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To collect
 comments please. Chase
 after 10 days.



Prime Minister

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To note at this stage, I
 shall collect comments from
 Ministers for you to consider before
 replying to RTA.

Ref. A085/2392

DRS
 23/9

PRIME MINISTER

DRS
 20/9

Contingency Planning for an Oil Tanker Drivers' Strike

In response to my minute of 3 July last, covering a report by a Working Group of the Civil Contingencies Unit (CCU), you and other Ministers noted that a more flexible plan for servicemen to deliver oil products using oil company delivery vehicles would be prepared, and asked that further work on the legal aspects and on the possibility of obtaining oil delivery vehicles from the oil companies without recourse to requisitioning should be put in hand.

2. The Working Group's second report is attached to this minute. I would draw attention to the following points:

- (a) More flexible plans are now ready but a number of administrative problems remain to be sorted out, mainly relating to accounting for deliveries made by Service drivers both within the oil industry and in the Department of Transport. Further work on these is in train.
- (b) The allocation of priorities for distribution of oil supplies in excess of those needed to maintain the essentials of life will need to be decided at the time, but the drafting of the necessary statutory instruments has been based on the assumptions that the extra supplies will be delivered primarily to industrial and commercial users, with filling stations for non-essential purposes receiving any further supplies that might be available.
- (c) Management of the major oil companies are opposed to making their delivery vehicles available on a voluntary basis. They fear that such action on their part would cause



irreparable damage to relations with their own drivers and prejudice the productivity gains of recent years. The conclusion of the report is therefore that it would be unsound to rely on such an arrangement for contingency planning purposes.

- (d) There would be some risk of a successful challenge to the legality of Ministerial decisions to deliver oil products in excess of those required for maintaining the essentials of life using delivery vehicles requisitioned under the Emergency Powers Act 1920. Enactment of the draft Amending Bill prepared in 1983 should remove that risk. But in the light of previously expressed views the report assumes that Ministers would wish to consider whether to proceed with the draft Amending Bill when an oil tanker drivers' strike was in prospect.

3. I should be grateful to know if you and the Home Secretary, the Chancellor of the Exchequer, the Chancellor of the Duchy of Lancaster and the Secretaries of State for Trade and Industry, Energy, Defence, Scotland, Transport and Employment, to whom this minute is copied, are content with the conclusions in paragraph 11 of the report.

RTA

ROBERT ARMSTRONG

20 September 1985

CONFIDENTIAL

SECOND REPORT BY A WORKING GROUP ON
CONTINGENCY PLANNING FOR AN OIL TANKER DRIVERS' STRIKE

INTRODUCTION

1. In July 1984 Ministers noted a report on the work done by a Working Group of the CCU(CCU(T)) set up to develop contingency planning for an oil tanker drivers' strike. The main conclusions of the report, which was attached to CCU(84)17 (revise), were that:
 - a. subject to certain assumptions - in particular that there is no sympathetic action or picketing and that up to 5,000 Service drivers are made available - it should be possible, after a lead time of some 8-15 days, to make up to about 90% of normal road-borne deliveries using Service drivers;
 - b. again subject to certain assumptions, and again after a lead time, it should be possible to deliver oil sufficient to maintain essential services using only about 1,500 drivers and to deliver supplies equivalent to about 70 per cent of normal using about 3,500 drivers.
2. In the light of that report Ministers asked officials:
 - a. to prepare a more detailed plan to enable the higher levels of delivery to be achieved;
 - b. to explore the possibility of obtaining use of the requisite number of oil tankers without recourse to requisitioning;
 - c. to clarify the legal position regarding the likely adequacy of Emergency Powers legislation.
3. This note reports the outcome of this further work.

DETAILED PLANS

4. More detailed plans have been developed on the basis of the higher levels of delivery now thought possible. In particular:-

- a. Decisions have been taken as to the oil terminals at which Servicemen at the levels of 1,500 and 5,000 should be deployed. It should not be necessary to increase the number of terminals currently planned to be used (about 60) to enable the higher levels of delivery to be achieved. The terminals concerned should be able to cope with the higher throughput involved, though the higher the level the more complex - and the more potentially difficult - the operation becomes. Moreover, there is a growing divergence between the limited number of service HGV1 drivers and the increasing reliance of the oil industry on HGV1 vehicles, which renders the 70% and 90% levels of delivery progressively more difficult to attain in an emergency. The OIEC are considering detailed aspects of the operations further.
- b. Broad plans have been worked out in consultation with the OIEC as to who, beyond those with essential uses, should be the recipients of the extra tranches of oil that would become available. Final decisions on this point will need to be left to the time of the emergency. However for planning purposes the following assumptions have been made:-

(i) the extra oil will be concentrated primarily on industrial and commercial uses including road haulage outside the "essential use" category. To supply these uses it would be necessary to achieve deliveries at about 80,000 tonnes per day (65 - 70% of normal). Due to administrative complications no distinction would be drawn between the types of industry or commerce that would be permitted a supply, though some control could be exercised at terminal level over priorities;

(ii) deliveries of oil above those needed for essential services, industry and commerce should be concentrated primarily on supplies to filling stations for non-essential purposes, rather than on supplies of central heating oil to domestic consumers. A formal system for rationing supplies of petrol would not be feasible in the timescale involved, though there might be limits placed on the amount that could be purchased on any one occasion.

- c. Drafting of most of the amendments to the relevant statutory instruments to give effect to b. above has been completed.
- d. Further work has been done on problems of administrative back-up. As stated in the previous report all oil companies have computerised ordering and accounting procedures. These procedures will have to be altered radically should the plans for using Service drivers be implemented, at any level of delivery.

Careful accounting is required for two purposes:-

(i) to ensure that the supplier gets paid for his product by the customer: this is a matter for the oil companies to sort out;

(ii) as a basis for the payments made under the plans by Government to oil companies for the use of their vehicles and by the oil companies to the Government for the use of Servicemen. Accounting for these payments which amount to some £0.5m-£1.5m net in the Government's favour is largely the responsibility of the Dept. of Transport, though costs relating to Servicemen would be handed on to the MOD.

- e. The accounting problem becomes greater the higher the level of deliveries. The OIEC has studied the problem and has concluded that after a certain learning period, the

problem should be manageable as far as the industry is concerned. It proposes that, if Ministers decide to pursue the options of higher levels of delivery, companies should, instead of a special delivery note being prepared for each delivery (as is envisaged under the basic plan), use their existing documentation, over-stamping it with the information required to enable it to be used as a delivery note. The OIEC believes that it should be feasible to use this system for any level of deliveries up to the 5,000 driver option (under which - in its full operation - some 18,000 delivery notes would be issued per day), though it accepts that it would take a little time to get the system working properly because of inexperience among staff required to operate it. The greater the number of deliveries made the more likely it is that problems will occur. The OIEC is continuing to work on the details.

- f. Much of the work in the Department of Transport would fall to the offices of the Regional Transport Commissioners (RTCs) in the Departments' Traffic Area Offices (TAOs) and DTp Accounts Division at Hemel Hempstead. The numbers of staff employed in the TAOs are such that a high proportion would have to be diverted from their normal duties (many of which are statutory and concerned with goods and passenger operator/driver licensing functions) and Ministers will need to decide at the time whether this would be acceptable. Even so it might not provide sufficient staff (even if only 3500 Service drivers were deployed) and it may be necessary to recruit casual staff to assist in handling the work at TAOs and at Hemel Hempstead. This might create further problems given that the TAOs have lost staff under manpower economies and face further reductions under a programme of computerisation. There is a risk not only that staff might refuse to co-operate with what they could regard as extra work but also the possibility of the work being blacked by the trades unions.

POSSIBILITY OF OBTAINING TANKERS WITHOUT REQUISITIONING

5. Plans for dealing with an oil tanker drivers' strike have hitherto rested on the basis that tankers would be requisitioned from the oil companies. The powers to requisition in those circumstances are only available under emergency regulations under the Emergency Powers Act (EPA) 1920 (and its Northern Ireland equivalent); even then the EPA confers authority to make emergency regulations only for securing the essentials of life of the community. The provisional view was taken last year that the powers under the EPA would not be sufficient to enable vehicles to be requisitioned where the intention was to use them to achieve levels of delivery around 70 to 90% of normal since this would be going beyond the criterion of the essentials of life.

6. Officials were asked to consider whether the problems of obtaining use of tankers could be overcome by persuading the oil companies to make their vehicles available without the need for requisitioning (eg. through some voluntary hiring arrangement).

7. The Department of Energy has consulted the OIEC on this possibility. The five main planning companies represented on the OIEC (who account for about 70% of the market) have expressed at the highest level considerable opposition to proceeding in this way. In their view for companies to make their vehicles available to Government voluntarily would be likely to cause serious damage to their relations with tanker drivers and other employees, putting at risk the productivity gains of recent years and leading perhaps to greater militancy in the longer term. The companies thought that cooperation of this nature was quite different from the co-operation implied by, for example, making ancillary equipment and staff available to help once vehicles had been requisitioned.

8. It was then suggested to the main companies that their fears might be overcome if Government made a strongly worded request to the companies to permit the use of their vehicles. The purpose would be to strengthen their hands in their relations with their unions; their vehicles would be made available but they would not be seen to be co-operating to the extent that they had under the purely voluntary approach. The companies, however, objected to this approach also on

the grounds that, as long as the request had no legal backing, it still required them to face the difficulties anticipated in the purely voluntary approach.

LEGAL BASIS FOR ACHIEVING HIGHER LEVELS OF DELIVERY

9. In view of the position adopted by the oil companies it would be unrealistic to rely on a change of mind if a strike occurred. Therefore road tankers will have to be requisitioned. Parliamentary Counsel has confirmed the view held by Home Office lawyers that under EPA 1920 the powers to requisition are limited to making only those levels of delivery which would be necessary to secure the essentials of life of the community. If therefore Ministers wish the higher levels of delivery to be achieved two courses of action seem to be available:-

- a. to enact legislation amending the EPA. As stated in CCU (84)17 Revise an amending Bill already exists in draft. The Bill supplements the essentials of life condition, considerably widening the circumstances under which an amended act might be invoked, including, inter alia, the causing of serious disruption to the life of the community. Parliamentary Counsel has confirmed that the Act thus amended would permit the requisitioning powers to be used to achieve deliveries at the higher levels envisaged; or
- b. to requisition the vehicles under the EPA in the first place and to continue using them when it became possible to make higher levels of delivery. In the first few days of Service deliveries the vehicles would be used solely in relation to preserving the essentials of life; due to a backlog of deliveries for these purposes needing to be made up. At some point however vehicles would start being used to make deliveries for other purposes as well. Exactly when this point would be reached is unlikely to be clear since the term "essentials of life" does not lend itself to precise definition.

10. Both courses of action pose difficulties. As regards Option a. there would be substantial political difficulties in securing the passage of an amending Bill in the absence of a perceived threat. On the other hand, if Option b. was followed, there could be a serious risk of challenge. The companies themselves would be unlikely to challenge the Government to the extent of refusing to allow their vehicles (or a proportion of them) to be used for purposes other than securing the essentials of life - they would therefore be tacitly agreeing to such use. There is however, a possibility of the unions becoming alert to the legal sensitivities. Because they would not be a party directly involved they may not be able to take legal action themselves, but they could well make political capital out of the situation, and the close co-operation of staff both within and outside the industry which would be necessary to make the plans work might well be prejudiced. In addition the Government's position could be challenged in Parliament.

CONCLUSION

11. Ministers are invited to:

- a. Note the current state of detailed planning (paragraphs 4 a-c) and the administrative problems that will have to be overcome should these contingency plans need to be activated (paragraph 4 a-f);
- b. Note that the opposition, at the highest levels within the oil industry, to making road tankers available without the need for requisitioning makes it unrealistic to pursue this course for contingency planning purposes;
- c. Agree that, in view of the legal advice on the likely adequacy of the Emergency Powers Act 1920, the options available (paragraph 9) should be considered when an oil tanker drivers strike is threatened, in the light of the then prevailing circumstances.

IND Pol: Oil Tanker Prices
Nov. 79