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Date: 16 March 1984

NOTE OF A MEETING HELD IN SIR PETER MIDDLETON'S ROOM ON
17 FEBRUARY 1984

INSTITUTIONAL LIBERALISATION AND MERGERS POLICY

Present: Sir Peter Middleton
Mr Monck
Mr Lankester
Mr Gordon
Mr Peretz
Mr Pirie
Mr Saunders

Sir Anthony Rawlinson
Mr Caines
Mr Reid

Deputy Governor
Mr Cooke
Mr George
Mr Walker
Mr Dawkins

Sir Anthony Rawlinson opened the meeting by recalling the general background: the Government's competition initiative and the review of mergers policy, and, within that, the attitude to be taken to foreign takeovers. DTI's general conclusion was that new legislation was not necessary either on competition or mergers, although a number of detailed modifications would be made, most notably raising the threshold for reference to the Monopolies and Mergers Commission to £30 million. While he would be cautious about threats of foreign denomination of domestic markets, he hoped this did not need to be expressed as an overtly

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hostile policy to foreign takeovers. It was difficult to establish hard and fast rules in this area. While the Bank's paper fitted in very well generally with this approach, DTI were a little troubled by its emphasis on informal methods of operation, and felt that there was a need for a rather more systematic approach.

2. The Deputy Governor said that there was a lot of common ground between DTI and the Bank, in particular on the need for legislation. The Bank had always adopted successfully an informal approach to supervision, even under the Banking Act. It was well understood in the financial sector, and welcomed by foreign institutions as much as domestic ones. Most institutions recognised that their interests were in the long run the same as the supervisor's, while the advantage of an informal approach was that it placed responsibility on the shoulders of the institutions.

3. Sir Peter Middleton said that he subscribed to the agreement against new legislation, but with an increasing emphasis on competition. There did however appear to be a lacuna in the present arrangements, in that they did not give Ministers the power in the last resort to block a foreign takeover if that was what they wanted to do. In practice, however, it would be very difficult to legislate, or indeed to apply any legislation, in an overtly chauvinistic way; apart from anything else, it would be contrary to EC law.

4. In discussion, it was noted that Ministers did have a "last resort" power to prevent a takeover, but only if the MMC had been persuaded against it first. In the case of bank takeovers, the MMC came into play only when informal persuasion by the Bank had proved ineffective. The MMC would require specific grounds for turning down a particular case; but it was difficult to conceive of a case which Ministers would want to block, but where such specific grounds did not exist. In that case, the independent advice of the MMC would give valuable support to Ministers. On

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the other hand, these arrangements did not by definition enable one to deal with the exceptional case, about which the Prime Minister had expressed concern.

5. Another difficult kind of case would be a bid by a large American bank for one of the clearers, say. While there would be a number of detailed questions raised, and a problem of extra-territorial supervision to be sorted out with the Federal Reserve Board, there would be no fundamental supervisory problem. It would be likely that the MMC would find in its favour, given that an increase in competition could be entailed. In theory, therefore, there might be no objection in principle to such a bid. But there would be more objection if two clearers were the subject of foreign bids, and considerable objections if there were three. Consideration of one case would therefore have to encompass the implications if further cases arose in the future.

6. Summing up, Sir Peter Middleton said that there was agreement on the general principles of a rather more liberal approach within the existing legislation, although there remained a difference of view between the Bank and DTI on how formal methods of operation needed to be. For his part, while the general drift was right, he retained some doubt that the arrangements might not be adequate to meet the difficult cases that might come along.

Supervision

7. The meeting went on to consider the supervisory implications of a more open attitude to takeovers generally, particularly if this led to the development of financial conglomerates.

8. In many cases, it would make sense for different activities - banking, insurance, corporate membership of the Stock Exchange - to be separately capitalised. Indeed

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this might be the only way of satisfying the requirements of different supervisors. Less clear cut, however, would be cases, say a Stock Exchange member firm or a merchant bank, where corporate finance and investment management functions were carried out side by side. There would be a need to ensure strict divisions between the two to avoid conflicts of interest. A further problem would be that the different activities could be subject to different regulators - the Stock Exchange rules would not necessarily be concerned with investment management practices, for example. These problems would need to be considered further in the Gower context.

9. On Gower, Sir Anthony Rawlinson said that the objective would be a White Paper in the summer setting out the Government's general views, so that the self-regulatory agencies envisaged could be encouraged to come into existence ahead of legislation, which would not be before the 1985-86 Session of Parliament. Sir Peter Middleton agreed that this approach was sensible, and asked that the Treasury be kept in touch.

Stock Exchange

10. Sir Anthony Rawlinson reported on the latest developments. The first lay members had now joined the Council. Minimum commissions on overseas securities would be removed in April and the new rules on international dealerships would come into effect at about the same time. It was understood that minimum commissions were likely to be abolished in one step, probably well before the end of 1986, but no date had yet been set; some action in advance on gilts was possible. More generally, the Stock Exchange intended to produce a discussion document on the future trading system. The Bank, DTI and Treasury would have an opportunity to comment on a draft.

11. Mr Walker said that the view was gaining ground that a move to negotiated commissions in 1985 would need to

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be accompanied by a change in the dealing system. After some initial reluctance, the Stock Exchange were making good progress in considering the options. It had however become evident that this question was linked closely with those of constitution and membership; a new trading system would probably need large corporate members in order to work effectively. While most of the main jobbers were successfully linking up with outsiders, there was some danger of demoralisation among brokers, some of whom were feeling that the institutions who could provide them with the necessary capital were holding off on the grounds that the price was not right, secure in the knowledge that they could make attractive offers to individuals to set up new firms.

12. After a brief discussion, it was agreed that Sir Anthony Rawlinson would copy to the Treasury a note on progress that was being done for his Secretary of State. It was agreed that there was no need for an immediate meeting between the Chancellor, the Governor and Mr Tebbit. The best time might be when the draft consultative document was available. At that stage, the Stock Exchange would be wanting to make fairly quick progress, and it would not be possible to hold the process up for long in order to seek Ministerial comments. A meeting might therefore have to be set up at relatively short notice.

Circulation: Those present
Mr Cassell
Mr Lovell
Mr Andren
Mr Ilett