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TELEGRAM NUMBER 41 OF 6 JANUARY 1982

INFO PRIORITY PARIS, BONN, UKDEL NATO, DOT, MODUK,
INFO SAVING OTHER EC POSTS.OUR TELEGRAMS NOS 22 AND 23: U.S. MEASURES AGAINST THE SOVIET UNION.

1. THERE IS STILL SOME UNCERTAINTY IN THE MINDS OF ADMINISTRATION OFFICIALS ABOUT THE EXACT APPLICATION OF THE NEW EXPORT CONTROLS. THE POSITION MAY BECOME CLEARER AT THE END OF THIS WEEK AND AT NEXT WEEK'S NATO MEETING. IN THE MEANTIME, OUR OWN ASSESSMENT IS AS FOLLOWS.

2. FOR THE TIME BEING, WHERE EXPORTERS HAVE ALREADY OBTAINED VALIDATED U.S. LICENCES, CONTRACTS BETWEEN THE SOVIET UNION AND ON THE ONE HAND U.S. COMPANIES AND, ON THE OTHER, FOREIGN FIRMS WHOSE PRODUCTS CONTAIN LICENSABLE U.S. COMPONENTS WILL BE ALLOWED TO PROCEED. BUT WHERE THE GOODS CONCERNED HAVE NOT YET BEEN SHIPPED, (WHETHER FROM THE U.S. OR ANY THIRD COUNTRY), THE ADMINISTRATION CLEARLY RETAIN THE OPTION TO REVOKE VALIDATED LICENCES WHICH HAVE ALREADY BEEN ISSUED.

3. THE COROLLARY IS THAT WHERE A LICENCE HAS NOT YET BEEN ISSUED, NONE WILL BE FORTHCOMING, WHATEVER THE STATE OF THE CONTRACT AND WHATEVER THE LEGAL OR FINANCIAL COMPLICATIONS FOR THE FIRMS CONCERNED (BUT SEE PARAGRAPH 6 BELOW).

4. WE DO NOT THINK THAT THE NEW CONTROLS, INCLUDING THOSE ON OIL AND GAS EQUIPMENT, WILL AT PRESENT APPLY TO GOODS MANUFACTURED UNDER LICENCE OUTSIDE THE U.S. BUT AGAIN THE ADMINISTRATION RETAIN THE OPTION TO EXTEND CONTROLS TO THIS KIND OF PRODUCT (AND WILL BE THE MORE INCLINED TO DO SO IF THEY CONSIDER THERE IS CIRCUMVENTION OF THEIR CURRENT CONTROLS).

5. THE SUSPENSION OF LICENSING OF GOODS FOR THE SOVIET UNION APPLIES TO ANY LICENSABLE U.S. COMPONENTS, EVEN THOUGH THESE MAY ALREADY BE OUTSIDE THE U.S. AND PROVIDED NO U.S. LICENCE HAS ALREADY BEEN ISSUED FOR THEIR RE-EXPORT TO THE USSR.

6. OUR JUDGEMENT IS THAT THE ADMINISTRATION MIGHT CONCEIVABLY BE PREPARED TO MAKE A RARE EXCEPTION IN A CASE INVOLVING PARTICULAR HARDSHIP AND IN A RELATIVELY INNOCUOUS PROJECT. BUT THE SUPPORTING ARGUMENTS WOULD NEED TO BE VERY GOOD. I DOUBT IF THE ADMINISTRATION WOULD ENTERTAIN ANY HARDSHIP ARGUMENT IN MOST CASES, INCLUDING PARTICULARLY THE SIBERIAN GAS PIPELINE PROJECT.

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7. AS TO THE KIND OF ACTION BY THIRD COUNTRIES WHICH THE ADMINISTRATION WOULD REGARD AS UNDERMINING THEIR MEASURES, THEY ARE STILL THINKING THIS THROUGH. THE MOST OBJECTIONABLE CASE WOULD OBVIOUSLY BE THE STEPPING IN OF A FOREIGN FIRM TO TAKE UP A CONTRACT , EVEN IN A MODIFIED FORM, LOST BY A U.S. FIRM AS A DIRECT RESULT OF THE SANCTIONS. IN THE WAKE OF THE ECONOMIC SANCTIONS IMPOSED FOLLOWING THE SOVIET INVASION OF AFGHANISTAN, THE AMERICAN REACTION WAS BLUNT WHEN THE FRENCH AND GERMANS TOOK UP SOVIET CONTRACTS FOR ALUMINIUM AND STEEL PLANTS LOST BY U.S. FIRMS. THE STRAIGHTFORWARD REPLACEMENT OF U.S. COMPONENTS BY FOREIGN ONES IN BRITISH EQUIPMENT DESTINED FOR THE SIBERIAN GAS PIPELINE, WHILE NOT AS FLAGRANT, WOULD STILL CAUSE A REACTION HERE GIVEN U.S. DISLIKE OF THE PROJECT AS A WHOLE. WE COULD EXPECT THE PRESS TO EXACERBATE THE SITUATION IF THEY GOT WIND OF SUCH A THING. IN OTHER TYPES OF CONTRACT, THE REPLACEMENT OF U.S. COMPONENTS BY FOREIGN ONES MIGHT NOT BE SEEN AS DIRECTLY UNDERMINING THE U.S. MEASURES. BUT THEIR REACTION WOULD DEPEND ON THE TYPE AND SCALE OF BUSINESS CONCERNED AND THE DEGREE OF PUBLICITY INVOLVED.

8. WE EXPECT THAT THE ADMINISTRATION WILL, IN THE SHORT TERM, SEEK TO APPLY THE NEW EXPORT CONTROLS VERY RESTRICTIVELY INDEED. WE MIGHT SEE SOME EASING OF THESE IN THE LONGER TERM PROVIDED EVENTS IN POLAND DO NOT LEAD TO A FURTHER TIGHTENING.

9. IT SEEMS LIKELY THAT THE U.S. MEASURES AGAINST THE SOVIET UNION WILL LEAD TO A TIGHTENING OF CONTROLS MORE GENERALLY ON EXPORTS TO EASTERN EUROPE. WE SHALL, THEREFORE, PROBABLY BE FACED WITH MORE DELAYS IN OBTAINING AMERICAN APPROVALS IN COCOM FOR UK EXPORTS TO EASTERN EUROPE. BRITISH FIRMS MUST ALSO FACE DELAYS OVER THE PROCESSING THE APPROVAL OR DISAPPROVAL BY THE ADMINISTRATION OF LICENCE APPLICATIONS.

FCO PASS SAVING ATHENS, BRUSSELS, COPENHAGEN, DUBLIN, LUXEMBOURG, ROME, THE HAGUE, UKREP BRUSSELS.

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