



RECORD OF A DISCUSSION BETWEEN THE CHANCELLOR,
THE SECRETARY OF STATE FOR TRADE, AND THE
GOVERNOR OF THE BANK OF ENGLAND ON THE STOCK EXCHANGE
AND THE RESTRICTIVE PRACTICES COURT:
10.30 A.M., 6 MAY, NO.11 DOWNING STREET

Present Chancellor of the Exchequer
 Mr Middleton

 Lord Cockfield
 Mr P A R Brown

 Governor
 Mr Walker

The meeting considered the paper by officials circulated with the Chancellor's letter of 26 April to Lord Cockfield. It was agreed that the Restrictive Practices Court proceedings would be an inappropriate way of deciding the Stock Exchange issues in question. The Stock Exchange were at least in part to blame for the way events had moved, for they had failed to apply for the exemption which they might have obtained under the Fair Trading Act 1973. The Government had in 1979 considered the option of making an order adding the Stock Exchange to the list of exceptions to the Restrictive Trade Practices (Services) Order 1976: this option had then been rejected on political grounds, which would remain valid unless the substantive issues in question were seen to be resolved in a manner which would command public support.

2. It was noted that three new EC Directives, governing various aspects of the securities market, had - in theory - to be implemented by 30 June, and that this would require detailed legislation. One effect would be to remove single capacity from the restrictions under examination by the Restrictive Practices Court: the other two groups of restrictions (minimum commissions and membership requirements) would however remain before the Court. To use secondary legislation under the European Communities Act to settle the issue of single capacity would be unsatisfactory; and separate primary legislation would be required to deal with the other issues. In short, legislation on the Directives was a complication, rather than the mechanism for a solution.



3. On the substantive issues, Lord Cockfield suggested that the Government's aims should be:-

- a. to accept, and indeed enforce, single capacity;
- b. to secure the abolition of minimum commissions, the continuation of which conflicted with policies being pursued throughout the economy; and
- c. while accepting the need for proper qualification, to secure the abolition of membership restrictions as such, thus bringing the stock-broking profession in line with the legal, accountancy, and other professions.

Lord Cockfield noted that a regulatory system to deal with minor restrictive practices would also be required. Primary legislation dealing with the three key issues in the manner proposed would be politically acceptable; and the announcement of the Government's intention to proceed with such legislation would bring the Restrictive Practices Court case to an end.

4. It was agreed that a period of very private discussion with Stock Exchange representatives would be necessary to establish whether a settlement on these lines would be acceptable to them. The suggestion was made that the impending Court proceedings would give the Government considerable negotiating leverage in such discussions; though it was also felt that many in the Stock Exchange were now ready for sweeping changes, and it was indeed suggested that those less ready to contemplate such changes might feel that the outcome of the Court proceedings, if they went ahead, would be unlikely to be anything as sweeping.

5. The next step should be for Treasury and DOT officials, in consultation with the Bank, to produce, as a matter of urgency, a draft negotiating brief. Whether to enter into direct negotiations, or seek to find a satisfactory intermediary, would be for further consideration; and the present meeting would reconvene when the draft brief was available. Whatever their form, it would be desirable that negotiations be conducted very privately, though it was noted that the DGFT would have to be told of the Government's intentions, and that it was unlikely that total secrecy could be maintained.

A handwritten signature in dark ink, appearing to read 'J O Kerr'.

J O KERR

9 May 1983