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PRIME MINISTER

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I wish to inform you and colleagues of developments in the Lear Fan case.

2. At the end of May the Board of Lear Fan Limited decided to cease trading and we appointed a Receiver, Mr Michael Jordan of Cork Gully, to secure the Company's assets in the United Kingdom and to represent the Government's interests in the assets in the US including the technology. The Receiver has recommended that the Government agree to the formation of a new corporation "Newco" in the US, which would acquire the Lear Fan technology from Lear Fan Limited, Lear Fan Research Limited Partnership and the Department of Economic Development (the three parties who hold rights to the technology). Newco would also hold options to acquire from the Receiver and the Trustee (the person appointed by the US Bankruptcy Court to protect the interests of creditors) the Lear Fan assets in Belfast and Reno. The Newco proposals do not involve or require any further Government funding. The advantages of Newco are that the Government would avoid expensive legal costs in defending litigation by the Limited Partnership, and it might obtain further recoupment of its investment in the Lear Fan project in addition to any sums received as a secured (UK) and an unsecured (USA) creditor of Lear Fan Limited.

3. The Government's contribution to the Lear Fan project has been £55.67m which equates with \$69.34m using the exchange rate when Lear Fan Limited filed for relief under Chapter 7 of the US Bankruptcy Code. The maximum amount under various agreements which the Government can claim as a creditor of Lear Fan Limited is \$45m leaving \$24.3m as the sum on which a shareholding in Newco would be sought. Considerable negotiations have taken place on the share-



holding allocations between the various parties who had invested in the project and agreement in principle has been reached giving a 47% interest to the Lear Fan Research Limited Partnership, 22% for the US Trust, 14.25% each for Zoysia and the Department of Economic Development, with the balance for Mrs Lear and former executives. We have taken the view that it is essential to maximise our claim as a creditor as this offers the best prospect of securing some return. It might have been possible to increase our shareholding in Newco at the expense of our claim but this would not have been sensible given our doubts about the viability of any project which might emerge.

4. The Government's claim as a creditor in the US is unsecured. When the Government agreed in September 1982 to provide assistance to the Company a charge was taken out on the assets. This charge was registered in the United Kingdom and although the Department of Economic Development was informed by its legal advisers that registration had also taken place in the US this was not the case. If the charge had been registered it is probable that it would have been attacked by the Trustee under US Bankruptcy law and could have been nullified. Legal advice is being sought on this aspect and on the question of possible negligence on the part of our legal advisers. The Trustee is unlikely to have more than \$5m for distribution among the unsecured creditors (of which the Government may represent 50%). In addition he will distribute any proceeds from his shareholding in Newco.

5. The Limited Partnership is currently engaged in litigation against Lear Fan Limited and has indicated that it would seek to draw the Government into this process. If Newco is established, the Partnership has agreed to drop its litigation and give a waiver to prevent recommencement. The Government would be included in this waiver and thus we would avoid the high costs involved in defending litigation in the US.

6. A New Zealand consortium has expressed an interest in acquiring the project from Newco. It would not intend to develop the project in Northern Ireland and indeed I have instructed the



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Receiver that anyone interested in the project should be made aware that there is no possibility of the Government providing any further funding.

7. I have, therefore, authorised the Receiver to agree to the formation of Newco as outlined in paragraphs 2 and 3 above. The Receiver expects to formally sign the appropriate documentation this week.

8. I am copying this minute to Members of E(A), the Lord President of the Council, the Foreign and Commonwealth Secretary, the Secretary of State for Defence and to Sir Robert Armstrong.

Jonathan Dke-Evans

T K

(Approved by the Secretary of State and signed in his absence)

15 October 1985

