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FROM WASHINGTON 100023Z NOV 84.

TO IMMEDIATE F C O

TELEGRAM NUMBER 3355 OF 9 NOVEMBER.

MR. KNIGHTON.
DEPT OF TRANSPORT.
2. MARSHAM STREET.

LAKER: FUTURE ARRANGEMENTS.

SUMMARY

1. FURTHER PROGRESS IN A THIRD ROUND OF NEGOTIATIONS. A FINAL ROUND IN LONDON 19-21 NOVEMBER.

DETAIL

2. A THIRD ROUND OF CONSULTATIONS ABOUT NEW ARRANGEMENTS FOR MANAGING THE RELATIONSHIP BETWEEN US ANTI-TRUST LAW AND BILATERAL AVIATION MATTERS TOOK PLACE IN WASHINGTON 8-9 NOVEMBER. UK DELEGATION WAS LED BY KNIGHTON (DTP) AND US DELEGATION WAS LED JOINTLY BY SEINDEN (JUSTICE DEPARTMENT) AND WILLIS (STATE DEPARTMENT).

3. KNIGHTON EMPHASISED AT THE START OF THE MEETINGS THAT, BASED ON HIS REPORT ON THE PROGRESS THUS FAR MADE. HIS MINISTER WAS CONCERNED THAT THE NEGOTIATIONS WERE EXPANDING BEYOND THE ORIGINAL FRAMEWORK. THE CORE OF THE NEGOTIATIONS MUST BE A RESOLUTION OF THE ANTI-TRUST ISSUES. THIS INVOLVED SIGNIFICANT CONCESSIONS BY THE UK CONCERNING THE POLICY TOWARD INTER-CARRIER DISCUSSION OF PRICING AND ON THE US SIDE A COMMITMENT TO ABOLISH THE THREAT OF CIVIL ANTI-TRUST LIABILITY FOR UK AIRLINES. HOW THIS WAS PRESENTED TO CONGRESS WAS A MATTER FOR THE US GOVERNMENT. WE HAD AGREED TO CONSIDER SOME LIBERALISATION OF THE TARIFF REGIME IN ORDER TO ASSIST THIS PROCESS BUT IT HAD NOT BEEN ENVISAGED THAT NEGOTIATIONS WOULD INVOLVE CHANGES IN THE CAPACITY AND ROUTE ENTRY REGIME. THE UK WAS IN NO WAY REPUDIATING THE BASIC FRAMEWORK OF THE NEGOTIATIONS AND WAS READY TO ENGAGE IN SERIOUS DISCUSSION OF A LIBERALISED TARIFF REGIME. BUT 'WHOLESALE RENEGOTIATION OF BERMUDA 2 WAS NOT POSSIBLE'.

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4. ALTHOUGH THE US DELEGATION EXPRESSED CONSIDERABLE DISAPPOINTMENT AND OCCASIONALLY PROBED THE FIRMFNESS OF THE UK POSITION, THE SUBSEQUENT NEGOTIATIONS WERE CONFINED TO THE FRAMEWORK SET OUT IN THE OPENING STATEMENT.

5. ON THE ANTI-TRUST REGIME FOR INTER-CARRIER DISCUSSIONS THE NEGOTIATIONS MADE SOLID PROGRESS. PARTICULAR DEVELOPMENTS OF NOTE WERE:-

(A) THE US, CONTINUED TO PRESS FOR UNDERTAKINGS FROM THE UK CONCERNING RESTRAINT IN THE USE OF THE PTI ACT:

(B) THE US RECOGNISED THE UK CONCERN TO AVOID DOCUMENTS OBTAINED UNDER THE PUBLIC ENFORCEMENT MEASURES BEING USED FOR ANY OTHER PURPOSES (EG SEC, IPS):

(C) IT WAS AGREED THAT ONE OF THE FACTORS INFLUENCING A DECISION TO START A PROSECUTION WOULD BE WHETHER THE OTHER PARTY TO THE AGREEMENT WAS CONTEMPLATING OR HAD STARTED A SIMILAR PROSECUTION.

6. THE DISCUSSION OF TARIFF LIBERALISATION WAS MORE DIFFICULT. THE US RESISTED STRENUOUSLY THE UK VIEW THAT FOR FARES TO AND FROM 'BEHIND POINTS' A SUM OF SECTOR FARE POLICY WOULD BE ESSENTIAL TO PROVIDE FOR FAIR ANDEQUAL OPPORTUNITY. HOWEVER AFTER A DISCUSSION OF PRACTICAL PROBLEMS THAT HAD ARISEN IN THE PAST, THE US DELEGATION INDICATED THAT WITH SOME IMPROVEMENTS IN THE IMPLEMENTATION OF THE POLICY AND SUBJECT TO CONSULTATION WITH US CARRIERS, THE REGIME MIGHT IN FACT BE ACCEPTABLE.

7. ON FARES BETWEEN GATEWAYS THE UK INDICATED WILLINGNESS TO MOVE TO A DOUBLE DISAPPROVAL REGIME SUBJECT TO AN ADEQUATE SAFEGUARD MECHANISM TO PREVENT MARKET DISRUPTION. RIGHT AT THE END OF THE DISCUSSION, THERE WERE SIGNS THAT US AIRLINES WERE BECOMING APPREHENSIVE THAT THE TARIFF REGIME MIGHT BECOME TOO LIBERAL, AND THAT THIS WAS CAUSING SOME DISARMY IN THE US DELEGATION.

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2. IT WAS AGREED THAT SUFFICIENT PROGRESS HAD BEEN MADE ON THE SUBSTANCE TO ANTICIPATE THAT THE NEXT ROUND OF NEGOTIATIONS IN LONDON COULD PROVIDE A PACKAGE ON FUTURE ARRANGEMENTS. IT WOULD THEN BE FOR GOVERNMENTS TO DECIDE WHETHER THIS, TAKING INTO ACCOUNT OTHER ELEMENTS (IE FOR THE UK THE POSITION ON THE INDICTMENTS AND ON ANY US HELP IN RELATION TO THE CIVIL SUITS) WOULD PROVIDE THE BASIS FOR OVERALL SETTLEMENT OF THE INTER-GOVERNMENTAL ISSUES.

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