

Legal Procedure

IMMEDIATE

PS
PS LADY YOUNG
PS/PUS
MR EVANS
MR ADAMS
MR AUST, Legal Advisers
MR FREELAND, Legal Advisers
HD/MAED (2)
HD/NAD

RESIDENT CLERK

PS/MR KING
MR LAZARUS, PUS
MR KNIGHTON
MR FORTNAM
Mr Stevens, Mr FORTNAM)^D
MR ROBERTS
MR SUNDERLAND
MR BECKETT (Solicitors)
Mr AYLING
MR COLES 10 DOWNING ST
MR GARDINER, ATTORNEY
GENERAL'S OFFICE

DEPT OF
TRANSPORT

DTI

CONFIDENTIAL
DESKBY 040800Z
FM WASHINGTON 031830Z
TO IMMEDIATE F C O
TELNO 1865 OF 3 JULY 1983.

N. Shultz.
Mr 4/2.

LAKER: PTI ACT

Not coming now.
Mr 4/2.

1. HAVING AGREED TO CONTINUE TALKING IN LONDON ON MONDAY THE CHANCES ARE THAT THE AMERICANS WILL SETTLE. EVEN IF YOU DO NOT NOW MEET SHULTZ ON TUESDAY YOU WILL DO SO NEXT WEEK, SO THAT WILL BE A MAJOR INCENTIVE FOR THEM. SHULTZ HAS NO DESIRE TO GET INVOLVED AND HAS MADE THAT CLEAR TO HIS OFFICIALS. IF THE TALKS HAVE BEEN SUCCESSFUL I DOUBT HE WILL RAISE THE SUBJECT.

2. EVEN SO, I RECOMMEND THAT YOU DRAW ATTENTION TO THE MATTER. IT IS OF CONTINUING IMPORTANCE, FOR THE BASICS HAVE NOT ALTERED. ONCE AGAIN US ASSERTION OF THE SCOPE OF THEIR LAWS HAS CAUSED OR THREATENED A SERIOUS BILATERAL DISPUTE. ONE OF THE CONSTRUCTIVE IDEAS ARISING OUT OF THE ARRANGEMENT FOR DEALING WITH THE LAKER CASE AGREED IN LONDON AT THE END OF MAY WAS A JOINT EFFORT TO FIND SATISFACTORY ARRANGEMENTS FOR THE FUTURE. THE AMERICANS MUST REALISE THAT THE STRENGTH OF THEIR REACTIONS TO THE APPARENT INTRUSION INTO THEIR SOVEREIGNTY BY THE PTI ORDERS IS EXACTLY MIRRORED IN THE UK: BUT WE HAVE HAD TO PUT UP WITH US INTRUSIONS FOR A DECADE. SHULTZ SHOULD RECOGNISE THAT OTHER CASES WILL NO DOUBT OCCUR AND WE MUST JOINTLY BE READY TO MANAGE THEM SENSIBLY. THERE ARE, IN PARTICULAR, LESSONS FOR THE AMERICANS IN THEIR ATTITUDE TO THE EXPORT ADMINISTRATION ACT, IN WHICH THE BRITISH, THE EUROPEANS AND THE U S ADMINISTRATION HAVE SO FAR CONDUCTED A DIALOGUE OF THE DEAF.

3. IF THE TALKS FAIL ON MONDAY THERE IS REAL DANGER OF THE DISPUTE ESCALATING FURTHER. SHULTZ HAS BEEN BRIEFED TO AVOID SUBSTANTIVE DISCUSSION BUT TO EXPRESS REGRET AT THE PROVOCATIVE NATURE OF THE PTI ORDERS WHICH HAS CAUSED THE REPUDIATION OF THE LONDON ARRANGEMENTS.

4. IN THESE CIRCUMSTANCES I SUGGEST YOU DO NOT LET HIM TAKE THE INITIATIVE IN WASHINGTON. THE AMERICANS HAVE NEVER APPRECIATED THE FORCE OF OUR OBJECTIONS AGAINST THEIR CONTINUED INTRUSIONS INTO OUR SOVEREIGNTY. OUR NORTH ATLANTIC SHIPPING COMPANIES ARE STILL SUFFERING EFFECTS OF THE ANTI-TRUST ACTIONS THAT WERE TAKEN AGAINST THEM SOME YEARS AGO, AND TO COUNTER WHICH THE PTI ACT WAS PASSED IN THE FIRST PLACE. AMERICAN PRETENSIONS TO CONTROL THE TRADE OF BRITISH COMPANIES FOR FOREIGN POLICY REASONS WERE AT THE BASIS OF LAST YEARS PIPELINE ROW. THE PRESENT CASE CONCERNS ALLEGATIONS THAT TWO BRITISH COMPANIES ATTEMPTED SUCCESSFULLY TO PUT A THIRD BRITISH COMPANY OUT OF BUSINESS. WHATEVER THE STATE OF AMERICAN LAW, THE LAKER AFFAIR IS A MATTER OF MAJOR BRITISH INTEREST, IN WHICH MATERIAL AMERICAN INTERESTS INVOLVED ARE EITHER MINIMAL OR ENTIRELY THEORETICAL. NEITHER POLITICAL NOR PUBLIC OPINION IN BRITAIN CAN UNDERSTAND WHY THE AMERICAN COURTS AND THE AMERICAN LAW ENFORCEMENT AUTHORITIES SHOULD TAKE IT UPON THEMSELVES TO BE THE ARBITERS OF THE RIGHTS AND WRONGS OF THE AFFAIR. MOREOVER, IT HAS DONE SO IN AN AREA OF INTERNATIONAL COMMERCE THAT BY ITS VERY NATURE CAN ONLY BE HANDLED THROUGH BILATERAL AGREEMENT. I SUGGEST THAT YOU SHOULD LEAVE SHULTZ IN NO DOUBT ABOUT THE STRENGTH OF OUR FEELINGS.

5. YOU MIGHT GO ON TO SAY THAT THE ARRANGEMENTS WORKED OUT AT THE END OF MAY FOR DEALING WITH THE ISSUE WERE A RECOGNITION OF THE STRONG EMOTIONS ON BOTH SIDES: THEY WERE AN ATTEMPT TO BE PRACTICAL. AND WE HOPED THAT IT WOULD BE A BASIS FOR DEVISING MECHANISMS FOR PREVENTING THIS KIND OF ROW OCCURRING AGAIN. THIS MUST REMAIN THE PRIORITY OF BOTH GOVERNMENTS.

6. I SHALL ADVISE FURTHER IN THE LIGHT OF DEVELOPMENTS BETWEEN NOW AND YOUR ARRIVAL IN WASHINGTON.

7. FCO ADVANCE COPIES TO :

FCO : PS/S OF S, PS/PUS, MR EVANS, MR ADAMS, MR GRAY, MR FREELAND,
MR AUST.

DTI : ROBERTS, BECKETT, SUNDERLAND, AYLING.

DTP : KNIGHTON, STEVENS, FORTNAM.

WRIGHT