

Prime Minister

Bfb AT on return,
with colleagues
responses14th August 1984

PORT OF LONDON AUTHORITY

Sub
17/8

1. I need to announce soon my decision on the appeal by the London Wharfingers Association, representing privately-owned port operators on the Thames, against the dues on ships' goods (known as port rates) levied by the Port of London Authority (PLA). Because of the significance of my decision for the PLA's finances and because, in the wake of the dock strike, our strategic options for the PLA's future have narrowed, you and colleagues should be aware of what I propose. You will also wish to know the consequences of my decision for the PLA and how my strategy for its future is shaping.

Port rates

2. The appeal was considered, under the statutory procedure, at a public inquiry early this year. The inspector concluded in his report to me that the wharfingers receive no benefit or service from the PLA in return for the payment of port rates and that it is wrong for the PLA to use revenue from port rates to cross-subsidise their commercial cargo-handling operations. However, he failed to deal adequately with some important financial and legal questions. So I have to consider the issues in a fundamental way. There is widespread interest in the outcome of the inquiry, and since I received the inspector's report at the end of May I cannot decently delay my decision much longer.

3. It is the PLA's job, under statute, to decide what they should charge by way of port rates. My decision on the appeal by the London Wharfingers Association has to take the narrow form of a direction to the PLA as to the charges they should make for a period of up to 12 months. I may nevertheless in my decision letter set out the principles

which I believe should apply in my decision and to which therefore by implication the PLA may be expected to have regard in the future.

4. A fuller account of the issues and my conclusions is annexed, but the essentials are as follows. Last year the PLA's gross revenue was £74 million, of which port rates yielded £10 million (excluding the PLA's docks at Tilbury, where port rates are aggregated with other charges). I agree with the inspector that the payers of these rates receive little in return for them - in effect the PLA have been charging as much as they think they can get away with. In my view port rates should cover only the cost of the PLA's non-commercial operations, ie any shortfall in the cost of conservancy (which at the inquiry was said to be about £600,000 in 1982) and the cost of paying for surplus registered dock workers (which of course depends on the size of that surplus). I also believe that Tilbury Dock - which, as I explain in paragraph 12 below, I want to see the PLA run through a separate subsidiary company - should be charged port rates on the same basis as river employers.

5. In practice it would be difficult for me to give a direction that would achieve this result; the inspector's report does not contain enough detail. More importantly, however, it would be catastrophic for the PLA to be deprived suddenly of at least £8 million of income in 1985. Unless we were prepared to say now that we will resume revenue subsidy or undertake a major capital reconstruction early in the year, which would require legislation and could hardly be done in time, there is a strong risk that the PLA board would resign on the ground that the Authority was insolvent. That is precisely the risk that E(A) instructed me in March to prevent (E(A)(84)9th meeting). The wharfingers' business too would be at risk from the collapse of the PLA.

6. My decision therefore is that the PLA should cut its port rates by 30% from 1 January 1985. The new level of rates will have effect for 12 months. Thereafter it will be for the PLA to decide the level of port rates in the light of the principles which I shall have set out; and it will again then be open to anyone who is dissatisfied to appeal to me.

Financial consequences

7. The effect of this decision will be to cut the PLA's 1985 revenue by about £3 million. They have not yet made their 1985 budget, but this year they are expecting to do no more than break even, so the cut can be expected (other things being equal, which they may not be) to result in a loss of about £3 million in 1985. To help the PLA cut costs and prepare for the further reduction in revenue that will follow in 1986 from restructuring the port rates in accordance with my conclusions on the inquiry (paragraph 4), I believe we need to do two things.

8. First, after the recent Dock Strike any possibility of reforming the National Dock Labour Scheme is dead for the foreseeable future. So we must now enable the PLA to buy out its remaining surplus labour. When we discussed this recently, I think you felt that in principle we should have to do this. A special voluntary severance scheme for registered dock workers is running at the moment, and we must first see how that goes. There have been many more applications in the Port of London than had been expected, but the PLA is still likely to be left with a sizeable surplus. To pay them off will cost considerably more than the £25,000 per registered dock worker we are funding at present. In considering any proposal from the PLA we shall need to have regard to comparable public sector redundancy levels, Employment Ministers' discussions in the autumn with the National

Association of Port Employers on the national voluntary severance scheme, the needs of and implications for other ports, and the scope for increasing the managerial pressure on men to go.

9. I hope that my existing PES provision will be sufficient for a further severance offer in 1984-85, but if it is not I should have to ask for the shortfall to be met out of the contingency reserve. Also after the current special severance scheme little headroom will remain within the statutory limit of £360 million on Government aid to the ports of London and Liverpool. When the scheme has been completed, we shall have to check whether we need to legislate to raise the limit (a contingency place for such a bill has been provided).

10. Second, we need to review the PLA's capital structure and certain other of its liabilities against the background of:-

(a) my plan that the PLA should be divided into three business sectors with a view to disposing of the commercial activities to the private sector (see paragraphs 11-15 below);

and

(b) the analysis the PLA is currently carrying out of the present and likely future profitability of its business centres. The results of this should be available by October/November.

Future structure of the PLA

11. I have asked the Chairman of the PLA to proceed with reorganising the Authority, subject to further investigation of the legal aspects, on the basis of a holding company with three wholly-owned subsidiaries, each under separate management:-

- (i) Tilbury dock
- (ii) the conservancy and safety of navigation functions
- (iii) real estate

12. The first tasks of the subsidiary responsible for Tilbury dock, which will consist essentially of the PLA's cargo-handling operations and the supply of registered dock labour to its tenants at Tilbury, will be to dispose of the surplus labour and to establish its financial viability. The aim will then be for the PLA to sell it off into the private sector, so that it will compete on equal terms with the other private port operators on the Thames. Such disposal, which I judge cannot take place before 1986, will require either a private Bill or a harbour revision order (a statutory instrument which, though the order-making procedure can be initiated at any time of the year, could nevertheless, if strongly opposed, take well over a year to make because there would be a public inquiry and it could go to special parliamentary procedure).

13. The conservancy subsidiary will inherit most, if not all, of the PLA's statutory functions (which may in due course need some revision). In effect it will be the new, slimmed-down PLA. It will have to remain a statutory body, probably with a board appointed by me. Its operations will be financed by dues charged on ships using the Thames and a residual amount of port rates. Legislation is likely to be needed in due course to bring the constitution and statutory duties of the PLA into line with its reduced role.

14. The primary task of the real estate subsidiary will be the disposal of the PLA's remaining non-operational assets. The proceeds might be used to buy out the PLA's stockholders.

15. Before this split can be achieved, and as a transitional policy only, we shall have to deal with the PLA's non-statutory but real responsibility as "employer of last resort" for

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registered dock workers. I have in mind that this role should pass to the Tilbury subsidiary, but that it should be reimbursed the cost of any surplus labour it has to retain by the conservancy subsidiary, which would raise port rates for that purpose.

Next steps

16. Clearly these plans need much refining yet. I propose to come back to colleagues by the end of the year with more fully developed proposals, taking account of the work currently being done by the PLA. By then it should be possible to evaluate the financial options, both on severance and on the PLA's finances as a whole. This will fulfil the rest of the remit I was given by E(A) in March.

17. Meanwhile, I shall have announced the 30% reduction in port rates to take effect on 1 January 1985. A further attack on the PLA's labour surplus very early in 1985 will demonstrate to the private operators my determination that the PLA will have no excuse for not following through subsequently the full logic of my decision on the port rates issue.

Summary

18. Subject therefore to your or colleagues' views, I propose:-

(i) to announce within the next few weeks my decision on the appeal against the PLA port rates, on the basis explained in paragraph 6; and

(ii) to report back to colleagues by the end of the year with more detailed proposals for the future of the PLA, including evaluation of the options open within the broad strategy outlined in this minute.

19. I am sending copies of this minute to members of E(A), the Lord President, and to Sir Robert Armstrong.

DR

DRAFT LETTER TO MESSRS BERRYMANS

Gentlemen

S.31 OF HARBOURS ACT 1964 - OBJECTION TO PLA PORT RATES

1. I have to inform you that the Secretary of State has considered the report of the inspector Mr F R King LLB FICE following the inquiry held in January and February 1984 into objections made by the London Wharfingers' Association (the LWA), under s.31 of the Harbours Act 1964, against port rates levied by the Port of London Authority (the PLA). A copy of the inspector's report is attached.

2. The Secretary of State has taken legal advice on certain points of law discussed in the report. First, he is advised that the members of the LWA have a substantial interest in the PLA's scheme of charges as a whole, and not merely in the goods that they handle in substantial quantities. He is also advised that Dartford International Freight Terminal Ltd (DIFT), who made written and oral representations at the inquiry, have a substantial interest as potential cargo handlers within the PLA area even though they may not have yet begun to handle traffic.

3. Secondly, the Secretary of State notes that the inspector recommends that port rates on certain classes of goods should, for a period of 12 months, cease to be paid by members of the LWA but that other operators should continue to pay them. The legal advice he has received is that such a direction would be unlawful. He has power to direct that given charges should not be paid at all, or should be paid at a reduced rate, but any such directions must apply to all who pay and there is no power to give them in respect of certain payers only. It would not therefore be lawful for him to give the directions that the inspector recommends.

4. The Secretary of State notes that the operations of the PLA fall into 2 groups. The first are its operations as a statutory harbour authority responsible for safety of navigation on the River Thames, and may be called, in a wide sense, its conservancy operations. The second are its commercial operations in which it is in competition with members of the LWA and with other commercial operators in the port area.

5. He notes also the inspector's views that it is proper for conservancy costs to be paid for out of ship dues but not out of port rates, which are a form of goods dues. He does not, however, agree with this as a general principle. He sees no inherent reason why conservancy costs should not be financed, at least in part, out of goods dues.

6. The Secretary of State also notes the inspector's findings:

(a) that LWA members receive no benefit from the PLA in return for port rates;

(b) that the PLA's role as residual employer of registered dock workers and the costs of surplus labour incurred by the PLA in this role do not warrant the continuance of port rates;

and

(c) that port rates should not be used to reduce the PLA's large accumulated deficit.

He agrees with these views to a substantial extent. In his opinion port rates should not be levied to subsidise the commercial operations of the PLA, or to pay off its accumulated deficit.

7. However, the Secretary of State is unable to agree with the inspector's view that since the role of employer of last resort was assumed by the PLA under a non-statutory agreement it is wrong in principle for it to be financed by port rates raised under statutory powers. In his view the decisive consideration is that by taking over surplus registered dock workers from other port employers the PLA is in fact doing the port a service and thereby incurring costs. In principle he sees no objection to the cost of surplus registered dockers being financed by port rates.

8. In coming to his conclusions on the inspector's report the Secretary of State has had regard to the inspector's recommendation that certain port rates be abolished even though, for the reasons stated in paragraph 3 above, he cannot accept it. In coming to a decision consistent with the principles set out above, which represent a substantial change from the past, he has had in mind also that it is in the first instance the task of the PLA from time to time to set such port rates as they think fit, whereas his is an appellate function with the power to prescribe rates for a maximum of one year. He is also aware that the PLA has for many years relied substantially on port rates to help bridge the gap between revenue and expenditure. If this source were to be closed to the PLA in the immediate or fairly near future, except to the extent permitted under the principles set out above, the effect of this sudden change on the PLA's finances would be severe, and might have unforeseeable consequences for trade in the Port of London. The Secretary of State considers that this too is a matter which he should take into account in reaching a decision. He therefore considers that the PLA should have a reasonable time to adjust to the loss of revenue from port rates implied in the principles set out above. Accordingly, he has decided to give a direction under paragraph (b) of Subsection (6) of Section 31 of the Harbours Act 1964.

9. The Secretary of State therefore directs that the port rates brought into force with effect from 1 January 1984 be reduced by 30% for the period of 12 months beginning on 1 January 1985.

10. I am sending copies of this letter to

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cc HMT DOE LPO
 NIO LPSO CO
 D/N DTI
 SO COLT Min/Arts
 WO D/M
 MAFF
 CSO

10 DOWNING STREET

From the Private Secretary

11 September 1984

Dear Dinah,

Port of London Authority

The Prime Minister has seen your Secretary of State's minute of 14 August and the replies from the Secretaries of State for the Environment and Employment and from the Chief Secretary. She agrees with his proposals for the principles by which port rates should be set and for the reduction suggested for 1985.

She looks forward to receiving before the end of the year his detailed proposals on the restructuring of the PLA. She agrees with the Chief Secretary and the Secretary of State for Employment that it would be premature to enhance redundancy terms until it is clear how many acceptances there have been on present terms.

She hopes the timing of any announcement, which will have implications for the PLA's finances, will be considered carefully in relation to the current dispute.

I am copying this letter to Private Secretaries to members of E(A), Janet Lewis-Jones (Lord President's Office), and Richard Hatfield (Cabinet Office).

Yours sincerely
 Andrew Turnbull

Andrew Turnbull

Miss Dinah Nichols,
 Department of Transport.

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