



CONFIDENTIAL

From the Secretary of State

John Coles Esq  
Private Secretary to the Prime Minister  
10 Downing Street  
London, SW1

Prime Minister

Agree this

message to President  
Reagan?

MS 28/3

28 March 1983

amended MS

Dear John,

Further amended.

see final text. MR 29/3.

Lord Cockfield saw Sir Adam Thomson this afternoon. Sir Adam handed over his letter of today's date to the Prime Minister and restated his view that only the personal intervention of the Prime Minister can prevent the launching of a Grand Jury Investigation by the United States Department of Justice (DoJ) with wide ranging subpoenas, the DoJ having informed us at the end of last week that they intend to proceed notwithstanding our arguments (my letter of 18 March refers).

2 Lord Cockfield's view is that on the merits and importance of the issue, there is a case for the Prime Minister to intervene, given that the personal messages from Mr Pym to Mr Shultz and Lord Cockfield to Mrs Dole have failed to deflect the DoJ from its course. There are several stages at which such an intervention might be made: either now before the Grand Jury is empanelled (on Wednesday) and subpoenas issued (on Thursday); or in the coming days if our airlines with our support fail to narrow the breadth of the subpoenas; or after the fact finding stage, before the DoJ make their decision on whether to seek indictments.

3 An intervention at this stage may be turned aside by the President, on the ground that the United States processes are at this stage simply fact-finding. However, the importance of the implications for our airlines and the risk of a DoJ fishing expedition widening the issues under contention, weigh in favour of making an intervention now, provided that a message offers to the President an appropriate and proper way to resolve the present international dispute, and that the possibility of an effective intervention later is not therefore prejudiced. There have been some indications over the last few days that the DoJ officials concerned have not found it easy to carry the day so far: the Prime Minister's intervention at this stage, directly involving the White House for the first time, might be a decisive move. There would, of course, be an expenditure of goodwill, but given what is at stake, Lord Cockfield recommends on balance an intervention by the Prime Minister now.

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*From the Secretary of State*

4 Sir Oliver Wright is seeing the State Department tomorrow and is being instructed to hand over a Note asking for formal consultations under the Bermuda 2 Air Services Agreement, and urging that the DoJ should not prejudge those consultations by proceeding with its investigation before our arguments about the Treaty obligations of the United States have been properly considered. (This could be a first step towards an arbitration of the issue of the applicability of United States antitrust law in this field, though no decision on that is called for at this stage.)

5 It is against this background that the attached message has been drafted for the consideration of the Prime Minister.

6 I am copying this to Roger Bone (FCO) and to Henry Steel (Attorney General's Office).

*Yours sincerely,*

A handwritten signature in blue ink, appearing to read 'John Rhodes'.

JOHN RHODES  
Private Secretary

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DRAFT MESSAGE FOR THE PRIME MINISTER TO SEND TO:

President Reagan

Is this clear enough?

*take up*

1 I want to ~~share~~ with you personally my serious concern at the proposed antitrust investigation by your Department of Justice into North Atlantic airlines matters. This is due to start on Wednesday or Thursday of this week.

2 Aviation has always been handled as a matter of close co-operation, regulated as it is under our bilateral aviation agreement. My people have pressed for any concerns of yours in this area to be tackled on an agreed basis. So far this has ~~not un~~fortunately been accepted. Our Ambassador has now told the State Department that we invoke the procedure under the Bermuda 2 aviation Agreement for formal consultations; and that we expect that meanwhile the Department of Justice investigation will be deferred, so as not to prejudge the consultations.

3 I urge you to accept that the matter should be handled this way. Otherwise our aviation relationship will be damaged, ~~I also fear that~~ *and the harm may go wider.* ~~public memories of earlier differences over the~~ *This matter* ~~application of your laws will be re-awakened.~~ *is urgent, which* ~~This could well harm our wider relations.~~

*is why I am insisting you take up immediately.*

END

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*From the Secretary of State*

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John Coles Esq  
Private Secretary  
10 Downing Street  
London  
SW1

28 March 1983

*See final text of message despatched.*

*Dear John,*

*A.S.C. 29/3*

Lord Cockfield saw Sir Adam Thomson this afternoon. Sir Adam handed over his letter of today's date to the Prime Minister and restated his view that only the personal intervention of the Prime Minister can prevent the launching of a Grand Jury Investigation by the United States Department of Justice (DoJ) with wide ranging subpoenas, the DoJ having informed us at the end of last week that they intend to proceed notwithstanding our arguments (my letter of 18 March refers).

Lord Cockfield's view is that on the merits and importance of the issue, there is a case for the Prime Minister to intervene, given that the personal messages from Mr Pym to Mr Shultz and Lord Cockfield to Mrs Dole have failed to deflect the DoJ from its course.

The present process involves a number of separate steps before indictments are issued

First the Grand Jury is empanelled (on Wednesday) and subpoenas issued (on Thursday)

Next there will be negotiations aimed at narrowing the scope of the subpoenas

Then there will be a fact finding stage before a decision is made whether to seek indictments.

There could be intervention at any of these stages. An early intervention might be rejected on the ground that processes at this stage are simply fact finding : and until the facts are found and established it would be premature for the President to intervene.

Against this, the further the process is allowed to roll forward, the more difficult it will be to stop it.

There is another consideration, namely the President must be offered a reputable and convincing escape route. This does in fact exist in the bilateral Air Services Agreement (Bermuda 2) which provides for consultations between Governments in the event of disagreement. If the President is to be persuaded to take this alternative route it would be easier to do so at the outset rather than attempt to



*From the Secretary of State*

swop horses later on when vested rights in a Department of Justice investigation will have built up.

Accordingly Lord Cockfield recommends that the Prime Minister should intervene now. There have been some indications over the last few days that the DoJ officials concerned have not found it easy to carry the day so far : the Prime Minister's intervention at this stage, directly involving the White House for the first time, might be a decisive move.

Sir Oliver Wright is seeing the State Department tomorrow and is being instructed to hand over a Note asking for formal consultations under the Bermuda 2 Air Services Agreement, and urging that the DoJ should not prejudge those consultations by proceeding with its investigation before our arguments about the Treaty obligations of the United States have been properly considered. (This could be a first step towards an arbitration of the issue of the applicability of United States antitrust law in this field, though no decision on that is called for at this stage).

It is against this background that the attached message has been drafted for the consideration of the Prime Minister.

I am copying this to Roger Bone (FCO) and to Henry Steel (Attorney General's Office).

*Yours sincerely,  
John Rhodes*

JOHN RHODES  
Private Secretary



allegations, following the labor collapse  
against British and other airlines  
operating across the North Atlantic

DRAFT MESSAGE FOR THE PRIME MINISTER TO SEND TO:

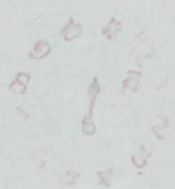
President Reagan

1. I want to <sup>take up</sup> share with you personally, <sup>and urgently</sup> my <sup>deep</sup> serious concern at the proposed antitrust investigation by your Department of Justice into ~~North Atlantic airlines matters~~. This is due to start on Wednesday or Thursday of this week. <sup>It could well have the most serious consequences for British airlines.</sup>
2. Aviation has always been handled <sup>on a basis</sup> as a matter of close cooperation between Governments and our relations <sup>in the field</sup> have been <sup>governed</sup> regulated by our bilateral aviation agreement which is of long standing. My people have <sup>therefore</sup> pressed for any concerns of yours <sup>the latest problem matter</sup> ~~in~~ relating to <sup>an</sup> this area to be tackled on a ~~mutual~~ and agreed basis. So far this has unfortunately not been accepted. We believe that the right course is for formal consultations to take place as provided by our aviation agreement and our Ambassador has informed the State Department of this. We would expect that meanwhile the Department of Justice investigation will be deferred, so as not to prejudge the consultations.
3. I urge you to accept that the matter should be handled this way. <sup>and the harm</sup> Otherwise our aviation relationship will be damaged. <sup>I could go wider. This matter is urgent which is why I am</sup> I also fear that public memories of earlier differences over the application of your laws will be re-awakened. This could well harm our wider relations. <sup>contacting you immediately. I am</sup> not disturbed about it and do hope you will feel able to take it up personally and very quickly.

END



29 MAR 1983



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WANT MESSAGE FOR THE PRIME MINISTER TO SEND TO: PRESIDENT REAGAN

*Dear Ron,*

1. I want to take up with you personally and urgently my deep concern at the proposed antitrust investigation by your Department of Justice into allegations, following the Laker collapse, against British and other airlines operating across the North Atlantic. This is due to start on Wednesday or Thursday of this week. It could well have the most serious consequences for British airlines.

2. Aviation has always been handled on a basis of close cooperation between Governments and our relations in this field have been governed by our bilateral aviation agreement which is of long standing. My people have therefore pressed for this latest matter to be tackled on an agreed basis. So far this has unfortunately not been accepted. We believe that the right course is for formal consultations to take place as provided by our aviation agreement and our Ambassador has informed the State Department of this. We would expect that meanwhile the Department of Justice investigation will be deferred, so as not to prejudice the consultations.

3. I urge you to accept that the matter should be handled this way. Otherwise our aviation relationship will be damaged and the harm could go wider. This matter is urgent which is why I am contacting you immediately. I am most disturbed about it and do hope you will feel able to take it up personally and very quickly.

*With best wishes*

*Yours ever*

*Ronald.*

End

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