

FOCAB002/18

OO CABINET OFFICE (FOR NO10)

GRS 750
SECRET
D E D I P
FM WASHINGTON 181800Z NOV 84
TO IMMEDIATE FCO
TELEGRAM NUMBER 3434 OF 18 NOVEMBER

FOLLOWING FOR PRIVATE SECRETARY NO 10
FROM MINISTER IN AMBASSADOR'S ABSENCE ON SPEAKING TOUR IN FLORIDA
AND TEXAS.

YOUR TEL NO 1965: LAKER

1. DEPUTY SECRETARY OF STATE DAM TELEPHONED MINISTER (IN AMBASSADOR'S ABSENCE) ON 18 NOVEMBER.
2. DAM SAID THAT IT HAD BEEN DECIDED LAST WEEK, BEFORE IT WAS KNOWN WHICH WAY THE LAKER DECISION WOULD GO, THAT IN EITHER HYPOTHESIS THE OUTCOME WOULD BE CONVEYED PERSONALLY TO THE PRIME MINISTER BY WALLIS. THE PRESIDENT HAD HELD A MEETING ON 16 NOVEMBER TO CONSIDER THE CASE. THE DEPARTMENT OF JUSTICE RECOMMENDATION WAS FOR TWO INDICTMENTS:

- (I) AGAINST BRITISH AIRWAYS AND THREE NAMED OFFICIALS FOR FIXING FARES IN 1981 AND 1982
- (II) AGAINST BRITISH AIRWAYS AND PAN AMERICAN AIRWAYS FOR FIXING FLIGHT CAPACITY

THE DEPARTMENT OF JUSTICE HAD SAID THAT THE EVIDENCE IN THEIR POSSESSION LEFT NO DOUBT THAT BRITISH AIRWAYS HAD ACTED DELIBERATELY AND KNOWINGLY. AND THE DEPARTMENT OF JUSTICE AND STATE BOTH AGREED THAT THE US HAD A RIGHT TO TAKE ACTION SINCE THE IMPLEMENTATION OF THE TWO ACTIONS COMPLAINED ABOUT HAD BEEN IN THE U.S. (DAM ADDED THAT EVEN THE RECENT HOUSE OF LORDS RULING SEEMED TO POINT THAT WAY, HANNAY SAID WE DID NOT SHARE THAT VIEW, IT WAS AGREED THERE WAS NO NEED TO ARGUE THE TOSS ON THIS POINT AT THIS MOMENT). NEITHER DEPARTMENT REGARDED THE TERMS OF THE BERMUDA 2 AGREEMENT AS OVERRIDING ACTION. AND THE DEPARTMENT OF JUSTICE POINTED OUT THAT THEY HAD ALREADY DROPPED THE MOST SERIOUS OF THE CASES (THE HOLLYWOOD INCIDENT) BECAUSE A BRITISH OFFICIAL WAS INVOLVED.

3. DESPITE ALL THIS, DAM SAID, THE PRESIDENT HAD DECIDED ON FOREIGN POLICY AND ON COMPETITION POLICY GROUNDS NOT TO PROCEED WITH THE INDICTMENTS. THIS HAD BEEN A HARD DECISION FOR HIM TO TAKE IN VIEW OF HIS TOUGH LAW AND ORDER STANCE. IT WAS THE ONLY CRIMINAL MATTER WHICH HAD COME TO HIM PERSONALLY. THERE WOULD CERTAINLY BE EXTENSIVE PUBLIC AND CONGRESSIONAL CRITICISM OF WHAT HE HAD DONE. IT WAS THEREFORE MOST IMPORTANT THAT THIS DECISION SHOULD POINT THE WAY, AND BE SEEN FROM THE OUTSET TO BE POINTING THE WAY TO A MORE COMPETITIVE BILATERAL CIVIL AVIATION REQUIRE. THE PRESIDENT HOPED THE PRIME MINISTER WOULD TAKE A PERSONAL INTEREST IN THE NEGOTIATIONS NOW UNDER WAY.

4. DAM THEN OUTLINED THE MAIN POINTS THE AMERICANS WANTED COVERED IN THE NEGOTIATIONS, WHICH THEY HOPED COULD BE RESUMED IN ABOUT A WEEK, IN THE FOLLOWING TERMS:

- (I) MORE FLEXIBILITY OVER PRICING ON THE BASIS OF A DUAL DISAPPROVAL APPROACH
- (II) SOME RELAXATION OF RESTRICTIONS ON CAPACITY AND WITH REGARD TO FREQUENCY OF SERVICES AND THE DESIGNATION OF CARRIERS
- (III) STRICT ENFORCEMENT BY BOTH THE UK AND THE US OF FULL DISCLOSURE BY THE CARRIERS OF ANY COORDINATION TALKS BETWEEN THEM
- (IV) UK COMMITMENT NOT TO INVOKE THE PTI ACT AGAINST ANY FUTURE US GOVERNMENT ACTION TO DEAL WITH VIOLATIONS
- (V) UK COMMITMENT TO IMPRESS ON BRITISH CARRIERS THE NEED TO AVOID ANY BREACH OF US LAW.

Sent 18/11
2

DAM ADDED THAT THE AMERICANS HOPED THAT THE FURTHER WEEK'S PAUSE IN THE NEGOTIATIONS WOULD ALLOW TIME TO REFLECT ON THESE ISSUES IN THE LIGHT OF THE LAKER DECISION AND FOR THE NECESSARY POLITICAL GUIDANCE TO BE GIVEN TO THE NEGOTIATORS.

5. HANNAY THANKED DAM FOR THIS CLEAR INDICATION OF US THINKING. HE COULD ASSURE HIM THAT WE INTENDED TO DO ALL WE COULD TO COMPLETE THE NEGOTIATIONS TO SETTLE THIS PROBLEM IN A WAY SATISFACTORY TO BOTH OF US. THE EARLIER ROUNDS HAD REVEALED A GOOD DEAL OF COMMON GROUND BUT ALSO ONE OR TWO POINTS AMONG THOSE HE HAD MENTIONED WHICH WOULD BE MORE DIFFICULT. BUT THE WILL TO MAKE PROGRESS WOULD BE THERE.

6. HANNAY AND DAM THEN DISCUSSED PUBLIC HANDLING. DAM UNDERLINED THAT IT WAS MOST IMPORTANT TO MAINTAIN COMPLETE CONFIDENTIALITY AND THAT ANY UK COMMENT SHOULD ONLY FOLLOW, AND NOT PRECEDE OR COINCIDE WITH US STATEMENTS ON THE INDICTMENTS. HE DID NOT YET KNOW WHEN THE DEPARTMENT OF JUSTICE WOULD MAKE THEIR ANNOUNCEMENT. IT COULD BE AS EARLY AS 19 NOVEMBER BUT IT COULD BE LATER IN THE WEEK. THERE WAS NO FUTURE IN TRYING TO INFLUENCE THE PRECISE TERMS OF THAT PARTICULAR ANNOUNCEMENT WHICH WOULD REFLECT THE DEPARTMENT'S LEGAL REQUIREMENTS. WHAT WAS IMPORTANT WAS THAT THE TWO GOVERNMENTS SHOULD THEN COMMENT PUBLICLY IN TERMS WHICH WAS AS HELPFUL AS POSSIBLE TO EACH OTHER PARTICULARLY ABOUT FUTURE PROSPECTS AND THE NEGOTIATIONS IT WAS AGREED THAT COUNSELLOR (C AND AS) AND WILLIS (STATE) SHOULD BE IN TOUCH TO WORK UP A DRAFT LINE TO TAKE WHICH COULD BE RECOMMENDED TO MINISTERS ON EITHER SIDE.

WRIGHT

CCN PARA 3 LINE 9MORE COMPETITIVE BILATERAL CIVIL AVIATION REGIME.....

NNNN

SENT AT 182018Z GS

QSL??

DE CAB QSL AT 182018Z JEG

CHARLES

Rodric Braithwaite rang again:

1. Press handling: see para 6 of telno 3434 from Washington

2. Essence is that any comment by us should only follow, not precede or coincide with the US statement on the indictments. The Justice Dept statement could be tomorrow or could be later.

Stress this to Bernard Ingham

2. William Knighton wishes to speak to you - now already done so.

3. British airlines were due to attend negotiations here tomorrow with the Americans. The Americans are not now going, so British airlines will have to be stood down.

Consequence: speculation will begin as early as tomorrow.

Debbice

D.R.

CHARLES

Laker

Rodric Braithwaite has just telephoned. He would like to speak with you fairly urgently. (He is currently sitting in the Resident Clerk's Flat at the FCO).

He has spoken with the American Ambassador and Mr. Wallis, who told him everything that passed between them and the PM. Rodric says there now needs to be some action taken:

- 1) A press line has to be thought about very carefully, and the sooner the better. Rodric feels someone should talk to William Knighton and to Bernard Ingham, because if the press line goes wrong, it could endanger future negotiations, etc.
- 2) Rodric would like to telegraph to Washington the piece of paper Mr. Wallis handed you with the American requirements. (He has already seen your telegrams).

Will you have a word with him, or shall I pass a message?

Debbie

File No. NO. 10
 Department
 Drafted by CHARLES POWELL
 (Block Capitals)
 Tel. Extn.

SECRET
 OUTWARD
 TELEGRAM

Security Classification SECRET	
Precedence IMMEDIATE	
DESKBY	Z

FOR COMMS. DEPT. USE	Despatched	(Date)	POSTBY	Z
		(Time) Z		

PREAMBLE

(Time of Origin) Z (G.M.T.) (Restrictive Prefix)
 (Security Class.) SECRET (Caveat/Privacy Marking)
 (Codeword) **DEDIP** (Deskby) **18421400** Z

TO **IMMEDIATE** **WASHINGTON** Tel. No. of
 (precedence) (post)

AND TO (precedence/post)

AND SAVING TO

REPEATED TO (for info)

SAVING TO (for info)

Distribution:-

[TEXT]

FOLLOWING STRICTLY PERSONAL FOR HM AMBASSADOR
 FROM PRIVATE SECRETARY NO. 10

YOUR TELEGRAM NO. 3433: LAKER CONSULTATIONS

The purpose of Wallis's call on the Prime Minister was to tell her that the President had decided that no (repeat no) indictments would be brought **an** the Laker ^{issue} ~~case~~. Wallis stressed that this had been a very difficult decision indeed for the President. It was the first time in his Administration that a matter concerning a criminal indictment had ^{even} been brought to him. It was a reflection of the special nature of Anglo-American relations and the close personal friendship between the President and the Prime Minister that the decision had gone this way.

Copies to:-

There were no conditions attached. But the President hoped that the official negotiations which had already begun could be carried quickly to a successful conclusion. The American side hoped to resume these in about a week. It would be helpful if the negotiators could be given the necessary political guidance to ensure their success. Finally, Mr. Wallis said that the information about the President's decision ^{must} ~~should~~ be treated as secret until it had been communicated to British Airways. It was planned to do this mid-morning, East Coast time, on 19 November. He believed that Dam would be briefing you.

The Prime Minister expressed delight at the President's decision and acknowledged that it must have been very difficult for him. She undertook to reflect how the official negotiations could best be taken forward. She also promised that we would maintain the strictest security at this end. She would tell no-one but the Secretary of State for Transport. The Prime Minister added that it would be helpful if you were able to discuss with Dam the terms in which an announcement would be made in Washington and of our response here. Wallis agreed that this would be useful though thought it might be difficult in practice. The Justice Department/^{who}would be making the announcement were "very sore".

The Prime Minister will be sending the President a personal message on the direct link.

Fuller account will follow.

CID

NOTHING TO BE WRITTEN IN THIS MARGIN

File No.
 Department NO. 10
 Drafted by
 (Block Capitals) CHARLES POWELL
 Tel. Extn.

OUTWARD
 TELEGRAM

Security Classification
CONFIDENTIAL
Precedence
IMMEDIATE
DESKBYZ

FOR
 COMMS. DEPT.
 USE

Despatched (Date)
 (Time)Z

POSTBYZ

PREAMBLE

(Time of Origin)Z (G.M.T.) (Restrictive Prefix)
 (Security Class.) CONFIDENTIAL (Caveat/ Privacy Marking) DEDIP
 (Codeword) (Deskby)Z

TO WASHINGTON IMMEDIATE Tel. No. of
 (precedence) (post)

AND TO (precedence/post)

AND SAVING TO

REPEATED TO (for info)

SAVING TO (for info)

Distribution:-

*Private office
 and
 Sir A Adair
 only.*

Copies to:-

[TEXT]

FOLLOWING FOR HM AMBASSADOR FROM PRIVATE SECRETARY NO.10
YOUR TELEGRAM NO. 3420: PRIME MINISTER'S VISITS

I am telegraphing to you separately a brief account of the Prime Minister's meeting with Allan Wallis this morning.

At the end of this, the US Ambassador raised the question of the Prime Minister's visit to Washington. He thought there had been some confusion about this, partly of his making. But the upshot was that the President and Mrs. Reagan would be extremely pleased if the Prime Minister could visit them at Camp David on 22 December. The invitation was for talks between 1000 and 1200 followed by lunch, concluding at 1330. The original suggestion had been that this could be an alternative to a visit in February, with the

/ President

President perhaps stopping off in London on his way to or from the Economic Summit in May. However, he was now authorised to say that it was not an alternative and that a December visit need not impact upon the Prime Minister's proposed February visit. He added that he thought a December visit would be an important opportunity for the Prime Minister and the President to share their views on priorities ^{at a crucial moment} in a relaxed setting.

The Prime Minister said that she was immensely grateful and would like to take up the President's invitation. She would also like to keep open the possibility of a February visit but would reflect on this further. An alternative might be for her to see President Reagan in London in May and to postpone her visit to the United States until September. There would be more time for a visit during a Parliamentary Recess. She would be in touch further about this. But the December visit should be regarded as fixed.

The earlier discussion with Allan Wallis obviously had a part in this.

CSP

NOTHING TO BE WRITTEN IN THIS MARGIN

LAKER CASE

Indictments: Line to take

1. The US Department of Justice have decided not to bring any charges following their investigations into allegations concerning British airlines over fare discussions and agreements, involving services on the North Atlantic route. We are naturally glad that no criminal proceedings are to be brought against British companies.

2. As to future arrangements, talks have been going on about general issues between the US and UK governments over the application of US anti-trust law to international civil aviation. We hope these will come to an early and satisfactory conclusion. The aim is to obviate any future difficulties of this kind, while protecting the interests of the travelling public through agreed arrangements to maintain a competitive industry.

QUESTION: Were the Department of Justice considering prosecution of any British airline for bringing down Laker?

ANSWER 1: The DOJ told us that they were not considering any indictment against a British airline for bringing down Laker.

OR

ANSWER 2: We were not consulted about such a possibility.

QUESTION: Are you going to agree on more liberal arrangements with US Government?

ANSWER: I cannot comment on what might be the outcome of negotiations.

QUESTION: What about the implications for the Laker civil suits?

ANSWER: That is a matter for British Airways and the other defendant airlines.

QUESTION: What is the Government's attitude to price-fixing between airlines?

ANSWER: Discussions between airlines about fares are not unlawful in the United Kingdom. The fares of all UK airlines are approved by the CAA and must be charged as a condition of their licences.

The CAA in considering fares have a duty to safeguard the interests of consumers. US airline fares must be similarly approved by the Department of Transport under the relevant permits.

QUESTION: What about winter fare filings?

ANSWER: The Government had no alternative but disapprove of the winter fares recently filed. Although discussions with the US Government are continuing, the UK Government has not so far been satisfied as regards the risks that such tariffs would expose US airlines to and must challenge in US courts.

QUESTION: Did the British Government know in advance about the decision?

ANSWER: After they had taken their decision US Administration informed us. (If pressed) Question: Was it the Prime Minister who was involved? Answer: Yes.

QUESTION: Did Mr. Wallis come to Britain?

ANSWER: (If pressed) Mr. Wallis personally represented the decision of the US Administration to the Prime Minister.

QUESTION: Was the political pressure on the US Administration to drop the indictments?

ANSWER: In accordance with arrangements agreed within OECD, the British Government were invited to comment on the international legal aspects including considerations of comity of the issues raised as a result of the Department of Justice's investigation, and did so. The investigations raised issues relating to the appropriateness of the US dealing unilaterally with civil aviation matters, on which our views are well known.