

Islay Vessels Contract Signing

From: [REDACTED] > **On Behalf Of** Minister for Transport
Sent: 01 April 2022 14:54
To: [REDACTED] >; Minister for Transport <MinisterFT@gov.scot>; [REDACTED] >; Cabinet Secretary for Finance and Economy <[REDACTED]>; Cabinet Secretary for Net Zero, Energy and Transport <[REDACTED]>
Cc: First Minister <firstminister@gov.scot>; Deputy First Minister and Cabinet Secretary for Covid Recovery <[REDACTED]>; Cabinet Secretary for Rural Affairs and Islands <[REDACTED]>; [REDACTED] >; Chief Executive Transport Scotland <ceo@transport.gov.scot>; Communications Finance & Economy <[REDACTED]>; DG Net Zero <DGNetZero@gov.scot>; Economy Covid-19 Hub <BESTCovidHub@gov.scot>; [REDACTED] >; Press Transport Scotland <media@transport.gov.scot>; Transport Scotland Directors <[REDACTED]>; Transport Scotland Media <[REDACTED]>; Chief Financial Officer <[REDACTED]>; Director of Budget and Public Spending <[REDACTED]>

Subject: RE: URGENT - FOR APPROVAL - COMMERCIAL SENSITIVE - TS Ferries - Islay Vessels Contract - 24 March 2022

Hi [REDACTED]

Thanks for confirming – Ms Gilruth has noted.

Many thanks,
[REDACTED]

[REDACTED] | Deputy Private Secretary to the Minister for Transport – Jenny Gilruth
The Scottish Government | St Andrew's House, Edinburgh, EH1 3DG
Email: MinisterFT@gov.scot

From: [REDACTED] > **On Behalf Of** Cabinet Secretary for Finance and Economy
Sent: 31 March 2022 09:39
To: [REDACTED] >; Minister for Transport <MinisterFT@gov.scot>; [REDACTED] >; Cabinet Secretary for Finance and Economy [REDACTED] Cabinet Secretary for Net Zero, Energy and Transport <[REDACTED]>
Cc: First Minister <firstminister@gov.scot>; Deputy First Minister and Cabinet Secretary for Covid Recovery [REDACTED] >; Cabinet Secretary for Rural Affairs and Islands <[REDACTED]> >; Chief Executive Transport Scotland <ceo@transport.gov.scot>; Communications Finance & Economy <CommunicationsFinance&Economy@gov.scot>; DG Net Zero <DGNetZero@gov.scot>; Economy Covid-19 Hub <BESTCovidHub@gov.scot>; [REDACTED] >; [REDACTED] >; Press Transport Scotland <media@transport.gov.scot>; Transport Scotland Directors [REDACTED] >; Transport Scotland Media [REDACTED] Chief Financial Officer <[REDACTED]>; Director of Budget and Public Spending [REDACTED]

Subject: RE: URGENT - FOR APPROVAL - COMMERCIAL SENSITIVE - TS Ferries - Islay Vessels Contract - 24 March 2022

[REDACTED]

Ms Forbes agrees with Ms Gilruth that this is a very important point to progress.

Kind regards,

[REDACTED]

Deputy Private Secretary to Cabinet Secretary for Finance and Economy – Kate Forbes
The Scottish Government | St Andrew's House, Regent Road, Edinburgh, EH1 3DG

[REDACTED] | E: [REDACTED]

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From: [REDACTED] >
Sent: 30 March 2022 16:00
To: Minister for Transport <MinisterFT@gov.scot>; [REDACTED] >; Cabinet Secretary for Finance and Economy <[REDACTED]>; Cabinet Secretary for Net Zero, Energy and Transport <[REDACTED]>
Cc: First Minister <firstminister@gov.scot>; Deputy First Minister and Cabinet Secretary for Covid Recovery <DFMCSCR@gov.scot>; Cabinet Secretary for Rural Affairs and Islands <CabSecRAI@gov.scot>; [REDACTED] >; Chief Executive Transport Scotland <ceo@transport.gov.scot>; Communications Finance & Economy <CommunicationsFinance&Economy@gov.scot>; DG Net Zero <[REDACTED]>; Economy Covid-19 Hub <BESTCovidHub@gov.scot>; [REDACTED] >; [REDACTED] >; Press Transport Scotland <media@transport.gov.scot>; Transport Scotland Directors <[REDACTED]>; Transport Scotland Media <[REDACTED]>; Chief Financial Officer [REDACTED] <[REDACTED]>; Director of Budget and Public Spending <[REDACTED]>

Subject: RE: URGENT - FOR APPROVAL - COMMERCIAL SENSITIVE - TS Ferries - Islay Vessels Contract - 24 March 2022

Thanks [REDACTED] CMAL will have a presence in the yard throughout the build process. They are still finalising the details of this as to whether it will be a full CMAL team (akin to what they have at Fergusons) or supported by external expertise (or potentially a combination of both). We will provide further detail on this once CMAL have finalised the position towards the start of the construction phase.

[Redacted]

[Redacted]

From: [Redacted] > **On Behalf Of** Minister for Transport

Sent: 30 March 2022 15:49

To: [Redacted]; Minister for Transport <MinisterFT@gov.scot>;

Cabinet Secretary for Finance and Economy <CabSecFE@gov.scot>; Cabinet Secretary for Net Zero, Energy and Transport <CabSecNetZET@gov.scot>

Cc: First Minister <firstminister@gov.scot>; Deputy First Minister and Cabinet Secretary for Covid Recovery <[Redacted]>; Cabinet Secretary for Rural Affairs and Islands [Redacted]

[Redacted]; Chief Executive Transport Scotland <ceo@transport.gov.scot>; Communications Finance & Economy <CommunicationsFinance&Economy@gov.scot>; DG Net Zero <DGNetZero@gov.scot>; Economy Covid-19 Hub <BESTCovidHub@gov.scot>;

[Redacted]; [Redacted] Press Transport Scotland <media@transport.gov.scot>; Transport Scotland Directors

<[Redacted]>; Transport Scotland Media <[Redacted]>; Chief Financial Officer <[Redacted]>

Director of Budget and Public Spending <[Redacted]>

[Redacted]

SENSITIVE - TS

Ferries - Islay Vessels Contract - 24 March 2022

Hi [Redacted]

Thank you for this.

Ms Gilruth has asked how CMAL monitor progress on the break-points in the contract, do they physically go out at certain points in the year to ensure everything is on track?

Thanks

[REDACTED]

[REDACTED] | Private Secretary to Cabinet Secretary for Net Zero, Energy and Transport – Michael Matheson | The Scottish Government | Web: www.gov.scot |

[REDACTED] | Email: [REDACTED]

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From: [REDACTED] >

Sent: 25 March 2022 09:34

To: Minister for Transport <MinisterFT@gov.scot>; [REDACTED]
[REDACTED] >; Cabinet Secretary for Finance and Economy
<[REDACTED]>; Cabinet Secretary for Net Zero, Energy and Transport
<[REDACTED]>

Cc: First Minister <firstminister@gov.scot>; Deputy First Minister and Cabinet Secretary for Covid Recovery <[REDACTED]>; Cabinet Secretary for Rural Affairs and Islands <[REDACTED]>

[REDACTED]; Chief Executive Transport Scotland
<ceo@transport.gov.scot>; Communications Finance & Economy
<CommunicationsFinance&Economy@gov.scot>; DG Net Zero
<[REDACTED]>; Economy Covid-19 Hub <BESTCovidHub@gov.scot>;

[REDACTED]; [REDACTED]
[REDACTED]; Press Transport Scotland
<media@transport.gov.scot>; Transport Scotland Directors
<[REDACTED]>; Transport Scotland Media
<[REDACTED]>; Chief Financial Officer <[REDACTED]>
Director of Budget and Public Spending
<[REDACTED]>

[REDACTED]

Subject: RE: URGENT - FOR APPROVAL - COMMERCIAL SENSITIVE - TS Ferries - Islay Vessels Contract - 24 March 2022

PS/Minister for Transport,

Thank you for the quick turnaround on this and apologies for such a tight deadline. We will confirm the position to CMAL once we have received feedback from both Cab Sec Offices (and FM if required).

CMAL are pursuing the additional options as set out in the Ministers note below that may provide additional assurance on top of the normal industry standard level of guarantee – although as indicated these may not prove possible.

In response to the Ministers specific points –

Refund Guarantee Legal Jurisdiction

The jurisdiction for the Refund Guarantees (one for each vessel) refer to England and Wales. This is because when it comes to these matters London is the centre of Maritime Excellence with many examples of case law.

Just to note that the contract refers to Scots Law for any matters that are disagreements during the build. Obviously CMAL do not anticipate this as in most case (FMEL excluded) matters are sorted out locally and any remedies discussed and executed without reverting to the contract.

Break Points

This type of Contract does not have break points as such but CMAL confirm that contractually they are able to walk away regarding the following – triggering the refund guarantees

- Lateness regarding delivery
- Speed deficiency
- Deadweight deficiency
- Excess fuel consumption
- Does not receive UK Flag State approval

I hope this is helpful. Please let us know if you need anything further on this.

[REDACTED]

[REDACTED]

From: [REDACTED] > **On Behalf Of** Minister for Transport

Sent: 24 March 2022 19:56

To: [REDACTED] >; Minister for Transport <MinisterFT@gov.scot>; Cabinet Secretary for Finance and Economy <[REDACTED]> Cabinet Secretary for Net Zero, Energy and Transport <[REDACTED]>

Cc: First Minister <firstminister@gov.scot>; Deputy First Minister and Cabinet

Secretary for Covid Recovery <[REDACTED]>; Cabinet Secretary for Rural Affairs and Islands <[REDACTED]>

[REDACTED] Chief Executive Transport Scotland <ceo@transport.gov.scot>; Communications Finance & Economy <CommunicationsFinance&Economy@gov.scot>; DG Net Zero <[REDACTED]> Economy Covid-19 Hub <BESTCovidHub@gov.scot>;

[REDACTED] >; Press Transport Scotland <media@transport.gov.scot>; Transport Scotland Directors

[REDACTED] >; Transport Scotland Media <[REDACTED]>; Chief Financial Officer [REDACTED]

Director of Budget and Public Spending

[REDACTED]

Subject: RE: URGENT - FOR APPROVAL - COMMERCIAL SENSITIVE - TS Ferries - Islay Vessels Contract - 24 March 2022

Hi [REDACTED]

Ms Gilruth has noted and is generally content however, has provided some comments below.

On the below point - Ms Gilruth has asked officials to confirm why we have not sought a guarantee which provides governance protection in Scots Law? The Minister appreciates there may be a reason for this as aware it has been mentioned previously.

1. This guarantee includes the clause below on the on the governing law and courts:

This Guarantee shall be governed in every respect by the law of England & Wales. Any dispute arising under or in connection with this Guarantee shall be referred to the exclusive jurisdiction of the High Court of London, England being the court of first instance.

As stated, the Minister is content – [REDACTED]

[REDACTED]

The Minister has commented that we have a full refund guarantee, which was of course not the case at Fergusons – and is therefore content to proceed, but would welcome feedback from Cab Sec (specifically in terms of the budget he must sign off?) on this and additionally any comments FM may have in this regard.

Lastly, can officials confirm that they / CMAL have built in relevant break-points in the monitoring of this contract, which will allow us to assess progress accordingly?

Many thanks

[REDACTED]

[REDACTED]

Deputy Private Secretary
Cabinet Secretary for Net Zero, Energy and Transport

[REDACTED]

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From: [REDACTED] >
Sent: 26 March 2022 16:16
To: Cabinet Secretary for Finance and Economy [REDACTED]; Minister for Transport <MinisterFT@gov.scot>; Cabinet Secretary for Net Zero, Energy and Transport <[REDACTED]>
Cc: First Minister <firstminister@gov.scot>; Deputy First Minister and Cabinet Secretary for Covid Recovery <[REDACTED]>; Cabinet Secretary for Rural Affairs and Islands <CabSecRAI@gov.scot>; [REDACTED]; Chief Executive Transport Scotland <ceo@transport.gov.scot>; Communications Finance & Economy <CommunicationsFinance&Economy@gov.scot>; DG Net Zero <[REDACTED]>; Economy Covid-19 Hub <BESTCovidHub@gov.scot>; [REDACTED]; Press Transport Scotland <media@transport.gov.scot>; Transport Scotland Directors <[REDACTED]>; Transport Scotland Media <[REDACTED]>; Chief Financial Officer <[REDACTED]>; Director of Budget and Public Spending <Directorofbudgetandpublicspending@gov.scot>; [REDACTED]

[REDACTED]

[REDACTED]

Subject: RE: URGENT - FOR APPROVAL - COMMERCIAL SENSITIVE - TS Ferries - Islay Vessels Contract - 24 March 2022

Thanks [REDACTED], much appreciated.

All,

We now have approvals from Ms Gilruth, Mr Matheson and Ms Forbes and will be confirming to CMAL that they can sign the contract for the two vessels in Turkey on Monday.

Kind Regards,

[REDACTED]

Sent with BlackBerry Work (www.blackberry.com)

From: [REDACTED] > on behalf of Cabinet Secretary for Finance and Economy <CabSecFE@gov.scot>

Sent: 26 Mar 2022 15:35

To: [REDACTED] >; Minister for Transport <MinisterFT@gov.scot>; Cabinet Secretary for Finance and Economy <[REDACTED]> "Cabinet Secretary for Net Zero, Energy and Transport"

Cc: First Minister <firstminister@gov.scot>; Deputy First Minister and Cabinet Secretary for Covid Recovery <[REDACTED]> Cabinet Secretary for Rural Affairs and Islands <[REDACTED]>;

Chief Executive Transport Scotland <ceo@transport.gov.scot>; Communications Finance & Economy <CommunicationsFinance&Economy@gov.scot>; DG Net Zero <DGNetZero@gov.scot>; Economy Covid-19 Hub <BESTCovidHub@gov.scot>; [REDACTED]

[REDACTED]; Press Transport Scotland <media@transport.gov.scot>; Transport Scotland Directors <[REDACTED]>; Transport Scotland Media <[REDACTED]>; Chief Financial Officer <[REDACTED]> Director of Budget and Public Spending <Directorofbudgetandpublicspending@gov.scot>; [REDACTED]

[REDACTED]

Subject: RE: URGENT - FOR APPROVAL - COMMERCIAL SENSITIVE - TS Ferries - Islay Vessels Contract - 24 March 2022

[REDACTED],

Apologies for the late response.

The Cabinet Secretary is grateful for the update on the final contract negotiations for the two new major vessels for Islay routes. Understanding the global context, the fact that a refund guarantee has been secured by a state-banked bank, [REDACTED]

[REDACTED] the Cabinet Secretary is content to approve CMAL's signing of the contract.

Thanks,

[REDACTED] | Private Secretary to Minister for Public Finance, Planning and Community Wealth – Tom Arthur
Scottish Government | St Andrew's House, Regent Road, Edinburgh, EH1 3DG | [REDACTED] | Email: [REDACTED]

From: [REDACTED] >
Sent: 24 March 2022 18:47
To: Minister for Transport <MinisterFT@gov.scot>; Cabinet Secretary for Finance and Economy <[REDACTED]>; Cabinet Secretary for Net Zero, Energy and Transport <[REDACTED]>
Cc: First Minister <firstminister@gov.scot>; Deputy First Minister and Cabinet Secretary for Covid Recovery <[REDACTED]>; Cabinet Secretary for Rural Affairs and Islands [REDACTED]; [REDACTED]; Chief Executive Transport Scotland <ceo@transport.gov.scot>; Communications Finance & Economy <CommunicationsFinance&Economy@gov.scot>; DG Net Zero <[REDACTED]>; Economy Covid-19 Hub <BESTCovidHub@gov.scot>; [REDACTED]; [REDACTED]; Press Transport Scotland <media@transport.gov.scot>; Transport Scotland Directors [REDACTED]; Transport Scotland Media [REDACTED]; Chief Financial Officer <[REDACTED]>; Director of Budget and Public Spending [REDACTED]

[REDACTED]

Subject: URGENT - FOR APPROVAL - COMMERCIAL SENSITIVE - TS Ferries - Islay Vessels Contract - 24 March 2022

SEE ANNEX A

Ms Gilruth / Mr Matheson / Ms Forbes,

FOR REVIEW AND APPROVAL

Please find attached a Ministerial briefing updating on the contract signing and related refund guarantees for two new vessels for the Islay routes. A response by close on Friday 25 March is required to allow CMAL to complete vessel contract award actions on Monday 28 March.

Happy to discuss and/or provide further information as required.

Kind Regards,

[REDACTED]

From: [REDACTED] >

Sent: 28 March 2022 16:02

To: [REDACTED]

Cc: Pacitti F (Frances)

[REDACTED]

Subject: RE: Contract signing - CEMRE - 28/3/22

Many thanks, [REDACTED].

[REDACTED]

Best Regards
Leis gach deagh dhùrachd

[REDACTED]

Finance Director
Caledonian Maritime Assets Ltd
Municipal Buildings
Fore Street
Port Glasgow
PA14 5EQ

[REDACTED]

Web: www.cmassets.co.uk

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From: [REDACTED] >

Sent: 28 March 2022 15:51

To: Kevin Hobbs <Kevin.Hobbs@cmassets.co.uk>; [REDACTED]

[REDACTED]

Cc: [REDACTED]

Subject: RE: Contract signing - CEMRE - 28/3/22

[REDACTED]

[REDACTED]

[Redacted]

[Redacted]

From: Kevin Hobbs <Kevin.Hobbs@cmassets.co.uk>

Sent: 28 March 2022 11:34

To: [Redacted]

Cc: Pacitti F (Frances) <[Redacted]>

Subject: RE: Contract signing - CEMRE - 28/3/22

All

2 signed contracts just fully executed at 10:15hrs UK time.

Can you let the appropriate Ministers know.

We have not got the RG's but they should come through to RBS by SWIFT in the next couple of days.

Will keep you all updated.

Best Regards,
Leis gach deagh dhùrachd,

Kevin Hobbs
Chief Executive Officer
Árd-oifigear

Caledonian Maritime Assets Limited | Stóras Mara Cailleannach Eta
Municipal Buildings
Fore St
Port Glasgow
PA14 5EQ

[Redacted]

[REDACTED]

[REDACTED]

[REDACTED]

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ANNEX A

Ferries Contracts and Projects
Transport Scotland - AMFC Directorate

[Redacted text block]

[REDACTED]

24 March 2022

**TO: MINISTER FOR TRANSPORT
CABINET SECRETARY FOR NET ZERO, ENERGY AND TRANSPORT
CABINET SECRETARY FOR FINANCE AND ECONOMY**

ISLAY FERRY IMPROVEMENTS – VESSELS CONTRACT UPDATE

PURPOSE

1. To provide an update on the final contract negotiations being undertaken by Caledonian Maritime Assets Ltd. (CMAL) for two new major vessels for Islay routes.
2. To update on the agreement around the full refund guarantee and the efforts to find a suitable UK based bank to provide further backing.
3. To seek approval on CMAL signing the contract before the end of March 2022.

PRIORITY - Urgent

4. A response is required by close on Friday 25 March to allow CMAL to complete administration and sign the contract on 27 March 2022.

BACKGROUND

5. Full background on the Islay vessel project development, business case process and procurement approach was provided to Ministers on the briefing dated 04 March 2022.
6. Ministers considered and approved the recommendations in the 04 March briefing, including the related Accountable Officer Template for the two new Islay vessels and associated port works in March 2022. This approval allowed CMAL to announce on 11 March 2022 that the Turkish based Cemre Marin Endustri A.S. was the preferred shipyard to build the two vessels.
7. Capital costs for the two new vessels from the preferred bidder is up to £105M, including CMAL and CFL project costs and delivery to Scottish waters.


UPDATE

8. The mandatory ten day standstill period expired at the end of 21 March and CMAL have not received any challenges from the three unsuccessful bidders.

9. CMAL and Cemre have been progressing the detail of the Baltic and International Maritime Council (BIMCO) "NEWBUILDCON" and the related Technical Specification for the vessels. Both are now in largely complete and ready for agreement by both parties this weekend. CMAL staff intend to travel to Turkey for signing in person on Monday 27 March.
10. A full refund guarantee will be provided for each hull over the full build period. This is given by the shipyards bank, [REDACTED] which is effectively state funded and described by Fitch rating agency as state owned. This is the bank of choice for Cemere and they have used it for other builds for British and Norwegian interests.
11. CMAL, Cemre and [REDACTED] have reached agreement on the wording of the refund guarantee which will cover the full, pre delivery, payments value i.e. 80% of the full contract value which is payable prior to delivery of the vessels. This guarantee includes the clause below on the on the governing law and courts:

This Guarantee shall be governed in every respect by the law of England & Wales. Any dispute arising under or in connection with this Guarantee shall be referred to the exclusive jurisdiction of the High Court of London, England being the court of first instance.
12. CMAL had intended, as noted in the briefing of 04 March, to secure an additional level of security and assurance by having the [REDACTED] Guarantee fully back by an international bank based in London. This additional level of security is over and above that any other ship owner would normally have sought (As confirmed by CMALs Shipbroker who have been providing further support throughout).
13. Five major banks were approached by Cemre and CMAL for this purpose namely:
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
14. None of these banks were able to provide quotes for the duration of the contracts, noting global uncertainties, some declining to quote altogether and others only able to offer six month options.
15. These responses are not a reflection of the standing of either Cemre, CMAL or [REDACTED]. The impact of the global uncertainties is clearly having a concern but it is worth noting that these would also have existed regarding the other yards in the geographical areas of Romania and Poland, both having land borders with Ukraine and requiring builds on either the Baltic Sea or Black Sea.


RISKS AND UNCERTAINTIES

16. CMAL, as procuring authority, have considered the risks and engaged with their Board and legal/commercial advisors regarding the position on the refund guarantee.
17. 
The global pandemic and the invasion of Ukraine has had major repercussions internationally and all Turkish Banks are currently classed in the same category. None of the shortlisted bidders offered international correspondent issuers for their guarantees, all proposed domestic institutions only.
18. CMAL believe that they have exhausted all avenues on the additional UK based backing immediately available to Cemre and CMAL through their respective existing connections. Any new provider that could be found for such an instrument would be a stand-alone product and an entirely new relationship.
19. The alternative option considered was to delay the contracts until such time as UK bank backing is available and at reasonable cost to the project. This could add years to the delivery of new vessels and the need for new tonnage in the ferry fleet is urgent. This contract is a means to accelerate progress on fleet replacement.
20. On balance, CMAL recommend that the contract is progressed with the agreed full refund guarantee in place with the Turkish bank and without the UK backing. They will continue to search for an additional backing solution but this will have to be done post contract signing and may not ultimately be achievable for a reasonable cost to the project.

SENSITIVITIES AND HANDLING

21. There has been and will be continued press and political interest in this contract. A further TS/CMAL press release is expected to issue next week confirming the signing of the contract. This will not provide any detail on the issues outlined above regarding the additional UK backed matter but will note the full refund guarantee is in place with the Turkish bank as per normal BIMCO contract arrangements.

DECISIONS REQUIRED FROM MINISTERS

22. The Minister for Transport, Cabinet Secretary for Net Zero, Energy and Transport and Cabinet Secretary for Finance and Economy are invited to:
- Note the updates on the Islay vessels contract;
 - Approve the CMAL signing of the contract for two new vessels, noting the position on refund guarantees and backing.
- 

Ferries Contracts and Projects
Transport Scotland - AMFC Directorate



Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
Cabinet Secretary for Rural Affairs and Islands			X		
First Minister					X
Deputy First Minister					X

Transport Scotland Ministerial Submissions list

