PRIME MINISTER

TIN

You are holding a meeting tomorrow at 1100 hours.

I suggest the meeting starts with the question of legal liability, then moves to the three questions in paragraph 2 of Mr. Brittan's minute to you.

Legal Liability

As Nick Owen says, the key initial question is the extent of HMG's legal liability, and the question whether we could rely on the Courts to secure contributions from other ITC members. The opinion given by Michael Beloff QC is in the folder.

The question of legal liability leads naturally to the Government's moral and political position. The arguments here point both ways. On the one hand, as you have said, the member governments of the ITC are setting an appalling example, whatever the strict legal liability. This is a matter of self interest, as well as bad behaviour: we would not want debtor governments to renege on their obligations, whatever their basis. On the other hand, it would without doubt be politically damaging to the Government to be seen to be bailing out banks and brokers unless the Government were able to show that it would otherwise inevitably face massive claims for compensation in a legal action which it would be bound to lose.

The banks and brokers have themselves not been blameless. Many of the brokers are subsidiaries of large multinational banks. Surely they must have realised that the ITC was living beyond its means.

I suggest that the Government should be extremely chary of getting too far ahead of other member governments in looking for a solution to the crisis.

Mr. Brittan's three questions in his paragraph 2 provide a suitable agenda for the rest of the meeting. In the light of the arguments above, I suggest you should test Mr. Brittan's position on the bank and broker package very carefully. In effect, the UK is being asked to take a disproportionate share of the risk of supporting the banks and brokers. Once we started on that road, we would be pushed further by other member governments. This suggests that we should confirm on Tuesday our willingness to discuss a package, but we should not agree to contribute more than our fair share at least until the major countries, including particularly the FRG, France and the Netherlands, have agreed to take part in negotiations. Mr. Brittan is proposing that we should support the proposal by the banks and brokers. An alternative is that we should at this stage express willingness to discuss it with the other member governments, and encourage them to take part, without committing ourselves on the content of it.

If the meeting agrees that you should send messages to President Mitterrand and the Dutch Prime Minister, they should go off immediately thereafter. The final paragraph of the draft message at Annex B of Mr. Brittan's minute would need to be amended in the light of the meeting's decision. I suggest that this should be done at the meeting to save time.

Amanda Ross

pp David Norgrove

2 January 1985