

PRIME MINISTER

①

*W the Committee  
lead us in  
damages - what  
remedy have we  
claims  
then? M*

DEAN DOVE

Mr Tebbit mentioned to you after Cabinet yesterday the case of Dean Dove and you indicated that you might want to take up the matter with the President of the European Commission. Attached is a background note together with the draft of a message which Mr Tebbit proposes to send to Commissioner Sutherland. Also attached is a message which you could send to M. Delors if you so wished. Mr Tebbit has said that he would not wish to press you to write to M. Delors since the opportunity cost in terms of negotiating capital might be too high.

Charles and I feel that it is too early for you to involve M. Delors. It would be better to wait and see what success Mr Tebbit has with Commissioner Sutherland. But Mr Tebbit's letter should be copied to Lord Cockfield so that he knows what is going on and can help.

Agree?

*Yes - urgently not*

Mr Tebbit would also like to make clear that the high level of assistance granted to Dean Dove reflects the old system of regional aid, and we would now expect that a lower level of aid would be payable in relation to a project with this number of jobs.

*Duty Desk*

*RAT.*

11 January 1985

VC3ABE





10 DOWNING STREET

14 January, 1985

*From the Private Secretary*

Dean Dove

The Prime Minister has seen your letter to me of 11 January. She agrees that your Secretary of State should write urgently to Commissioner Sutherland along the lines proposed. She has suggested that the correspondence be copied to Lord Cockfield so that he can do what he can to help. The Prime Minister feels it would be better for her not to intervene personally at this stage but to wait and see what progress is made with Commissioner Sutherland. She has asked what remedy we would have against the Commission if they put HMG in a position where it is required to pay damages.

I am copying this letter to Peter Ricketts (Foreign and Commonwealth Office).

ANDREW TURNBULL

M. C. McCarthy, Esq.,  
Department of Trade and Industry





Foreign and Commonwealth Office

London SW1A 2AH

14 January 1985

~~DAT~~  
2) MBM  
AM.

Dear Charles,

Dean Dove

The Foreign Secretary has <sup>act.</sup> seen a copy of Callum McCarthy's letter of 11 January to Andrew Turnbull.

Sir Geoffrey welcomes the idea that Mr Tebbit should write to Mr Sutherland. He can well understand why the Prime Minister wishes to lend her support to this case. But rather than make it the subject of her first communication to the new President, he thinks it would be preferable to instruct Sir Michael Butler to raise the point with M. Delors in her name.

I am copying this letter to Callum McCarthy (DTI).

Yours ever,

Colin Budd

(C R Budd)  
Private Secretary

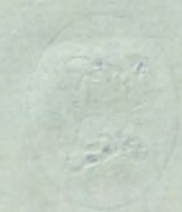
C D Powell Esq  
10 Downing Street



14 JAN 1985

12  
1  
2  
3  
4  
5  
6  
7  
8  
9

UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT







NORM AT  
11/1

DEPARTMENT OF TRADE AND INDUSTRY  
1-19 VICTORIA STREET  
LONDON SW1H 0ET  
TELEPHONE DIRECT LINE 01-215 5422  
SWITCHBOARD 01-215 7877

Secretary of State for Trade and Industry

~~Prime Minister~~ ①  
Chas and I suggest  
you delay your intervention  
in this case. 11 January 1985

Andrew Turnbull Esq  
Private Secretary to the  
Prime Minister  
10 Downing Street  
London SW1

Agree? AT.  
AT 11/1

I am sure that it is too  
early for the Prime Minister to  
involve M. Delors. We should  
wait and see what success  
Mr. Tebbit has with the  
appropriate Commissioner. But Mr. Tebbit's  
letter should be copied to Lord

Dear Andrew,

When my Secretary of State spoke to the Prime Minister yesterday she asked for a note on the Dean Dove case and indicated that she wished to take this matter up with the President of the European Commission. Cockfield  
so that  
he knows  
what is  
about &  
on help.  
CUP  
11/1

2 I enclose a background note, together with a draft which Mr Tebbit proposes to send to Commissioner Sutherland and a short message for the Prime Minister to send to M. Delors, should she so decide. My Secretary of State would not have asked the Prime Minister to write to M. Delors, nor would he now press her to write to M. Delors since the opportunity cost in terms of negotiating capital might be too high. He would also like it to be made clear that the high level of assistance granted to Dean Dove reflects the old system of regional assistance, and we would now hope that a lower level of aid would be payable in relation to a project with this number of jobs.

3 I am copying this letter with enclosures to Peter Ricketts at the FCO.

Yours ever,

Callum

M C McCARTHY  
Private Secretary





MESSAGE FROM THE PRIME MINISTER TO M. DELORS

I feel that I must write to ask you for your help in resolving an issue between my Government and the Commission concerning a company called Dean Dove, which is likely to lead to embarrassment out of all proportion to its cause.

2 Norman Tebbit has written to Commissioner Sutherland on the matter and I enclose a copy of his letter which explains the position. I should underline the fact that we are in no way attempting to avoid compliance with the Commission's Decision but simply seeking to find a way of avoiding the adverse publicity which would result from Dean Dove closing, as a result of what will be seen as a Commission decision. If anything, Norman underestimates the likely reaction in this country.

3 May I ask you to look into this as a matter of urgency? I do want to avoid the new Commission starting out by a decision which, while it will not prevent the Government from being forced by the courts to pay moneys to the company, will cause great disquiet in this country.





DRAFT MESSAGE TO MR SUTHERLAND

I am sorry to have to write to you so soon after your appointment on a matter which is in dispute between my Department and the Commission. Although it may seem relatively minor the situation which has arisen could cause considerable political embarrassment for both the United Kingdom and the Community.

2 As I think you may know, my Department through a genuine error made offers of assistance to a company called Dean Dove in 1982 and 1983 in connection with their man-made fibre yarn production facility. I accept that these offers contravened the Commission's man-made fibre guidelines. I should make clear that this was the result of an administrative error, which I do not seek to excuse. But we must all face the unpleasant circumstances of this error. The immediate outcome of it was a Decision of 23 July 1984 that the aid which had already been paid must be withdrawn and no further payments made. My Government accepted this decision. No further payments have been made and, with the knowledge of DGIV my Department has been in negotiations with the company on the method of withdrawal. Since the decision was notified to us we told your officials that we had suggested to Dean Dove that we might either convert the sums paid into a loan with interest which moved towards commercial terms or agree to phase repayment over seven years. We cannot be sure that the company will accept this, but the alternative suggested by the Commission is very bleak. Your officials say they are looking for immediate repayment with, in addition, interest in respect of the period during which the company has had the benefit of the grants or conversion to a loan with interest

JH4AQB





on a fully commercial rate immediately.

3 Our latest discussion with the company shows such action would probably result in the closure of Dean Dove's yarn production and an associated texturising activity with a loss of some 200 jobs at Stanley in Durham, an area of very high unemployment. The company would then sue the Government to obtain damages from us on the basis that our mistake in acting contrary to the guidelines constitutes negligence. I am advised that they are likely to win. The sums involved in such an action are likely to be many times greater than the amounts of aid paid to the company.

4 If this occurs, I have no doubt that there will be considerable adverse publicity. The Commission will be blamed for the job losses, which will be ascribed to inflexible refusal to accommodate a genuine mistake. Such publicity is likely to be out of all proportion to the cause. In these circumstances I feel I must again ask you to consider allowing us to adopt the more flexible methods of withdrawing aid which we have proposed. If we do not, we are likely to have in the end to pay the company substantial sums, after a legal action which will bring discredit to the Commission, as well as to the Government. It is an unhappy position in which we find ourselves; but the line previously adopted by the Commission is likely to exacerbate the problems, while not preventing our making payments. I hope you can reconsider this.

5 Time is, I am afraid of the essence. The company's Board meets early next week and a decision to close with the consequences I have indicated would become public knowledge immediately.





DEAN DOVE LIMITED: BACKGROUND NOTE

Dean Dove Limited (DD) is a small man-made-fibre (mmf) yarn producer and texturiser. DD employ 200 people at Stanley, County Durham, a coal and steel (Consett) closure area, with a current male unemployment rate locally of 29%. DD forms part of the Sunflag Group, controlled by the Bhardwaj family of East African Asians, which also owns two clothing factories - one at Blyth and the other at Southend, each employing over 200 people.

2 The Treaty of Rome broadly prohibits Member States from giving financial assistance (state aid) without securing the Commission's prior approval. In 1982 and 1983 the Department of Trade and Industry formally offered DD £578,400 by way of Selective Financial Assistance (SFA) in addition to whatever would be their entitlement to Regional Development Grants (RDG) in respect of a yarn production project under their delegated authority from the Commission to grant regional aid. By the end of 1983, the Department had paid DD £931,400 (£338,400 of SFA; £593,000 of RDG). This left £240,000 of SFA outstanding, and some £300,000 of RDG to be claimed.

3 The problem over DD arises from the fact that the Commission issued some mmf state aid guidelines in 1977 which prohibit aid for projects (like DDs) which increase mmf yarn production capacity. Those guidelines override the Department's 'delegated authority' to grant regional assistance. As a result of an administrative failure within the Department in 1977, the ban imposed by those mmf guidelines was not incorporated in the Departmental instructions dealing with granting regional assistance; and the point was not picked up when processing the DD case papers.

4 Acting in response to a complaint from the industry, the Commission made enquiries at the end of 1983 about the aid granted to DD. Despite protracted discussions (including contacts between the Secretary of State and Commissioner Andriessen) in which the Department advanced what were regarded as strong industrial and regional arguments for approving the aid and after going through the formal Treaty procedures, on 23 July 1984 the Commission reached a formal Decision (published on 27 October 1984) that the outstanding aid should not be paid and the aid that had already been paid should be withdrawn. There was no legal basis to contest that Decision.

5 The Department have endeavoured to come to an agreement

JH4AQA





with DD to give effect to that Decision. The Department suggested the staged repayment of the grant already paid, perhaps with interest being payable on terms increasing to a commercial rate. The effect of this on the company would be largely 'offset' by increased regional assistance of £1.2 million to DD's yarn texturising activities and to the Sunflag clothing company at Blyth where jobs might otherwise be at risk. This offset would be limited to the Department's 'delegated authority' and would not, therefore, be notifiable to the Commission. DD's first reaction was that this suggestion would not be acceptable; that the Company would have to be put into liquidation; and that the Company would sue the Department. Commission officials volunteered the view that the suggested staged repayment did not constitute full 'withdrawal' and would not be acceptable to Commissioners. A significant factor was that the Commission had just had their first success in securing withdrawal of aid - full repayment plus interest - by the Belgian textile company Fabelta, and they considered that they could not afford to undermine that precedent.

6 The present position is that DD have been told the reaction of Commission officials, namely that the Commission seem determined to accept nothing less than full repayment with interest; that the Department has offered the maximum 'offset' it legally can; and that the Department must therefore seek to implement the Commission's Decision, if not by agreement then by recourse to law in one way or another.

7 DD are now considering the stark choice before them of either full repayment plus interest 'offset' by the Department's best offer or liquidation. The latter would mean Mr Bhardwaj having to honour large personal guarantees to DD's bankers and, according to Mr Bhardwaj, the Sunflag Group deciding to honour all DD's other debts. There would then be an action for negligence brought against the Department, which I am advised we are likely to lose, and under which Mr Bhardwaj and the Sunflag Group would try to recoup their losses from us. There are risks for them in pursuing such an action, and DD might still opt to accept the Department's offer.

Department of Trade and Industry  
10 January 1985

JH4AQA