

Ref. A083/2210

PRIME MINISTER

Cabinet: The Stock Exchange

BACKGROUND

F The Secretary of State for Trade and Industry told the Cabinet on 21 July (CC(83) 24th Conclusions, Minute 4) that, if the Council of the Stock Exchange agreed to put forward changes in their rules and practices, he would make a statement in the House of Commons on 27 July that the Government would lay an Order exempting the rules of the Stock Exchange from the Restrictive Trade Practices Act.

G 2. The letter from the Secretary of State for Trade and Industry's Private Secretary to Mr Scholar of 22 July (copied only to the offices of the Chancellor of the Exchequer, the Chancellor of the Duchy of Lancaster and the Attorney General) covers a report on developments up to the weekend and the text of a draft statement.

3. The main developments since the last Cabinet discussion are:

- (i) The Stock Exchange Council have agreed to seek the agreement of their members to the necessary changes in their rules, subject to cessation of proceedings against the Stock Exchange in the Restrictive Practices Court.
- (ii) Sir Gordon Borrie, Director General of Fair Trading, who has brought the case against the Stock Exchange, has made it clear that he will not oppose an application on 28 July by the Stock Exchange for adjournment of the case for four months.
- (iii) Sir Gordon Borrie has however reserved his position on whether, when changes in the rules have been made and Parliament has approved the exemption Order, he will oppose adjournment of the case sine die.
- (iv) The option favoured by the Attorney General last week, under which the Stock Exchange would make an entirely new agreement, thus strengthening the chances that the Court would be unwilling to pursue the case relating to the existing agreement, is now thought to be unworkable.

4. The Secretary of State for Trade and Industry will be seeing Sir Gordon Borrie shortly before the Cabinet meets. It remains to be seen whether, in the light of the decisions now taken by the Stock Exchange Council, he will feel able to indicate that he would not oppose a sine die adjournment in due course. It is also important to know whether, despite the fact that the changes in the rules are formally conditional on the cessation of proceedings, the Stock Exchange Council will be prepared to go ahead with the changes on the basis of the four-month temporary adjournment in the light of Sir Gordon Borrie's position about the issue of sine die adjournment. This in turn will determine whether the Secretary of State for Trade and Industry should go ahead with his statement. The indications before the weekend appeared to be that the Stock Exchange Council were prepared to proceed with their proposed changes on the basis of the temporary adjournment, despite Sir Gordon Borrie's position at that time.

MAIN ISSUES

5. The Cabinet will wish to judge the Secretary of State's proposals in the light of the best forecast which can be made of future events. If the Stock Exchange Council goes ahead with the changes in the rules on the basis of a four-month adjournment, if Parliament approves the exemption Order, and if Sir Gordon Borrie persists in his opposition to sine die adjournment, how is the Court likely to react? What are the chances that the Court will, despite Sir Gordon Borrie's opposition, decline to proceed with the case? If the Court continues with the case, what are the likely consequences? Is it in fact better, despite the lack of assurance that proceedings in the Court will cease, for the Stock Exchange to go ahead with its voluntary changes and for the Government to make an exempting Order? Or would it be better to allow the case to proceed in the Restrictive Practices Court without any intervention from the Government?

6. In considering these matters the Cabinet will wish to weigh the need to avoid disturbance in the securities market against the risk that Ministers may be accused of favouring City interests and of inconsistency with their general policy of seeking to promote competition and to get rid of restrictive practices.

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HANDLING

7. You will wish to invite the Secretary of State for Trade and Industry to give a report on the latest developments including his most recent discussion with Sir Gordon Borrie, and to say how he proposes to proceed in the light of those developments. The Chancellor of the Exchequer and the Attorney General, who has been invited for this item, may wish to comment.

CONCLUSIONS

8. You will wish the Cabinet to reach conclusions on the following matters:

- (i) whether, if the Director General of Fair Trading is determined to press the case in the Restrictive Practices Court, the Government should nevertheless seek Parliament's approval in the autumn to an Order exempting the rules of the Stock Exchange from the Restrictive Trade Practices Act;
- (ii) whether, if the Secretary of State for Trade and Industry so proposes, he should make a statement in the House on 27 July making clear the Government's intentions.

RTA

ROBERT ARMSTRONG

25 July 1983

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