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The Rt Hon Sir Geoffrey Howe QC MP  
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N.B.P.N.

A.J.C. 2/4.

*Dear Geoffrey*

The French Presidency intends to take only one item of shipping business at the 10 May Transport Council: a draft resolution on unfair commercial practices in shipping.

This resolution would call on the Commission to prepare a draft regulation for consideration by the Council and give guidance on what that regulation should say. What the French have in mind is akin to an anti-dumping regulation for shipping. Where non-conference lines from third countries are offering abnormally low freight rates, the French consider that the Community should have the power to impose a compensating levy. The levy could also be imposed when such carriers offered a limited or irregular service.

I am afraid that the French proposal, as currently drafted, is potentially very dangerous. It is a central tenet of UK shipping policy that there must be no barrier to free competition between conference and non-conference lines. Conferences are cartels and would, in the absence of competition, offer UK exporters and importers a lower



quality of service at a higher price. The French proposal would greatly inhibit the ability of non-conference lines to compete on price, which is the only area in which they have any hope of competing.

Accordingly, the French text must be either redrafted or rejected. I should prefer to attempt to redraft it.

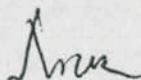
There is no doubt that there is unfair competition in shipping from subsidised and state-controlled carriers, particularly Soviet carriers. Where, in a small number of cases, this competition comes from Community carriers, I believe that the Commission should be acting against it under Treaty Articles 92 and 93. Where it comes from non-Community carriers, I see a good case for the imposition of a compensatory levy sufficient to offset the unfair competitive advantage. Such a levy might be imposed by the Council acting by qualified majority on the basis of a proposal from the Commission; it would be used when a Commission investigation established that there was unfair competition from a subsidised or state-controlled carrier and that this unfair competition was materially damaging a Community carrier. The levy would not be restricted to non-conference lines, but would be available to deal with unfair competition from any type of carrier. Although the scope of application of this approach would be wider than that of the French proposal it would focus more narrowly on those practices which cause problems for our shipping without encroaching on matters of a purely commercial nature. Such an approach should also be attractive to those member states which share our open market approach to shipping and which have already expressed concern about the French proposal.



I understand that officials have discussed this in EQO and concluded that amending the French proposal in the way I have suggested is the right line for the UK to take on both tactical and policy grounds. They have also looked at the implications for Community competence and concluded that this is an area where we might profitably cede competence to the Community, provided we take care to define very carefully the scope of the competence transferred and are satisfied that the machinery for imposing the levy is workable.

Officials are already working on ways of amending the French text along the lines I have suggested and I propose that they should table these amendments at the next relevant meeting of the Council's Transport Working Group.

I am copying this to the Prime Minister, other members of OD(E) and to Sir Robert Armstrong.



NICHOLAS RIDLEY