

CONFIDENTIAL

Department of Transport,
2 Marsham Street,
SW1.

17 November, 1984.

Dear Powell,

Laker

Prime Minister

This is the
additional briefing

C.D.P. 10/11

Ricketts' letter of 16 November suggests the line which the Prime Minister might take when Mr. Allen Wallis delivers President Reagan's message on the Laker case. You will have seen Sir Oliver Wright's telegram (Washington 3433) reporting the oracular comments of Mr. Shultz on the content of this message: this still tends to suggest that there will be at least some indictments - and if so the most likely candidate might be the alleged conspiracy between British Airways and Pan American to fix capacity and schedules.

As I mentioned to you, however, later information obtained by our Embassy (in the strictest confidence) suggests that there may be just a possibility that no indictments will be brought.

I enclose a briefing note for the Prime Minister, when she sees Mr. Wallis, which has been agreed with the Foreign and Commonwealth Office and endorsed by Mr. Ridley. Copies go to Peter Ricketts (Foreign and Commonwealth Office), David Peretz (HM Treasury), Callum McCarthy (Department of Trade and Industry), and Richard Gardener (Law Officers' Department).

Yours sincerely
William Knighton.

W.M. Knighton

Charles Powell, Esq.,
10 Downing Street.

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Line to take

Decision to indict: Highly objectionable. Can't understand decision, coming while our negotiators are well on the way towards defining a regime which would provide clear understandings for the future about permitted and impermissible airline conduct. On so sensitive an international issue, agreement for the future would provide strong grounds for not seeking to punish past conduct when there is total disagreement between us on whether it should be punished. I may want to send a return message to the President, and so I ask that nothing should be made public in the meantime.

No indictments: Welcome decision, which will encourage the wider official negotiations to settle the dispute. Announcement of decision not to indict will be sensitive for both sides: would like opportunity for my officials to comment in advance on its terms.

Official talks on future arrangements: /In response to suggestions that a higher degree of liberalisation in the aviation agreement should be sought/.
A non committal answer.

Background:

It seems highly improbable that a decision conveyed by the President to indict can be altered; the line to take nonetheless suggests an argument.

Indictments are objectionable in principle. Their practical effect for the individuals would be inability to visit the United States without facing trial. For British Airways the chief importance is the potential effect on the private litigation, especially the class actions, and thus on the prospects for privatisation (the maximum fines arising from indictments would be \$1 million per count). The content of a US announcement about indictments (even if none were brought) could be materially more or less unhelpful for the civil suits, and it would be in our interest to be able to influence it. For example, the US have already indicated that they did not have the basis for indicting for an alleged conspiracy to bring down Laker (the claim in the liquidator's civil action) and it would be helpful for this to come out publicly.

Ministers will want to decide urgently whether any indictments are (in Mr. Shultz' words) 'acceptable' taking account of anything in the President's message about the negotiations on future arrangements. A very early US public announcement on indictments would narrow political options.

A new round (intended to be final) of negotiations on future arrangements had been fixed to start at 0900 on Monday, 19 November.

The US had, and have, taken no steps to cancel or postpone it. But our Embassy in Washington have learned that the US side have cancelled their travel plans to London. US officials have declined to say that they were calling off the talks, but have simply referred to the President's message. We have therefore continued to act as though the talks would start on Monday, since we have received no request that they should not.

If the news on indictments is good, the President may ask that as part of the negotiations on future arrangements we should consider a higher degree of liberalisation in the aviation agreement.

The US have been pressing their general aviation policy objectives on us, arguing that liberalisation will help them to sell to Congress the removal of the treble damage suit from aviation. Mr. Ridley has said in a message to Mrs. Dole that these negotiations are fundamentally about settling the anti trust dispute. While we are prepared also to negotiate on fares liberalisation, we cannot renegotiate now over the whole of Bermuda 2. (US proposals would shift the balance of opportunities strongly in US favour: and the US already outearn our airlines 9:5.)

PS

PS/LADY YOUNG

PS/FUS

MR BRAITHWAITE

~~MR D'NEILL~~

MR AUST, Legal Advisers

MR FREELAND, Legal Advisers

ED/MAED (2)

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PRESIDENT'S OFFICE



PS/S of S

MR LAZARUS, FUS

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MR GARDNER,

ATTORNEY GENERAL'S OFFICE

IMMEDIATE

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DESKBY 170900Z

FM WASHINGTON 170630Z NOV 44

TO IMMEDIATE FCO

TELEGRAM NO 3433 OF 17 NOV

LAKER; CONSULTATIONS.

1. THIS HAS BEEN A PROFESSIONALLY FRUSTRATING AND EMOTIONALLY DRAINING DAY. MY STAFF AND I HAVE BEEN TRYING ALL DAY TO GET AT THE TRUTH BEHIND THE ONLY TWO FACTS KNOWN TO US: FIRST THAT WALLIS WAS CARRYING A MESSAGE FROM THE PRESIDENT TO THE PRIME MINISTER AND SECONDLY THAT NEXT WEEK'S TALKS WERE OFF, BECAUSE NO AMERICAN OFFICIALS WOULD BE LONDON TO CONDUCT THEM. FEW OFFICIALS WERE PRIVY TO THE DECISION AND ALL OFFICIALS IN ALL AGENCIES SEEMED TO HAVE TAKEN A VOW OF SILENCE. WHEN I CALLED ON THE VICE-PRESIDENT THIS MORNING AND MENTIONED LAKER TO HIM, ALL HE DID WAS TO INSTRUCT HIS STAFF TO RECORD THAT THE BRITISH AMBASSADOR HAD RAISED THE SUBJECT OF LAKER, AT WHICH THE VICE-PRESIDENT'S HAMR HAD STOOD ON END. THESE CONTACTS HAD LED US TO THE PRELIMINARY CONCLUSION THAT THE MESSAGE MUST CONTAIN BAD NEWS IN RELATION TO THE INDICTMENTS. OUR REASONING WAS THAT HAD IT BEEN OTHERWISE, THERE WOULD HAVE BEEN NO NEED FOR A SPECIAL EMISSARY AS TO THE CHOICE OF MESSENGER, WALLIS IS KNOWN TO HAVE SPECIAL SHOCK-ABSORBENT QUALITIES AND WE HAD INTENDED TO ASSUME THAT HE WOULD NEED THEM AT CHEQUERS.

2. I DELAYED SENDING YOU A BAD NEWS TELEGRAM SINCE I KNOW I SHOULD BE SEEING SHULTZ AT DINNER TONIGHT AND HOPED TO GET A SIGN FROM HIM OF THE TRUE STATE OF PLAY. HE GREETED ME ON THE RECEIVING LINE WITH A WARM SMILE AND WHEN I SUGGESTED THAT WE MIGHT ALL AS WELL EAT, DRINK AND BE MERRY TONIGHT SINCE WE WERE IN FOR A BAD WEEK-END, HE ASKED ME WHAT ON EARTH I MEANT. WHEN I ANSWERED: "LAKER", HE SAID THAT THERE HAD BEEN A TOUGH DISCUSSION IN CABINET THAT MORNING, THAT THE PRESIDENT HAD TAKEN A FIRM DECISION, THAT IT WAS A COURAGEOUS ONE AND THAT HE THOUGHT IT WOULD BE ACCEPTABLE TO US. AT THIS POINT, I HAD TO MOVE ON. AT THE END OF DINNER HE HAD MOVED SMARTLY AWAY BEFORE I COULD CROSS-EXAMINE HIM.

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3. AS YOU KNOW, MY SWEET AND GULLIBLE NATURE PRE-DISPOSES ME TO THINK THE BEST OF PEOPLE AND THEIR MOTIVES AND YOU ARE ALWAYS KIND ENOUGH TO MAKE ALLOWANCES FOR THAT FAILING. THE EVENTS OF TODAY CAN BE INTERPRETED AS SIGNIFYING THAT WALLIS BRINGS BAD NEWS, BUT WITH CRUMBS OF COMFORT. ON THE OTHER HAND, I HAVE TO TRUST SHULTZ AND THE STRANGE BEHAVIOUR OF THE VICE PRESIDENT CAN BE INTERPRETED TO MEAN THAT WALLIS BRINGS GOOD NEWS, THOUGH WITH PERHAPS A BIT OF DOWNSIDE. THE DISRUPTION OF THE TALKS CAN BE INTERPRETED EITHER WAY; FOR IF THE NEWS IS GOOD, BOTH SIDES WILL NEED A PAUSE FOR REFLECTION.

4. ON THE WHOLE, I BELIEVE THAT WALLIS WILL BE THE BEARER OF GOOD NEWS, OR AT LEAST, GOOD ENOUGH NEWS. IF SO, GIVEN THE TRAVAIL OF THE PAST MONTHS, A MESSAGE OF APPRECIATION FROM THE PRIME MINISTER TO THE PRESIDENT WILL BE IN ORDER, THE WARMTH OF WHICH WILL BE DEPENDENT UPON THE GOODNESS OF THE NEWS. THE VALUE TO US OF THE RIGHT DECISION, IF THAT IS WHAT IT IS, IS ALSO A MEASURE OF THE COURAGE OF THE PRESIDENT IN BEING READY TO ACCEPT DOMESTIC CRITICISM.

WRIGHT

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