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FM WASHINGTON 092142Z OCTOBER 84  
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**IMMEDIATE**

LAKER: GRAND JURY

SUMMARY

1. ROSDEITCHER (BRITISH AIRWAYS) HAS PROVIDED DETAILS OF THE EVIDENCE BELIEVED TO BE IN THE POSSESSION OF THE JUSTICE DEPARTMENT TO SUPPORT THE PROPOSED INDICTMENTS.

DETAIL

2. ROSDEITCHER OUTLINED TO BRAITHWAITE AND MAYNARD THE EVIDENCE WHICH HE BELIEVED FORMED THE BASIS OF THE DOJ'S CONCLUSIONS. ALTHOUGH HE EXPRESSED CONSIDERABLE RELUCTANCE TO SET OUT THE INFORMATION IN WRITTEN FORM OR INDEED TO PROVIDE MORE THAN A BRIEF RESUME OF HIS KNOWLEDGE, IN THE EVENT HIS DESCRIPTION WAS EXTREMELY DETAILED. A TRANSCRIPTION OF ROSDEITCHER'S PRESENTATION WILL THEREFORE FOLLOW BY NEXT AVAILABLE BAG TO AYLING DTI. THE FOLLOWING REPRESENT THE MAIN POINTS IN RELATION TO THE VARIOUS ALLEGATIONS.

3. WITH RESPECT TO THE ALLEGATION OF A CONSPIRACY TO FIX PRICES ROSDEITCHER BELIEVES THAT THE DOJ HAVE EVIDENCE OF TWO SEPARATE INCIDENTS. THE FIRST WERE DISCUSSIONS BETWEEN LAKER AND BA WHICH THE DOJ BELIEVE CULMINATED AT THE WALDORF HOTEL LONDON IN FEBRUARY 1981 AND INVOLVED AGREEMENT TO RAISE PRICES ON THE UK/US ROUTES ON WHICH THOSE CARRIERS OPERATED. THIS AGREEMENT APPEARS TO HAVE BEEN EFFECTIVE FOR LESS THAN A MONTH. THE DOJ HAVE SOME EVIDENCE FOR THE INVOLVEMENT OF THE US CARRIERS BUT CLEARLY INSUFFICIENT TO INCLUDE THEM IN A POTENTIAL INDICTMENT. ROSDEITCHER HAS MADE SOME ESTIMATES FOR THE ECONOMIC IMPACT OF THE AGREEMENT WHICH SUGGESTS THAT A WORST CASE SCENARIO WOULD PRODUCE LESS THAN DOLLARS 3 M. IN ADDITIONAL FARES PAID BY TRAVELLERS. MORE PROBABLY THE IMPACT CAN BE DEMONSTRATED TO HAVE BEEN VERY MUCH LESS.

4. THE SECOND INCIDENT WAS A MEETING IN JULY 1981 AT THE VICTORIA STATION TERMINAL BETWEEN LAKER AND BA CONCERNING INCREASES IN STAND-BY AND SUPER APEX FARES FOR THE FOLLOWING PEAK SEASON. AGAIN



STAND-BY AND SUPER APEX FARES FOR THE FOLLOWING PEAK SEASON. AGAIN THE DOJ HAVE VERY LITTLE EVIDENCE OF THE INVOLVEMENT OF US CARRIERS WHICH HAS NO DOUBT LED TO THEIR EXCLUSION FROM THE PROPOSED INDICTMENTS. ALSO THE AGREEMENT HAD LITTLE IF ANY EFFECT: SINCE LA WENT OUT OF BUSINESS BEFORE THE FOLLOWING PEAK SEASON.

5. CONCERNING THE LEG 5 ALLEGATIONS ROSDEITCHER BELIEVES THE DOJ HAVE SOME QUOTE EVIDENCE UNQUOTE OF THREE AGREEMENTS. THE FIRST CONCERNS THE DETROIT/WASHINGTON/LONDON ROUTE IN THE WINTER OF 1980/81. THIS APPEARS TO BE BASED ON ONE BA DOCUMENT WHICH HAS COME INTO THEIR POSSESSION SUGGESTING THAT BA HAD ADVANCE KNOWLEDGE OF PAN AM'S PLANS FOR THAT ROUTE AND WHICH IN CONJUNCTION WITH THE VARIOUS FILINGS UNDER BERMUDA 2 HAD LED TO THE CONCLUSION THAT THE FREQUENCIES THAT WINTER WERE THE RESULT OF AN AGREEMENT. THEY HAVE NO EVIDENCE FROM PAN AM.

6. THE SECOND ALLEGED AGREEMENT CONCERNS THE SAME ROUTE IN THE FOLLOWING WINTER. THE EVIDENCE IS OF A SIMILAR NATURE ALTHOUGH ON THIS OCCASION THEY ALSO HAVE FOUND A COPY OF A BA DOCUMENT SUGGESTING THAT THERE WAS ADVANCE KNOWLEDGE OF THE PAN AM PROPOSALS ON THE PAN AM FILES. HOWEVER IN THIS CASE THE PROPOSALS DESIRED BY BOTH AIRLINES WERE NOT IMPLEMENTED IN THE ACTUAL FILINGS.

7. THE THIRD AGREEMENT CONCERNS LOS ANGELES/LONDON IN THE WINTER OF 1981/82 AND RELIES ON THE SAME DOCUMENTS AS USED TO CONSTRUCT THE ALLEGATION CONCERNING WASHINGTON/LONDON FOR WINTER 1981/82. THE EVIDENCE IS AMBIGUOUS AND DEPENDS LARGELY ON CIRCUMSTANTIAL INTERPRETATION OF BERMUDA 2 FILINGS.

COMMENT

8. THE EXTENT OF THE EVIDENCE APPARENTLY AVAILABLE TO THE DOJ ESPECIALLY IN RELATION TO LEG 5 IS A GOOD DEAL LESS CONVINCING THAN MIGHT HAVE BEEN EXPECTED. IT SUGGESTS THAT PARTICULARLY IN RELATION TO LEG 5 THERE ARE REAL OPPORTUNITIES TO CAST DOUBT ON ITS SUFFICIENCY. THIS COULD HAVE INFLUENCED THE WILLINGNESS OF THE DOJ TO USE THE DISCRETION WHICH WE KNOW THEY HAVE AND SHOULD BE URGED TO EXERCISE IN VIEW OF THE IMPORTANT FOREIGN RELATIONS ASPECT OF THE CASE. EVEN IN RELATION TO LEG 1 THE EVIDENCE IS SUCH THAT EVEN IF THE AIRLINES HAD AN AGREEMENT ITS IMPACT WAS MINIMAL AND THEREFORE AMENABLE TO DISCRETION.

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