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TO IMMEDIATE FCO
TELEGRAM NUMBER 730 OF 1 MARCH

ADVANCE COPY

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MY TELNO 720

LAKER SETTLEMENT

1. PARK (LINKLATERS) AND MARSHALL (BA) REPORTED ON THIS AFTERNOON'S MEETING WITH DRAPER (EXIMBANK). THE MEETING HAD GONE VERY BADLY WITH EXIMBANK REITERATING THEIR FAMILIAR ARGUMENTS AND CONTINUING TO INSIST ON POST LIQUIDATION INTEREST. PARK AND MARSHALL SAID THAT IT WAS AS IF NOTHING HAD HAPPENED OVER THE PAST 10 DAYS.

2. BA HAD BEGUN AS A GOODWILL GESTURE BY HANDING OVER A LETTER SAYING THAT THEY WOULD NOT DRAW DOWN DOLLARS 28M OF THE LOAN DUE TODAY, AND HAD STRESSED THAT SINCE THE MORNING ALL OF THE OTHER FINANCE CREDITORS WERE COMMITTED IN WRITING TO THE PROPOSED SETTLEMENT. DRAPER HAD SAID THAT EXIM WERE NOT INTERESTED IN THE OFFER OF DOLLARS 250,000 PLUS NO DRAW DOWN WHICH EXIM NOW ESTIMATED TO BE WORTH ONLY DOLLARS 10M RATHER THAN DOLLARS 14.7M WHICH WAS THEIR PREVIOUS ESTIMATE. BA URGED EXIM, HAVING REJECTED BA'S OFFER, TO MAKE A COUNTER OFFER AND DRAPER PROPOSED DOLLARS 25M IN CASH PLUS DOLLARS 25M IN OTHER FORMS OF PAYMENT OF WHICH THE UNDERTAKING NOT TO DRAW DOWN ON THE EXIMBANK LOAN WOULD COUNT AS DOLLARS 10M. BA HAD MADE IT CLEAR THAT THIS WAS NOT FEASIBLE.

3. IN THE COURSE OF DISCUSSION EXIM SAID THAT THEY DID NOT BELIEVE THAT THE JUDGEMENT OF US COURTS WOULD BE ENFORCEABLE IN THE UK AND TOOK THE LINE THAT HMG WOULD SIMPLY HAVE TO FIND THE SUMS OF MONEY CONSISTENT WITH THE SETTLEMENT TERMS EXIM WERE SEEKING. THEY WERE ALSO VERY SCEPTICAL ABOUT BA'S EXPLANATIONS OF THE JERSEY LAW POSITION AND AGAIN MADE CONSTANT REFERENCE TO SIR FREDDIE LAKER WHO DRAPER REVEALED HAD CONTACTED HIM OR ALLBRIGHT TO ASK ABOUT EXIM'S OBJECTIONS TO HIS RECEIVING PAYMENT. EXIM TOLD BA THAT THEY HAD EXPECTED A NEW PROPOSAL FROM THEM. BA HAD SAID THAT IN VIEW OF THE DISCUSSIONS WHICH HAD TAKEN PLACE OVER THE PAST 10 DAYS THEY HAD UNDERSTOOD THAT ANEGOTIATION ON THEIR EXISTING PROPOSALS WOULD BE POSSIBLE. THE MEETING ENDED WITHOUT ANY AGREEMENT ON A FURTHER MEETING.

4. THE NEGOTIATIONS HAVE CLEARLY RUN INTO THE DIFFICULTY THAT THE AGREEMENT REACHED DURING THE PRIME MINISTER'S VISIT CANNOT EASILY BE QUANTIFIED. EXIM HAVE MADE A SMALL MOVEMENT IN THEIR POSITION BUT THIS CLEARLY REMAINS WAY BEYOND THE BOUNDS OF REALISM. BECAUSE OF THE KNOCK ON EFFECTS ON THE OTHER DEFENDANTS AND CREDITORS OF ANY INCREASE IN BA'S OFFER IT IS CLEARLY VERY DIFFICULT FOR THEM TO MAKE ANY GREAT MOVEMENT TOWARDS EXIM'S POSITION. THE PROBLEM FACING US HOWEVER IS THAT IT IS DIFFICULT FOR US TO GO BACK TO FIELDING, WALLIS OR PRICE TO ASK FOR MORE HELP WHEN EXIM HAVE MOVED BUT BA HAVE NOT. AS OF TONIGHT THE CONDITIONS DO NOT YET APPEAR TO BE THERE FOR ANY SUCCESSFUL POLITICAL INTERVENTION.

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5. WE HAVE DISCUSSED THE POSITION WITH PARK AND MARSHALL WHO ARE WILLING TO GO BACK TO EXIMBANK AND MAKE A SLIGHTLY IMPROVED OFFER AS SOON AS A FURTHER SUITABLE MEETING CAN BE ARRANGED. THEY AND WE AGREE THAT SUCH A MEETING SHOULD BE ON A ONE TO ONE BASIS AS BETWEEN DRAPER AND PARK (OR POSSIBLY MARSHALL) PLUS ONE 'REFEREE'. POSSIBLE NAMES FOR THE 'REFEREE' ARE FIELDING, PRICE, VANCE MOORE (EX WHITE HOUSE COUNSEL) OR ANNENBURG. IT WOULD SEEM TO US HIGHLY DESIRABLE TO ARRANGE SUCH A MEETING FOR 4 MARCH SO THAT A FURTHER POLITICAL INTERVENTION WOULD BE POSSIBLE AFTERWARDS IF IT WERE NOT SUCCESSFUL.

6. IN THE MEANTIME YOU WILL WISH TO BE CONSIDERING HMG'S POSITION AS TO THE MAGNITUDES OF THE SETTLEMENT MONIES WHICH WOULD BE PAYABLE BY BA AS A RESULT OF NEGOTIATIONS WHICH WILL HAVE TO MOVE VERY RAPIDLY NEXT WEEK IF AGREEMENT IS TO BE REACHED BEFORE THE EXPIRY OF THE TRUCE IN THE LAW COURTS. PARK IS SEEKING AN EXTENSION OF THIS BUT SUCCESS CANNOT OF COURSE BE GUARANTEED. AND IF THE DISCOVERY PROCESS IS RESTARTED THE DAMAGE IS LIKELY TO BECOME IRREPARABLE VERY RAPIDLY.

7. I SHALL BE DISCUSSING THE FOREGOING WITH PARK AND MARSHALL AT 10 AM ON 1 MARCH AND SUBJECT TO DISCUSSION WITH THEM PROPOSE TO APPROACH FIELDING TO SUGGEST A ONE-TO-ONE MEETING BETWEEN PARK AND DRAPER ON THE AFTERNOON OF 4 MARCH WHICH FIELDING OR ANOTHER US 'REFEREE' MIGHT ALSO ATTEND.

8. GRATEFUL FOR ANY INSTRUCTIONS DESKBY 011400Z.

9. ADVANCE COPIES TO KNIGHTON HOLMES FORTNAM DTP, BRAITHWAITE O'NEILL GRAY FCO, AUST LEGAL ADVISERS FCO, AYLING DTI, GARDINER LAW OFFICERS DEPT, HEALEY RICKFORD DTI, GREGSON CABINET OFFICE, WILSON TREASURY.

WRIGHT

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