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10 DOWNING STREET

*From the Principal Private Secretary*

8 November, 1984.

Just a note to thank you very much for your letter of 2 November and taking the trouble to explain the procedure if British Airways were to plead no contest.

As you will know, the Prime Minister and the Ambassador had a word about this subject at their meeting today, and it was very useful to have your letter in advance of that meeting.

I look forward to meeting you again soon.

The Hon. R.G.H. Seitz



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EMBASSY OF THE UNITED STATES OF AMERICA

LONDON

November 2, 1984

Mr. Robin Butler  
Private Secretary to the  
Prime Minister  
10 Downing Street  
London SW1

Dear Robin:

I wanted to get back to you on one point which you raised at lunch.

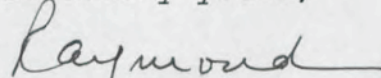
If indictments against British Airways are handed down by the Department of Justice and if B.A. pleads no-contest, a Federal judge would fix the fine. Last year we negotiated a "non-paper" with HMG which sets forth terms for a no-contest plea. I understand the fines would not exceed \$1 million per count. There are likely to be two counts.

On a more general concern, I have taken some time to inform myself about this complicated case. I am convinced that: (1) the U.S. has a telling legal case entirely consistent with the Bermuda II agreement; (2) a no-contest plea is a quick and acceptable way to close the matter; (3) a no-contest plea (largely because evidence is sealed) will make it more difficult for private litigants to pursue their antitrust cases in U.S. courts; and (4) there is presently under way a genuine effort on the part of officials on both sides of the Atlantic to work out a supplementary agreement to Bermuda II which would foreclose the likelihood of similar cases arising in the future.

As I mentioned to you, my deepest concern is that emotional reactions might carry the political day. This would be unfortunate. I do not believe the legal analysis would support the contention that the case represents an act of extraterritorial hubris. When the facts are assembled, the conclusion is different.

I hope we can continue to have the opportunity -- perhaps under the Powell umbrella -- to get together from time to time.

Sincerely yours,



R. G. H. Seitz  
Minister

EMBASSY OF THE UNITED STATES OF AMERICA

London

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