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Reference 9/23

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HDS

Copies to:

PS/SofS
PS/Minister of State
CDP
2nd PUS
DUS(FR)
DUS(PMS)
AUS(GF)
AUS(Sales Admin)
Head of CM(GC)

I attach PUS's Directive on the employment of agents and the payment of commissions, amended as recently agreed in the light of correspondence between PUS and C and AG. This Directive replaces that issued to you under PUS's minute of 9th June 1976.

2. PUS has sent a copy of the amended Directive to the Chairman of Millbank Technical Services, asking that the staff of MTS should be guided by it.

J. F. Howe

23 August 1977

J F HOWE
PS/PUS

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DIRECTIVE FROM PUS TO HDS

The general principles of conduct for all public servants, whether uniformed or civilian, are laid down in relevant manuals (eg Queen's Regulations, Non-Industrial Civilian Staff Regulations) and apply to all MOD servants in whatever capacity they may be employed.

2. In view of the current interest in the general subject of special commissions and similar arrangements in relation to commercial and business deals and the importance of maintaining strict standards in the Defence Sales field for which we are publicly accountable, there is a need for some special guidance which should be followed by Defence Sales Staff in this difficult and sensitive area. It will be for you to decide the details of arrangements to be made within this guidance, consulting me in difficult or abnormal cases.

3. Although there may well be political and strategic returns from Defence Sales the object is primarily to produce economic benefits by improving the UK balance of payments, providing employment and, where equipment is used by the UK forces as well as being exported, by reducing the unit costs of such equipment with benefit to the Defence Budget. Against this background, staff of the Defence Sales Organisation are to take particular care to observe the following principles:

- a. Public money is not to be used for illegal or improper purposes.
- b. Officials must not engage in, or encourage, illegal or improper actions; this requirement covers relations with representatives of United Kingdom firms as well as with nationals of other countries.

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c. Defence Sales are to avoid so far as possible the direct employment of agents. If agents must be employed then:

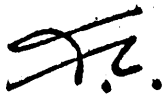
- (1) The agent should be reputable in the area in which he is operating.
- (2) The fee or commission paid to an agent should not in any case exceed the normal level for the area; and where the fee or commission is 10 per cent or more, or where, though it is less than 10 per cent, the total payment would appear excessive in relation to the lawful and proper work which the agent undertakes in the area in which he operates, the agent should not be engaged without reference to me.

4. The same principles are to be observed in respect of arrangements made by Millbank Technical Services when acting on behalf of MOD. Arrangements may also be necessary in the context of Government-to-Government deals where MOD is in a back-to-back relationship with a United Kingdom firm. In such cases staff of the DSO should be generally guided, as appropriate, by the principles set out in paragraph 3. Additionally, in those cases when the UK firm seeks MOD authority for a fee or commission to be included in the price, the DSO should obtain assurances in writing from the UK firm concerned that:

- a. The agents to whom the payments are made are reputable companies or individuals.
- b. The firm regard the agents' services as providing an adequate return for the payments which are made to them; and

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- c. To the best of the firm's knowledge the appropriate authorities in the customer Government accept the position of the agents in relation to the contract.
5. In all the above what is "illegal" or "improper" will depend in the last resort on the law and practice of the country or countries concerned, and it is for the foreign government to determine what are acceptable standards within its jurisdiction. But where these standards are less restrictive than those applied within the UK, any relaxation of UK standards should be applied by us with great caution.



FRANK COOPER
FUS

23 August 1977

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