

PO-CH/NY 0316

PART A

Part A

SECRET

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Begin: 15/6/87.
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PO -CH /NL/0316

PART A

Chancellor's (Lawson) Papers.

PORTS BILL ON THE
PRIVATISATION OF PORTS

DD's: 25 Years

27/10/95.

PO -CH /NL/0316

PART A



PRIME MINISTER

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PORTS BILL

The provisional programme of legislation approved by Q(L) for the first session of this Parliament included a Ports Bill. You discussed with a small group of Ministers on 25 March the abolition of the Dock Labour Scheme. You may find it helpful before the draft of the Queen's Speech is considered by the full Cabinet on 18 June, to have this note outlining my proposals for handling the introduction of the legislation.

I have suggested that the Queen's Speech should include a reference, in very broad terms, to legislation to strengthen the port industry. This is bound to cause some interest and there will be immediate questions in Parliament, from the Press, and from the ports industry itself about our intentions, and no doubt much speculation about whether we intend to seek to repeal the Scheme.

I therefore propose to publish, as soon as possible after the Queen's Speech, a short White Paper outlining our proposals. Until then the questions about the scope of our legislation would have to be handled by referring to that White Paper. The White Paper will describe the Government's past achievements with the ports, but will point to the need for further reforms to restructure the industry, such as the privatisation of the trust ports, and for the removal of distortions and rigidities, of which the Scheme is the prime example.

X I intend that the White Paper should also serve to enable various interests to give us their comments on our proposals. The consultation process would be completed by the middle of September and I would aim to have a Bill ready for introduction in November. The main drafting instructions should be ready before the end of the consultation period.

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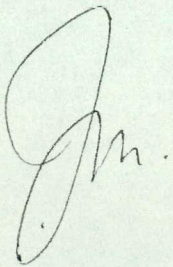
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Because of the need for confidentiality it has not been possible to consult with other colleagues about the policies proposed in the White Paper, and I am well aware that on my timetable time is very short. I would therefore propose, immediately after 18 June, to circulate a draft of the White Paper for urgent clearance. Thus our intentions about the Dock Labour Scheme will at that stage become more widely known within Whitehall, and for that reason I think we should put the rest of the Cabinet in the picture on 18 June.

As I see it, therefore, the inclusion of a reference to ports legislation in the Queen's Speech commits us to a very early statement thereafter of our intentions. So in effect it will commit us to going ahead with the Dock Labour Scheme. Colleagues will need to be aware of the industrial and economic risks. My assessment remains as in the paper I circulated in March. A major dock strike is by no means a foregone conclusion, though there could be one. If there were one, its timing, extent and duration are very uncertain. It could come soon after the publication of the White Paper, though since that is framed in such a way as to invite views on our proposals it would not present the best of targets. It could come just before or when the Bill is published. Dockers in non-Scheme ports, other port workers and other transport groups are unlikely to support a strike by registered dock workers over the Scheme. The duration of any strike is very hard to predict, but if the non-Scheme ports continued to operate normally the strike could be withstood for a long time, though eventually at the cost of increasing disruption to industry. The one factor, if disruption continues in the Civil Service, could be any prolonged strikes by Customs Officers at the key non-Scheme ports of Dover, Felixstowe, Harwich, Portsmouth and Ramsgate. On balance, I think the potential costs implicit in these risks are outweighed by the long term benefits of scrapping the Scheme.

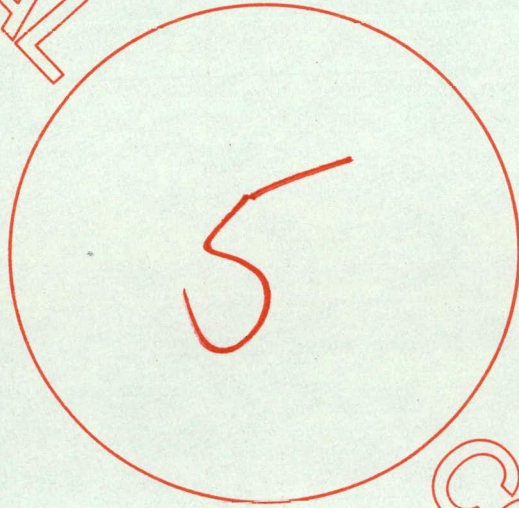
I enclose a copy of the latest draft of the White Paper so that you and other recipients of this minute can see how I propose to handle the subject. It may well need some further polishing in the light of colleagues' views, but you will wish to consider the presentation. I would direct your attention particularly to the sections setting out the context of our proposals (paragraphs 1 - 10), and on employment law (paragraphs 27 - 34).

I should be glad to know that you agree with this general approach. I am copying this minute to Willie Whitelaw, David Young and John MacGregor, who attended the March 25 meeting, to Nigel Lawson and Kenneth Clarke, who received copies of the earlier papers but were unable to be present for the discussion and to Sir Robert Armstrong.



JOHN MOORE

12 June 1987



A STRATEGY FOR PORTS

INTRODUCTION

1. As a trade-dependent island, Britain* needs the services of an efficient ports industry. Our ports constitute a vital link in the international transport chain; our importers, exporters, shippers and shipowners, together with their respective employees and customers depend on the performance of the British ports industry. This is not, of course, a novel proposition. What has changed in recent years is the extent to which the ports' own fortunes are dependent on their ability to provide a competitive service.

2. For centuries, British ports faced no outside competition. Geography determined that all goods and passengers moving to or from this country must pass through a British port. In the present century, the position has begun to change and, in the coming decades, it could change very rapidly indeed. The growth of international air transport, the trend towards transshipment of cargoes at major European distribution centres and the advent of the Channel tunnel all point in the direction of growing competition. The net result will be a significant increase in the amount of business which British ports can win from, or lose to, their rivals.

3. Both the Government and the industry recognise the need for our ports to gear up to meet this challenge. If British ports are to prosper in this intensely competitive environment, then they have to be able to match the best continental ports in terms of price, reliability and quality of service. Unfortunately, recent evidence suggests that our ports, taken as a whole are not

* Northern Ireland's ports, which operate under separate laws and face a rather different competitive challenge, do not come within the scope of this White Paper.

competitive enough and that they are, in consequence, losing business to ports on the continental seaboard. Between 1976 and 1984, the proportion of our trade with non-European countries transshipped through Dutch or Belgian ports increased from 4% to 12%. A Department of Transport study of liner freight-rates showed that British port costs were on average some 60% above continental levels and a study undertaken by the Tees Wharf Operators' Association confirmed that a price differential existed also in some bulk trades. The Department of Transport study found, amongst other things, evidence of comparatively low productivity in British ports and of wide divergences between them. The evidence is not complete but there can be no doubt that, without changes, our ports will lose further business.

4. It is against such a background that the present White Paper sets out the Government's strategy for ports, to which there are three main planks:

- setting the right macroeconomic environment;
- eliminating market distortions and other barriers to efficiency within the domestic ports sector;
- tackling the problem of unfair competition within the European Economic Community.

Some of the Government's proposals will require legislation: to this end, a Bill will be introduced later in the present Parliamentary session.

THE MACROECONOMIC ENVIRONMENT

5. A key determinant of the health of the British ports industry is the level of demand for its services. Hence, the best service which the Government can render the industry is to pursue economic policies which generate sustainable growth

domestically and which eliminate all artificial obstacles to our international trade. These policies have been pursued and will continue to be pursued; the result is that, between 1980 and 1986, total traffic increased by 1.7% pa, non-fuel traffic by 3.8% pa and container and Ro-Ro traffic by 6.4% pa. (See detailed figures at annex 2.) Increased traffic has meant increased revenue and increased profits, permitting much-needed capital investment to be made.

6. The importance of setting the right macroeconomic environment needs to be stressed, because there is a tendency to take it for granted or to argue that ports should enjoy the benefits of the economic growth that has flowed from the Government's policy of containing public expenditure but should also be classed as exempt from that policy. This is not a line of argument to which the Government subscribes. Nor is it an argument that has been advanced by the ports industry itself.

DOMESTIC MARKET DISTORTIONS

7. The Government's macroeconomic policies can generate business for the ports, but they do not, in themselves, ensure that the industry functions efficiently and economically. The ports market appears to be intensely competitive, in that there are some 50 British ports which handle more than a million tonnes of cargo per annum. However, despite the measures which the Government has taken since 1979, the market remains subject to some serious distortions which prevent it functioning as efficiently as it might.

8. In 1979, the ports were essentially part of the public sector. The National Ports Council (NPC) advised the Government on the structure and development of the industry. No significant port development could take place, even in the few company-owned ports, without Government approval. Government loans were the norm for financing most port capital investment. The Government inherited a

late commitment by its predecessor to finance essential manpower reductions in the Port of London. In less than two years it had been forced to undertake a similar commitment in Liverpool and to give additional financial support to these two ports, which had long dominated the British ports scene, to enable them to carry through the drastic physical and manpower restructuring that was required if their financial collapse was to be averted.

9. In the past few years the Government has already taken several important steps to remove the shackles of bureaucracy from the ports industry and to stimulate improved efficiency through greater exposure to commercial forces. Thus, in 1980, the Government ceased, as a matter of policy, to advance loans to port undertakings for their capital investment; henceforth they have had to satisfy commercial investors of the worthwhileness of their development proposals. In the following year the NPC was wound up. In 1983 and 1984 the two main groups of nationalised ports, owned by the former British Transport Docks Board and by Sealink, were privatised. In 1984 also the Government removed its control over major port capital developments. Under legislation passed earlier this year, pilotage is being reformed and responsibility for it will be transferred to port authorities. Meanwhile, the Port of London Authority (PLA) entered 1987 with no surplus manpower for the first time for many years and the Mersey Docks and Harbour Company (MDHC) is also close to having eliminated its long-standing surpluses. About half the annual turnover of British ports is now accounted for by ports owned by companies.

10. Nevertheless, a number of distortions to the market and unnecessary rigidities remain. Ports differ markedly in respect of their liability to corporation tax and local authority rates, their access to debt and equity capital, their freedom to merge and diversify, and even in respect of the system of employment law within which they operate. The Government considers that the time has come to put our ports on a more equal competitive footing and to give them the freedom to respond more quickly to commercial opportunities and pressures. Not only do they need to be able to provide the best possible port service; they also need to be able

to take full and imaginative advantage of the scope for redeveloping unwanted assets for other purposes, such as leisure and tourism. The remainder of this section of this White Paper describes the Government's proposals for putting our major ports on broadly the same footing in respect of their accountability, access to capital and employment law.

THE PUBLIC TRUST PORTS

11. The public trust ports are in a curious legal position. They are neither owned by, nor accountable to, either shareholders or central or local government. They are not subject to the financial disciplines of either the public or the private sector. They are creatures of statute and the Boards of the larger ones are generally appointed by the Secretary of State, but they are not subject to powers of direction. Their statutory duties give no clear guidance as to the underlying objectives of the port: hence, some harbour authorities regard themselves as profit-maximising businesses and others see themselves as providers of a public service who ought to break even taking one year with another - neither view having any particular sanction in law.

12. The trust port system, for all its eccentricities, has served the country well for over a century and may still suit the circumstances of the smaller, local ports. But it has serious deficiencies as a method of running those major ports which face the sort of competitive international environment discussed above. There must, in the Government's view, be serious doubts about whether their present regime gives these ports sufficient incentive to make themselves as competitive as they need to become. To put it bluntly, a port which is accountable to nobody is not under the same pressure to improve efficiency as a port which is accountable. Again, the Government recognises that some trust ports chafe under the restraints imposed by their status and statutes. They perceive the potential benefits of more ready access to capital and of the freedom to diversify into non-port activities; they have noted, too, the advantages of a multi-port operator, such as Associated British Ports, which is less

dependent on individual customer and less vulnerable to industrial disputes or the loss of a key customer than the operator of a single port. The British Ports Association (BPA) has argued that trust ports need the flexibility to manage their businesses more commercially. Naturally, the Government sympathises with this wish which is fully in line with its own objectives for the industry. However, it is neither possible nor desirable to confer on the trust ports the commercial freedom of a conventional company, without putting them under proper commercial discipline too.

13. Accordingly, the Government has reviewed the means by which public trust ports might be privatised and the question of the application of proceeds from the sale of shares. The Government concludes that privatisation is a practical proposition for most of the major trust ports and that the forthcoming Bill should make provision for this. The means by which trust ports should be privatised is a matter on which the industry's comments would be very welcome. The Government's views on the framework to be adopted are set out in the following paragraphs.

14. First, the Government believes that individual ports should have discretion to decide for themselves what arrangements best suit their own circumstances. A public offer of shares may be the right course for the largest ports, but acquisition by an existing company or management buy-out may make more sense for smaller ports. Wherever possible the Government hopes that staff will become involved as shareholders. Again, privatisation of all the functions of the existing harbour authority may be the most sensible approach for some ports, whilst others may wish to split conservancy responsibilities from cargo-handling and property operations, selling off the latter and retaining the former. It is consistent with our overall strategy for ports that these decisions are taken, wherever possible, at the local level by those who best know the port.

15. Secondly, the Government is sufficiently sure of the advantages of privatisation to consider that it is the course that should be followed unless there are very compelling reasons to the

contrary. At the minimum, all of the larger ports (those with a turnover of, say, £10 million or more - see Annex 1) will be required to examine the scope for transforming themselves into companies and to submit to the Secretary of State either schemes of privatisation or reasoned statements explaining why this is not a sensible option in their particular circumstances. Whilst only the largest ports would be required to submit schemes, it is the Government's wish that all trust ports should have the option of doing so in due course. The Government believes that it should be possible to proceed to a large extent by consensus and its Bill will provide for an extensive process of consultation before schemes are finalised and laid before Parliament. Once the schemes are in force, it will be for the convenience of all concerned to secure that privatisation takes place as expeditiously as possible.

16. Thirdly, the Government has given some thought to the points that will need to be covered in such schemes. They will need to schedule the statutory amendments required in order to secure the vesting of the present authorities' powers, duties, assets and liabilities in successor bodies. They will make provision for the sale of shares in such successor bodies as are also companies. They will contain the present harbour authorities' proposals on the method of privatisation and on the application of proceeds. They may also provide for such supplementary amendments to local legislation as might otherwise have been made by harbour revision order. In due course, the statutory amendments will be made by order and privatisation will proceed as soon as circumstances permit.

17. Lastly, the Government has considered the related questions of the ownership of trust ports and the application of sale proceeds. The trust ports are not nationalised industries and there is no general presumption that the whole of their sale proceeds should automatically flow into the Exchequer. Their closest counterparts are the former Trustee Savings Banks, since privatised as the TSB. In that case, the funds generated by the

sale of shares were retained for investment by the TSB. This reflected the fact that the Government did not own the TSB and had not contributed to its assets. The public trust ports are in a similar position in respect of ownership: although they are, in the last analysis, owned by the State, in the sense that their assets are ultimately at the disposal of Parliament, they are not owned by the Government in any more direct sense. However, trust ports have had recourse to grants and loans from the Government, in a way in which the Trustee Savings Banks had not. There is the further consideration that it is not at all obvious what a port would do with surplus funds, well beyond its foreseeable investment needs. A bank is in the business of lending and borrowing and can quickly turn surplus funds to account; a former trust-port with surplus liquid reserves would appear to be very vulnerable to take-over by parties with no interest in running a port. The Government does not intend to place unnecessary restrictions on trading in the shares of these ports, but would not regard such a take-over as in the best national interest. Accordingly, the Government envisages its Bill defining a hierarchy of calls on disposal proceeds; after the costs of sale have been met and any necessary redemptions of stock or repayments of loans have been made, an appropriate balance sheet would be constructed, having regard to the port's circumstances and needs, and any funds not thus required would be paid into the Exchequer. In sum, privatisation could provide a welcome fillip to the port's finances, but should not generate any cash-mountains.

18. The aim of privatisation is to produce ports which can compete successfully in the wider, international market. Hence, it goes without saying that the Government does not anticipate any port being disadvantaged, financially or otherwise, as a consequence of privatisation. However, there can be no question of any sale of shares resulting in a net loss to the Exchequer. Similarly, the privatised trust-ports will be open to take-over or receivership, like any other company. The one exception to this is that the liquidator's powers to sell assets will not extend to such assets as are required in connection with the statutory

conservancy duties of a port. There is no reason why any of the major trust ports should not prosper in the private sector, but it is essential to the Government's ports strategy that there should be no safety-nets for any ports that prove unable to match their competitors at home or abroad in terms of price, reliability and quality of service.

THE MUNICIPAL SECTOR

19. Municipal ports, too, constitute a significant and diverse part of the industry: there are specialist facilities (such as the oil terminals of Sullom Voe and Scapa Flow), general-cargo ports (such as Bristol and Colchester), ferry ports (eg Portsmouth and Ramsgate) and a host of small harbours, piers, jetties and slipways serving remote highland and island communities. The Government's concern is with those municipal harbour undertakings which are of some national, rather than of purely local, significance. Its proposals relate, therefore, to those ports with a turnover of £1 million or more - see Annex 1.

20. Following the precedent of municipal bus operations and airports, the Government proposes to secure the transformation of such ports into companies. They would, in the first instance, be owned by their respective local authorities. The Government would hope that some of the authorities concerned would sell off a sufficient part of their shareholding to take the ports into the private sector. In the Government's view, the legitimate pride which many local communities take in their ports is not an obstacle to privatisation: privatisation schemes could be framed so as to concentrate share ownership in the hands of local ratepayers and employees and users of the port, producing local ownership and control in the true senses of both words. However, the Government accepts that full privatisation may not always be the best route forwards (the special role of Scapa Flow and Sullom Voe may well prove to be cases in point) and recognises, too, that some ports may need a breathing-space before being moved fully into the private sector. Accordingly, the Government does not propose to seek powers to require shares to be sold.

21. The Government will, however, seek powers to require companies to be formed and will define a financial regime for these companies which will permit them the maximum financial and managerial independence consistent with their residual public-sector status. In particular, they will have the freedom to apply retained profits as they think fit and will receive money from their authorities only in the form of loans made on terms no more favourable than those on which the authority, itself, is able to borrow. Employees of the authority should not serve as employees or directors of the company; elected members of the authority, who are also directors or employees of the company, should not vote on decisions of the authority relating to the company; and the company should, in general, be free from intervention by the authority in matters of day-to-day management of port operation.

22. The Government believes that a port, operating within such a regime, should adopt a genuinely commercial approach and thereby fit itself for full privatisation. The operation of the regime will be kept under review to this end. The Government does not believe that these reforms will be disruptive or need distract management's attention from the key task of running efficient ports; on the contrary, they should serve to concentrate attention on the need to provide the service the customer wants. The Government wishes to see a smooth and rapid transition to the new regime and would welcome suggestions aimed at securing this.

THE ELIMINATION OF FINANCIAL ASSISTANCE

23. There are a few major British ports which have been in receipt of significant financial assistance from central or local government. London, Liverpool, Bristol and Sunderland are the principal cases in point. Such help was necessary to permit these ports to survive acute crises and the decision to extend assistance to Liverpool was taken by this Government in 1980. But it does give rise to three serious dilemmas. First, it makes it that much more difficult to secure action against the state aids of other EC member states: it is not realistic to expect other states to halt deficit-financing of municipal ports if there is no

such bar in this country. Second, the existence of such assistance is an actual or potential source of distortion of competition within the British ports market. Third, the existence of assistance and of the liabilities arising therefrom has a detrimental effect on the recipient-ports: dependence on external assistance inhibits effective management.

24. With such considerations in mind, the Government has progressively reduced the scale and scope of its financial assistance to the MDHC and PLA. The position of both ports is improving to the point where further assistance is neither necessary nor desirable (see para 9 above). Accordingly, the Government proposes to repeal its powers to assist them with severance and other costs. In the case of the MDHC, the Government will also be entering into discussions on the sale of its shareholding in the Company, the elimination of the right to appoint directors and the severance of other links, with a view to making the MDHC a more conventional private-sector company. The Government also recognises that the contingent liability on the PLA and MDHC to repay past grants has now reached a point where it is detrimental to their credibility as commercial borrowers and a serious constraint on much-needed investment in the future of their respective ports. As part of its plans for privatising the PLA and for severing its links with the MDHC, the Government envisages waiving its claim to full repayment. The aim of these reforms is to put both ports in a position where they can trade without recourse to further Government assistance.

25. The Government also proposes to seek powers, as a part of the package of measures relating to municipal ports, to terminate deficit-funding and the making of loans on non-commercial terms by local authorities. This will free the Government to press for a similar initiative to be taken within the European Community (see paragraph 37 below).

26. Lastly, the Government intends to end its power to assist ports other than London and Liverpool with the cost of severing registered dock workers (RDWs). The Ports (Finance) Act 1985 will

be amended accordingly. But this will not, of course, take effect before the expiry of the agreement between the Government and the National Association of Port Employers (NAPE) on the Government's contribution to the funding of RDW severances up to 31 March 1988.

EMPLOYMENT LAW

27. Thus far, this White Paper has distinguished between ports according to their legal status - company, municipal undertaking or public trust. The aim has been to transform as many of our larger ports as possible into companies, reflecting the Government's conviction that company-ports have a greater incentive to be efficient and commercial in their approach than any other type of port.

28. However, possibly the most significant dividing-line in the ports sector is that which separates the ports which are covered by the dock labour scheme and the Jones-Aldington agreement from those which are not. There are, in effect, two wholly different systems of employment law, operating within the one industry. The oddity of this position is obvious enough and the case for reform has been aired at regular intervals. In the Government's judgement the time has now come to take a firm decision on the matter. A decision is needed now on the system of employment law that is to govern our ports over the coming decades and to resolve on a single system which will apply to all British ports.

29. The Government recognises that the introduction of the dock labour scheme in its present form made sense at the time when the decision was taken. The choice then lay between regulated employment and casualism. It is not necessary to rehearse here the evils of the system of casualism: Lord Devlin's inquiry in the mid '60s provides a damning indictment of the state of industrial relations in the ports industry before the introduction of the present scheme. This is not a regime to which any sensible person would wish our ports industry to revert. However, the choice today does not lie between retention of the scheme and reverting to the iniquities of casualism. Employment law has evolved considerably since 1967. The choice now lies between placing RDWs and their

employers within the framework of conventional employment law, with all the mutual responsibilities that apply in other industries, or retaining dock work as a special category of employment, subject to its own rules.

30. The Government sees a strong case for pursuing the former course. The Government does not believe that the scheme offers any real, long-term benefits to either employers or employees. Scheme ports have seen their share of the market eroded, to the benefit of non-scheme ports. In 1965 the scheme ports handled 88% of British traffic; this dropped to 77% in 1975 and to 61% in 1985. Even when all due allowance is made for other factors, it is difficult to avoid the conclusion that the scheme has had a detrimental effect on the ports covered by it and, thereby, on jobs (see Annex 2 - Table 2). The reasons for this are many and various. In ports with several registered employers a major difficulty has been the so-called 'domino effect': if one port employer deregisters, his RDWs have to be taken on by other employers, prompting further deregistrations, until or unless the port authority steps in to halt this dangerous spiral; the impact of this on PLA and MDHC finances is attested by the levels of Government assistance needed to secure an orderly reduction of employee numbers in these two ports. Again, the industrial relations record of the scheme ports has not always been good: a reputation for poor industrial relations is a serious disincentive to customers, which can take a long time to expunge, even when there has been an improvement. Again, the fact that an employer can deregister at will must have a detrimental effect on the employees' loyalty to their employer and on his loyalty to them: it is not reasonable to expect management and employees to work together to make a business efficient and successful, when that business can disappear virtually overnight, in a way that would not be possible in almost any other industry. Lastly and most importantly, the mistaken belief that RDWs' job-security is wholly independent of the fortunes of their port has bred a considerable reluctance to accept the need for change.

31. Stress is laid on this last point, because it is the feature of the scheme which is most disturbing in the light of the Government's analysis of what the future holds in store for the British ports industry. But all the above features are disturbing, because all constitute brakes on the development of a competitive industry. The Government fears that its package of measures to make British ports more competitive would be undermined to a considerable extent by the retention of the dock labour scheme. Eliminating financial assistance to London, Liverpool and Bristol becomes that much more difficult and the privatisation of trust ports could also be affected. Even if the specific measures were followed through, the scheme would tend to limit the benefits which would otherwise flow from them.

32. The Government has, in the past, called the attention of the two sides of the ports industry to the problems caused by the workings of the scheme and the Jones-Aldington agreement, suggesting that they put their heads together and submit a jointly agreed programme of reforms. Any Government would be bound to be favourably disposed towards reforms which enjoyed the combined support of employers and employees. No such proposals have been forthcoming, thus far, and it appears that the Government will now have to formulate its own proposals. However, the Government believes that the Bill could benefit from a constructive input from those who know the industry best. Accordingly, the Government renews its invitation to employers and employees to give their views on this subject.

33. The Government has also reconsidered the system of licensing of port employers. In the Government's view, the retention of this system is justified only for so long as the dock labour scheme remains in place. If the scheme is to be repealed or significantly reformed, then licensing ceases to serve any useful purpose and becomes an unnecessary barrier to market entry. Accordingly, the Government sees a strong presumption that the system should now go and would invite those concerned to comment on the consequences of this too.

34. The Government has not taken any final decisions on the matters dealt with in this section of the White Paper, in advance of the views of the industry. However, it would need to be convinced that any alternative course to that outlined above would meet the underlying objectives of putting British ports in a position to compete successfully in the international market and of eliminating the more serious distortions in our domestic market.

SUPPLEMENTARY MEASURES

35. The main purpose of the proposed Bill is to give effect to the major reforms discussed above. However, the Government is open to suggestions for supplementary measures to reduce the burdens of Government on this industry. There are reasons of competition policy underlying the reserve powers of the Secretary of State to intervene in the affairs of a port. The right of appeal against refusals of works licenses or against the levels of dues are cases in point. But, although the Government has already removed some outdated statutory requirements, others remain which seem to have little or no justification. Although there is unlikely to be space in the Bill to tackle all such otiose powers and restrictions, the Government hopes to make a significant effort to eliminate the most obviously redundant of them.

THE EEC DIMENSION

36. This final section looks at the broader EEC dimension to the problem. The relative uncompetitiveness of British ports might owe as much to foreign subsidisation as to domestic shortcomings. Hence, it is sometimes suggested that the solution to the problems of the British ports industry is to move towards the harmonisation, on a Community basis, of the financial regimes of ports. This is not a view which the Government shares.

37. The UK used its presidency in 1986 to put the question of state aids on the agenda of the Council for the first time. It must remain there and the Commission must take steps to establish precisely what funds flow from central and local government to the Community's major ports. The Treaty of Rome provides the Commission with the powers to deal with deficit-financing or subsidisation of port-superstructure in any case where trade is affected and competition distorted. Once the Commission has established who pays what to whom, the UK will expect them to act expeditiously in relation to all the leading EEC ports and will maintain pressure on them to this end.

38. However, the Government does not see merit in setting off down the road of EEC-wide harmonisation. Such harmonisation would require detailed rules, defining what assistance might be provided towards the dredging, marking and lighting of port-approaches, the provision of docks, locks, quays and so forth, the roads, railways and canals which serve ports on the land-side. It could take many years to agree these and the end result would be that the UK taxpayer shouldered many costs which are currently met by port-users. In the light of paragraph 6 above, it will come as no surprise that the Government believes this to be the wrong approach. For Britain, there are further difficulties in such a ports policy. Because of the large number of British ports, the Government would have to be selective: some half-a-dozen ports would have to be singled out for development with public funds. To attempt to assist all 48 British ports which handle a million tonnes of cargo or more a year would be unaffordable. This selective approach has been adopted in France and is under consideration in Norway. In the view of this Government, market forces are better able to determine which ports should prosper than arbitrary decision-making from Whitehall. A 'first division' of government-assisted ports and a 'second division' of ports not thus assisted is something alien to the strategy defined in this paper. Nor, in the long run, does dependence on Government assistance promote efficiency or a proper commercial attitude. The route forward for British ports lies in building on existing strengths, not in emulating continental practice.

SUMMARY

39. The Government's strategy for ports is based on the belief that a serious competitive challenge exists now and will intensify. There is going to be an increasing amount of cargo which our ports can win from, or lose to, their continental counterparts. The Government wants British ports to win business, not lose it. The best way of securing the necessary improvement in the competitiveness of our ports is to build on their existing strengths, which lie in the fact that key decisions are taken locally and commercially, not centrally and politically. The best British ports are either run by companies or operate outside the dock labour scheme, free of Governmental assistance and interference. As many of our major ports as possible ought to be put in this fortunate position. To this end, the Government will be introducing a Bill later in the present session of Parliament. There is plenty of work ahead and the Government wishes to make an early start.

40. This White Paper identifies those areas which will be addressed in the Bill. It has attempted to distinguish those areas where the Government is clear precisely what reforms are needed from other areas where it is clear as to the end to be achieved but is open to suggestions as to the means. However, comments on all sections of the White Paper will be welcomed from all interested parties: the ports, their employees and their customers. Comments should be addressed to the Secretary of State for Transport, c/o Ports Division, Sunley House, 90-93 High Holborn, London WCLV 6LP, to arrive not later than 14 September.

Trust ports whose annual turnover in 1986:

(a) exceeded £10 Million

Clyde Port Authority
Dover Harbour Board
Forth Ports Authority
Ipswich Port Authority
Port of London Authority
Medway Ports Authority
Tees & Hartlepool Port Authority
Port of Tyne Authority

(b) was between £1 million and £10 million

Aberdeen Harbour Board
Blyth Harbour Commission
Cromarty Firth Port Authority
Dundee Port Authority
Great Yarmouth Port & Haven Commissioners
Harwich Harbour Board
Lerwick Harbour Trust
Milford Haven Port Authority
Montrose Harbour Trust
Peterhead Harbour Trust
Poole Harbour Commissioners
Shoreham Port Authority

Ports owned by local authorities whose turnover exceeded £1 million in 1985-86:

Boston
Bristol
Portsmouth
~~Ramsgate~~
Scapa Flow
Sullom Voe
Sunderland
Workington

TABLE 1

Traffic handled through ports of Great Britain 1979-1986

	Million Tonnes							
	1979	1980	1981	1982	1983	1984	1985	1986 (provisional)
Non-oil	175.7	166.7	175.0	175.7	184.6	180.8	197.1	205.5
Unitised	41.8	41.7	42.9	45.4	50.4	54.5	57.6	60.6
Other non bulk	29.0	26.4	24.7	25.1	25.2	26.2	26.7	26.5
Bulk	104.9	98.6	107.4	105.1	109.0	100.1	112.8	118.2
Oil	251.1	244.4	230.1	241.6	241.9	264.7	253.7	248.9
Total	426.8	411.1	405.1	417.3	426.4	445.5	450.8	454.4

Source: Port Statistics, published annually by the British Ports Association and the Department of Transport.

TABLE 2

Employment in the ports industry in Great Britain 1983-1986¹

	1983	1984	1985	1986	% change 1983-86
<u>All ports</u>					
All employees	50030	46274	42784	39965	-20.1
<u>Scheme ports</u>					
Registered dock workers	15323	13699	12117	11388	-25.7
Other employees	24096	22149	20288	18548	-23.4
All employees	39419	35848	32405	29846	-24.3
Percentage of GB ports	78.8	77.5	75.7	74.7	
<u>Non-Scheme ports</u>					
Dock workers	3401	3341	3384	3339	- 1.8
Other employees	7210	7085	7005	6780	- 6.0
All employees	10611	10426	10389	10119	- 4.6
Percentage of GB ports	21.2	22.5	24.3	25.3	

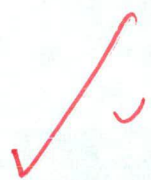
¹ As at March each year. Comparable figures are not available for previous years.

Source: Report on Manpower in the UK Ports Industry by the British Ports Association and the National Association of Port Employers, October 1986.

FROM: JIM MILNER
DATE: 15 JUNE 1987
cc Chancellor
Sir Peter Middleton
Mr F E R Butler Mr Monck
Mr Gilmore Mr A Williams

Ref

- 1 MR REVOLTA 1 agree. DR 15/6
- 2 CHIEF SECRETARY



PORTS BILL

1 The former Secretary of State for Transport minuted the Prime Minister on 12 June about the future of the ports industry. The draft legislative programme includes a Ports Bill and he wants to head off any speculation by publishing a White Paper as soon as possible after the Queen's Speech. He plans to use the Ports Bill to open up the ports industry to private ownership and investment, but the crucial proposal is that the Bill would abolish the National Dock Labour Scheme.

2 The new Secretary of State has agreed that the outline proposals should go forward to colleagues and that detailed drafting of the White Paper should proceed urgently. We recommend that you support this handling and also the substance of the proposals.

Background

3 The then Secretaries of State for Transport and Employment and the Chief Secretary met with the Prime Minister in March and agreed to tackle the Dock Labour Scheme immediately after an election providing the assessment of the probability and extent of a dock strike remained acceptable. The Chancellor commented that he strongly supported action.

4 The Dock Labour Scheme was introduced after the war to replace casual day by day employment. The Scheme applies to most major UK ports and grants Registered Dock Workers (RDWs) a monopoly over certain tasks and no compulsory redundancy. This has hindered managements' scope to operate efficiently and to compete with European ports such as Rotterdam.

5 The Transport and General Workers Union have a standing conference resolution to call a national dock strike in the event of any threat to the Scheme. Assessing the likelihood and extent of such a reaction is the key issue in deciding whether to propose abolition. Opening up consultation through a White Paper diffuses the unions' point of attack.

6 Abolition of the Scheme would cost £8 million to repay an outstanding bank loan and £3-4 million redundancy payments to 250 or so Dock Labour Board staff (plus possible pension payments for former staff), offset by the sale of property and assets valued at about £4 million. Our aim would be to recoup the cost by a levy on employers rather than public expenditure.

7 The draft White Paper puts the proposed abolition of the Scheme in the context of wider moves to open up the ports industry to private ownership and investment. Following bus deregulation and airports in the last Parliament, local authority ports would be reformed as separate companies. Subsidy, grants and soft loans from the parent authority would be ruled out. Independent public trust ports (the Port of London Authority and Dover, for example) should reform themselves as companies to permit them to raise equity finance and respond to the accompanying commercial pressures. The Bill would also repeal the statutory authority for the Government to make grants to the Port of London Authority and the Mersey Docks and Harbour Company.

8 The thrust of these wider proposals is most welcome to the Treasury. Some of the detailed points raised need careful attention. We have already had one meeting with Department of Transport officials. I suggest you ask for Treasury officials to be closely involved in redrafting.

9 I attach a draft minute to the Prime Minister endorsing the proposals and their handling.

Jim Milner

JIM MILNER

Minute from the Chief Secretary to the Prime Minister

PORTS BILL

1 John Moore wrote to you on 12 June recommending that we issue a White Paper rapidly after the Queen's speech inviting comments on the opening up of the ports industry to private ownership and investment, and on the proposed abolition of the National Dock Labour Scheme.

2 The key consideration on the latter proposal is assessing the likelihood and extent of a national dock strike, and I hope Paul Channon can give us a fuller appraisal of the risks when colleagues are given an opportunity consider and comment on these proposals.

3 I believe that there will never be a better time to tackle the Scheme. I support John Moore's proposals on handling. I would be grateful if Transport officials could continue to consult closely with mine.

4 I am copying this minute to Paul Channon, Nigel Lawson, Willie Whitelaw, Norman Fowler and Sir Robert Armstrong.



Prime Minister

18 June 1987

PORTS BILL

1. You have called a meeting on 22 June to discuss the Ports Bill, for which a place has provisionally been allocated in the programme for the forthcoming Parliamentary Session.
2. The most important provision in the Bill will be the repeal of the Dock Labour Scheme which my predecessor discussed with you and other colleagues on 25 March. As John Moore also intended, I propose that repeal of the scheme should form part of a comprehensive set of measures designed to restructure and strengthen the port industry, in particular to enable it to compete more effectively with its European rivals. The other measures I shall be proposing will include provisions to encourage the privatisation of the trust ports and the conversion of local authority owned ports into PLCs.
3. I suggest that the Queen's Speech should, as in the current draft, include a reference, in broad terms, to measures to strengthen the port industry. I then plan to publish a White Paper, very soon after the Queen's Speech, which will outline our proposals and give the port industry and others the opportunity to comment. I would invite comments by the middle of September, but the main drafting instructions should be ready by the end of August with a view to introduction in November. I attach the latest draft of the White Paper to give you the flavour of what I have in mind.
4. The reference to ports legislation in the Queen's Speech is likely to arouse a certain amount of interest. Ideally I would have liked to be able to publish the White Paper on the same day as the Speech. But because of the need for confidentiality it

has only very recently become possible to consult Treasury and Employment officials about its drafting. There are also a number of less important points on which other Departments may have an interest, for instance the proposals for the local authority owned ports (which constitute only a small sector of the industry) and the question of the ownership of the assets of the trust ports, on which we need the Law Officers' advice. If you and other colleagues are content with this general approach I will immediately arrange circulation of the draft White Paper to other Departments with an interest, including those not represented at our meeting, with the aim of publication as soon as possible after the Queen's Speech. In the meantime we will need to answer questions about the Bill by saying that our proposals will be set out in a White Paper to be published shortly.

5. I do not think that my package of measures would make sense without repeal of the scheme. We should recognise therefore that the reference to the Ports Bill in the Queen's Speech will effectively commit us to introducing legislation to repeal. I am sure that repeal is the right course, and that now is the time to do it. The scheme is an outmoded piece of restrictive legislation which has a seriously harmful effect on the efficiency of our port industry: our supporters in the industry and elsewhere are very keen to see it repealed.

6. We must accept however that the Trade unions set great store by the scheme (although before the Election the Labour Party proposed that the operation of the scheme should be reviewed). There must therefore be some risk of industrial action in the docks, although the timing, extent and duration of such action are very uncertain. It could come soon after the publication of the White Paper, although since that is framed in such a way as to invite views on our proposals it would not present the best of targets. Alternatively, it could come at

about the time the Bill is published. The best assessment I can make is that dockers in the non-scheme ports, other port workers and other transport groups are unlikely to support a strike of registered dockworkers over the scheme. The duration of any strike is very hard to predict, but assuming the non-scheme ports continue to operate normally the strike could be withstood for quite a long time. If the Civil Service pay dispute is still unsettled by the time the White Paper is published there might be the added complication of disruption in non-scheme ports such as Dover. But overall I am sure that the risks are outweighed by the considerable long term benefits of getting rid of the scheme. If we are to do it, I am sure it is right to do so in the first year of a Parliament.

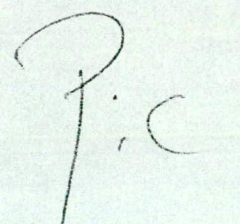
7. To summarise, I invite agreement that:-

(i) we should legislate this session to repeal the dock labour scheme and to introduce other measures to strengthen our port industry;

(ii) there should be a reference to port legislation in the Queen's Speech, but in general terms only;

(iii) I should publish a White Paper, as soon as possible after the Queen's Speech, setting out our proposals. The drafting of the White Paper should be settled as rapidly as possible with the other Departments involved.

8. I am sending a copy of this minute to Willie Whitelaw, Nigel Lawson, Norman Fowler, David Young, Kenneth Clarke, John Moore, John Wakeham, John Major and David Waddington, and to Sir Robert Armstrong.


PAUL CHANNON

A STRATEGY FOR PORTS

INTRODUCTION

1. Britain* depends on trade. So we need the services of an efficient ports industry. Our ports are a vital link in the international transport chain; our importers, exporters, shippers and shipowners, and their respective employees and customers, all depend on the performance of the British ports industry. This is not, of course, a novel proposition. What has changed in recent years is the extent to which the ports' own fortunes depend on their ability to provide a competitive service.

2. For centuries, British ports reigned supreme. Geography determined that all goods and passengers moving to or from this country must pass through a British port. In the present century, the position has begun to change and, in the coming decades, it could change very rapidly indeed. The growth of international air transport, the trend towards the concentration of intercontinental shipping at major European distribution centres such as Rotterdam, and the advent of the Channel Tunnel all point in the direction of growing competition. The net result will be a significant increase in the amount of business which British ports stand to win from, or lose to, their rivals.

* Northern Ireland's ports, which operate under separate laws and face a rather different competitive challenge, do not come within the scope of this White Paper.

3. Both the Government and the industry recognise the need for our ports to gear up to meet this new challenge. If British ports are to prosper in an intensely competitive environment, they have to be able to match the best continental ports in terms of price, reliability and quality of service. Unfortunately, recent evidence suggests that our ports, taken as a whole, are not competitive enough and that they are, in consequence, losing business to ports on the continental seaboard. Between 1976 and 1984, the proportion of intercontinental trade transhipped through Dutch or Belgian ports increased from 4% to 12%. A Department of Transport study of liner freight-rates showed that British port costs were on average about 60% above continental levels. A further study undertaken by the Tees Wharf Operators' Association confirmed that a price differential existed also in respect of some bulk cargoes. The Department of Transport study found, amongst other things, evidence of comparatively low productivity in British ports and of wide divergences between them. The evidence is not complete but there can be no doubt that, without changes, our ports will lose further business.

4. It is against such a background that the present White Paper sets out the Government's strategy for ports, to which there are three main planks:

- setting the right economic climate;
- eliminating market distortions and other barriers to efficiency within the domestic ports sector;
- tackling the problem of unfair competition within the European Economic Community.

Some of the Government's proposals will require legislation : to this end, a Bill will be introduced later in the present Parliamentary session.

THE ECONOMIC CLIMATE

5. The health of British ports industry is determined by the demand for their services. The Government's role is to pursue economic policies which generate domestic economic growth while eliminating all artificial barriers to international trade. The Government has pursued such policies and will continue to do so; the result is that, between 1980 and 1986, total traffic increased by 1.7% pa, non-fuel traffic by 3.8% and container and Ro/Ro traffic by 6.4%. (See detailed figures at Annex 2.) Increased traffic has meant increased revenue and increased profits, permitting much-needed capital investment to be made.

DOMESTIC MARKET DISTORTIONS

6. The Government's economic policies can generate business for the ports, but they cannot ensure that the industry functions efficiently and economically. The ports market is in one sense intensely competitive, in that there are about 50 British ports which handle more than a million tonnes of cargo per annum. However, despite the measures which the Government has taken since 1979, the market remains subject to some serious distortions which prevent it from functioning as efficiently as it might.

7. In 1979, the ports were essentially part of the public sector. The National Ports Council (NPC) advised the Government on the structure and development of the industry. No significant port development could take place, even in the few company-owned

ports, without Government approval. Government loans were the norm for financing most port capital investment. The Government inherited a late commitment by its predecessor to finance essential manpower reductions in the Port of London. In less than two years it became necessary to undertake a similar commitment in Liverpool and to give additional financial support to these two ports, which had long dominated the British ports scene, to enable them to carry through the drastic physical and manpower restructuring that was required if their financial collapse was to be averted.

8. In the past few years the Government has already taken several important steps to remove unnecessary controls from the ports industry and to stimulate improved efficiency through greater exposure to commercial forces. Thus, in 1980, the Government, decided to stop public sector loans to ports for their capital investment; since then they have had, like any other business, to satisfy commercial investors that their development proposals were viable. In the following year the NPC was wound up. In 1983 and 1984 the two main groups of nationalised ports, owned by the former British Transport Docks Board and by Sealink, were privatised. In 1984 the Government removed its control over major port capital developments. Under legislation passed earlier this year, marine pilotage is being reformed and responsibility for it will be transferred to port authorities. Meanwhile, the Port of London Authority (PLA) entered 1987 with no surplus manpower for the first time for many years and the Mersey Docks and Harbour Company (MDHC) is also close to having eliminated its long-standing surpluses. About half the annual turnover of British ports is now accounted for by ports owned by companies.

9. Nevertheless, a number of distortions to the market and unnecessary rigidities remain. Ports differ markedly in respect of their liability to corporation tax and local authority rates,

their access to debt and equity capital, their freedom to merge and diversify, and even in respect of the system of employment law within which they operate. The Government considers that the time has come to put our ports on a more equal competitive footing and to enable them to seize commercial opportunities and respond to commercial pressures. Not only do they need to be able to provide the best possible port service; they also need to be able to take full and imaginative advantage of the scope for redeveloping unwanted assets for other purposes, such as leisure and tourism. The remainder of this section of this White Paper describes the Government's proposals for putting our major ports on broadly the same footing in respect of accountability, access to capital and employment law.

THE PUBLIC TRUST PORTS

10. Public trust ports were established by individual Acts of Parliament, most of which date from the 19th Century. They are neither owned by, nor accountable to, shareholders or to central or local government. They are not therefore subject to the financial disciplines of either the public or the private sector.

The Boards of the larger trust ports are usually appointed by the Secretary of State, but they are not subject to his direction. Their statutory duties do not give them clear objectives: hence, some harbour authorities regard themselves as businesses whose objective is to maximise profit while others see themselves as providers of a public service with financial objectives limited to breaking even.

11. The trust port system, for all its eccentricities, has operated well for over a century and may still suit the circumstances of the smaller, local ports. But it has serious deficiencies as a method of running those major ports which face the sort of competitive international environment discussed above. There must, in the Government's view, be serious doubts

about whether their present regime gives these ports sufficient incentive to make themselves as competitive as they need to become. Clearly, a port which is accountable to nobody is not under the same pressure to improve efficiency as a port which is accountable to shareholders. Again, the Government recognises that the status and statutes of some ports are an unwelcome constraint on their operations. These ports recognise the benefits of having readier access to capital and of the freedom to diversify into non-port activities; they have noted, too, the advantages of a multi-port operator, such as Associated British Ports, which is less dependent on individual customers and less vulnerable to industrial disputes or the loss of a key customer than the operator of a single port. The British Ports Association (BPA) has argued that trust ports need the flexibility to manage their businesses more commercially. Naturally, the Government sympathises with this wish which is fully in line with its own objectives for the industry. However, it is neither possible nor desirable to confer on the trust ports the commercial freedom of a conventional company, without putting them under proper commercial discipline too.

12. The Government has therefore considered ways in which public trust ports might be privatised and what should happen to the proceeds from the sale of shares. The Government concludes that privatisation is a practical proposition for most of the major trust ports and that the forthcoming Bill should make provision for this. The means by which trust ports should be privatised is a matter on which the industry's comments would be very welcome. The Government's views on the framework to be adopted are set out in the following paragraphs.

13. First, the Government believes that individual ports should have discretion to propose for themselves what arrangements best suit their own circumstances. A public offer of shares may be the right course for the largest ports, but acquisition by an

existing company or management buy-out may make more sense for smaller ports. Wherever possible the Government hopes that staff will become involved as shareholders. Again, privatisation of all the functions of the existing harbour authority may be the most sensible approach for some ports, whilst others may wish to split river or estuarial conservancy functions from cargo-handling and property operations, selling off the latter and retaining the former. It is consistent with our over-all strategy for ports that these decisions are taken, wherever possible, at the local level by those who best know the port.

14. The Government believes that the advantages for privatisation are such that privatisation is the course which trust ports should adopt unless, for individual ports, there are very compelling reasons to the contrary. The Government will therefore require all of the larger ports (those with a turnover of, say, £10 million or more - see Annex 1) to consider how they might form themselves into private companies and to submit to the Secretary of State either schemes for privatisation or an explanation why this is not a sensible option in their case. Only the largest ports would be required to submit schemes, but the Government wish to give all trust ports regardless of size, the chance to do so if they wish in due course. The Government believes that it should be possible to proceed by consensus and the Bill will provide for a process of consultation before schemes are finalised and laid before Parliament. Once the schemes are in force, it will be for the benefit of all concerned to ensure that they are implemented as quickly as possible.

15. Thirdly, the Government has given some thought to the points that will need to be covered in such schemes. They will need to set out the legal steps necessary to transfer the powers, duties, assets and liabilities of the trust ports to the new companies. They will make provision for the sale of shares in such companies. They will contain the present harbour

authorities' proposals on the method of privatisation and on the application of proceeds. They may also provide for such other amendments to local legislation as might otherwise have been made by harbour revision order. In due course, the necessary legal steps would be made by Order and privatisation would proceed as soon as circumstances permit.

16. Lastly, the Government has considered the related questions of the ownership of trust ports and the application of sale proceeds. The trust ports are not nationalised industries; their closest counterparts are the former Trustee Savings Bank, since privatised as the TSB. In that case, the funds generated by the sale of shares were retained for investment by the TSB. This reflected the fact that the Government did not own the TSB and had not contributed to its assets. The public trust ports are in a similar position in respect of ownership: although they are owned by the State, in the sense that their assets are ultimately at the disposal of Parliament, they are not owned by the Government in any more direct sense. However, trust ports have had recourse to grants and loans from the Government, in a way which the Trustee Savings Bank had not. There is the further consideration that it is not at all obvious what a port would do with surplus funds, well beyond its foreseeable investment needs.

A bank is in the business of lending and borrowing and can quickly turn surplus funds to account; a former trust port with surplus liquid reserves would be very vulnerable to take-over by parties with no interest in running a port, or alternatively would be able to compete unfairly with other British ports. Accordingly, the Government envisages that the schemes should specify a capital structure on privatisation which would provide a basis on which the port could trade profitably in the foreseeable future, and in fair competition with other major British ports, and the Government will advise the ports of the sort of structure it would think appropriate. The question arises of the treatment of surpluses following sale. Clearly the

first call would be for the costs of sale, and the second for redemption of stock in or repayment of loans to the port.

17. The privatised trust-ports would be open to take-over or receivership, like any other company. The one exception to this is that the liquidator's powers to sell assets would not extend to such assets as are required in connection with the statutory river and estuarial conservancy duties of any port. There is no reason why any of the major trust ports should not prosper in the private sector, but it is essential to the Government's ports strategy that there should be no safety-nets for any ports that prove unable to match their competitors at home or abroad in terms of price, reliability and quality of service.

THE MUNICIPAL SECTOR

18. Municipal ports, too, constitute a significant and diverse part of the industry: there are specialist facilities (such as the oil terminals of Sullom Voe and Scapa Flow), general-cargo ports (such as Bristol and Colchester), ferry ports (such as Portsmouth and Ramsgate) and a host of small harbours, piers, jetties and slipways serving remote highland and island communities. The Government's concern is with those municipal harbour undertakings which are of national, rather than of local, significance. Its proposals relate, therefore, to those ports with a turnover of £1 million or more - see Annex 1.

19. Following the precedent of municipal bus operations and air-ports, the Government proposes to secure the transformation of such ports into companies. They would, in the first instance, be owned by their respective local authorities. The Government would hope that some of the authorities concerned would sell off a sufficient part of their shareholding to take the ports into the private sector. In the Government's view, the legitimate

pride which many local communities take in their ports is not an obstacle to privatisation: privatisation schemes could be framed so as to concentrate share ownership in the hands of local ratepayers and employees and users of the port, producing local ownership and control in the true senses of both words. However, the Government accepts that full privatisation may not always be the best route forwards (the special role of Scapa Flow and Sullom Voe may well prove to be cases in point) and recognises, too, that some ports may need a breathing space before moving into the private sector.

20. The Government will, however, seek powers to require companies to be formed and will define a financial regime for these companies which will permit them the maximum financial and managerial independence consistent with their residual public-sector status. In particular, they will have the freedom to apply retained profits as they think fit and will receive money from their authorities only in the form of loans made on terms no more favourable than those on which the authority, itself, is able to borrow. Employees of the authority should not serve as employees or directors of the company; elected members of the authority, who are also directors or employees of the company, should not vote on decisions of the authority relating to the company; and the company should, in general, be free from intervention by the authority in matters of day-to-day management of port operation.

21. The Government believes that a port, operating within such a regime, should adopt a genuinely commercial approach. The operation of the regime will be kept under review to this end. The Government does not believe that these reforms will be disruptive or need distract management's attention from the key task of running efficient ports; on the contrary, they should

serve to concentrate attention on the need to provide the service the customer wants. The Government wishes to see a smooth and rapid transition to the new regime and would welcome suggestions aimed at securing this.

THE ELIMINATION OF FINANCIAL ASSISTANCE

22. There are a few major British ports which have received substantial financial assistance from central or local government. London, Liverpool, Bristol and Sunderland are cases in point. Such help was necessary to permit these ports to survive acute crises, but it has created three serious problems. First, it makes it much more difficult to secure action against the state aids of other EC member states: it is not realistic to expect other states to halt funding the losses of municipal ports if there is no such bar in this country. Second, the assistance itself can distort competition within the British ports market. Third, financial assistance, and the obligation to repay it, has had a detrimental effect on the ports which have received it: dependence on external assistance inhibits effective management.

23. With such considerations in mind, the Government has progressively reduced the scale and scope of its financial assistance to the MDHC and PLA. The position of both ports is improving to the point where further assistance is neither necessary nor desirable (see paragraph 8 above). Accordingly, the Government proposes to end its powers to assist them with severance and other costs. In the case of the MDHC, the Government will also be entering into discussions on the sale of its shareholding in the Company, the elimination of the right to appoint directors and the severance of other links, with a view to making the MDHC a more conventional private-sector company. The Government also recognises that the contingent liability on the PLA and MDHC to repay past grants has now reached a point

where it has affected their credibility as commercial borrowers and is a serious constraint on much-needed investment in the future of their respective ports. As part of its plans for privatising the PLA and for severing its links with the MDHC, the Government ^{would be prepared to consider} envisages waiving its claim to [full] repayment. The aim of these reforms is to put both ports in a position where they can trade without recourse to further Government assistance.

24. The Government also proposes to seek powers, as a part of the package of measures relating to municipal ports, to stop local authorities funding the losses of their ports and making loans to them on non-commercial terms. This would free the Government to press for a similar initiative to be taken within the European Community (see paragraph 37 below).

25. Lastly, the Government intends to end its power to assist ports other than London and Liverpool with the cost of severing registered dock workers (RDWs). The Ports (Finance) Act 1985 will be amended accordingly. But this will not, of course, take effect before the expiry of the agreement between the Government and the National Association of Ports Employers (NAPE) on the Government's contribution to the funding of RDW severances up to 31 March 1988.

EMPLOYMENT LAW

26. Thus far, this White Paper has distinguished between ports according to their legal status - company, municipal undertaking or public trust. The aim has been to transform as many of our larger ports as possible into companies, reflecting the Government's conviction that company-ports have a greater incentive to be efficient and commercial in their approach than any other type of port.

27. However, possibly the most significant dividing-line in the ports sector is that which separates the ports which are covered by the dock labour scheme and the Jones-Aldington agreement from those which are not. There are, in effect, two wholly different systems of employment law, operating within the one industry. The oddity of this position is obvious enough and the case for reform has been aired at regular intervals. In the Government's judgement the time has now come to resolve the issue. A decision is needed now on the system of employment law that is to govern our ports over the coming decades: there must be a single system which will apply to all British ports.

28. Whatever the arguments in 1967 for and against the introduction of the dock labour scheme in its present form, they are no longer relevant. [The choice then lay between regulated employment and casualism. However, that is not the case today.] Employment law has evolved considerably since 1967. The choice now lies between firmly establishing RDWs and their employers within the framework of conventional employment law, with all the mutual responsibilities that apply in other industries, or retaining dock work as a unique category of employment, subject to its own rules.

29. The Government sees a strong case for pursuing the former course. The Government does not believe that the scheme offers any real, long-term benefits to either employers or employees. Scheme ports have seen their share of the market eroded, to the benefit of non-scheme ports. In 1965 the scheme ports handled 88% of British traffic; this dropped to 77% in 1975 and to 61% in 1985. Even when all due allowance is made for other factors, it is difficult to avoid the conclusion that the scheme has had a detrimental effect on the ports covered by it and, thereby, on jobs. (See Annex 2 - Table 2.) There are many reasons for this. In ports with several registered employers a major difficulty has

been the so-called 'domino effect': if one port employer deregisters, his RDWs have to be taken on by other employers, prompting further deregistrations, until or unless the port authority steps in to halt this dangerous spiral; the impact of this on PLA and MDHC finances is attested by the levels of Government assistance needed to secure an orderly reduction of employee numbers in these two ports. Again, the industrial relations record of the scheme ports has not always been good: a reputation for poor industrial relations is a serious disincentive to customers, which can take a long time to expunge, even when there has been an improvement. Again, the fact that an employer can deregister at will must have a detrimental effect on the employees' loyalty to their employer and on his loyalty to them: it is not reasonable to expect management and employees to work together to make a business efficient and successful, when that business can disappear virtually overnight, in a way that would not be possible in almost any other industry. Lastly and most importantly, the mistaken belief that RDWs' job security is wholly independent of the fortunes of their port has bred a considerable reluctance to accept the need for change.

30. This last point is the feature of the scheme which is most disturbing in the light of the Government's analysis of what the future holds in store for the British ports industry. But all the above features are disturbing, because all constitute brakes on the development of a competitive industry. The Government fears that its package of measures to make British ports more competitive would be undermined by the retention of the dock labour scheme. Eliminating financial assistance to London, Liverpool and Bristol, would, for example, become that much more difficult. The privatisation of trust ports could also be affected. Even if some or all of the measures could be implemented, the scheme would limit their benefit.

31. The Government has, in the past, called the attention of the two sides of the ports industry to the problems caused by the workings of the scheme and the Jones-Aldington agreement, suggesting that they should consult and submit a jointly agreed programme of reforms. No such proposals have been forthcoming, and the Government will therefore have to formulate its own. However, the Government still believes that those who know the industry best have a contribution to make and it renews its invitation to employers and employees to give their views on this subject.

32. The Government has also reconsidered the system of licensing of port employers. In the Government's view, the retention of this system is justified only for so long as the dock labour scheme remains in place. If the scheme is to be repealed or significantly reformed, then licensing ceases to serve any useful purpose and becomes an unnecessary barrier to market entry. Accordingly, the Government sees a strong case that the system should now go and invites those concerned to give their views on this.

33. The Government has not taken any final decisions on the matters dealt with in this section of the White Paper, in advance of the views of the industry. However, it would need to be convinced that any alternative course to that outlined above would meet the underlying objectives of putting British ports in a position to compete successfully in the international market and of eliminating the more serious distortions in our domestic market.

SUPPLEMENTARY MEASURES

34. The main purpose of the proposed Bill is to give effect to the major reforms discussed above. However, the Government is open to suggestions for supplementary measures to reduce the burdens of Government on this industry. It is necessary for fair competition that the Government should have some reserve powers to intervene in the affairs of a port. The right of appeal against refusals of works licenses or against the levels of dues are cases in point. But, although the Government has already removed some outdated statutory requirements, others remain which seem to have little or no justification. Although there is unlikely to be space in the Bill to tackle all such unnecessary powers and restrictions, the Government hopes to make a significant effort to eliminate the most obviously redundant of them.

THE EC DIMENSION

35. The final section looks at the broader EC dimension to the problem. The relative uncompetitiveness of British ports might owe as much to foreign subsidisation as to domestic shortcomings. Hence, it is sometimes suggested that the solution to the problems of the British ports industry is to move towards the harmonisation, on a Community basis, of the financial regimes of ports. This is not a view which the Government shares.

36. The UK used its Presidency in 1986 to put the question of state aids on the agenda of the Council for the first time. It must remain there and the Commission must take steps to establish precisely what funds flow from central and local government to the Community's major ports. The Treaty of Rome provides the Commission with the powers to deal with deficit-financing or subsidisation of port-superstructure in any case where trade is

affected and competition distorted. Once the Commission has established who pays what to whom, the UK will expect them to act expeditiously in relation to all the leading EC ports and will maintain pressure on them to this end.

37. The Government believes, however, that EC harmonisation would be the wrong approach. Such harmonisation would require detailed rules, defining what assistance might be provided towards the dredging, marking and lighting of port-approaches, the provision of docks, locks, quays and so forth, the roads, railways and canals which serve ports. It could take many years to agree these and the end result would be that the UK taxpayers shouldered many costs which are currently met by port users. For Britain, there are further difficulties in such a ports policy. Because of the large number of British ports, the Government would have to be selective: to attempt to assist all 48 British ports which handle a million tonnes of cargo or more a year would be unaffordable. Some half-a-dozen ports would have to be singled out for development with public funds. It is true that this selective approach has been adopted in France and is under consideration in Norway. But in the view of this Government, market forces are better able to determine which ports should prosper than arbitrary decision-making from Whitehall. A 'first division' of government-assisted ports and a 'second division' of ports not thus assisted runs counter to the strategy defined in this paper. Nor, in the long run, does dependence on Government assistance promote efficiency or a proper commercial attitude. The route forward for British ports lies in building on existing strengths, not in emulating continental practice.

SUMMARY

38. The Government's strategy for ports is based on the belief that a serious competitive challenge exists now and will intensify. There is going to be an increasing amount of cargo which our ports can win from, or lose to, their continental counterparts. The Government wants British ports to win that business, not to lose it. The best way to improve the competitiveness of our ports is to build on their existing strengths, which lie in the fact that key decisions are taken locally and commercially, not centrally and politically. The best British ports are either run by companies or operate outside the dock labour scheme, free of Governmental assistance and interference. As many of our major ports as possible ought to be put in this fortunate position. To this end, the Government will be introducing a Bill later in the present session of Parliament. There is plenty of work ahead and the Government wishes to make an early start.

39. This White Paper identifies those areas which will be addressed in the Bill. It has attempted to distinguish those areas where the Government is clear as to the end to be achieved but is open to suggestions as to the means. However, comments on all sections of the White Paper will be welcomed from all interested parties: the ports, their employees and their customers. Comments should be addressed to the Secretary of State for Transport, c/o Ports Division, Sunley House, 90-93 High Holborn, London WC1V 6LP, to arrive not later than 14 September.

CONFIDENTIAL — NO COPIES TO BE TAKEN

TABLE 1

Traffic handled through ports of Great Britain 1979-1986

	Million Tonnes							
	1979	1980	1981	1982	1983	1984	1985	1986 (provisional)
Non-oil	175.7	166.7	175.0	175.7	184.6	180.8	197.1	205.5
Unitised	41.8	41.7	42.9	45.4	50.4	54.5	57.6	60.6
Other non bulk	29.0	26.4	24.7	25.1	25.2	26.2	26.7	26.5
Bulk	104.9	98.6	107.4	105.1	109.0	100.1	112.8	118.2
Oil	251.1	244.4	230.1	241.6	241.9	264.7	253.7	248.9
Total	426.8	411.1	405.1	417.3	426.4	445.5	450.8	454.4

Source: Port Statistics, published annually by the British Ports Association and the Department of Transport.

TABLE 2

Employment in the ports industry in Great Britain 1983-1986¹

	1983	1984	1985	1986	% change 1983-86
<u>All ports</u>					
All employees	50030	46274	42784	39965	-20.1
<u>Scheme ports</u>					
Registered dock workers	15323	13699	12117	11388	-25.7
Other employees	24096	22149	20288	18548	-23.4
All employees	39419	35848	32405	29846	-24.3
Percentage of GB ports	78.8	77.5	75.7	74.7	
<u>Non-Scheme ports</u>					
Dock workers	3401	3341	3384	3339	- 1.8
Other employees	7210	7085	7005	6780	- 6.0
All employees	10611	10426	10389	10119	- 4.6
Percentage of GB ports	21.2	22.5	24.3	25.3	

¹ As at March each year. Comparable figures are not available for previous years.

Source: Report on Manpower in the UK Ports Industry by the British Ports Association and the National Association of Port Employers, October 1986.

Trust ports whose annual turnover in 1986:

(a) exceeded £10 Million

- Clyde Port Authority
- Dover Harbour Board
- Forth Ports Authority
- Ipswich Port Authority
- Port of London Authority
- Medway Ports Authority
- Tees & Hartlepool Port Authority
- Port of Tyne Authority

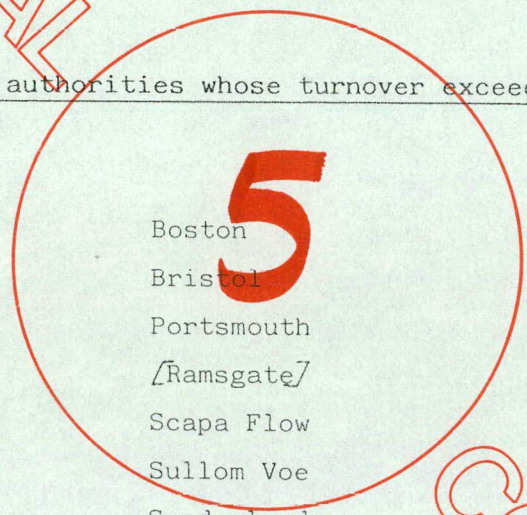
(b) was between £1 million and £10 million

- Aberdeen Harbour Board
- Blyth Harbour Commission
- Cromarty Firth Port Authority
- Dundee Port Authority
- Great Yarmouth Port & Haven Commissioners
- Harwich Harbour Board
- Lerwick Harbour Trust
- Milford Haven Port Authority
- Montrose Harbour Trust
- Peterhead Harbour Trust
- Poole Harbour Commissioners
- Shoreham Port Authority

Ports owned by local authorities whose turnover exceeded £1 million in 1985-86:

- Boston
- Bristol
- Portsmouth
- [Ramsgate]
- Scapa Flow
- Sullom Voe
- Sunderland
- Workington

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DEPARTMENT OF TRANSPORT
2 MARSHAM STREET LONDON SW1P 3EB

01-212 4581

SIR ALAN BAILEY KCB
PERMANENT SECRETARY

a PPS — *page*
MRCD Butler

Sir Robert Armstrong GCB CVO
Cabinet Office
70 Whitehall
LONDON
SW1A 2AS

12 November 1987

a
I don't think
Mr Channon's private
secrets come out of his
bag well
AD *Wicks*

Dear Mr Sart,

LEAK ENQUIRY: PRIVATISATION OF PORTS

Our earlier correspondence about this rests with your letter of 14 September.

/ I now enclose a copy of Mr Tuite's report which is again thorough and persuasive. We do not know what first excited the journalist's interest, but it seems clear that such detail as he finally secured came via two PPSs, Mr Hayward and Mr Stern. No documents were leaked but, despite a warning about the subject's sensitivity, it does appear that insufficient care was taken about what was passed on. I am reminding my people of the need for very clear briefing in such circumstances.

While this leak has added to our embarrassment it has had no grave consequences. I see no point, therefore, in attempting to pursue matters further. I have discussed this with my Secretary of State and he agrees.

I am copying this letter to Peter Middleton, Tony Duff, Nigel Wicks and Michael Saunders.

Yours,
Alan

40-13-11

ALAN BAILEY

Establishment Officer
Department of Transport

LEAK INVESTIGATION: PRIVATISATION OF PORTS

1. INTRODUCTION

1.1 I was asked to investigate the circumstances in which reports that the Department of Transport would, during the current Parliament, examine the possibility of privatising "local authority and trust ports", appeared in the Bristol Evening Post (BEP) on 21 July and Lloyds List on 22 July 1987. A follow up piece recording the reactions of Mr Nicholas Finney of the British Ports Association (BPA) appeared in Lloyds List on 23 July.

1.2 The reports were written by a freelance journalist, Nigel Heath who is based in Bristol and who, I am informed by Mr Michael Stern MP (see paragraph 7), takes a particular interest in the Bristol Docks.

1.3 The original article in the Bristol Evening Post said that "The Department of Transport was looking at proposals to turn all Britain's local authority and trust ports into public limited companies." In a later paragraph it says:

(i) ports privatisation was secretly considered by DTp officials during the last parliament.

(ii) preliminary work was done with a view to the publication of a Green Paper.

(iii) the 1986 airport privatisation had prompted them to act.

The report in Lloyds List repeated this and added:

(iv) the proposals did not proceed because the whole issue was extremely complex.

(v) the proposals to privatise water and electricity pointed to a similar exercise regarding the ports.

4 In the final stages of the last parliament DTp officials were, in fact, working on the draft of a possible White Paper covering the whole issue of British ports. The work was done under a CMO classification which was so strict that DTp Officials were not even allowed to consult colleagues in other departments. So, although he got the colour of the 'paper' wrong, Nigel Heath does appear to have gained some inkling of the Departmental work which was being done in the early part of 1987.

2. Department of Transport "spokesman"

2.1 The reports on 21 and 22 July said that "the move was confirmed by a DTp spokesman" thus lending credibility to the story. However, on 23 July the report in Lloyds List said that a "DTp spokesman yesterday said that there were no plans".

2.2 These contradictory statements resulted from a misunderstanding which, unfortunately, appears to have combined with other factors to give Nigel Heath confidence to write his story; I attach a copy of a note about this, dated 22 July, written by Mr Chantrell (Press Office) explaining what happened (Appendix A). This was hurriedly drafted at the time and as it was not entirely clear to me on a first reading I summarise below.

2.3 It seems that Nigel Heath telephoned Mr Deas (Press Office) on 21 July telling him the story he was planning to publish and asking for comments. Mr Deas apparently replied that he knew nothing about the matter and "that was the position at the moment". Heath assumed that the "position" was the one he had outlined to Deas (not, as Deas intended, that Deas knew nothing). Later the same day Mr Chantrell had a telephone call from a Mr Whittaker of the Western Daily Press asking for comments on the BEP Story. Mr Chantrell emphasised that the Press Office had not confirmed the story and Whittaker dropped it. By then it was too late to do anything about the BEP, but on the following morning Mr Chantrell telephoned Mr Heath to put the record straight. Heath then repeated his story saying that he understood the matter was to be "looked at again" and that he had had it on "pretty high authority": Mr Chantrell then said there were "no plans" and this appeared in Lloyds List on 23 July.

2.4 I think this disposes of the mystery of who the DTp spokesman was. It is unfortunate that, faced with an ambiguity, Nigel Heath chose to interpret it in the way which suited him but in doing this I believe he was encouraged by other checks he had made (see paragraph 7).

3. Mr Fells (A/Sec. DTp)

3.1 It was Mr Fells who noticed the reports and set this enquiry in motion. He was able to provide some useful background on the situation in Bristol (later confirmed by the MP's I spoke to).

3.2 The Docks, which include Avonmouth and Portishead as well as the old port of Bristol (now a leisure complex), are owned by the local authority. They lose money but areas of associated land are ripe for redevelopment. If the ports were privatised should this land be thrown in as a 'sweetener'? What are the prospects of the local authority getting enough money back to compensate ratepayers for the support given over many years? Boiling it down, there may be money to be made; questions are how to realise it and who should get it. At the present time local Tories (including the MPs) are in favour of "privatisation" (whatever that means) but are not in control. Questions like these make the port a lively issue and it seems that Mr Heath has his ear well to the ground.

3.3 I asked Mr Fells if there was any likelihood that information might have reached Heath as a result of something Mr Fells had said, possibly at a meeting with ports employers or some similar body. Mr Fells is certain that this has not happened; and this is supported by the apparent surprise expressed by Mr Finney (BPA) when Heath's articles appeared.

4. DTp Officials generally.

4.1 This enquiry covers much the same source material as my previous enquiry about the future of the NDLS. The centrepiece of that material is the work done on the draft White Paper and the main difference in this instance is that officials outside this Department had even less cause to know about the

consideration given to ports generally than to the NDLS in particular. During the course of my previous investigation I questioned all the DTp officials, and others outside the Department and had no cause to believe that any of them had been indiscreet about the existence, let alone the contents, of the draft White Paper. In the circumstances I saw no useful purpose in covering this ground again, and apart from the role played by Mr Cunliffe (paragraph 5) I do not believe any DTp official is implicated.

5. Mr Cunliffe (Secretary of State's Private Office)

5.1 Mr Cunliffe reported a conversation with Mr R A Hayward Member for Kingswood (Bristol) and PPS to the Secretary of State for Transport, which throws some light on this matter.

5.2 Mr Hayward approached Mr Cunliffe after Questions on 20 July saying that he had been asked by a friend, about the possibility that the ports might be 'privatised'. This friend was Mr M C Stern, Member for Bristol NW and PPS to the Paymaster General. Mr Stern said he was being asked about it by a journalist.

5.3 Mr Cunliffe said he warned Mr Hayward that the matter was sensitive and advised him to say that there were 'no plans'. As background, however, he mentioned the earlier privatisation of the airports and buses in the previous parliament, indicating that using them as precedents the privatisation of ports could be treated as a possibility. He says that he said nothing to indicate that any papers existed.

5.4 Mr Cunliffe was surprised and somewhat upset to see the Bristol Evening Post report appear almost immediately and he spoke to Mr Hayward asking him what had happened. Mr Hayward said that he had told Mr Stern that the subject of ports privatisation was "quiescent" (? slightly more positive than 'no plans'). Mr Cunliffe felt that as the reports mentioned airports as a precedent Mr Hayward must have said more than that.

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Mr R A Hayward (PPS Secretary of State, Transport)

6.1 I saw Mr Hayward on 24 August. He said that Mr Cunliffe had warned him that an investigation was in progress but that he had not seen the newspaper reports. He added that he understood these to be a follow up to a previous piece in the 'Independent' although he had not seen that either. As Mr Cunliffe had told me that Mr Hayward had been told nothing about the related investigation into the 'Independent's article I did not discuss this with Mr Hayward. Something must have reached Mr Hayward's ears but he did not enlighten me further.

6.2 Mr Hayward does not know or have any contacts with Nigel Heath, but he believes him to be a freelance and added later that he thinks he lives in Weston-super-Mare. Mr Hayward's press contacts are with lobby correspondents and, locally, with journalists who deal specifically with Kingwood matters.

6.3 Going over the events of 20-21 July Mr Hayward said they were very busy days; Transport Questions on Monday 20th, the B/Cal merger proposals and the imminent Channel Tunnel debate. Communications regarding the BEP matter were, therefore, sporadic and hurried.

6.4 He had been approached by Mr Stern who said he was being asked by a journalist, Nigel Heath, who had heard something about privatisation of ports and was asking for comments.

6.5 Mr Hayward had told Mr Stern that he knew nothing but would check what line to take. He then consulted Mr Cunliffe who, after warning him that the matter was sensitive, referred to the previous privatisation of the airports. Mr Hayward was left with the impression that there had been (or were) proposals.

6.6 At first Mr Hayward said that he had passed on to Mr Stern less than he had been told by Mr Cunliffe, saying that he and Cunliffe had agreed that the subject should be described as 'quiescent'. This was a little surprising as Mr Cunliffe had already told me of his concern when Mr Hayward said he had agreed this word with Mr Stern.

6.7 I asked Mr Hayward if he could possibly have talked to Mr Stern about privatisation of the airports as a precedent. He then said he thought he had, so it seems likely that Mr Hayward's conversation with Mr Stern was more than a "one liner".

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Following the exchanges between Mr Hayward and Mr Stern the latter then reported back to Nigel Heath. However, Mr Hayward was not told what had passed between Mr Stern and Mr Heath.

6.9 At about 9.30 am on the morning of 21 July - the day of the BEP report and also the day after the conversations with Mr Stern - Mr Hayward's secretary took a telephone message from Nigel Heath. The note she made was in shorthand and as she has now left it is almost undecipherable but it appears to be an enquiry as to whether the DTp was considering the privatisation of ports! Mr Hayward told his secretary not to return the call. Mr Hayward says the BEP has an editorial meeting at 10 am and the paper goes to bed at 11.30. So at 9.30 am it seems that Mr Heath was still trying to check his story. Mr Hayward did not supply the finishing touch which, inadvertently, came from the DTp Press Office!

7. Mr M C Stern (Member for Bristol NW and PPS, Paymaster General).

7.1 I obtained authority to see Mr Stern late in September and managed to see him at the House of Commons on 14 October, after his return from the Party Conference at Blackpool. Mr Stern talked freely and is clearly not lacking in self confidence.

7.2 He knows Nigel Heath well and has dealt with him on Bristol Port matters on a number of occasions. He fully confirmed Mr Fells's information about the general situation in Bristol Port, adding that the future of the Port had been a lively issue in the constituency during the General Election, when both the Conservative and Labour candidates had been able to cast doubts on the SDP's willingness to keep the Port open. He confirmed that Nigel Heath took a particular interest in Port matters and that he was active in promoting stories about them. As an example he mentioned a recent furore stirred up by Heath when he reported that the Port Authority had been engaged in secret discussions with Associated British Ports PLC about their taking over the docks. Apparently this story had at first been vigorously denied and then shamefacedly admitted by the local authority.

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Mr Stern said that he had been telephoned by Heath during the week preceeding 20 July; Heath saying that he had heard a report that the DTp was considering the privatisation of ports and asking if it were true. Mr Stern replied that he knew nothing but would make enquiries. That led him to approach Mr Hayward, following which he had replied again to Mr Heath. Pointing to the article on 21 July he said that the paragraph reading "They carried out some preliminary work with a view to the publication of a Green Paper" was substantially based on information which he had told Heath.

7.4 I asked Mr Stern whether he had been told of any work being carried out secretly during the last parliament or whether he had said anything like this to Mr Heath. He said that he knew nothing of any such work and would prefer to remain in ignorance; he had not said anything like that to Mr Heath. Asked about the airports point he said he could not really remember but it was a natural point to put in anyway.

7.5 Mr Stern said that he had no idea where Mr Heath had got his original story from although he would not rule out the possibility that it had started as intelligent speculation and that he had built up from there by careful enquiries. He added that, once having been approached by Mr Heath it was impossible for him to say nothing without either making an outright denial or appearing to confirm the story by silence. He had made it clear at the outset that he knew nothing but felt he was under some obligation to make enquiries. Having done so he simply passed on what little he had been told, the general impression being that some work on this subject was being undertaken.

7.6 I asked Mr Stern whether Mr Hayward had passed on the message that the subject was extremely sensitive. He said that the message he had taken on board was that the DTp wanted to avoid an issue being made of it. It seems clear that Mr Cunliffe's original warnings on this point had become very diluted by the time they reached Mr Stern.

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8. CONCLUSION

8.1 Nigel Heath is clearly a resourceful and maybe inventive journalist who goes to some length to clothe his initial clues or speculations with some verification and authority. Whether or not he had a tip-off from "shipping circles" as he claims it is impossible to find out. Looking at my previous investigation into the NDLS story in the 'Independent' it seems that some information about work on ports may have been in circulation during June and maybe earlier. As I suggested in my report on that investigation it is strange that the BPA was doing work in parallel with the Department of Transport and I believe a few people outside official and government circles know some work was being done. How that reached Nigel Heath's ears I do not know.

8.2 Given the nub of the story and knowing that it was a lively issue in Bristol Heath would have set about checking it. Here, I believe the progression Cunliffe - Hayward - Stern, with the sensitivity of the subject matter diminishing at every stage, may have been decisive in prompting Heath to go ahead. Having spoken to Mr Stern I am ready to believe that he would have added his own speculation and comments to anything he had been told particularly as he is well acquainted with the journalist concerned.

8.3 The final touch - which may not have been necessary from Heath's point of view but which may have clinched the matter for the BEP was the "confirmation" by a DTp spokesman when Heath heard what he wanted to hear rather than what had actually been said.



T W M TUIITE

27 October 1987

NOTE FOR THE FILE

David Deas, an SIO in the press office, took a call from a journalist on a Bristol paper this morning.

The inquirer, Nigel Heath claims to have said that it had come to his notice, through national shipping contacts, that DTP officials had looked at the possibility of privatising ports. He said he understood that some work had been done, but it was felt at the time that this was a very complex issue and that the time was not right to proceed but that the matter would be looked at again. Mr Heath asked what we had to say.

Mr Deas agrees that Mr Heath asked the question as described, but says he (Deas) has no recollection of Mr Heath saying the the matter would be looked at again.

Mr Deas replied - truthfully - that he knew nothing about this and that this (ie his lack of knowledge) was the situation at the moment. The conversation ended there.

Later in the day, Mr Chantrell, the Chief Press Officer, took a call from Mr Martin Whitaker of the Western Daily Press, Bristol who asked for comment on a piece in the 'Bristol Evening Post' (copy attached). Mr Chantrell told him he knew nothing about this and indeed that, to his certain knowledge the BEP had had no confirmation from this office. Mr Whitaker said he would "hold fire" on the story. We did not get back to the BEP today because it is an evening paper and the staff had gone home by the time we became aware of the problem.

21 July 1987

FURTHER NOTE

Mr Chantrell made contact with Mr Heath this morning (22 July) and said that there appeared to have been a misunderstanding, that in saying "this was the situation at the moment", Mr Deas was referring to the situation of knowing nothing. Mr Heath pressed Mr Chantrell, saying that he had the story on "pretty high authority". Mr Chantrell said he knew of no plans.

22 July 1987.

RPS. pt.



000090

DEPARTMENT OF TRANSPORT
2 MARSHAM STREET LONDON SW1P 3EB

My ref:

Your ref:

Serial No: 1889

Copy No 1 of 4.

The Rt Hon John Major MP
Chief Secretary to the Treasury
HM Treasury
Treasury Chambers
Parliament Street
LONDON
SW1P 3AG

CHIEF SECRETARY	
REC.	31 JAN 1989
ACTION	Mr Mortimer
COPIES TO	CXEST, Sir M. J. ... Mr Anson, Mrs Chase, Mr Mack, Mr B... , Mr A. Withanis, Mr Call

31 JAN 1989

Dear John

PORTS BILL : COMPENSATION SCHEME

At the Prime Minister's meeting on 19 January at which Nigel Lawson was present we had some discussion about the levels for the statutory compensation scheme, which the Bill will provide for, to cover the position of former RDWs who become redundant during a 4-year period following repeal of the Scheme. The Prime Minister's clear view was that the compensation terms should start at £30,000 and then taper down. The details were left to be settled with you.

It is difficult to offer firm estimates of the cost of such a change, since we do not know how many former RDWs will be redundant following the repeal of the Scheme. The best estimate I can make is that the figure might be 2,000, and given the tapering nature of the scheme the majority of these are likely to arise in the earlier years. Assuming a 50% Government contribution, and on the basis of a starting figure of £25,000, the cost to the Government would be £20.9m over four years, with £12.5m arising in year 1. Using the same profile of redundancies, but assuming a £30,000 starting figure the cost to the Government might increase to £23.8m, with £15m in the first year. I think that would be a small price to pay in relation to the advantage which we could secure by offering such terms.

Norman Fowler's minute to the Prime Minister of 21 December proposed that the cost of the compensation scheme in 1989/90 would need to be a charge on the Reserve, to the extent that it was not covered by existing provisions, with the requirements in the later years dealt with in future Surveys. My letter to you of 6 May 1988, in connection with the 1988 PES, drew attention to the possibility of a requirement of this kind arising which, because of its sensitivity, we were unable to deal with in the normal process of the Survey. I hope you will be able to agree to proceed on this basis.

S E C R E T

I am sending copies of this letter to the Prime Minister, Norman Fowler, and Sir Robin Butler.

V
ms

PAUL CHANNON

Paul

S E C R E T

SECRET

pwp

FROM: A R WILLIAMS
DATE: 2 FEBRUARY 1989

CHIEF SECRETARY

cc: Chancellor
Financial Secretary
Sir P Middleton
Mr Anson
Mr Monck
Mrs Case
Mr Burr
Mr Mortimer
Mr Call**PORTS BILL: COMPENSATION SCHEME**

1. The Secretary of State for Transport wrote to you on 31 January about compensation for former registered dockworkers (RDWs) who become redundant following the abolition of the Dock Labour Scheme. He is proposing a first year payment of £30,000 a head, of which the Government would provide half, and says that the cost in 1989-90 will need to be a claim on the Reserve. We recommend that you agree to the proposed compensation scheme but make no commitment at this stage on the use of the Reserve.

2. The compensation scheme originally proposed by Mr Channon, and subsequently taken up by Mr Fowler in his minute of 21 December 1988 to the Prime Minister, involved a maximum payment of £25,000 a head in the first year after abolition of the Scheme, tapering off by £5,000 each year over 4 years (so that by year 4 compensation would be £10,000), and then ceasing. The Government would contribute 50% of the cost in each year, the port employers paying the remainder.

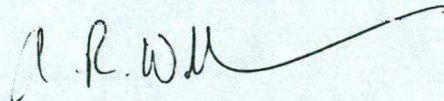
3. At the Prime Minister's meeting on 19 January, I understand that she proposed that the first year payment should be £30,000 a head and the Chancellor indicated that he would be prepared to go along with this. Mr Channon starts from this point and envisages a somewhat steeper taper than he originally proposed (this point is not brought out clearly in his letter): the compensation would be reduced by £7,500 each year over 4 years, to give £7,500 a head by year 4. Since his minute Mr Fowler has apparently toyed with the idea of a more generous taper, for example offering £30,000 in both of the first 2 years, but his officials have said that they will recommend that he accepts what is now proposed by Mr Channon.

4. The cost of the compensation scheme will depend on how many RDWs are made redundant after abolition and when. DTp have estimated that 2000 (out of a total RDW workforce of some 10,000) will go over the 4 year period, 1000 of those in the first year and 500 in the second, but they emphasise that this can only be a best guess. On this basis the total cost to the Government would be £23.8m, of which £15m would fall in the first year. The cost would be split between DTp, who would pay for redundancies in London and Liverpool, and DEM who would pay for those elsewhere. There will be a further cost to DEM arising from the abolition of the National Dock Labour Board. Net of asset sales this is likely to be of the order of £5-6m (mostly for redundancy payments to the Board's staff) and will also mainly arise in the first year after abolition.

5. If abolition takes place in the early part of 1989-90, most of the costs will therefore fall in that year. DTp and DEM only have a limited amount of PES provision in 1989-90 (about £5m for both Departments together) specifically to cover these costs. But it is too soon to say what, if any, consequences this might have for the Reserve. Port employers might choose not to make early redundancies following abolition, in order to calm the industrial relations atmosphere, and it may be that one or both Departments will be able to find some offsetting savings when it comes to the point. Provision for costs falling in later years can of course be considered in the next Survey.

6. A draft letter to Mr Channon is attached.

7. This submission has been agreed with IAE.



A R WILLIAMS

SECRET

DRAFT LETTER FROM THE CHIEF SECRETARY TO THE SECRETARY OF STATE
FOR INDUSTRY

PORTS BILL: COMPENSATION SCHEME

Thank you for your letter of 31 January.

I agree that the compensation offered to former RDWs made redundant in the first year after abolition of the Dock Labour Scheme should be £30,000 a head, of which the Government would pay half. I also agree to the taper implic^{ed}~~ies~~ by your letter which involves reducing the compensation by £7,500 a head each year for 4 years, so that by the fourth and final year of the compensation scheme £7,500 a head would be available.

The possibility of a claim on the Reserve in 1989-90 to meet the cost of these payments must be considered in the light of circumstances, including the number of redundancies which actually occur and the availability of possible offsetting savings elsewhere in your or Norman Fowler's programmes.

I am copying this letter to the Prime Minister, Norman Fowler and Sir Robin Butler.



FROM: D I SPARKES

DATE: 13 March 1989

PS/CHIEF SECRETARY

cc PS/Financial Secretary
Sir P Middleton
Mr Anson
Mr Monck
Mr D J L Moore
Mr Kelly
Mrs Case
Ms Seammen
Mr A Williams
Mr Burr
Mr Tyrie
Mr Call

pw p

BRITISH RAIL PAY

The Chancellor has seen a copy of Ms Seammen's minute of 10 March to the Chief Secretary concerning the outlook for a British Rail pay settlement. In connection with timing, the Chancellor is emphatic that the docks announcement should not be postponed; if it were, there is a risk that it will never happen at all.

D.I.

DUNCAN SPARKES

CONFIDENTIAL



cc:
Chancellor
FST
Sir Peter Middleton
Mr Anson
Mr Monck
Mr Moore
Mr Kelly
Mrs Case
Mr A Williams
Mr Burr
Ms Seammen
Mr Tyrie
Mr Call

Treasury Chambers, Parliament Street, SW1P

The Rt Hon Paul Channon MP
Secretary of State for Transport
Department of Transport
2 Marsham Street
London
SW1P 3EB

13th March 1989

Dear Paul,

pwp

BRITISH RAIL PAY

Thank you for your letter of 8 March.

1. The arguments for an across the board settlement at the level envisaged are thin. While resignation rates have increased substantially since 1986 with the upturn in the economy, they are still a good deal higher in the South East. The appropriate response should I think, be much more flexible and targeted. This is surely right in terms of tactics and merits. The proposed supplements for employees in the South East (which I understand would cost about a further 1 per cent on the paybill, but be worth some 5 per cent to recipients) are welcome, but they ought to be superimposed on a lower base level than now proposed.

I understand the pressures facing Sir Robert Reid. But taking into account broader considerations, including our concern, to which you refer, about the general level of settlements, I would be most reluctant to see a settlement above 7 per cent. To achieve a settlement at this level would require the proposed opening offer to be shaded down, perhaps to 6.5 per cent; an across the board offer at this level already compares well with a number of recent public sector settlements.

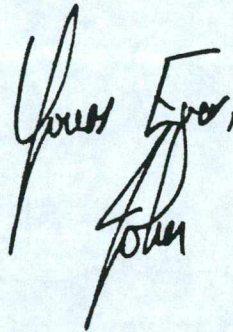
There are further difficulties on the cost side. You refer to BR living within their present budget for next year. I am not sure what specific budget figures you have in mind and on what basis. But it is essential that BR should remain within their agreed public expenditure limit for 1989-90, and that in assessing the affordability of their pay settlement within that limit they have regard to other possible expenditure pressures such as costs associated with the new high speed link. They should not, of course, assume that the property ringfence will be lowered when doing their calculations.

CONFIDENTIAL

A settlement of this size does not provide a helpful basis on which to be considering new objectives for BR. I very much hope that decentralised bargaining next year will provide a means for BR to address any remaining particular staffing problems without general increases on anything like this scale, and that also more attention can then be given to performance related pay. It would be good to see some more productivity deals which were not only self-financing but which also passed benefits to the taxpayer and the fare payer.

Tactically I agree it will be right to keep separate from the main negotiations the question of South East supplements and productivity deals. The latter especially will need consideration in the affordability context.

I am copying this letter to the Prime Minister, to Norman Fowler and to Sir Robin Butler.

A handwritten signature in black ink, appearing to read 'John Major', with a stylized flourish above the name.

JOHN MAJOR



DEPARTMENT OF TRANSPORT
2 MARSHAM STREET LONDON SW1P 3EB

01-212 3434

PPP
BF 20/3

The Rt Hon John Major MP
Chief Secretary to the Treasury
HM Treasury
Parliament Street
London SW1P 3AG

CHIEF SECRETARY	
REC.	15 MARCH 1989
ACTION	MS SEAMMEN
COPIES TO	CRIST, PMG, SIR P MIDDLETON Mr ANSON, Mr MOORE Mr MOORE, Mr BENT, Mr GUY Mr RUMMAY, Mr TIERIE, Mr GILL

15 March 1989

Dear John.

BR PAY

Thank you for your letter of 13 March.

So far as the budget is concerned, Sir Robert Reid has already assured me that if the Board have to go as far as 7.5% on basic pay to secure a settlement he will seek offsetting savings within the provision for paybill in the budget in order to fund it. In other words his aim will be that the total cost will be no higher than if the basic pay settlement had been 6.5%. As I explained in my previous letter the offsets are likely to come from a mixture of reduced overtime and the deferment of some productivity deals on which costs exceed benefits in the coming financial year. BR assure me that this level of pay provision and the subsequent grant are containable within the EFL.

I do not think that it would be appropriate for additional cuts to be made in the paybill in order to absorb in full the cost of purchasing properties affected by the proposals for a new link to the Channel Tunnel. BR are aware that they must accommodate those costs within the EFL and will have to look for savings elsewhere but if this proves impossible we have agreed to consider relaxing the ring fence on property receipts.

Both we and BR have to take account of what is in practice negotiable. Unfortunately BR cannot take credit for special increases for SE workers in their main negotiations because the unions are opposed to regional pay differentiations and BR's judgement is that they will have to impose this part of the package separately. In any case we want to avoid publicity for the combined total of the basic increase and higher London allowances.

CONFIDENTIAL

So the question is whether BR can reasonably expect to open at 6.5% and successfully conclude the negotiations at 7% without industrial action; and whether at that level of pay (topped up by appropriate additions where necessary) they can make good the vacancy gaps on which the reliable and safe operation of the railway depends.

I will press Bob Reid again on this tomorrow. But it would be damaging both for BR and the Government if there were industrial action which the unions could misrepresent as being about safety. So I shall need to ask Bob Reid to give me clear assurances on that. I have to bear in mind, among other things, that my Department may have to give evidence to the Hidden Inquiry about the effect of financial constraints on railway safety; and that, if asked, officials would have to reveal the contents of our discussions with BR on pay in both this and previous years.

I will write to you again after my meeting with Bob Reid tomorrow.

Copies of this letter go to the Prime Minister, to Norman Fowler and to Sir Robin Butler.

ms,

Paul

PAUL CHANNON

Confidential

FROM: MS D J SEAMMEN

DATE: 17 March 1989

CHIEF SECRETARY

cc **Chancellor**
Financial Secretary
Paymaster General
Sir P Middleton
Mr Anson
Mr Monck
Mr Moore
Mrs Case
Mr Bent
Mr Mortimer
Mr Guy
Mr Leniston
Mr Tyrie
Mr Call

owp.
BF
21/3

BRITISH RAIL PAY

1. Mr Channon's letter of 15 March is by way of an interim response to yours of 13 March. You will recall that Mr Channon sought a negotiating limit of 7.5% with a view to a settlement at, perhaps, 7.2%; you replied that you would be most reluctant to see a settlement above 7%.
2. I understand from DOT officials that British Rail will be meeting the unions today, and at that meeting they will open at 6.5%, as you asked. They will seek to avoid moving close to 7% today.
3. In the light of the unions' reaction, British Rail will take stock with DOT next week and write to us further then. There is no need for you to respond in the meantime.



MS D J SEAMMEN



CH/EXCHEQUER	
REC.	27 FEB 1989
ACTION	CST
COPIES TO	
	SECRET

✓ 277

DEPARTMENT OF TRANSPORT
2 MARSHAM STREET LONDON SW1P 3EB

My ref:

Your ref:

Handwritten signature

Serial No: 1902
Copy No 2 of 9.

27 FEB 1989

✓

Paul Gray Esq
Private Secretary
10 Downing Street
LONDON
SW1A 2AA

Handwritten signature: Dear Paul

PORTS LEGISLATION

My Secretary of State has been considering the position on pay negotiations in the other transport industries, in relation to the planned timetable for legislation to repeal the Dock Labour Scheme. The point is touched on in the Cabinet Office report.

The railways are the most important. The settlement date is 16 April, and the BR unions submitted their pay claim on 23 February. The Board propose to begin negotiations in mid-March. The Chairman, Sir Robert Reid, will be discussing their proposals with Mr Channon in early March, and he in turn will be consulting colleagues in the usual way before negotiations begin.

It is difficult to predict how the negotiations will go, and of course a lot will depend on what the Board offer (apart from extra London allowances they aim to settle at 6.5%). They hope to make reasonably fast progress, and plan to have had two negotiating meetings before the end of March. It is likely that at some point the rail unions will ballot their members, but the ballot will take a couple of weeks or more to organise. The Board are reasonably optimistic that the railwaymen will vote for acceptance of what they have in mind: if the vote is a rejection there is likely to be some progressive disruption of rail services, perhaps an overtime ban or other disruptive measures short of a full strike. The railwaymen are not thought to be in a particularly militant mood. The last time there was a total rail strike was 1982 and the outcome of that was probably not regarded as having been particularly successful from the unions point of view. Thus, while there is clearly a risk of some disruption on the railways at the same time as the dock strike, an all-out stoppage is not anticipated.

Since the Cabinet Office report was drafted we have heard from the Chairman of the Civil Aviation Authority of his proposals for settling his Unions' pay claim. The settlement date here is 1 April and Mr Tugendhat believes he has a good chance of getting more or less immediate agreement to a package which he has prepared for negotiations on 2 and 3 March. The overall addition to the pay bill in 1988/89 would be a maximum of 8.5%. My Secretary of State is writing to the Chief Secretary urging him to agree to a settlement within this ceiling.

SECRET

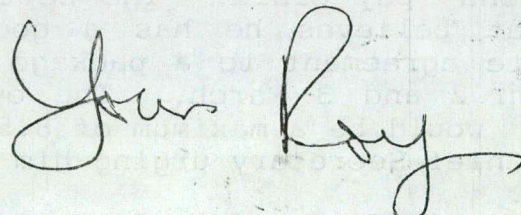
Most of the 6,000 or so CAA staff are of course engaged in the provision of air traffic services, where there has been phenomenal growth and, by the same token, intense pressures on a sensitive workforce. The Authority presents something of a special case, as it operates predominantly in areas of high demand - in terms both of location (the M4 corridor, Gatwick and central London) and of the skills required in a large part of the workforce. Despite the unpopularity that they would incur, Mr Channon believes the air traffic controllers would be prepared to use their considerable industrial power in support of their pay claim. But if the Government does not stand in the Authority's way, he would hope that the threat of action this spring would be removed very quickly.

It is clearly unfortunate that we may face problems on the rail front at the same time as a dock strike, but it was always recognised that there would never be a perfect moment for repeal of the Scheme. My Secretary of State is clear that it would not be feasible to procure a settlement of the rail pay claim before 4 April, other than by instructing the Board to settle on virtually whatever terms the unions are seeking: this would be both costly and damaging and we would not favour it. On the other hand it would be equally difficult to postpone the rail pay negotiations until the dock strike is over.

One possible option would be to introduce the Ports Bill immediately. It is now ready and it could in theory be introduced this week, in the hope that the worst of the industrial action would be out of the way before the critical stage is reached in the rail negotiations. On the other hand the Easter Recess would mean that the time between introduction of the Bill and Royal Assent would be greater (unless the Parliamentary timetable could be speeded up) and there would be a risk of industrial action at the ferry ports over the Easter holiday weekend. Industrial action would also coincide with the Budget. So while this course has some attractions my Secretary of State does not on balance favour it.

His view therefore is that we should let the rail negotiations proceed in the usual way, although there is perhaps an argument for being more sympathetic to the BRB proposals than we would otherwise have been. We must recognise that there will be some risk of industrial action in two, or, if the CAA negotiations fail, perhaps even three, sectors at the same time, and it is possible that the existence of a dispute in one industry might make negotiations in the other more difficult to handle. But Mr Channon does not consider that either of these factors are sufficient to warrant postponement of the introduction of the Ports Bill as planned.

I am sending a copy of this letter to the Private Secretaries of other Ministers who are attending our meeting on 1 March, and to Sir Robin Butler.



R J GRIFFINS
Private Secretary

CONFIDENTIAL



- cc:
- PS/Chancellor
- Sir Peter Middleton
- Dame Anne Mueller
- Mr Anson
- Mr Monck
- Mr Phillips
- Mr C W Kelly
- Mrs Case
- Mr Moore
- Mrs Lomax
- Ms Seammen
- Mr Bent
- Mr Williams
- Mr Revolva
- Mr Guy
- Mr A E W White
- Mr de Berker
- Mr Lenison
- Mr Call

Treasury Chambers, Parliament Street, SW1F

The Rt Hon Paul Channon MP
 Secretary of State for Transport
 Department of Transport
 2 Marsham Street
 London
 SW1P 3EB

2nd March 1989

Mr MERTNER

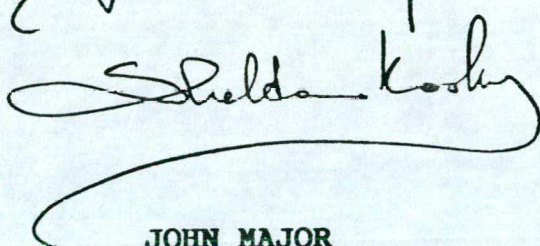
Dear Secretary of State

CIVIL AVIATION AUTHORITY: PAY 1989-90

Thank you for your letter of 27 February seeking my agreement to the CAA's pay proposals.

I share your concern that the level of basic increase in the CAA's proposal is uncomfortably high, but in view of the increasing pressures on the industry, and the need to recruit and retain staff in key areas, I am reluctantly prepared to agree to the CAA's original proposals, subject, of course, to the condition you attached to CAA's revised proposal (that working practices agreements carrying over from the 1987 settlement are implemented). I must however, register my concern that this matter is still unresolved as it was a condition of both the 1987 and 1988 settlements. I look forward to the report on the working practices arrangements which you promised to provide once these have been fully agreed.

I am copying this letter to other members of E(PSP) and to Sir Robin Butler.

Yours sincerely

 JOHN MAJOR

(Approved by the Chief Secretary and signed in his absence)

passed to PAY

~~SECRET~~

CONFIDENTIAL



DEPARTMENT OF TRANSPORT
2 MARSHAM STREET LONDON SW1P 3EB

My ref:

Your ref:

13
BF 10/3

The Rt Hon John Major MP
Chief Secretary
HM Treasury
Parliament Street
LONDON SW1P 3AG

CHIEF SECRETARY	
REC.	- 8
ACTED	Mr Moore,
COPIES TO	CX, FSI, Sir P Middleton Mr Anson, Mr Mack, Mr Best, Mr Gony Mr Rutnam, Mr Lyne, Mr Call

8 March 1989

Dear John,

BRITISH RAIL PAY

Our officials have been in touch about the projects for British Rail's pay negotiations and I have now had a further discussion with Sir Robert Reid.

The railway unions submitted a claim for a substantial percentage increase at a meeting with BR on 23 February. The unions argue that low and uncompetitive rates of pay are endemic throughout the BR pay structure. They point to improvements in BR's financial position as evidence of BR's ability to afford higher pay. They also place particular emphasis on the current level of inflation and the level of recent settlements in other industries.

There is no doubt that BR face serious competition in the labour market. They are experiencing increasing difficulty in recruiting and retaining staff. BR have provided tables (copies have been sent to your officials) which demonstrate a dramatic deterioration in the position over the last couple of years. This is particularly marked in London and the South East, but the position is also getting worse elsewhere - for example, the rate of resignations on the rest of BR has now increased to a level above that on the Southern Region two years ago.

BR have already taken various steps to tackle their labour supply problem. They include a complete overhaul of recruitment procedures; strengthening recruitment resources in critical areas; supplementary payments for shift workers and skill retention payments for signal and telecommunications technicians in BR's London Allowance area; and the introduction of the traincrew concept, aimed at ensuring a supply of future drivers. BR are also taking further steps to encourage the employment of young people and women, and to encourage more part-time employment.

CONFIDENTIAL

Last November BR gave the unions 12 months notice of an intention to end centralised national bargaining. This year's pay round is therefore likely to be the last in its present form, but until the new decentralised arrangements are in place the scope for greater targetting of pay is bound to be limited.

In view of our concern about the general level of settlements, I have pressed Sir Robert Reid to keep the main pay award as low as possible. He had hoped to settle within 6.5% and to make an opening offer of 6%, but recent events, including the bid now tabled by the unions, the growing concern over rail safety and the continuing increase in the RPI, have led him to conclude that there is no prospect of a negotiated settlement at 6.5%. At that figure the unions would in his judgement win a ballot of members to reject the offer and if necessary take industrial action. In the last resort they might seek an arbitration award from the Railway Staff National Tribunal. This would not be binding on BR but might be difficult for them to resist at a time when BR have a growing number of unfilled vacancies and one of the highest level of overtime working in British industry. The unions would no doubt seek to make a connection between vacancies, long hours, and safety.

Sir Robert Reid is therefore seeking our agreement to settle within a maximum of 7.5% and to open at 6.8%. They will aim to settle at 7.2% if they can. The view of BR's Director of Personnel is that a wider gap between the opening offer and the final figure would make it less likely that the Board could settle quickly.

Separately from the main pay negotiations, BR plan some further pay supplements to employees in the South East. These would be particularly targetted at scarce skills and areas where recruitment and retention problems are the most serious. The Board propose to impose these arrangements (which the unions will not like) in May, if the main pay negotiations are out of the way by then.

Finally there will also be a package of other changes, largely linked to specific productivity deals, including restructuring of traffic and civil engineering grades. Most of these changes will only be implemented on condition that they are self-financing. They would increase average railway earnings by around 2.2% in a full year, but again these would be handled quite separately from the main negotiations.

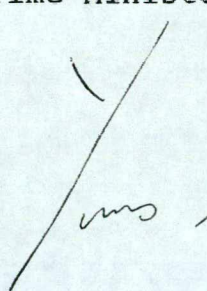
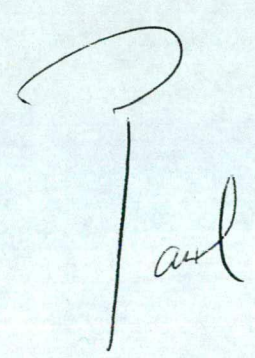
The settlement date for BR pay is 10 April. It is of course difficult to predict how the negotiations will go, and a lot will depend on what BR offer. They hope to make reasonably fast progress, and plan to have had two negotiating meetings by the first week of April. If the unions have not accepted by then, BR would consider imposing the offer, which would help them to keep the initiative and facilitate the early introduction of the separate measures aimed at tackling the problems in the South East.

CONFIDENTIAL

I have impressed on Sir Robert the importance of living within his present budget for next year, which is already tight. He tells me that BR have not increased the total provision for pay. The Board will if necessary defer some of the self-financing deals, whose benefits would fall next year rather than this, but there may be other ways in which, as the year proceeds, they can offset the cost of a higher pay increase. The proposed settlement should help to reduce the cost of overtime working and of training and recruitment. BR estimate that if they could reduce staff turnover to the level they had 2 years ago they would save at least £25 million. This takes no account of the improvement in service to the customer and the effect that has on revenues. By comparison 1% on wage rates adds about £15 million to the paybill.

In view of other wider issues which we have discussed recently, I believe that the balance of advantage lies clearly in telling Sir Robert Reid to go ahead with his proposals and to settle as quickly as he can. There is an outside chance that he might conclude a deal by the end of March. In the circumstances there is definitely a case for being more sympathetic to BR's pay strategy than we might otherwise have been. If you see difficulties about this, perhaps we could have a word about it. If BR are to stick to their negotiating timetable I need to give Sir Robert an answer by next Tuesday (March 14). I should therefore be grateful to have your reaction by the 14th.

/ I am copying this to the Prime Minister, to Nigel Lawson and to Norman Fowler.


PAUL CHANNON 

SECRET

Handwritten notes in red ink:
He X, Le Jocks
announcement
SA
proposed on 2
will have
messy all!

FROM: MS D J SEAMMEN

DATE: 10 March 1989

CHIEF SECRETARY

cc

- Chancellor
- Financial Secretary
- Sir P Middleton
- Mr Anson
- Mr Monck
- Mr Moore
- Mr Kelly
- Mrs Case
- Mr A Williams
- Mr Burr
- Mr Tyrie
- Mr Call

ch/ To note another disturbing development at BR.

ois

BRITISH RAIL PAY

1. Mr Channon's letter of 8 March contains the unwelcome news that British Rail no longer think they can settle within 6.5 per cent: they are seeking a limit of 7.5 per cent and hope to settle at 7.2 per cent.

2. There are further proposals, to be negotiated later, for pay supplements in the South East, costing about 1 per cent on the national paybill (but worth about 5 per cent to recipients) plus a package of other changes, described as self-financing, which would add 2.2 per cent to earnings in a full year.

3. Overshadowing this is the problem of the docks. We have already, because of this, agreed to an upper limit for the CAA of 8.5 per cent. It is difficult to see how we can avoid agreeing to what Mr Channon now proposes. But the price may be not only a settlement higher than we might otherwise have been able to get away with, but also the risk that BR will bust its EFL. We should therefore try hard for a settlement at 7 per cent.

Background and repercussions

4. There are some 105,000 staff involved: drivers, guards, manual and clerical grades, represented by the NUR, Aslef and TSSA. Last year the basic settlement was 5 per cent, although

SECRET

other elements in the package brought it up to about 5½ per cent. The settlement date is 10 April.

5. Whatever is agreed for these grades flows through to the other BR settlements, covering about another 43,000 employees. It will also have a heavy influence on 15,000 London Underground staff and on London Buses' 24,000 staff where we have agreed a limit of 6½ per cent, but no settlement has yet been reached.

6. More widely, talks are in progress on 21,000 water service manuals* and around 120,000 workers in electricity supply have settlement dates in April and May. These public sector settlements are likely to be influenced, albeit indirectly, by what is agreed for BR staff. The 'going rate' is likely to be taken as being at least 7 per cent.

Merits

7. This is the last settlement under the national pay agreement. Only the (additional) London supplements will be targeted to recruitment and retention. While Southern Region's vacancy and resignation rates are a good deal higher than for the rest of BR, rates have risen substantially over the past two years, coinciding with the downturn in unemployment. Even so, Southern Region's resignation rate stands at 8 per cent while that for the rest of BR is only some 4½ per cent. The latter is not especially high. A large part of the problem appears to relate to people who leave in their first year, which is likely to be less a problem of pay - they are, after all recruited - than of other dissatisfactions or, possibly, a pattern of semi-casual employment. Overall, of permanent way and station staff recruitment in the year to September 1987, only about 60 per cent were there a year later. The figures for Southern Region are worse, particularly for permanent way staff; only about 40 per cent survived a year later.

8. Generally speaking, this does not add up to a compelling case for going beyond the 6.5 per cent at which BR had previously hoped to settle. There is a good case for targeted London and South

* We have just heard the employers hope to settle at 'around 7 per cent' and that Mr Howard will be writing to you.

East supplements; the BR Board are still considering precisely how these should be structured. If self-financing productivity deals could be secured, these too could be worthwhile, though at a cost of 2.2 per cent on average railway earnings as a whole they sound expensive and would probably involve controversial job cuts. It will be important to keep talks on this separate from the main settlement both to avoid negotiating difficulties and because these deals may not be affordable this year.

9. Extraneous factors are the rise in inflation, the concern about safety and the dock strike. Sir Robert Reid judges - and we have accepted that his record is good in achieving low pay settlements - that the rail unions would secure a ballot majority against an offer of 6.5 per cent, with the possibility of industrial action.

Costs and affordability

10. We are already receiving noises from DTp officials about pressure on the BR EFL in 1989-90. You are aware of one factor - the compensation package for the high speed link in respect of which Mr Channon reserves the right to bid for more provision in-year. They also consider that the income growth forecasts might have been optimistic (which would mark a change from recent years). Other things being equal, more on the pay bill reduces the ability to absorb these pressures within existing provisions, and it is suspicious that Mr Channon offers no comfort in his letter about expenditure limits - only about the BR budget, which in fact has yet to be finalised. BR's working figures cannot be contained in the EFL and they are trying to rework them so that they can.

11. Against this background the immediate cash consequences of the pay proposal are worrying. There is also a worry for the longer term. Figures for the last IFR showed projected increases in productivity per man being entirely absorbed by pay costs. The proposed settlement is unlikely to improve the trend. Moreover the next set of three year financial objectives for BR are currently being drawn up, so a big pay rise now will raise the base for discussions on unit costs rather than being something which we can insist on being accommodated in existing targets.

Conclusion

12. Uncomfortable as it is, given the broader considerations we have little room for manoeuvre. We should however press hard for a settlement at or below 7 per cent. This means shading the proposed opening offer down from the 6.8 per cent proposed. We also need to pin down Mr Channon on the public expenditure effect.

X 13. It is desirable to get all this out of the way as soon as possible. The docks announcement is currently scheduled for early April. Mr Channon says there is 'an outside chance' that BR could conclude a deal by the end of March, but this must be very unlikely. If they have not done so, there will be a further opportunity for Ministers to consider the timing of the docks announcement.

14. This submission incorporates comments from PE, and the line has been cleared with HE.

15. Draft letter attached.



MS D J SEAMMEN

CONFIDENTIAL

DRAFT LETTER FROM: CHIEF SECRETARY

TO: PAUL CHANNON,
Department of Transport

BRITISH RAIL PAY

1. Thank you for your letter of 8 March.

2. The arguments for an across the board settlement at the level envisaged are thin. While resignation rates have increased substantially since 1986 with the upturn in the economy, they are still a good deal higher in the South East. The appropriate response would be much more flexible and targeted. The proposed supplements for employees in the South East (which I understand would cost about a further 1 per cent on the paybill, but be worth some 5 per cent to recipients) are welcome, but they ought to be superimposed on a lower base level than now proposed.

3. I understand the pressures facing Sir Robert Reid. But taking into account broader considerations, including our concern, to which you refer, about the general level of settlements, I would be most reluctant to see a settlement above 7 per cent. To achieve a settlement at this level would require the proposed opening offer to be shaded down, perhaps to 6.5 per cent; an across the board offer at this level already compares well with a number of recent public sector settlements.

CONFIDENTIAL

4. There are further difficulties on the cost side. You refer to BR living within their present budget for next year. I am not sure what specific budget figures you have in mind and on what basis. But it is essential that BR should remain within their agreed public expenditure limit for 1989-90, and that in assessing the affordability of their pay settlement within that limit they have regard to other possible expenditure pressures such as costs associated with the new high speed link. They should not, of course, assume that the property ringfence will be lowered when doing their calculations.

5. A settlement of this size does not provide a helpful basis on which to be considering new objectives for BR. I very much hope that decentralised bargaining next year will provide a means for BR to address any remaining particular staffing problems without general increases on anything like this scale, and that also more attention can then be given to performance related pay. It would be good to see some more productivity deals which were not only self-financing but which also passed benefits to the taxpayer and the fare payer.

6. Tactically I agree it will be right to keep separate from the main negotiations the question of South East supplements and productivity deals. The latter especially will need consideration in the affordability context.

7. I am copying this letter to the Prime Minister, to Norman Fowler and to Sir Robin Butler.