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E(DL)(79) 6th Meeting

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CABINET

MINISTERIAL COMMITTEE ON ECONOMIC STRATEGY

SUB-COMMITTEE ON DISPOSAL OF PUBLIC SECTOR ASSETS

MINUTES of a Meeting held in
Conference Room A, Cabinet Office on
THURSDAY 4 OCTOBER 1979 at 5.00 pm

PRESENT

The Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the Exchequer
(In the chair)

The Rt Hon Peter Walker MP
Minister of Agriculture,
Fisheries and Food

The Rt Hon John Nott MP
Secretary of State for Trade

The Rt Hon John Biffen MP
Chief Secretary, Treasury

Mr Nigel Lawson MP
Financial Secretary, Treasury

THE FOLLOWING WERE ALSO PRESENT

The Hon Adam Butler MP
Minister of State
Department of Industry

Lord Strathcona
Minister of State
Ministry of Defence

The Rt Hon Tom King MP
Minister of State
Department of the Environment
(Minister for Local Government
and Environmental Services)

Mr Kenneth Clarke MP
Parliamentary Secretary
Department of Transport

SECRETARIAT

Mr P Mountfield
Mr G D Miles
Mr A S D Whybrow

SUBJECT

PRIVATISATION OF BRITISH AEROSPACE, BRITISH
AIRWAYS, AND THE NATIONAL FREIGHT CORPORATION

PRIVATISATION OF BRITISH AEROSPACE, BRITISH AIRWAYS, AND THE NATIONAL FREIGHT CORPORATION

The Sub-Committee had before them a note by the Secretary of State for Industry (E(DL)(79) 14) about the introduction of private sector capital into British Aerospace (BAe); a note by the Parliamentary Under-Secretary of State, Department of Trade (E(DL)(79) 15) about the privatisation of British Airways (BA); and a letter from the Parliamentary Under-Secretary of State, Department of Transport to the Secretary of State for Industry dated 26 September 1979 about the Civil Aviation Bill, indicating the Minister of Transport's intentions not to issue any guarantees in respect of liabilities transferred from the National Freight Corporation (NFC) to its successor company.

THE CHANCELLOR OF THE EXCHEQUER said that it would be convenient to consider the 3 undertakings together, taking the various policy issues in turn.

i. Point at which a successor company counts as part of the private sector.

THE FINANCIAL SECRETARY, TREASURY, said that it would be for Treasury Ministers to decide whether a successor company to a nationalised industry should be counted as part of the public or of the private sector, and hence whether its borrowings should or should not count against the Public Sector Borrowing Requirement (PSBR). There was a grey area between the clearly public and the clearly private, and there were anomalies in the existing classifications. Treasury Ministers would want to interpret the conventions generously in reaching their decisions. But these decisions would need to convince the financial markets. There was little point in declaring that a company's borrowings did not count against the PSBR if the markets felt that they should, and that the PSBR was thus being artificially understated. There could be no precise criteria for determining whether a company was in or out of the private sector. But he could offer some guidelines. It was essential that there should be a substantial, though not necessarily a majority, private sector shareholding. It was essential that the company should not have access to the National Loans Fund (NLF). On the question of the Government's use of its shareholding, it was essential to follow the British Petroleum (BP) model as closely as possible.

This condition was not met by the Secretary of State for Industry's proposed statement at Annex A to E(DL)(79) 14 that in a situation where the Government would initially own about half the shares in the new company, it would have the normal rights of shareholders. In the case of BP, the Government did not make use of such rights. On the question of Government guarantees for liabilities inherited by the successor company from the nationalised undertaking, the general rule in this context was, the fewer the better. The continuation of explicit Treasury guarantees as proposed by the Secretary of State for Trade would not take the successor company out of the private sector, but he was much more doubtful about the Secretary of State for Industry's proposal to guarantee all inherited liabilities in the event of the successor company's being wound up.

In discussion, it was noted that one relevant factor in the decision on classification would be the degree to which Government backing was essential to the company's ability to trade, and hence the potential liabilities of the Government under Section 352 of the Companies Act 1948. It was considerations of this nature which had led the previous Conservative Government to conclude, reluctantly, that they would have to take Rolls Royce into public ownership.

In further discussion, it was argued that it would be wrong for the Government not to exercise its normal rights as a shareholder in such matters as the election of directors, and that such action by the Government should not prejudice a company's classification as part of the private sector. The use of the BP shareholding was not relevant because the two Government Directors of BP had a power of veto which was not proposed for the Government Directors of the successor company to BAe. On the other hand it was pointed out that in the BP case the Government tied its own hands over the use of the veto by issuing the Bradbury and Bridges letters. It was also questioned whether there was a need for the successor companies to have Government directors at all.

THE CHANCELLOR OF THE EXCHEQUER, summing up this part of the discussion, said that Treasury Ministers would give further consideration to the question of what conditions were necessary for a successor company to qualify as part of the private sector, taking account of the points made in discussion, and

that the Financial Secretary, Treasury, would write to sponsoring Ministers as soon as possible. The Secretaries should arrange for officials of the Treasury and the Department of Industry to try to agree a form of words for the statement on BAe which would make appropriate provision for the use of the Government shareholding while not disqualifying the company from classification as part of the private sector. The Sub-Committee had reached no decision on the question of whether any of the 3 successor undertakings should or should not have Government directors on their Boards in a period when the Government retained a substantial shareholding in them.

The Sub-Committee -

1. Took note, with approval, of the Chancellor of the Exchequer's summing up of this part of their discussion, and invited the Financial Secretary, Treasury, and instructed the Secretaries, to be guided accordingly.

ii. Government guarantees

In this part of the discussion it was first noted that the Secretary of State for Industry proposed to provide a Government guarantee in respect of all liabilities incurred by BAe as a statutory corporation, to be effective only in the event of the successor company being wound up; that the Secretary of State for Trade proposed that specific Treasury guarantees in force on the successor company's vesting day should be continued but that no other inherited liabilities should be guaranteed; and that the Minister of Transport was not proposing to give any guarantees in respect of liabilities inherited by the NFC's successor company, which would mean that on vesting day he would terminate the one specific guarantee now operating in favour of the NFC, which related to their temporary borrowing. The Minister of Transport was however prepared to take a power in the legislation to continue this guarantee, if this would achieve consistency with the legislation for the other two undertakings, even though he would not propose to use the power.

In discussion, it was argued that the differences of approach reflected the different circumstances of the undertakings. BA had made significant use of formal Treasury guarantees. BAe had not, but they had issued letters of comfort using the implied guarantee inherent in nationalised industry status. The NFC's position was different again, and it was suggested that the NFC was sufficiently distinct from the other two undertakings to be allowed to go its own way.

On the other hand it was argued that a common approach was highly desirable. If there were different approaches the less generous approach would be criticised for alleged meanness while the more generous would be attacked as suggesting lack of faith in the successor company. One possibility would be to standardise on the Secretary of State for Trade's approach. But this would involve the Secretary of State for Industry in replacing letters of comfort with formal Treasury guarantees. This would inevitably raise doubts about the soundness of the successor company and it would not protect traders who had not received a letter of comfort but who might still have been relying on the guarantee implicit in nationalised industry status. Another possibility would be to standardise on the Secretary of State for Industry's approach. It was noted that the Secretary of State for Trade was prepared to do this, provided that it would not jeopardise the private sector status of the successor company to BA. But it was argued that under this arrangement the successor companies' relationship with the Government might be so close as to put their private sector status in doubt. The proposal might be acceptable if the number of beneficiaries could be restricted, eg by confining the benefits to customers as distinct from suppliers. But this approach had been considered for BAe and had run into the difficulty of making the legislation hybrid, quite apart from any objection on grounds of equity to discriminating between different classes of creditor.

THE CHANCELLOR OF THE EXCHEQUER, summing up this part of the discussion, said that the Sub-Committee agreed that a common approach was desirable, but none of the approaches so far identified was free from drawbacks. The Secretaries should arrange for Treasury officials and officials of the other Departments concerned to discuss the problem during the following week, with a view to agreeing an appropriate common approach, and should report back to the Sub-Committee as soon as possible thereafter.

The Sub-Committee -

2. Took note, with approval, of the Chancellor of the Exchequer's summing up of this part of their discussion, and instructed the Secretaries to be guided accordingly.

iii. British Aerospace: provisions relevant to national defence

THE CHANCELLOR OF THE EXCHEQUER, summing up a brief discussion, said that the Sub-Committee agreed with the Secretary of State for Industry's proposals that the successor company to BAe should not inherit BAe's statutory duty to have full regard to the requirements of national defence and to design and produce military aircraft and guided weapons; that the Government's roles of customer and of shareholder should be kept separate; and that there should be a provision in the successor company's articles to limit foreign shareholding.

The Sub-Committee -

3. Took note, with approval, of the Chancellor of the Exchequer's summing up of this part of their discussion.

Cabinet Office
5 October 1979