

01 7641 Ext.

Communications on this subject should
be addressed to

THE LEGAL SECRETARY
ATTORNEY GENERAL'S CHAMBERS

ATTORNEY GENERAL'S CHAMBERS,
LAW OFFICERS' DEPARTMENT,
ROYAL COURTS OF JUSTICE,
LONDON, W.C.2.

C D Powell Esq
Private Secretary to Prime Minister
No.10 Downing Street
London SW1

31 December, 1985

Jan Charles.

WESTLAND

The Solicitor General has seen copies of Sir John Cuckney's letter to the Prime Minister of 30 December, your letter to Catherine Bradley of the same date, Catherine Bradley's reply to you and Richard Mottram's response of today's date.

Although in paragraph 1 of his letter Sir John Cuckney asks if Westland would no longer be considered a European company by the Government if a minority shareholding in the company were held by a major international group from a NATO country outside Europe, the Solicitor General attaches much importance to the second paragraph of his letter in which he makes it clear that Westland's anxiety is that only by joining the European Consortium would it be in a position to take responsibility for the British share of European helicopter collaborative projects. The Government are thus put on notice that it is as to this hypothesis that their reassurance is required.

In these circumstances, the Prime Minister's reply can be expected either to be sent direct to Westland shareholders or to be reflected in advice to them emanating from the Board.

The Government is therefore under a duty not to withhold from Westland any information which it knows to be relevant having regard to the contents of the second paragraph of Sir John Cuckney's letter. If it does withhold such information, it could well be liable in damages since it would have been put on notice that whatever reply was given to Sir John Cuckney's letter was likely to be relied upon by Westland and its shareholders.

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The Solicitor General having seen the amendments proposed by the Secretary of State for Defence understands that the projects therein referred to may well be adversely affected by a decision on the part of Westland to accept the Sikorsky offer. He understands that evidence of these risks is provided in telegrams to the FCO, the record of a meeting between the Secretary of State for Defence and the West German Defence Minister and in public statements.

In these circumstances the Solicitor considers the terms of the second paragraph of the draft attached to Catherine Bradley's letter to be insufficiently informative. He advises that the Government will be at serious risk if the Prime Minister's reply does not incorporate or at least point to the information as to the possible danger to these projects contained in the amendments put forward by the Secretary of State for Defence. Whilst this could be done by incorporating the Secretary of State's principal amendments, a shorter passage would suffice to protect the Government from liability, provided that it drew attention to the nature and scale of the risk. Such a passage could be along the following lines (replacing the material following the first sentence of the third paragraph in the Secretary of State for Defence's draft):

"In this connection you should be aware of the fact that there are indications from European Governments and companies that they take the view that a number of projects in which Westland are currently expecting to participate in co-operation with other European companies may well be lost to Westland if the Sikorsky offer is accepted."

Catherine Bradley (DTI),

I am copying this letter to/ Richard Mottram (Ministry of Defence), Richard Broadbent (Chief Secretary's Office), Len Appleyard (Foreign and Commonwealth Office) and Michael Stark (Cabinet Office).

*Yours sincerely,
Michael Saunders.*

M L SAUNDERS

