA's drawn from amongst all who work in the health service in addition to doctors and nurses who already serve. Proposals to this end are made in paragraph 22.

13. The proposals in paragraphs 18-22 would mean an increase in the size of AHA's. At present most have about 15-19 members, eight have more than 21 and the largest has 28. Implementation of the new proposals would mean that 59 of the 90 AHA's in England would have 25 members or less. Their strict application would produce a number of AHA's with more than thirty members. The Government is conscious of the undesirability of authorities becoming too large. For these authorities, a balance must be struck between the desirability of increasing the elected membership and avoiding the creation of unwieldy authorities; the Government will give special consideration to this in making decisions on their total membership. There will be opportunity to look again at the total and balance of membership within AHA's when the tenure of those already appointed ends in three years time.

Regional Health Authorities

14. The Government is considering urgently the report of the Royal Commission on the Constitution in relation to Scotland and Wales, and will be making proposals. These may affect the health service. The Royal Commission's report will also be studied in relation to England. In view of this the Government is making no proposals at present for changes in the functions of the English RHA's. The number of members drawn from local authorities at present varies considerably from one RHA to another. The Government wishes to secure that each RHA has about one third of its members drawn from local government. Proposals for the addition of more local authority members and of staff are made in paragraphs 20 and 22.

Role of the Members of Health Authorities

15. The Government does not believe that it would be in the interests of the health service if members drawn from other organisations or groups were to act as a lobby either within the health authority or within the body by which they were nominated. All members of health authorities should participate fully and objectively in the counsels of the authority and must share equally in responsibility for all its decisions and its use of resources provided by the Secretary of State with the
authority of Parliament. It will not be their responsibility to represent local
authority, staff or Community Health Council interests.

16. Members from local authorities will bring with them their knowledge of related
local government services, and provide a link with the people whom they have been
elected to represent on the local authority. Cross-membership will enrich the
contribution members can make to both the bodies on which they serve, and their first
hand knowledge of each will enable them to promote an informed understanding between
authorities. This will be particularly valuable and will reinforce - but in no
way replace - the vital network of working relationships and statutory consultation
between health and local authorities in which the Joint Consultative Committees have
the central role.

17. NHS staff members will contribute their individual knowledge and working experience.
They will be aware of the views of their fellow workers, and will help to ensure that
authorities are fully responsive to the importance of staff relations in all aspects
of their work. They will provide a valuable complement to the statutory professional
advisory committees and also to the separate arrangements for staff consultation, the
development of which the Government regards as highly important.

Proposals

(i) Membership of Health Authorities

18. As a general rule, each CHC should elect two of its own members, at least one
of whom would be a district councillor, to be appointed by the RHA to serve for 2
years as a member of the AHA responsible for the CHC's district; CHCs in single-
district areas should elect four of their members including at least two district
councillors, providing a minimum of four CHC members for each AHA. To ensure that
one third of the total membership of the AHA is drawn from local government one or
two additional appointments should where necessary be made by the local authority or
authorities matching the AHA. As mentioned in paragraph 13 these arrangements will
need to be modified in areas where the result would otherwise be large AHAs.

19. The 1973 Act precludes members of CHCs serving on AHAs so that unless the Act
were amended members elected from the CHC would have to resign from the CHC while
serving on the AHA; it would be desirable that they should, wherever possible, then
be reappointed to the CHC. There are arguments for and against a member of a CHC
serving simultaneously on the AHA; the Government would welcome views on this in the
light of which it will consider whether legislation should be introduced to allow
concurrent membership.
20. Additional appointments should be made by the Secretary of State to Regional Health Authorities to ensure that one third of the members of each RHA are councillors drawn from local authorities matching the AHAs. In the first instance it will probably be necessary to invite nominations from all such authorities which do not have a member already on the RHA and for the Secretary of State to select those to be appointed, but the Government proposes that in future the local authorities concerned should arrange among themselves to nominate whatever number of councillors the Secretary of State determines for appointment by her to each RHA.

21. AHAs already have a minimum of two doctors and one nurse amongst their members, appointed by the RHAs after consultation with the professional organisations. Such appointments will continue but the Government believes that it would be preferable for the professions themselves to elect or nominate the persons to be appointed instead of putting forward a larger number of names from which the RHA selects. Similar arrangements for appointment of medical and nursing members of RHAs would in the Government's view also be desirable. The Government will welcome the views of the professions on this and on methods of election or nomination, which might perhaps be linked to the procedures evolved by these professions for elections to Medical and Nursing Advisory Committees under Section 8 of the 1973 Act.

22. Two members drawn from staff employed in the NHS, other than doctors and nurses, should be appointed by the RHA to each AHA and by the Secretary of State to each RHA. The Government will consult staff interests through the Staff Side of the NHS General Whitley Council on methods of choosing these members. The Government believe it is for the staff interests to decide whether or not to have direct elections, and if they so wished the Government would arrange for AHAs and RHAs to conduct them. A maximum of two such members is fixed with regard to the existing number of medical and nurse members and the need not to make the authorities too large as explained in paragraph 13.

(ii) Community Health Councils

23. The decisions referred to in paragraph 10 which the Government has already taken to strengthen the role of Community Health Councils are:-

(a) Because of the very important part their Secretaries will have in influencing how successful the CHCs will be, the posts should be filled by open competition so as to give the greatest possible scope for attracting suitable candidates;

(b) One or more spokesmen of the DMT should attend CHC meetings when invited, where they would answer questions in public session;
(c) In addition to the arrangements described in paragraph 18, CHCs should be among the bodies consulted by RHAs before making appointments to AHA's; the Government hopes that RHAs will attach weight to prior service on a CHC;

(d) In future appointing bodies should not feel inhibited from inviting NHS employees or family practitioners to serve as members of CHCs unless they are also members of Regional or Area Teams of Officers or District Management Teams; it will be for each individual to decide whether to accept an invitation;

(e) CHCs should have a special responsibility in relation to hospital closures. The Government is currently reviewing the procedures for consultation on proposed closures. But the establishment of CHCs enables it to make one change in the present arrangements without further delay. Guidance already issued to health authorities makes it clear that CHCs should be consulted about all hospital closures. At present all closures are subject to specific authorisation by the Secretary of State. In future where the CHC accepts the proposed closure this authorisation will not be required. If a CHC wishes to object to closure then it will be expected to make a detailed and constructive counter-proposal, with full regard for the factors, including restraints on resources, which have led the health authority to propose the closure.

These are firm decisions, about which health authorities have already been informed, and are not proposals for consultation.

24. In addition the Government considers that there should be a National Council, with a budget drawn from central Government funds, to advise and assist CHCs. It believes that such a body could make a vital contribution towards enabling the CHCs effectively to fulfil their role as the local representatives of the users of health services. It would provide a national voice for CHCs; it could, for example, arrange conferences for members and staff of CHCs, promote and if necessary finance research into methods of ascertaining the views of users of the health services, and undertake or arrange surveys of user opinion on behalf of CHCs. To be effective it would need its own Director and this would be a key appointment. The Government hopes and believes that CHCs will welcome the establishment of a representative National Council and it intends to enter into discussion with them as soon as is practicable about arrangements to this end.
25. In the light of comments received on the proposals in paragraphs 18-24, the Government will take action as soon as possible, including laying before Parliament the orders necessary to increase health authority membership. Written comments on these proposals should be addressed to Division HS1C, Department of Health and Social Security, Room A507, Alexander Fleming House, London, SE1 6BY. Comments are requested not later than 31 July 1974.
CABINET

SPECIAL ADVISERS TO MINISTERS: POLITICAL ACTIVITIES

Memorandum by the Lord President of the Council

1. At our meeting on 16 May (CC(74) 16th Conclusions) we discussed the rules governing the political activities of Special Advisers to Ministers. I was invited to circulate a memorandum examining the matter further. Our general objective was to remove the inhibitions on Special Advisers taking part in political activities solely because they are paid from public funds while maintaining sufficient defences against a conflict of interest.

PARLIAMENTARY CANDIDATURE

2. The Servants of the Crown (Parliamentary Candidature) Order 1960 (copy attached) at present provides that anyone who is "employed in the Civil Service of the Crown, whether in an established capacity or not, and whether for the whole or part of his time" (other than certain specifically excepted categories such as industrial grades) shall not "issue an address to electors or in any other manner publicly announce himself or allow himself to be publicly announced as a candidate or prospective candidate for election to Parliament for any constituency". In practice, therefore, civil servants, including Special Advisers paid from public funds, have been required to resign on being adopted as Parliamentary candidates.

3. The existence of this Order puts the question of Parliamentary candidature in a special category compared with other aspects of political activity. If Special Advisers who are prospective Parliamentary candidates are to continue to be paid from public funds, the only solution would be to amend the Order so as to extend to cover Special Advisers the exclusions set out in paragraph 1(2) of the Order. For this purpose, it would be necessary to amend or replace the Order; but since it is an Order in Council made under Royal Prerogative, it is not subject to Parliamentary control in the manner of some subordinate legislation, except of course to the extent that Ministers are responsible to Parliament for the advice given to Her Majesty. It would no doubt be appropriate to draw the attention of Parliament to what we proposed to do.
4. It would also be desirable to explain the situation to the Staff Side, who have never fully endorsed the need for formal restrictions on political activities of civil servants, and might not react favourably to less restrictive treatment for Special Advisers in this respect.

5. If the rules on candidature are revised, it will still be necessary for anyone employed, whether in an established capacity or not and whether for the whole or part of his time, in the Civil Service to resign by Nomination Day if he wishes to stand for Parliament. This is necessary because the House of Commons Disqualification Act 1957 disqualifies civil servants (whether temporary or permanent) from membership of the House of Commons and renders void the election of the person who stood while being disqualified.

MEMBERSHIP OF LOCAL AUTHORITIES

6. The extent to which civil servants may take part in local government is a matter for Departmental discretion. The main consideration is the risk of conflict of interest between the officer's official duties and his local government activities. In the case of Special Advisers, there is a risk of conflict not only with the duties he carries out for his own Minister, but with aspects of Government policy affecting local authorities which are the responsibilities of other Ministers. Moreover, there might be public comment if a decision of the Minister for whom the Special Adviser worked appeared to be favourable to the council of which he was a member.

7. It would be possible within the discretion allowed to Departments to permit Special Advisers to serve on local authorities. But the decision should be taken in each case by the Minister concerned and he would have to accept responsibility for ensuring that no questions of conflict arose either with the policies for which he was responsible or those of his colleagues. A Special Adviser allowed to serve on local authorities would have to agree to observe the following ground rules:

   a. He should not speak publicly or in the council on matters for which his own Minister had responsibility.
   b. He should not serve on any committee considering such matters.
   c. He should not take part in deputations or other representations to the Minister.
   d. He should declare an interest in relation to any case or application which comes before the council and in which his Department is involved.
   e. He should observe great discretion in relation to policies for which other Ministers are responsible, in order to avoid causing them embarrassment.
   f. He should not prematurely disclose to the council information which he obtained in the course of his duties.
POSITION OF PEERS

8. The Civil Service rule is that Peers in the politically restricted group who wish to take part in a debate in the House of Lords should seek prior permission from their Establishment Officer. They are barred from speaking in any debate that could be considered controversial in a Party political sense. There is thus no reason why a Peer should not act as a Special Adviser provided he does not speak or vote in the House of Lords on matters of Party political controversy without permission of his Minister.

CONCLUSION

9. My further study of this matter reveals no insuperable obstacle to the relaxation of the rules governing the political activities of Special Advisers which we had in mind though I think it more likely than not that, notwithstanding any ground rules, difficulties will arise in individual cases. As we tentatively concluded, it would be desirable to discuss the matter with the Opposition before the changes are announced.

E S

Privy Council Office

22 May 1974
AT THE COURT AT BUCKINGHAM PALACE

The 11th day of May, 1960

Present,

THE QUEEN’S MOST EXCELLENT MAJESTY

IN COUNCIL

Whereas by the Servants of the Crown (Parliamentary Candidature) Order, 1950, provision was made for regulating the right of servants of the Crown to become candidates at Parliamentary elections;

And whereas it appears expedient to Her Majesty, on representations made to Her by the Treasury, the Secretary of State for Foreign Affairs, the Admiralty, the Army Council and the Air Council, to make further provision in relation to the matter aforesaid:

Now, therefore, Her Majesty is pleased, by and with the advice of Her Privy Council, to order; and it is hereby ordered, as follows:—

1.—(1) Subject to the provisions of paragraph (2) of this Article, this Order shall apply to any person who for the time being is employed in the civil service of the Crown, whether in an established capacity or not and whether for the whole or part of his time, or is a member of any of the regular armed forces of the Crown or an officer of the Territorial Army in receipt of a consolidated allowance under the Regulations for the Territorial Army.

(2) This Order shall not apply to:

(a) a person, being an officer on the retired or emergency list of any of the regular armed forces of the Crown, or holding an emergency commission in any of those forces, or belonging to any reserve of officers of any of those forces, by reason of his being a member of those forces;

(b) a naval, army, marine or air force pensioner, who is recalled for service for which he is liable as such, by reason of his being a member of the regular armed forces of the Crown;

(c) an Admiral of the Fleet, a Field Marshal or a Marshal of the Royal Air Force, if he does not for the time being hold an appointment in the naval, military, air or civil service of the Crown;

(d) a person who is a member of the Royal Observer Corps, by reason of his being such a member, unless he is employed as such for the whole of his time;

(e) a person employed in an industrial grade or in such a grade as may from time to time be certified by the Department concerned with the approval of the Treasury to be an industrial grade for the purposes of this Order;

(f) a person employed in such a grade as may from time to time be certified by the Department concerned with the approval of the Treasury to be a minor and manipulative grade for the purposes of this Order, not being a person employed in a constabulary under the control of the Admiralty, Army Council or Air Council.
2. Subject to the provisions of Article 3 hereof, no person to whom this Order applies shall issue an address to electors or in any other manner publicly announce himself or allow himself to be publicly announced as a candidate or prospective candidate for election to Parliament for any constituency.

3. A person who is, by virtue of the National Service Act, 1948, serving for a term of whole-time service in the Royal Navy, the Royal Marines, the Army or the Royal Air Force, may publicly announce himself or allow himself to be publicly announced as a candidate or prospective candidate for election to Parliament for any constituency, but shall not, while so serving, issue an address to electors or in any other way actively participate in any political activities.

4. In this Order the following expressions have the meanings hereby respectively assigned to them:—

"civil service of the Crown" includes Her Majesty's Foreign Service;
"regular armed forces of the Crown" means the Royal Navy, the regular forces as defined by section 225 of the Army Act, 1955, the regular air force as defined by section 223 of the Air Force Act, 1955, the Women's Royal Naval Service, Queen Alexandra's Royal Naval Nursing Service and Voluntary Aid Detachments serving with the Royal Navy.

5.—(1) This Order applies to women as it applies to men.
(2) The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

6.—(1) This Order may be cited as the Servants of the Crown (Parliamentary Candidature) Order, 1960.
(2) The Servants of the Crown (Parliamentary Candidature) Order, 1950, is hereby revoked.

W. G. Anew.