



FCS/83/167

SECRETARY OF STATE FOR TRANSPORT

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Competition in Liner Shipping: The UNCTAD Liner Code

1. Thank you for your letter of 8 August endorsing the conclusions of the joint report prepared by DTp/FCO officials on possible action to safeguard competition in Liner Shipping when the UK accedes to the UNCTAD Liner Code.

2. I also agree with the report's recommendation that we now canvass support among the member states and the Commission for a UK reservation designed to protect the position of non-conference lines. We have however to recognise that our proposed reservation may have to overcome significant opposition and possible legal challenge given the known misgivings of the Commission's Legal Service, and the doubts of several member states. If this opposition should prove insurmountable, we shall, as you rightly suggest, need to reconsider our options.

3. I am copying this letter to the Prime Minister, colleagues on E(S) Committee and to Sir Robert Armstrong.

(GEOFFREY HOWE)

Foreign and Commonwealth Office
2 September 1983



Foreign and Commonwealth Office

London SW1A 2AH

17 August 1983

cc PS/No 10
PS/Member of E(S)
PS/Sir Robert Armstrong

COMPETITION IN LINER SHIPPING: THE UNCTAD CODE

Mr King wrote to Sir G Howe on 8 August about the joint report by officials commissioned by Mr Pym and Lord Cockfield on the Code and its implications for non-conference lines. The Foreign and Commonwealth Secretary will, I am sure, wish to study the report on his return and give his considered reaction to it.

While formal FCO comment on this course of action must await Sir G Howe's return, Mr Whitney has said that it would, in the meantime, be desirable for officials to continue with preparatory work for a canvassing exercise with our EC partners and the Commission; should Sir G Howe endorse the report's recommendation, it would then be possible to proceed without delay to consult our partners.

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Private Secretary to
Ray Whitney MP

PS/Mr King
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TRADE
New tariff barriers
pt 3.

17 AUG 1985

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The Rt Hon Sir Geoffrey Howe QC MP
Secretary of State for Foreign and
Commonwealth Affairs
Downing Street
LONDON SW

8 August 1983

De Geoffrey,

TS 18/8

COMPETITION IN LINER SHIPPING: THE UNCTAD CODE

I have considered the joint report by our officials, commissioned by Arthur Cockfield and Francis Pym before the Election, concerning the UNCTAD Convention on liner conference shipping, and the problems that would arise if developing countries tried to use that Convention as a pretext to ban competition on any of our liner routes from non-conference shipping lines. I am sure that the report is right to conclude that the UK's accession must be on the condition that our trading partners party to the Convention continue to allow non-conference lines to operate in our mutual trades; and that we should therefore make a formal reservation to free our hands in the event that another country breaches that condition.

I also agree that we should canvass the views of the Member States and the Commission, as the report recommends. I accept that some of our EC partners (not all of whom share our commitment to keep the liner shipping on their trading routes open to competition) may seek to challenge our making such a reservation, on the ground that the Community has already reached a "common position" on the UNCTAD Code. This would inevitably call in question the considerations that reconciled us, in 1979, to accepting our predecessors' policy on accession to this UNCTAD Code.

If we encounter such opposition I am sure we must argue robustly that our further reservation in no way affects the aspects of the Code on which a common EC position has been agreed. However we accept that Denmark and Greece would support our making the further reservation. The Commission too are likely to be sympathetic towards a pro-competitive stance, which is clearly in tune with the treaty. They will also be keen to avoid forcing us to conclude that we cannot accede to the Convention.

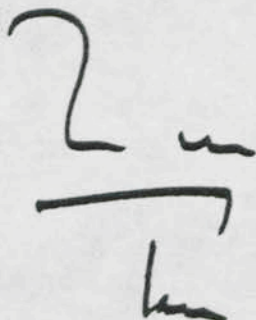
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If we meet insuperable opposition in seeking to "Community-proof" our proposed further reservation, we must clearly take stock. But the best course then might simply be to hold our hand and see how the Code works in practice after it comes into force on October 6, before proceeding with our accession.

If you share my concurrence in the report's recommendations, the next step is no doubt for our officials to agree the text of a lobbying telegram to our Embassies in Community capitals, together with the text of our proposed reservation.

I am copying this letter to the Prime Minister, to colleagues on the Committee, and to Sir Robert Armstrong.



TOM KING

19 AUG 1983



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