



PM/84/190

PRIME MINISTER

British Airways Privatisation and Laker

1. I have been thinking further about this since you sent your message to the President, and since we had a word about my short discussion with George Shultz. I think that the passage ahead will require careful political management and that we need to give firm guidance to our officials. The most immediate deadline is of course your meeting with President Reagan on 22 December. But I am also very conscious of the conflicting problems we face over privatisation itself.
  
2. It was clear to me from my exchange with George Shultz that the Americans do not feel that our response so far to the President's decision is politically adequate, and that in any case for the time being they cannot go to Congress to seek legislation on treble damages to put our aviation relationship on a mutually-agreeable legal basis. George Shultz naturally welcomed the news that we were working rapidly to introduce low winter fares. But something else is clearly needed before you see the President.
  
3. I believe that it is in our long-term interest to help the President meet his immediate political requirements. I know that Department of Transport officials are working hard on a further offer to the Americans which they might accept as a step towards "liberalisation". But I understand that the work is going slowly because of the technical and commercial complexities. These have to be fully considered; we should not simply hand over to the Americans commercial advantages they have been seeking for years. Nevertheless, I hope you will

/agree



agree that the work must be accelerated so that by the time you see the President a precise and concrete offer can have been made to the Americans, in the areas where they have been seeking some movement by us. I am of course no expert on the technicalities of all this. But I should have thought that a mini-package might consist of one or more of the following: agreement to a system of 'double disapproval' of fares (~~in practice the CAA are already substantially operating a 'double disapproval' regime~~ *deleted.*); opening up some of our regional airports to Transatlantic traffic; allowing some extra flights to People Express (the airline which the Americans see as a pioneer of low-cost travel and which has powerful friends in Congress); and possibly some other moves on summer capacity.

4. On privatisation itself I confess that I am worried by the wide range of estimates which our professional advisers are giving about the likely cost of the private actions in the United States. I understand that Lord King's own judgement about the importance of the cases for privatisation has varied substantially over the last two weeks: he recently told the American Ambassador that in his own view privatisation could go ahead regardless of the civil suits. George Shultz argued that companies are being quoted on the New York Stock Exchange every day with legal liabilities much greater than those which face British Airways. The short answer to that is, of course, that the London Stock Exchange is a very different place. But I would be happier if our advisers were able to produce a clearer view, both in preparation for your meeting with the President and to help with the very difficult decisions we must take over the next weeks about the timing of privatisation and BA's handling of the civil suits.

5. In the medium and longer term I believe that we must continue to seek a comprehensive settlement with the Americans, which should include actions by them over private civil treble  
/damage



damage law suits. But I think that we must accept that in their current state of mind they will neither act nor commit themselves to action on trebel damages. I believe that the position could change: many Americans share our view that in this respect the American legal system is defective. We should ensure that our action in the short term does not discourage those in Washington who will do what they can to help over the civil suits (not much in practice); nor spoil the chances for reform in the longer term.

6. You might therefore like to indicate to the President that this issue can be left on one side while officials on both sides of the Atlantic get on with negotiating other practical arrangements to benefit consumers, which is the goal of both governments.

7. I am copying this minute to the Chancellor of the Exchequer, the Secretary of State for Transport, Secretary of State for Trade and Industry and the Attorney General.

GEOFFREY HOWE

Foreign and Commonwealth Office  
12 December 1984

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